

EPPING FOREST DISTRICT COUNCIL CABINET MINUTES

Committee: Cabinet **Date:** 18 October 2018

Place: Council Chamber - Civic Offices **Time:** 7.00 - 7.56 pm

Members Present: C Whitbread (Chairman), S Stavrou (Vice-Chairman), N Avey, A Grigg, H Kane, A Lion, J Philip, G Mohindra and S Kane

Other Councillors: N Bedford, J Jennings, J Lea, R Morgan, C C Pond, C P Pond, D Stocker, H Whitbread, J H Whitehouse and J M Whitehouse

Apologies:

Officers Present: D Macnab (Acting Chief Executive), G Blakemore (Strategic Director), S Hill (Service Director (Governance & Member Services)), A Blom-Cooper (Interim Assistant Director (Planning Policy)), Q Durrani (Service Director (Contracts & Technical Services)), P Maddock (Assistant Director (Accountancy)), P Charman (Leisure Contract Manager), A Hendry (Senior Democratic Services Officer), S Kits (Social Media and Customer Services Officer) and S Mitchell (PR Website Editor)

33. WEBCASTING INTRODUCTION

The Leader of Council made a short address to remind everyone present 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.

34. DECLARATIONS OF INTEREST

- (1) Pursuant to the Council's Member Code of Conduct, Cllr G Mohindra declared an interest in items 10 and 12, Epping Forest Local Highways Panel and Governance Arrangements for Local Plan Implementation, by virtue of being an Essex County Council Cabinet member. The Councillor had determined that his interest was not pecuniary and would remain in the meeting for the consideration for the issue.
- (2) Pursuant to the Council's Member Code of Conduct, Cllr G Mohindra declared an interest in item 13, Development of the Waltham Abbey Swimming Pool Site, Roundhills, Waltham Abbey, by virtue of being the a Cabinet member at Essex County Council . The Councillor had determined that his interest was prejudicial and that he would leave the meeting for the consideration of the item.
- (3) Pursuant to the Council's Member Code of Conduct, Cllr J M Whitehouse declared an interest in item 11, Leisure Management Contract Finances, by virtue of being a resident of St John's Road and a member of Epping Town Council. The Councillor had determined that his interest was not pecuniary and would remain in the meeting for the consideration for the issue.

35. MINUTES**Decision:**

That the minutes of the meeting of the Cabinet held on 6th September 2018, be taken as read and signed by the Leader as a correct record.

36. REPORTS OF PORTFOLIO HOLDERS

Councillor Philip, Planning and Governance Portfolio Holder updated the meeting on two items of interest. Firstly, the Council's Authority Monitoring report for 2017/18 which was about to be put on the Council's website. This reported on what we had done on Local Planning and Developments over the past year. We had already delivered more residential development this year than we had for many years. It also contained details on the economic development side as a result of the local plan.

The other thing being published on the website was the report from the independent examiner who had a pre meeting with ourselves and Chigwell Parish Council on their neighbourhood plan. Their initial draft would be going up on our website.

37. 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.

38. OVERVIEW AND SCRUTINY

It was reported that no meeting had been held since the last meeting of the Cabinet on 6th September 2018.

39. FINANCE AND PERFORMANCE MANAGEMENT CABINET COMMITTEE

The Leader of Council presented the minutes from the meeting of the Finance & Performance Management Cabinet Committee, held on 13 September 2018 as he had chaired that particular meeting.

The Cabinet Committee had made recommendations to the Cabinet concerning the update of the Corporate Risk Register. Other issues considered by the Cabinet Committee included: the Corporate Plan 2018-23 and the Corporate Plan Performance report for quarter 1; the Transformation Programme Project Dossier, the Corporate Risk Register, the Quarterly Financial Monitoring report and the Annual Outturn Report on the Treasury Management 2017/18.

Decision:

That the recommendation of the meeting of the Finance and Performance Management Cabinet Committee held on 13 September 2018, that the amended Corporate Risk Register be agreed.

Reason for Decision:

It was essential that the Corporate Risk Register was regularly reviewed and kept up to date.

Other Options Considered and Rejected:

Members may suggest new risks for inclusion or changes to the scoring of existing risks.

40. INTERIM APPROACH TO MANAGING RECREATIONAL PRESSURE ON THE EPPING FOREST SPECIAL AREA OF CONSERVATION

The Planning and Governance Portfolio Holder introduced the report on the interim approach to managing recreational pressure on the Epping Forest Special Area of Conservation. He noted that a letter from Natural England had been tabled; this was in response to proposed interim approach to managing recreational pressures on the Epping Forest Special Area of Conservation.

The meeting noted that the Conservation of Species and Habitats Regulations 2017 (Habitats Regulations) came into force on 30 November 2017 and transposes into domestic law the EU Habitats Directive 1992.

The Habitats Regulations implement the purposes of the Habitats Directive, in particular, the protection of certain natural habitats, known as European Sites that are considered to be under serious threat.

The legislation provides that where a land use plan or project, either alone or in combination with other plans or projects, was likely to have a significant effect on a European site, the plan-making authority must undertake an appropriate assessment of the implications of the plan or project for that site in view of the site's nature conservation objectives.

This report sets out the proposed approach to managing and mitigating the effects of new residential development on the SAC as a result of additional recreational pressure.

Councillor Mohindra looking at paragraph 10 of the report and the cost per dwelling said it should say 'net' dwellings, a charge for every additional unit on a plot. Councillor Philip agreed to change the report to read "Cost per additional dwellings".

Councillor Grigg noted that the tabled letter mentioned the Suitable Alternative Natural Green Spaces (SANGS) that could be reviewed including North Weald Bassett and South of Epping masterplan area. Her understanding was that the SANGS would be in the buffer zones, but the letter seems to indicate that they would be in the sites themselves. Could this be clarified? Councillor Philip replied that where a SANG went would be part of the master-planning. The key part of the SANGS was to take the pressure of the forest by providing an appropriate amount of recreational land. If we can get more SANGS, so much the better.

Councillor Lion referred to page 41 and the zones of influence of 6.2km and 3km, why had these been chosen. Councillor Philip said that this came from data from the visitor's survey, noting where people came from. 75% were from within 6.2km, the median was 3km and we took the approach that this was the right place to set the charge.

Councillor Bedford said that this SAC was set by a directive from the EU; after Brexit would we still reinforce this or was there a possibility that we could do away with it. Councillor Philip replied that this had now been incorporated into British Law so it could not be ignored.

Councillor Chris Pond said that this report did not touch on the air quality issue. This was vexed subject and asked how was work on this issue progressing? On the 2 mile

distance proposed, why was that figure chosen, why not graduated figures, so something within 1 mile attracted more of a contribution than something 3 miles away. Was this considered and if so, why was it rejected. He also noted that paragraph 3 of the report regarding SANGS and mitigation strategy by providing extra open land was something that he thought was something that could be challenged as it was a contradiction. Councillor Philip did not think that there was major contradiction here; they had been very clear in the Plan in providing appropriate alternative natural green space. As for the distance from the forest, there were many different ways that this could be achieved. The Council had to come forward with a sensible approach that allowed the Council to collect the amount of money needed to fund the mitigation strategy. This was how we chose to fund it. As for air quality, they were working on this and as a result of a number of court decisions, were given instructions on how to do this. The Council was currently working with natural England to find out what their requirements were to enable us to progress this relatively quickly.

Decision:

- (1) That the Interim Approach to Managing Recreational Pressures on the Epping Forest Special Area of Conservation set out at Appendix 1 of the report was adopted as a material consideration in the determination of planning applications and permitted development rights proposals for residential development which would result in a net increase in new homes within the Epping Forest District Council administrative area.
- (2) That the Service Director for Planning (or any another Service Director (in their absence) or an officer at level 2 or above or an officer duly authorised by the Service Director for Planning) be given delegated authority to undertake minor amendments to the Interim Approach which may arise as a result of consultation responses received as set out in paragraph 11 of the report in consultation with the Planning and Governance Portfolio Holder.
- (3) That the level of contribution to be sought from net increases in new residential units within 3km of the Epping Forest Special Area of Conservation arising from the granting of planning permissions and of prior approval consents under permitted development rights shall be as set out in paragraph 10 of the report.

Reasons for Proposed Decision:

To comply with the Council's general obligations as a competent authority under the Habitats Directive [article 6(3)] and Regulation 9(1) of the Habitats Regulations

Other Options for Action:

Not to adopt the Interim Approach to Managing Recreational Pressures on the SAC as a material consideration in the determination of planning applications and permitted development rights schemes which result in a net increase in residential units. This would prevent the Council, as local planning authority, from positively determining such proposals, where appropriate, as advised by Natural England, as the responsible statutory body, in its letter of 15 June 2018.

In addition it would mean that the Local Plan may not be seen as deliverable at examination and therefore not be found sound.

41. EPPING FOREST LOCAL HIGHWAYS PANEL

The Safer, Greener and Transport Portfolio Holder introduced the report asking for match funding for the Local Highways Panel with the County Council.

The Epping Forest Local Highways Panel (LHP) was formed in 2009. It consists of eight elected Councillors, four from County and four from District. The Panel was supported by Essex Highways and carried out highway improvement schemes within the District.

The County Council had offered to match fund £100,000 for the LHP to implement schemes within the District. If match funding was agreed by the Council then a number of highway schemes would be enabled in the District which would otherwise not get funding.

The ECC Cabinet Member for Highways and Transportation Councillor Kevin Bentley wrote to the Leader of the Council on 24 May 2018, offering to match fund up to £100,000 of District Council contribution to the Panel. Given that the entire available budget for the LHP has been committed, the additional funding, £200,000 in total, would enable the delivery of a number of priority schemes which would otherwise not be possible.

Councillor Mohindra postulated that there may be an opportunity for more than £100,000, as the ECC had set aside a certain amount of money subject to all Highway Panels agreeing to match funds a certain amount. He thought that not all of them agreed to match fund and so there was the potential for them to come back to us with more to offer. Councillor C Whitbread agreed and said that if there were more funds available then we would be interested. We needed to keep a watch in brief on this. There were a lot of schemes that we were bringing forward. But it should be kept in mind that money was finite and that we had to bear in mind our own finances.

Councillor Lea was in favour of this to happen although she was not happy with ECC who she thought did not listen to local councils on highway matters. Councillor C Whitbread noted her frustration but believed that communication was getting better.

Decision:

To agree to recommend to the Council a supplementary DDF estimate of £100,000 in 2018/19 to match fund the contribution from Essex County Council for the Epping Forest Local Highways Panel to implement highway improvement schemes within the District.

Reasons for Proposed Decision:

To enable highway improvement schemes to be implemented over and above those for which funding is available.

Other Options for Action:

The Council can decline the offer of match funding.

42. LEISURE MANAGEMENT CONTRACT FINANCE

The Leisure and Community Services Portfolio Holder introduced the report on leisure management contract finances.

After a competitive dialogue procurement process, the Council appointed Places for People Leisure Ltd (PfP) as its partner for the development and management of its Leisure facilities. Under the terms of the 20 year contract, Places for People on a design build basis, had constructed a new Leisure Centre at Waltham Abbey and undertaken significant refurbishment and extension projects at Ongar, Epping and Loughton Leisure Centres. This report sought additional unanticipated capital expenditure arising from the construction works.

In addition, the report outlined a course of action to address an outstanding contractual issue arising from the hand-over from the previous contractor SLM with regard to up-front membership fees, to the value of £161,000 which was still outstanding to Places for People.

Finally, the report also highlighted the Statement of Common Ground between the District Council and Sport England and specifically the requirement to undertake further feasibility work to support the relocation/provision of any future Leisure facilities.

Councillor Jon Whitehouse asked to hear more about the demolition of the site and the timescale envisioned and also, once the demolition had taken place how would the site be used. The Acting Chief Executive said one of the reasons to request finance to demolish the site was that the site was proving difficult to secure. As for demolition, they hoped to have a contractor by the end of the calendar year with the work completed by the end of the financial year. There was no obvious use for the site in the short term, but they were looking at temporary car parking if it proved to be possible.

Councillor Mohindra congratulated members and officers involved in grabbing this opportunity to progress this key site. Councillor C Whitbread added that officers had moved very quickly on this opportunity presented to us as well as the Town Council.

Councillor Bedford asked about having a new leisure centre in the district. Would a new contract have to be renegotiated with PfP for this? He was told that the contract was written with the view that at some point there would be a new leisure centre, so there was no need to renegotiate. Councillor Bedford asked if North Weald was still in consideration. The Acting Chief Executive said this was reliant on the outcome of the study asked for in recommendation 3. What's changed was that the St John's Road site had not been an option previously; so we will have to wait and see the outcome of the study.

Councillor Bedford noted that as a shift in location was being considered, residents in Ongar were worried if their site would close. The Acting Chief Executive replied that under the Local Plan there was no intention to have it allocated for residential redevelopment. But given its age and condition an objective view will have to be taken on the centre.

Decision:

1. (i) That the Cabinet seek a Supplementary Capital Estimate from the Council in the sum of £225,000 to meet unanticipated costs in relation to the construction

of Waltham Abbey Leisure Centre and other Leisure Centre refurbishments at Loughton Leisure Centre and Epping Sports Centre, and

- (ii) That in addition, a further Supplementary Capital Estimate was sought from Council in the sum of £475,000 to undertake the partial demolition of the vacant buildings on the former Junior School site in St John's Road, Epping, and also to undertake site investigation surveys.
2. (i) That the income received from PfP as part of their monthly payment was reduced by £161,000 over the remaining period of the financial year to mitigate their loss of membership income due to them from the Council's previous contractor SLM; and
- (ii) That the Council actively seeks the recovery of the £161,000 under the previous contract with SLM.
3. That Cabinet approved the cost of undertaking an options appraisal for the replacement of leisure facilities in the District in the sum of £20,000 to be funded from within existing resources.

Reasons for Proposed Decision:

Places for People Leisure Ltd were contractually entitled to additional costs over their agreed capital contributions for the new Leisure Centres and facility refurbishments. Similarly, they were also entitled to receive the outstanding Membership Fees. This report sought to address these issues.

The Council could elect not to clear the St John's Road site in the short-term and postpone survey works. However, this would not mitigate security costs and would delay any potential redevelopment.

Other Options for Action:

There was no alternative course of action with respect to the additional capital contributions. However, the Council could elect not to pursue SLM for the outstanding membership fees; however, this would result in a loss to the Council.

43. GOVERNANCE ARRANGEMENTS FOR LOCAL PLAN IMPLEMENTATION

The Planning and Governance Portfolio Holder introduced the report on Governance arrangements for Local Plan implementation.

It was noted that alongside the progression of the Local Plan, the Council needed to establish the governance arrangements to prepare for the implementation and delivery of the growth identified in the Local Plan. Cabinet agreed on 15 June 2017 (see C-001-2017/18) the overall approach to the production of Strategic Masterplans in the District, including the identification of sites/areas requiring their production. Cabinet also agreed the approach to the introduction of Planning Performance Agreements. This report therefore provided proposed amendments to existing governance processes and procedures to enable the masterplanning and PPA processes to be undertaken efficiently and effectively. Principally this required consideration to be given to: the arrangements for the preparation, consultation, endorsement and approval of the Strategic Masterplans and Concept Frameworks in the District; the proposed governance arrangements for documentation associated with the Harlow and Gilston Garden Town; and appropriate delegated responsibility

to nominated officers to act as a signatory on behalf of the Council for future Planning Performance Agreements.

Councillor Chris Pond asked what were the call-in arrangements. Councillor Philip replied that they would be as covered in the Council Constitution. Councillor Chris Pond asked that if any decision made by the Local Plan Cabinet Committee and then approved by the Cabinet could then be called in under normal arrangements. Councillor Philip noted that recommendation 3 allowed the Local Plan Cabinet Committee to approve the draft strategic masterplan for consultation. They can then recommend to Cabinet the endorsement of the final masterplans. As always they were subject to the normal call-in arrangements. But he has always stated that the masterplans could only really work when every one was involved; and to this end he would invite the appropriate ward members to the relevant meetings to ascertain their views.

Decision:

- (1) That the process and minimum requirements for the preparation of Strategic Masterplans and Concept Frameworks in the District set out in the report (and in guidance notes – see Appendix 4 of the report) be noted;
- (2) That the arrangements for the preparation, consultation, endorsement and approval process of the Strategic Masterplans and Concept Frameworks be agreed;
- (3) That the Local Plan Cabinet Committee's Terms of Reference be amended by the deletion of paragraph 3.5 of the current Terms of Reference and its replacement with " 3.5 To approve draft strategic masterplans and concept frameworks for consultation and to recommend to Cabinet on the endorsement of final masterplans as a material planning consideration or Supplementary Planning Documents";
- (4) That the Service Director for Planning (or any another Service Director (in their absence) or an officer at level 2 or above or an officer duly authorised by the Service Director for Planning) be given delegated authority to enter into Planning Performance Agreements with developers on behalf of the Council;
- (5) That the terms of reference and the approach for the Quality Review Panel and the Development Management Forum be noted (Appendix 5 and Appendix 6 of the report) and;
- (6) That the proposed governance arrangements for documentation associated with the Harlow and Gilston Garden Town be noted and endorsed (Appendix 2 and Appendix 3 of the report).

Reasons for Proposed Decision:

- To ensure that the appropriate governance arrangements were in place to agree draft strategic masterplans and concept frameworks for consultation and following consultation to endorse the documents as material planning considerations for the use in determining planning applications;
- To put in place appropriate arrangements for the signing of Planning Performance Agreements; and

- To note the proposed arrangements for documentation associated with the Harlow and Gilston Garden Town.

Other Options for Action:

Not to put in place the appropriate governance arrangements would mean that masterplans could not be used as material planning considerations in determining applications. To adopt a less pro-active approach to managing and overseeing the development and infrastructure proposals emerging as part of the Local Plan would carry a risk of poorly coordinated development being delivered, potentially of lower quality.

In addition it may mean that the Local Plan was not seen as deliverable at examination and was therefore not found sound.

44. DEVELOPMENT OF THE WALTHAM ABBEY SWIMMING POOL SITE, ROUNDHILLS, WALTHAM ABBEY

The Asset Management and Economic Development Portfolio Holder introduced the report of the development of the Waltham Abbey Swimming Pool site, Roundhills, Waltham Abbey.

The existing Waltham Abbey Swimming Pool will close in November 2018, when the new Waltham Abbey Leisure Centre would open. The future use of the site therefore needed to be considered.

In order to do this, it would be necessary to appoint a development consultant to appoint and co-ordinate the work of the various consultants and to work up an outline planning application for the Roundhills site, which had been allocated for residential accommodation within the Council's Local Plan Submission Version. In view of their successful and high quality approach to leading on the Hillhouse development in Waltham Abbey, Essex Housing had been invited to provide a Fee Submission to work up a proposal for residential accommodation on the site, submit an outline planning application, procure a demolition contractor and supervise the demolition of the Swimming Pool.

The total estimated cost of this work was £275,000. Essex Housing's proposed Development Fee was £12,000 (5.2%), which was considered to provide good value for money.

There was currently no budget provision to undertake this work. Therefore, in view of the need to commence the demolition works as quickly as possible, and to avoid delaying the outline planning application until next year, it was proposed that a request be made to the Council for a Supplementary Capital Estimate for £275,000, in order to commence the works and services as quickly as possible.

It was proposed that the Council enters into one contract with Essex Housing, for them to appoint the various consultants required, procure the contractor for the demolition works and supervise the demolition process. Where appropriate, the consultants and contractor would be appointed through competitive processes. Since the Total Contract Value would be in excess of £25,000, the appointment of Essex Housing would require a waiver from the Council's Procurement Rules.

Decision:

- (1) That Essex Housing, part of Essex County Council, be appointed as the development consultants for the preparation and submission of an outline planning application for, and for the demolition of, Waltham Abbey Swimming Pool, Roundhills, Waltham Abbey, including the appointment of all consultants and the demolition contractor – and that Section 10 of the Council's Procurement Rules be waived, in accordance with Section 2.8 of the Procurement Rules, accordingly;
- (2) That a request for a Supplementary Capital Estimate in the sum of £275,000 be made to the Council for the preparation of the Outline Planning Application and the demolition of the Swimming Pool; and
- (3) That the Asset Management and Economic Development Portfolio Holder agrees the proposed mix and other arrangements for the proposed development and authorises the submission of the Outline Planning Application on behalf of the Council.

Reasons for Proposed Decision:

Waltham Abbey Swimming Pool will close in November 2018 and the future use of the site needed to be determined. The existing swimming pool needed to be demolished as soon as possible in order to make way for the new development and to reduce holding costs in the meantime

Other Options for Action:

The main alternative options appeared to be:

- (1) Undertake a competitive procurement process for the appointment of the development consultants – however, this had been discounted due to the time and cost involved in procuring a development consultant, including the formulation of a detailed specification and the need to commence the demolition works as quickly as possible. In any event, Essex Housing's development fee was very reasonable and only formed a small part of the overall costs.
- (2) Enter into a contract with Essex Housing to only act on behalf of the Council in procuring the various consultants and the demolition contractor, for the Council to enter into separate contracts with these third parties. This had been discounted, since it would involve the Council in additional work and costs, which was not considered to be necessary compared to the proposed approach therefore less effective.

45. ANY OTHER BUSINESS

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

46. EXCLUSION OF PUBLIC AND PRESS**Decision:**

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>
16	Disposal of Pyrles Lane Nursery	3

47. DISPOSAL OF PYRLES LANE NURSERY

The Asset Management and Economic Development Portfolio Holder introduced the report on the disposal of Pyrles Lane Nursery.

The meeting noted that the marketing had been carried out by Allsop, as directed by the Council and instructed by the Estates Department. The tender was subject the stipulation of providing two prices, one for affordable rented comprising 100% of the affordable housing, and a second price based on 75% affordable rented to 25% shared ownership ratio. Three offers were received, with two providing prices for both scheme options. The existing use of the site by the Council for tree/landscaping services would be moved to the Town Mead Depot, with works to the units at Town Mead for these purposes being planned in conjunction with the proposed disposal of Pyrles Lane Nursery.

Although the Durkan Estates offer was slightly below that of the other tender, that tender was conditional on full detailed planning permission. Therefore the Durkan offer was the most financially advantageous result for the Council in either of the two development scenarios, given that this offer was most likely to proceed to completion and in a timely manner, while maintaining social benefit of affordable housing for the community in this area. In addition, Durkan had a proven track record in delivering successful development schemes of this nature with Local Authorities.

Decision:

- (1) That the offer from Durkan Estates was accepted (subject to contract and other stipulations set out in the EFDC tender pack) at £3.55 million on the basis of a development of 36 homes. 40% of the homes must comprise affordable housing, and the best Durkan offer was on the basis of the affordable element comprising 75% affordable rented and 25% shared ownership ratio; and
- (2) That delegated authority was granted to the Service Director Commercial and Regulatory Services in liaison with the Asset Management and Economic Development Portfolio Holder in order to effectively react to and agree any change in value that may arise from the conditions of the offer.

Reasons for Proposed Decision:

The Council had adopted a policy of maximising the benefits, both financial and social-economic of its assets. As part of this process, a programme of estate rationalisation has been undertaken, which had led to a number of new housing and commercial development projects. The disposal of Pyrles Lane Nursery was consistent with this policy. Acceptance of the offer from Durkan Estates, on the basis of 75% affordable rented and 25% shared ownership, maximises financial value for the Council while providing affordable housing options as a social-economic benefit.

Other Options for Action:

Alternative options were:

- (i) Do not accept the offers and bring the property back to the market. We would not however anticipate improving on the existing offers, as the offers received are in line with the external valuation advice provided by Allsop.
- (ii) Do not accept the offers and leave the property in its current use. However, the Council had made alternative provision via the Town Mead Depot and does not have a long term operational need to use the space.
- (iii) Do not accept the offers and seek an alternative form other than residential use. However, this was previously rejected following the Cabinet meeting of 11 July 2017.

CHAIRMAN