

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 29 July 2013

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.00 - 7.50 pm

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

Other Councillors: K Angold-Stephens, K Avey, G Chambers, T Church, L Girling, Ms J Hart, H Mann, R Morgan, J Philip, Mrs C Pond, Ms G Shiell, Ms S Watson and J M Whitehouse

Apologies: -

Officers Present: G Chipp (Chief Executive), I Willett (Assistant to the Chief Executive), J Gilbert (Director of Environment and Street Scene), C O'Boyle (Director of Corporate Support Services), J Preston (Director of Planning and Economic Development), P Maddock (Assistant Director (Accountancy)), T Carne (Public Relations and Marketing Officer), J Warwick (Sports Development Manager), S G Hill (Senior Democratic Services Officer) and G J Woodhall (Democratic Services Officer)

32. 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.

33. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

34. REPORTS OF PORTFOLIO HOLDERS

There were no additional verbal reports from the Portfolio Holders present.

35. ANY OTHER BUSINESS

Decision:

(1) That, as agreed by the Leader of the Council and in accordance with Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules, the following items of urgent business be considered following the publication of the agenda:

- (a) Procurement of the Waste Management Contract – Pre-Qualification Questionnaires and Initial Documents; and
- (b) Acquisition of 79 Pyrles Lane, Loughton.

36. PROCUREMENT OF THE WASTE MANAGEMENT CONTRACT - PRE-QUALIFICATION QUESTIONNAIRES AND INITIAL DOCUMENTS

The Environment Portfolio Holder presented a report on the outcomes of the Pre-Qualification Questionnaires and initial documents as part of the process to procure the next Waste Management Contract.

The Portfolio Holder stated that, as part of the procurement of the Waste Management Contract, Pre-Qualification Questionnaires (PQQs) were issued to all contractors who had responded to the notice placed in the Journal of the European Union (OJEU). The PQQs were assessed by the Officer and Consultant project team against strict assessment criteria which included financial stability and the ability to deliver all the services being procured. The outcome of this process was that eight companies were accepted into the next stage of the process, with two companies rejected.

The Portfolio Holder reported that the next element of the procurement process was the first stage of Competitive Dialogue, which required the issue of an initial suite of documents, the Descriptive Document, Conditions of Contract and draft specifications. These documents had been attached to the report for consideration by the Cabinet. It was highlighted that these might, and indeed probably would, change throughout the Competitive Dialogue process.

The Portfolio Holder informed the Cabinet that protection for the Council over fluctuating prices for recyclable materials collected at the kerbside would be one of the issues discussed with the prospective contractors during the competitive dialogue process. It was added that the Council was not intending to collect tetra packs at the kerbside at the current time. Pre-Qualification Questionnaires were part of the EU procurement process and, for the two companies recommended for rejection, these had indicated a lack of experience in the delivery of key waste services.

The Portfolio Holder highlighted the leasing arrangements within section 5 of the draft contract and the process to be followed in respect of the assets if the contract ended prematurely. The approach being recommended was for ownership of the assets to be transferred to the Council in the event of the contract coming to an unplanned end. The Portfolio Holder also drew the Cabinet's attention to section 4, Monitoring and Performance, which was designed to maintain the quality of the service throughout the life of the contract. Whilst the ultimate sanction was to terminate the contract if performance was poor, it was emphasised that the Council would utilise partnership working with the Contractor to resolve any issues. The Director of Environment & Street Scene added that any misunderstandings within the documents could be resolved before they were formally issued to the bidding companies.

The Portfolio Holder was requested to emphasise the usefulness of the Epping Forest Re-Use project within the documents. The Portfolio Holder agreed that the Project was not explicitly mentioned within the documents, but would be mentioned during the Competitive Dialogue. It was stressed that no decision had yet been made to outsource the Council's Grounds Maintenance Service, however the Portfolio Holder reassured the meeting that discussions would be held with the Town and Parish Councils if this became increasingly likely as the process continued. If this did happen then the current staff would be transferred to the contractor under the TUPE arrangements, whereby staff would retain their existing conditions of employment including their pension rights.

The Cabinet was informed of an issue in some parts of the country whereby some of the sub-contractors employed by the main Contractor had been unable to speak English, and what steps would be taken to avoid a similar situation occurring with the new contract. The Director of Environment & Street Scene stated that the main Contractor would be required to inform the Council of any sub-contractors that they wished to employ, and the checks that they had employed to ensure that the sub-contractor had the suitable experience and expertise. The Council would then look to implement further controls over the sub-contractors, and the use of any sub-contractors would be advertised to residents via the Forester magazine and the waste collection calendars delivered to each household within the District.

The Portfolio Holder concluded by informing the Cabinet that a Bidders' day would be held on 31 July at North Weald Airfield, and the first phase of competitive dialogues would begin on Monday 5 August 2013. Therefore, permission would be requested from the Chairman of the Council to waive the call-in arrangements for these decisions, so as to not unduly delay the procurement process.

Decision:

(1) That, following the assessment of pre-qualification questionnaires, the following eight companies be accepted into the next stage of the contract procurement:

- (i) Biffa;
- (ii) Enterprise/Amey
- (iii) FCC;
- (iv) Kier;
- (v) Serco;
- (vi) Sita;
- (vii) Urbaser; and
- (viii) Veolia;

(2) That, following the assessment of pre-qualification questionnaires, the following two companies be rejected:

- (i) Acumen; and
- (ii) Bywaters;

(3) That the Descriptive Document, Conditions of Contract and draft specifications for Lot 1 and Lot 2 services be approved for the purposes of the Invitation to Submit Outline Solutions (ISOS) stage of the procurement process;

(4) That as part of the documents referred to in recommendation (3) above, the contractor be required to provide all vehicles, plant and equipment subject to the Council taking ownership of those assets in the event of the contract coming to an unplanned cessation, for whatever reason; and

(5) That the Chairman of the Council be requested to waive the call-in requirements for this decision due to its urgency as any delay would prejudice the Council's interest.

Reasons for Decision:

To enable the commencement of the next phase of procurement through approving the qualified contractors and the initial suite of associated documents.

Other Options Considered and Rejected:

To amend the recommended list of accepted and rejected contractors; however this could result in a challenge due to the Council not following the rules for the assessment of the PQQs as set out in the original notice in the European Journal.

To not approve the initial documents, or to amend them prior to issue; however the Portfolio Holder Advisory Group had already considered the documents in detail and any further changes could unduly delay the process.

37. ACQUISITION OF 79 PYRLES LANE, LOUGHTON

The Portfolio Holder for Asset Management & Economic Development presented a report on the potential acquisition of 79 Pyrles Lane in Loughton.

The Portfolio Holder reported that, on 27 September 2011, the Council had agreed a supplementary capital estimate of £239,000 for the purchase of 79 Pyrles Lane, Loughton - this being £235,000 plus legal costs of £4,000 - to assist with the sale of Pyrles Lane Nursery for residential development. However, a planning application for the residential development was refused on 15 May 2013 by Area Planning Subcommittee South and it was intended to proceed with the purchase to address the reasons for refusal. Since September 2011, the price of residential property in this area had risen and the vendor had agreed a revised purchase price of £250,000 plus legal costs. Authority was therefore sought to vire an additional £15,000 from the Housing Revenue Account Capital Programme, using monies allocated for the Council's Housebuilding Programme..

A local Member for Loughton Roding suggested that the property in question had already been sold, but the Portfolio Holder indicated that the Council had not been made aware of this and was proceeding with the purchase as previously agreed.

Decision:

(1) That a virement of £15,000 within the Housing Revenue Account Capital Programme be approved to facilitate the purchase of the freehold of 79 Pyrles Lane, Loughton for £250,000.

Reasons for Decision:

To address the reasons for refusal of the planning application for a residential development, which would facilitate the sale of the Pyrles Lane Nursery site and thereby generate a capital receipt for the Council.

Other Options Considered and Rejected:

To not purchase 79 Pyrles Lane, Loughton , but this would reduce the Council's ability to address the planning reasons for refusal and would adversely impact on the

Council's ability to obtain best value for the site.

38. EPPING HALL - SPORTS AND LEISURE FEASIBILITY STUDY

The Leader reported that, due to an administration error, the report on the Sports & Leisure Feasibility Study for Epping Hall had been postponed to another meeting of the Cabinet later in the year. The Leader apologised for any inconvenience that this postponement had caused.

39. CORPORATE PLAN KEY OBJECTIVES 2012/13 - OUTTURN REPORT

The Leader of the Council presented the outturn report for the Corporate Plan Key Objectives that had been set for 2012/13.

The Leader stated that the Corporate Plan was the Council's key strategic planning document, setting out service delivery priorities over the four-year period from 2011/12 to 2014/15, with strategic themes reflecting those of the Community Strategy for the District. Updates to the Corporate Plan were published annually, to reflect the key objectives for each year of the plan period and progress against the achievement of objectives for previous years. A range of key objectives for 2012/13 were adopted by the Cabinet in January 2012 and were intended to provide a clear statement of the Council's overall intentions for each year, containing specific actions and desired outcomes.

Decision:

(1) That the outturn progress and performance in relation to the Corporate Plan Key Objectives for 2012/13 be noted.

Reasons for Decision:

It was important that 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:

No other options were appropriate in this respect. Failure to monitor and review performance against the key objectives, and to take corrective action where necessary, could have negative implications for the Council's reputation and for judgements made about the Council.

40. NEIGHBOURHOOD PLANNING

The Planning Portfolio Holder presented a report on Neighbourhood Planning and the request from Morton, Bobbingworth & The Lavers Parish Council for their Parish to be designated a Neighbourhood Area.

The Cabinet noted that Neighbourhood Development Plans (NDPs) were introduced as part of the Localism Act 2011 and enabled local communities (town/parish councils or designated neighbourhood forums) to produce Neighbourhood Plans, which, when approved, would become part of the statutory development plan and adopted as Council policy. Neighbourhood Development Plans had to be grounded in Local Plan evidence and include intensive consultation and stakeholder engagement.

The Portfolio Holder reported that there were specific statutory responsibilities that Councils needed to fulfil under the Localism Act to facilitate the preparation of a Neighbourhood Development Plan. One of these was to provide advice and assistance to communities in the production of such plans. During 2013/14, the Government was offering grant contributions to local authorities to support the delivery of Neighbourhood Development Plans and these could be applied for following the designation of a Neighbourhood Area, the publication of a Neighbourhood Plan and the successful completion of an independent examination of that Plan.

Moreton, Bobbingworth and the Lavers Parish Council had submitted an application for a Neighbourhood Area designation to progress with a Neighbourhood Development Plan. This had been publicised in accordance with the regulations. As the proposed Neighbourhood Area followed the Parish boundary and there were no valid reasons for refusal, the Council was required to designate the Parish as a Neighbourhood Area.

The Portfolio Holder reiterated that the Council's number one priority was the delivery of the Local Plan, and it was recommended that the level of advice and assistance provided to local councils for Neighbourhood Planning would extend to:

- (a) an inception meeting to discuss local council aspirations and ensure clarity around the level of District Council support and required information for designation, discussion of the project plan/programme for development of the plan;
- (b) provide relevant updates and advice online regarding regulations, funding and Local Plan information, including the emerging evidence base;
- (c) signposting to all existing evidence base, other relevant studies and documents, ward profile information and data and maps;
- (d) a named Officer being available to answer key questions and provide updates on Local Plan work via telephone and email; and
- (e) provide comments on a draft Neighbourhood Development Plan and supporting documentation on conformity of the Plan with the Local Plan and whether it met the basic conditions and other legislative requirements.

In response to questions from the Members present, the Portfolio Holder stated that the cost of delivering a Neighbourhood Development Plan varied; only three Parish Councils within the country had implemented such a plan so far and an indicative cost of £70,000 was quoted. It was highlighted that the financial support offered by the Department of Communities & Local Government would be received by the Council while it was still available. The advice of the District Council to Local Councils was to concentrate on the Local Plan process rather than Neighbourhood Development Plans, and that the development of a Village Design Statement would be quicker and cheaper to facilitate, although it was accepted that this would not have the same weight in planning terms as the Local Plan.

The Director of Planning & Economic Development reiterated that the development of a single Neighbourhood Development Plan would not adversely affect the development of the Local Plan, however, should other Local Councils submit similar proposals then additional Officer resources would be required so as not to undermine the development of the Local Plan.

It was emphasised that Local Councils had requested assistance with other matters, such as the designation of Conservation Areas. It was acknowledged that the availability of resources for the designation of Conservation Areas were an issue, as this was a separate process to the Local Plan. Following representations from local Ward Members, the Portfolio Holder undertook to enquire on the progress with the designation of the proposed Conservation Area in Buckhurst Hill.

Decision:

- (1) That the latest information on and this Council's statutory duties in relation to Neighbourhood Planning be noted;
- (2) That the budgetary requirements, current staffing allocations and potential future resource requirements in relation to delivering Neighbourhood Development Plans be noted;
- (3) That the governance arrangements for the delivery of Neighbourhood Development plans be agreed;
- (4) That the level of advice and assistance currently available from Forward Planning staff to Town and Parish Councils in support of delivering Neighbourhood Development Plans be agreed; and
- (5) That, following the receipt of representations, the Parish of Moreton, Bobbingworth and the Lavers be designated a Neighbourhood Area.

Reasons for Decision:

To enable the Council to meet its duties under the relevant regulations.

Other Options Considered and Rejected:

None, as the Council was under a statutory duty.

41. CONSTRUCTION OF ARTIFICIAL GRASS SPORTS PITCH - TOWN MEAD, WALTHAM ABBEY

The Portfolio Holder for Leisure & Wellbeing presented a report on the final account for the construction of an Astro turf sports pitch at Town Mead in Waltham Abbey.

The Portfolio Holder recounted that, in June 2011, the Cabinet had given its approval to commit up to £507,000 of Capital funding, plus a sum of £6,000 for preliminary works, towards the construction of an Artificial Grass Sports Pitch (AGP) at Townmead, Waltham Abbey. This would be a jointly managed venture with Waltham Abbey Town Council and the approval was based on the pre-tender estimates. A formal tender process was conducted for the project and the contract for the construction of the Pitch was awarded to AMB Sports Ltd, who were one of the recommended contractors provided by the Essex Football Association.

The Portfolio Holder stated that, in the initial planning and development stage of the project, a range of concerns were raised by the Environment Agency with regard to the proposed location of the pitch being a former landfill site, and therefore the potential for leakage of hazardous substances into the River Lea water course. The assessment of this risk continued for over a year and caused significant delays to the commencement of works, as the Environment Agency required detailed soil testing and exploratory works to be conducted. Planning approval was finally granted

in September 2012 and construction commenced in late October 2012, with an estimated completion date of February 2013. However, due to cold and wet weather conditions throughout the winter and spring, the timetable for installation of ground works was delayed and resulted in final completion in June 2013.

The Portfolio Holder reported that the final cost of the project, including consultants' fees, was £512,900; this was within the budget of £513,000 including contingency approved by the Cabinet. As per the original Cabinet decision, the Council had entered into a joint management agreement with Waltham Abbey Town Council, which was based on a net profit share. This was estimated to provide an income of around £19,000 per annum to the District Council.

Decision:

(1) That the completion of the Third Generation AstroTurf Pitch at Townmead, Waltham Abbey and the final account figure of £512,900 be noted.

Reasons for Decision:

To report on the final account for the project.

Other Options Considered and Rejected:

It was the Council's Policy to report on the final account for major capital schemes and therefore there was no other option.

42. DELEGATION OF POWERS FROM ESSEX COUNTY COUNCIL UNDER THE FLOOD AND WATER MANAGEMENT ACT 2010

The Environment Portfolio Holder presented a report on the delegation of powers from Essex County Council under the Flood and Water Management Act 2010.

The Portfolio Holder reported that the Council had been exercising certain powers of the Land Drainage Act 1991 (as amended), on behalf of Essex County Council, since April 2012 through a Letter of Understanding (Portfolio Holder decision ENV-002-2012/13). An Agreement was now required to formalise these arrangements and to allow the Council to enforce the relevant provisions. As part of this Agreement, the County Council required the District Council to charge for land drainage applications that fell within the scope of section 23 of the Act, in line with its county-wide policy. Therefore, it was proposed that the Cabinet formally approve the delegation agreement and the charging arrangements, which would apply once the agreement had been approved and had come into force.

Decision:

(1) That an agreement with Essex County Council be entered into to accept delegation of the powers and duties under sections 23, 24, 25 of the Land Drainage Act 1991, as amended by the Flood and Water Management Act 2010, for the consenting of works to, and the enforcement of, ordinary watercourses;

(2) That, in respect of works which fell within the scope of section 23 of the Land Drainage Act 1991 (as amended), a charge of fifty pounds be introduced for each structure proposed in consent applications, in line with the policy of Essex County Council, with effect from the date on which the agreement would come into effect; and

(3) That, in respect of land drainage applications which fell outside the scope of section 23 of the Land Drainage Act 1991 (as amended), no charge to the public be implemented under the Council's Land Drainage Byelaws.

Reasons for Decision:

To ensure that the Council retained the necessary powers to optimise the control of works to ordinary watercourses within the District in order to minimise flood risk. To ensure that charges and services were consistent across Essex for land drainage applications that would also fall under the auspices of the County Council. To agree to maintain the existing service, without charge, for all other land drainage applications made under the Council's Land Drainage Byelaws.

Other Options Considered and Considered:

To not accept the delegated powers and let the County Council exercise the relevant powers.

To charge for all other land drainage applications made under the Council's Land Drainage Byelaws.

43. FINANCE AND PERFORMANCE MANAGEMENT CABINET COMMITTEE - 20 JUNE 2013

The Portfolio Holder for Finance & Technology presented the minutes from the recent meeting of the Finance & Performance Management Cabinet Committee held on 20 June 2013.

The Cabinet Committee had made recommendations to the Cabinet regarding the revision of the Council's Corporate Risk Register. Other issues that the Cabinet Committee had also considered included the outturn report on the performance of the Council's Key Performance Indicators for 2012/13, the provisional Capital outturn for 2012/13, and the provisional Revenue outturn report 2012/13.

Decision:

Risk Management – Corporate Risk Register

- (1) That the revised Corporate Risk Register, consisting of the eight proposed key strategic risks, be agreed;
- (2) That the proposed scoring of the eight key strategic risks be agreed; and
- (3) That no further key strategic risks be added to the revised Corporate Risk Register at the current time.

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.

CHAIRMAN