

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 10 April 2018

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

Members Present: C Whitbread (Chairman), S Stavrou (Vice-Chairman), W Breare-Hall, A Grigg, H Kane, A Lion, G Mohindra and S Kane

Other Councillors: R Brookes, M Sartin, D Stallan and J M Whitehouse

Apologies: J Philip

Officers Present: D Macnab (Acting Chief Executive), S Hill (Assistant Director (Governance)), P Maddock (Assistant Director (Accountancy)), D Bailey (Head of Transformation), K Durrani (Assistant Director (Technical Services)), P Maginnis (Assistant Director (Human Resources)), P Pledger (Assistant Director (Housing Property)), T Carne (Public Relations and Marketing Officer), M Warr (Economic Development Officer), G J Woodhall (Senior Democratic Services Officer), V Messenger (Democratic Services Officer) and P Seager (Webcasting Officer)

130. WEBCASTING INTRODUCTION

The Leader of Council made a short address to remind attendees that the meeting would be broadcast live to the internet, and would be capable of repeated viewing, which could infringe their human and data protection rights.

131. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Member Code of Conduct, Cllr G Mohindra declared an interest in item 12, Phase 4 Superfast Essex Broadband Funding, by virtue of being the Chairman of the Superfast Essex Broadband Steering Board. The Councillor had determined that his interest was pecuniary and would leave the meeting for the consideration of the issue.

(b) Pursuant to the Council's Officer Code of Conduct, D Macnab declared an interest in item 16, Implementation of the People Strategy. The Officer had determined that his interest was pecuniary and would leave the meeting for the consideration of the issue.

132. MINUTES

Decision:

(1) That the minutes of the meeting of the Cabinet, held on 8 March 2018, be taken as read and signed by the Leader as a correct record.

133. REPORTS OF PORTFOLIO HOLDERS

There were no verbal reports made by Members of the Cabinet on current issues affecting their areas of responsibility.

134. PUBLIC QUESTIONS AND REQUESTS TO ADDRESS THE CABINET

The Cabinet noted that no public questions or requests to address the Cabinet had been received for consideration at the meeting.

135. OVERVIEW AND SCRUTINY

The Chairman of the Overview & Scrutiny Committee reported that no meeting had been held since the last meeting of the Cabinet on 8 March 2018. The Chairman reminded the Cabinet that the next meeting of the Overview & Scrutiny Committee on 17 April 2018 would have the East of England Ambulance Service in attendance, and requested that any further questions for the Ambulance Service be passed to S Tautz in advance of the meeting.

136. ANNUAL PROGRESS REPORT OF THE COUNCIL HOUSEBUILDING CABINET COMMITTEE

The Housing Portfolio Holder introduced the Annual Progress Report of the Council Housebuilding Cabinet Committee and asked the Assistant Director of Housing (Housing Property & Development) to present the report.

In respect of phase 1, the Assistant Director reported that the original contract had been let with Broadway Construction Limited on 27 October 2014, with the completion of phase 1 expected on 13 November 2015. However, due to the delays that had built up, the Council determined the contract with Broadway and procured a new contract with P.A. Finlay & Company Limited to complete phase 1. The phase 1 recovery work was completed on 31 October 2017, with the final two homes on the Red Cross site being handed over and occupied. The determination of the contract with Broadway had also led to a significant increase in costs from £2.3million to £5.9million.

The Assistant Director informed the Cabinet that the Council had received a notice of Adjudication on 22 November 2017, which had been referred by Broadway Construction Limited. This concerned the termination of the contract by the Council on 1 June 2016, which Broadway maintained was wrongful and constituted a repudiatory breach of contract. The Adjudicator reached their decision on 2 February 2018 and gave a comprehensive judgement in favour of the Council.

The Assistant Director stated that the works for phase 2 of the Programme had been progressing at various stages across the site at Burton Road in Loughton. The Contractor was currently forecasting a nine week delay, with completions expected at the end of August 2018. The two most significant cost increases had related to contamination remediation, and utilities and cable disconnections.

The Assistant Director recounted that the works at six of the sites in Phase 3 were either close to completion or progressing well, and cost overruns were less than 10% at each site. However, due to the nature of the final site at Queens Road in North Weald, a package of initial enabling works had to be completed first and construction was expected to finish in October 2019.

The Assistant Director advised the Cabinet that the projects which made up the future phases 4 – 6 of the Council Housebuilding Programme had continued to be progressed, with planning permission for 24 sites which would deliver 74 new homes. There were 13 sites so far which had not been granted planning permission. In September 2017, East Thames gave notice that they no longer wished to act as

Development Agents on behalf of the Council. Whilst a three-month exit management term was set out in the Agreement, East Thames had agreed to extend this to six months, ending on 9 March 2018, to enable as smooth a handover as possible. The Council had now implemented a number of actions to ensure that there was no disruption in service or the quality of the service.

The Cabinet welcomed the fact that lessons from earlier phases of the Programme had been learned for the latter phases. The Assistant Director highlighted that lessons had been learnt from contamination issues and the Council had changed its approach. The issues had been identified in the original risk assessments and some ground contamination assessments had been carried out; however, contractors always included a caveat that their bids did not include charges for ground contamination works.

The Cabinet also highlighted the expertise of Officers in getting the adjudication determined in favour of the Council. The Leader added that the new Council homes being built were of a high quality, which enhanced the Council's reputation, and offered his thanks to the Housing Portfolio Holders for their efforts over the years to bring the programme to fruition.

Decision:

(1) That the Annual Progress Report of the Council Housebuilding Cabinet Committee on Council Housebuilding be noted.

Reasons for Decision:

As set out in its Terms of Reference, the Cabinet Committee was required to monitor progress and expenditure in relation to the Council Housebuilding Programme and report to the Cabinet on an annual basis.

Other Options Considered and Rejected:

There were no other options for action as this was a report on the progress made during the preceding twelve months.

137. TRANSFORMATION PROGRAMME MONITORING REPORT - JANUARY & FEBRUARY 2018

The Leader of Council presented a report outlining the progress made by the Transformation Programme during January and February 2018, along with the planned actions for March 2018.

The Leader reminded the Cabinet that regular monitoring reports on the progress of the Transformation Programme were presented to the Cabinet. This was the monitoring report for January and February 2018 and covered the progress made for all chartered projects of Medium and High Risk Potential, as well as key aspects of the Transformation Programme. The Cabinet noted that, overall, progress indicators for 'cost' and 'benefits' were Green for this period. The status indicator for 'time' was reported as Amber to highlight that 2 actions (from a total of 90) were overdue on its deadline, when compared with planned timelines. Project and Programme Managers had actions in place to deal with any potential negative effects. Progress would be kept under review and it was anticipated that the status of the majority of these items would return to Green in the next report.

The Head of Transformation added that, of the two projects with overdue actions, project P134 (Licensing Self-Service Applications) was now complete, and a review of project P043 (Mail, Correspondence & Document Management) was now underway.

Decision:

(1) That the progress of Projects and Programmes within the Transformation Programme for January and February 2018 be noted, alongside the planned actions for March 2018.

Reasons for Decision:

To inform the Cabinet of the progress with the Transformation Programme, including work streams, programmes and projects.

Other Options Considered and Rejected:

No other options were available as failure to monitor and review the progress of the Transformation Programme and to consider corrective action where necessary, could have negative implications for the Council's reputation, and might mean that opportunities for improvement were lost.

138. AWARD OF CONTRACT FOR ARBORICULTURAL MAINTENANCE WORKS

The Environment Portfolio Holder presented a report for the award of the contract for Arboricultural Maintenance Works.

The Portfolio Holder explained that the Council had an outsourced arrangement for managing those trees across the District that it was responsible for. Tenders for the new contract had been received on 9 February 2018 and had been evaluated by Officers under the previously agreed price and quality criteria. The company which had scored the highest was Gristwood and Toms Limited and it was recommended that the contract be awarded to them from 1 August 2018 for a period of five years with the option to extend by a further two.

The Assistant Director of Neighbourhoods (Technical Services) advised the Cabinet that the contract would be let on a 'schedule of works' basis, so the Contract would cost more if there was more work that needed to be undertaken. This year's budget had been spent before the end of the financial year due to the storms endured during the winter.

Decision:

(1) That, following a procurement exercise and being the most economically advantageous tender under the price and quality criteria, the contract for arboricultural maintenance of major trees which were the responsibility of the Council be awarded to Gristwood and Toms Limited for an initial period of five years with an option to extend by a further two years.

Reasons for Decision:

Under the Council's Procurement Rules, given the total value of the contract, only Cabinet could accept this tender.

Other Options Considered and Rejected:

To not accept the tender. However, this would mean that there was no contractor to deal with routine and emergency works on the major tree infrastructure of the District.

139. EQUALITY OBJECTIVES 2018-22

The Leader of Council presented a report on the proposed Equality Objectives for the period 2018 – 22.

The Leader reminded the Cabinet that the Council was required to publish equality objectives every four years to take forward its public sector equality duty. This duty required that the Council proactively considered how discrimination could be addressed through the work that the Council did, and also whether the Council could advance equality of opportunity and encourage good relations between different protected groups. The setting of objectives provided a focus on the outcomes to be achieved during the next four years.

The Leader added that new objectives had been developed to take the Council up to April 2022, and because the objectives had to be specific and measureable, an Action Plan had been developed to deliver them. The Cabinet was requested to consider and approve the adoption of the proposed Equality Objectives and Action Plan for 2018-2022.

Decision:

(1) That the Council's Equality Objectives and Action Plan for 2018-22 be agreed.

Reasons for Decision:

The setting of equality objectives every four years was required of public bodies under the Equality Act 2010. It was therefore, a key statutory duty that the objectives were set and published, together with the ongoing progress to achieve them.

Other Options Considered and Rejected:

To not adopt one or more of the proposed objectives, or to adopt alternative objectives. However, this was a statutory duty for the Council and there was no alternative option to the setting and publishing of one or more equality objectives for the period 2018 - 22.

140. PHASE 4 SUPERFAST ESSEX BROADBAND FUNDING

The Portfolio Holder for Technology & Support Services presented a report regarding the release of previously agreed funding for phase 4 of the Superfast Essex Broadband programme.

The Portfolio Holder reminded the Cabinet that the Council had seen considerable investment in the enhancement of its superfast broadband infrastructure and network capability in recent years. With coverage scheduled to reach approximately 97% of the District by June 2019, focus had switched to the additional investment in superfast broadband required in order to take the level of coverage across the District closer to 100% of homes and business premises.

The Portfolio Holder reported that, based on the Council's previously submitted Letter of Intent to invest up to £350,000 of additional funding to provide additional superfast broadband coverage, and match funded by BDUK with additional funding from Essex County Council, a competitive procurement process had been undertaken by Essex County Council to commission a suitable provider to deliver additional broadband coverage in the Epping Forest District. This competitive process had now been completed and the preferred bidder had been selected. Essex County Council was now seeking, prior to the formalisation of the contract award, a written agreement with the Council to commit the additional funding of £350,000 in full and the Cabinet's confirmed approval of this investment was sought.

Decision:

- (1) That the use of the existing provision of £350,000 within the Capital Programme for phase 4 of the Superfast Essex broadband rollout, match funded by contributions from BDUK and with an additional contribution from Essex County Council, be agreed; and
- (2) That a written agreement be entered into with Essex County Council to confirm this funding would be forthcoming.

Reasons for Decision:

To ensure that the Council adopted a modern approach to the delivery of its services and that they were efficient, effective and fit for purpose.

To utilise modern technology to enable Council Officers and members to work more effectively in order to provide enhanced services to customers.

Other Options Considered and Rejected:

The District could choose to not pursue this programme of further investment in superfast broadband, leaving future developments to be determined by market forces. However, this would risk the District falling behind if its location, assets or digital opportunities were not appealing in their own right and would put its residents and businesses at risk of not experiencing the best digital outcomes that were possible.

141. ANY OTHER BUSINESS

Decision:

- (1) That, as agreed by the Leader of Council and in accordance with Section 100B(4) of the Local Government Act 1972, the following items of urgent business be considered following the publication of the agenda:
 - (a) Implementation of the People Strategy – Strategic Director Posts.

142. EXCLUSION OF PUBLIC AND PRESS

Decision:

- (1) That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the items of business set out below as they would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12(A) of the Act indicated, and the

exemption was considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item</u>	<u>Subject</u>	<u>Paragraph Number</u>
15	The Impact of the Chinese Government's decision to impose tougher Quality Control standards on imported recycling materials	3
16	Implementation of the People Strategy	1

143. THE IMPACT OF THE CHINESE GOVERNMENT'S DECISION TO IMPOSE TOUGHER QUALITY CONTROL STANDARDS ON IMPORTED RECYCLING MATERIALS

The Environment Portfolio Holder presented a report concerning the potential impact of the Chinese Government's decision to impose tougher quality control standards on imported recycling materials.

The Portfolio Holder reminded the Cabinet that the Chinese Government's decision to impose tougher quality standards on imported recycling materials was reported at the previous meeting, and the global impact of this decision was now becoming clearer. The Council's waste management contractor had been adversely affected by this decision, but they were not alone in this as other large recycling processors across the UK had also been impacted. Biffa Municipal Limited had written to the Council and requested the Council to pay the additional costs attributed to its recycling materials. The rationale was that these external factors were outside their control and could not have been foreseen when they entered into the contract with the Council, thus placing a considerable financial strain on their contract with the Council.

The Portfolio Holder reported that, following the publication of the agenda, the Council had engaged WYG Environment Planning Transport Limited (WYG), a respected specialist consultancy in the field of waste management and recycling, who had assisted the Council during the procurement process for this contract. WYG confirmed that all Material Recycling Facility operators in the UK had been impacted by this decision of the Chinese Government. The Council was keen to work with Biffa on this issue but, following advice from WYG, it was clear that not enough information was currently available to make an informed decision. It was agreed to seek further clarification from Biffa and a letter was sent on 29 March 2018. A further report would be presented to the Cabinet when more information had been obtained from Biffa.

The Portfolio Holder added that the next meeting of the Waste Management Partnership Board was scheduled for 17 April 2018, and there was the possibility that a separate container could be needed in the future to isolate paper from the other recyclable materials.

Decision:

(1) That the impact of the Chinese Government's decision to impose tougher quality control standards on imported recycling materials and the impact this was having on the financial sustainability of the Council's Waste Management contract with Biffa Municipal Limited be noted;

(2) That the request by Biffa Municipal Limited for additional payments from the Council to cover the additional costs arising from the decision of the Chinese Government be noted:

(3) That the specialist external technical advice received by the Council in relation to the request from Biffa Municipal Limited for financial assistance to deal with the impact of the Chinese Government's decision to impose tougher quality control standards on imported recycling materials be noted; and

(4) That a further report be submitted to a future meeting of the Cabinet when responses to the questions raised in the proposed letter to be sent to Biffa Municipal Limited were received and details of the impact of the changes plus options for mitigation were known.

Reasons for Decision:

To consider options to help provide financial stability to the Waste Management contract in the short to medium term.

Other Options Considered and Rejected:

To refuse to consider the requests made by Biffa and demand that they operate the contract under the terms it was awarded. However, the contract could become financially and environmentally unsustainable. In the longer term, if the situation was not resolved and Biffa was unable to operate the contract as tendered, they might be forced to issue a termination notice.

In the event of a termination of this contract, the Council might have to appoint an interim contractor, more than likely at a higher operating cost, and be left to pick up all the loss in recycling income. A procurement exercise for a new waste and recycling contract of this scale could take up to 14 months, and there was no guarantee, especially given the current market, that a new provider would be prepared to share the recycling income risk to the level Biffa had done.

144. IMPLEMENTATION OF PEOPLE STRATEGY

The Leader of Council presented a report on the Strategic Director posts as part of the implementation of the People Strategy.

The Leader reminded the Cabinet that the implementation of a new Common Operating Model and management structure was central to the Council's programme of transformation in order to ensure that the authority was fit for purpose to meet future challenges. The appointment of the two new Strategic Directors was an important initial step towards this objective. The rationale and proposed changes to the Council's Management Board, as part of the implementation of a new Common Operating Model for the way Council services were delivered, were explained and in particular the steps necessary to recruit to the two new Strategic Director roles were outlined. It was also recommended that the level of Executive Assistant support which would be required by the new Management Board, should be reduced from five to one.

The Cabinet expressed some concerns about the two Strategic Director roles having the same job description, as this could be confusing. It was suggested that, whilst there should be some overlap, specific responsibilities should be identified for each Strategic Director to lead on with perhaps one focused on Customer Service functions and the other on the Back Office functions.

The Leader responded that the Job Descriptions were the same for both roles as the intention was not to create further silos but to give the Strategic Directors a cross cutting role. It made sense to not constrain the Strategic Director roles too much at this stage. The Assistant Director of Resources (Human Resources) added that having one Job Description for both roles offered flexibility across the Council and contributed to a flexible workforce which would work across the Council. The Chief Executive would identify and allocate specific projects for each Strategic Director

Some members of the Cabinet also voiced further concerns over the proposed reduction in the number of the Executive Assistant roles from five to one. However, the Assistant Director stated that, with advances in technology, there was a diminishing need for each Director to have a dedicated individual Executive Assistant. The one proposed post would support the Chief Executive and Strategic Directors on a shared basis, and the Leader of Council in the medium term prior to a wider review of Member support. It was also envisaged that such administrative support would be provided on a more corporate basis in the future by the Business Support Team.

When asked why the Strategic Director roles were being recruited to before appointing a new permanent Chief Executive, the Assistant Director responded that the appointment of an Acting Chief Executive was felt to be the best course of action at the current time as it would provide the Council with the necessary stability during a period of flux at the senior management level. It would also allow the soon-to-be-appointed Strategic Directors to bed into their new roles before the appointment of a new and permanent Chief Executive Officer.

The Leader of Council emphasised that there would not be a Deputy Chief Executive in the new structure, and reassured the Cabinet that the changes at Assistant Director level had simply been delayed, not abandoned, and would most likely be considered by the Cabinet at its next meeting in June 2018.

Decision:

- (1) That the following be recommended to the Council for approval:
 - (a) that the Council's current Management Board of one Chief Executive and four Service Directors be replaced by a new arrangement comprising of one Chief Executive and two Strategic Directors;
 - (b) that the posts of Director of Resources (vacant), Director of Governance (vacant), Director of Neighbourhoods and Director of Communities be deleted from the Council's establishment;
 - (c) that the requirement for voluntary severance on the terms contained within the report be agreed for the existing post holders of Director of Neighbourhoods and Director of Communities;
 - (d) that the leaving date for the Director of Communities be mutually agreed between the post holder and the Head of Paid Service on the basis of sufficient management capacity being retained until the appointment of any new Strategic Director;
 - (e) that the role of Acting Chief Executive be continued to be undertaken by the Director of Neighbourhoods, whose substantive post would be deleted, as per the decision previously made by the Council on 22 February 2018; and

- (f) that, in order to better reflect the support needs of the revised Management Board structure, the number of Executive Assistant posts be reduced from five to one, following the normal consultation arrangements of the Council and within the existing Redundancy Policy;
- (2) That the costs of these measures be met from within the existing budget provision previously agreed by the Council to implement the new Common Operating Model;
- (3) That the Job Descriptions for the new Strategic Director roles be agreed, to be advertised at a level of remuneration of up to £95,000 per annum;
- (4) That the indicative recruitment timetable be commenced immediately; and
- (5) That a further report on the development of the new Common Operating Model be submitted to the Cabinet at the meeting scheduled for 14 June 2018, outlining the proposed structure of the management levels below Management Board.

Reasons for Decision:

The Council had embarked on an ambitious transformation agenda, putting customers at the heart of service delivery and increasing efficiency by adopting smarter more flexible working practices. The implementation of the People Strategy was central to the delivery of these objectives. It would not be possible to achieve the benefits sought through the new Corporate Plan nor the requirements of the Council's Medium Term Financial Strategy, if a new Common Operating Model for the management of the Council, was not implemented.

Other Options Considered and Rejected:

Whilst alternative structure proposals could be developed, this would inevitably lead to delay in delivering service improvements, fail to address current capacity issues at senior management level, and cause uncertainty amongst the Council's workforce.

CHAIRMAN