

Extraordinary Council – 27 June 2006

Minutes of the meeting of **Extraordinary Council** held on **27 June 2006** when there were present:-

Chairman: Cllr Mrs M J Webster
Vice-Chairman: Cllr K A Gibbs

Cllr R A Amner	Cllr C J Lumley
Cllr Mrs P Aves	Cllr Mrs J R Lumley
Cllr C I Black	Cllr D Merrick
Cllr Mrs R Brown	Cllr Mrs J A Mockford
Cllr P A Capon	Cllr R A Oatham
Cllr Mrs T J Capon	Cllr J M Pullen
Cllr T G Cutmore	Cllr P K Savill
Cllr K J Gordon	Cllr C G Seagers
Cllr J E Grey	Cllr S P Smith
Cllr Mrs S A Harper	Cllr D G Stansby
Cllr K H Hudson	Cllr Mrs M A Starke
Cllr A J Humphries	Cllr M G B Starke
Cllr C A Hungate	Cllr J Thomass
Cllr Mrs L Hungate	Cllr P F A Webster
Cllr T Livings	Cllr Mrs B J Wilkins

APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs Mrs L A Butcher, Mrs H L A Glynn, J R F Mason, Mrs C A Weston and P R Robinson.

OFFICERS PRESENT

P Warren	-	Chief Executive
G Woolhouse	-	Corporate Director (External Services)
A J Bujega	-	Head of Legal Services
S Scrutton	-	Head of Planning & Transportation
Y Woodward	-	Head of Finance, Audit & Performance Management
C Watkins	-	Financial Services Manager
J Bostock	-	Principal Committee Administrator.

204 PERFORMANCE PLAN 2006

Council considered the report of the Chief Executive that introduced the Performance Plan 2006 for approval.

It was noted that some measures of performance were in terms of comparison with other authorities. Responding to questions, the Chief Executive advised that:-

- The priorities identified on pages 5.1 and 5.2 of the Plan reflected terminology used by residents in the survey work carried out. Of Essex Councils, Rochford and Uttlesford had the highest general satisfaction rates. The next Best Value General Satisfaction Survey will be undertaken in the autumn, with the figures available by the end of the financial year.
- All of the Council's major publications provide for information to be available in large print, Braille or another language (as included on page 2 of the Draft Performance Plan). This is considered best practice and is a de minimus cost. The font size associated with the reference to Bengali can be adjusted to match those of other languages.
- On the basis of more recent National Non Domestic Rate figures, the Authority should be moving out of the bottom quartile.
- The map on page 2.4 of the Draft Plan would be examined to show appropriate Ward boundaries.

Members agreed that the document was well-presented and thanked all officers involved in its production.

Resolved that the Draft Performance Plan 2006 be approved. (CE)

205 DRAFT FINANCIAL STATEMENT 2005/06

Council considered the report of the Head of Finance, Audit & Performance Management on the financial statement for 2005/06.

Responding to questions, the Head of Finance, Audit & Performance Management advised that:-

- Financial arrangements associated with the Housing Stock Option Transfer process would mean that the debt associated with housing will be cleared. Officers were currently considering the precise financial implications should Stock Option Transfer proceed and will report to Members in due course.
- The cash flow statement shows a difference between the subsidy figure for Benefits and the payments out because Council tax benefits are not included in the cash flow as they are internal transactions within the Authority.

Reference was made to the potential value of bringing the glossary to the front of the Annual Report documentation.

Resolved

- (1) That the Financial Statements be approved and signed by the Chairman of the Council.
- (2) That the accounts be agreed for submission to the external auditors. (HFAPM)

206 CAPITAL PROGRAMME 2006/07

Council considered the report of the Head of Finance, Audit & Performance Management on the current Capital Programme following closure of accounts for 2005/06.

It was noted that replacing the lifts and providing temporary stairlifts at the Britton Court and Chignal House Sheltered Schemes would cost £76,000.

Responding to questions, officers advised that:-

- They would confirm that the temporary stair lifts at Britton Court and Chignal House could be retained.
- As part of the preparation for potential Stock Option Transfer, no capital receipts were being used towards the Housing Revenue Account Capital Programme, which is being fully financed by the Major Repairs Allowance, which is part of the Housing Subsidy from the Government . Should transfer take place, the Housing Programme would move to the Housing Association.
- The status with regard to the introduction of a baby-changing facility within the toilet reprovision at the Civic Suite would be investigated and reported back.
- The toilet facilities at Great Wakering were being maintained to a standard pending resolution of the vandalism problems which had stalled planned refurbishment works.
- Negotiations relating to the Hall Road Cemetery extension were reaching conclusion, with acquisition completion anticipated by month-end. Whilst the price level is the same as previously reported to Members, the area of land involved has increased.
- Some District boundary signs are showing wear and tear and officers would be coming forward with proposals to address this. The cost of revising all signs across the District would be considerable and would need to be looked at on a rolling programme basis within the budget process.

- The Thames Gateway Board was involved in ongoing discussions with the East of England Development Agency and the Department of Communities and Local Government on the funding of the Thames Gateway South Essex programme. The Leader and Chief Executive, with other Thames Gateway parties, were meeting with Government officials on the type of spend required over the next three-year Government spending round. There are indications that, whilst the Government remains supportive of the Gateway Project, the public sector purse will be tightened. Members will be kept informed of this aspect.
- The identified door improvements included doorframe replacement.

During discussion, the Leader of the Council referred to the convoluted nature of funding associated with the Thames Gateway Project and associated matters such as connections between local infrastructure and housing growth targets, which are an issue for many Authorities. The infrastructure implications of London hosting the 2012 Olympics would need to be part of any considerations.

Resolved that the revised Capital Programme for 2006/07 be agreed. (HFAPM).

207 TREASURY MANAGEMENT ANNUAL REPORT

Council considered the report of the Head of Finance, Audit & Performance Management on Treasury Management for the year 2005/06.

Resolved that the Treasury Management report be accepted. (HFAPM).

208 REVIEW OF THE PLANNING SERVICES (NOW DEVELOPMENT CONTROL) COMMITTEE

Council considered the report of the Head of Planning & Transportation on the review of the Planning Services (now Development Control) Committee.

Prior to consideration of the report recommendations, Members concurred with the observation of the Leader of the Council that the Chairman and Members of both the Planning Committee Review Sub-Committee and the former Environment Overview & Scrutiny Committee, together with those officers involved, should be thanked for all their work and contributions to this subject. This matter was not party political, each Member being free to vote as they saw fit.

Council considered each of the recommendations detailed in paragraph 3 of the report in turn:-

Recommendation (1) - relating to size of Committee

On a motion, moved by Councillor P A Capon and seconded by Councillor C I Black, this recommendation was agreed.

Recommendation (2) - relating to introduction of public speaking

The Committee agreed a motion, moved by Councillor T G Cutmore and seconded by Councillor S P Smith, that a facility for the Planning Policy & Transportation Committee to review the working of any arrangement in six months time should be included. It was also agreed that it would be appropriate to refer to 'objector/representative'.

Responding to questions, the Head of Planning & Transportation advised that officers could identify the name of the objector/representative in advance. A suitable timing device for use at meetings could also be identified. Whilst the likelihood that an applicant could have involvement in the identification of an objector was remote, the situation in practice could be included as part of the six month review. As part of its work, the Planning Committee Review Sub-Committee had raised the possibility that the same individuals would be asking to speak at each meeting. Again, the situation in practice could be included as part of the six month review. It should be possible to discuss with objectors whether they would want to refer to any of the visual aids available at the meeting.

There was specific debate around the merits of restricting public speaking to three minutes for a preliminary period. In favour, reference was made to an indication from Sub-Committee Minutes that public speaking at Brentwood Council was effective with a three minute restriction, particularly compared with the situation at East Cambridgeshire. Reference was also made to the potential adverse impact that too long a period could have on the length of meetings. Against, reference was made to the fact that, notwithstanding that there could at times be misinterpretation, the proposed limit was not five minutes but 'up to five minutes'. Also, East Cambridgeshire arrangements had included a facility for cross-examination. The Sub-Committee had felt that three minutes might be insufficient for a nervous speaker to make a point effectively. It could be anticipated that requests to speak would be relatively rare, particularly based on the experience associated with Parish Councils who already have a facility to address the Development Control Committee. The Parish experience also pointed to a likelihood that up to five minutes would be appropriate to enable an objector to cover all salient points. The Sub-Committee had experimented with some timings.

A motion that speaking be restricted to three minutes, moved by Councillor P A Capon and seconded by Councillor J Thomass, was lost on a show of hands.

Recommendation (3) - Site Visits/Familiarity and Recommendation (4) – Book in relation to Site Visits/Familiarity.

It was agreed that recommendations (3) and (4) could be seen as linked.

Responding to questions, officers advised that:-

- The Planning Development Review Sub-Committee had been mindful of a recent Ombudsman case which had indicated that Committee Members who do not familiarise themselves with a site are at a disadvantage.
- A record is kept of Members that attend organised site visits.
- Whilst Committee Members should be familiar with a site and able to vote, there are no doubt circumstances when they would choose not to vote.
- It is appropriate to consider the merit of arrangements in the context of appeal situations.

A motion that the proposal relating to a book be changed to an arrangement whereby, unless a book is signed to the contrary, it is assumed that Committee Members have attended any organised site visits, had alternatively made an individual visit to the sites, or were familiar with the sites for other reasons was moved by Councillor S P Smith and seconded by Councillor P A Capon.

In favour of the motion, reference was made to a perception that the Sub-Committee recommendation was overly bureaucratic. Reference was also made to the detailed nature of officer material/presentations relating to applications, which facilitated a good understanding of sites, and to the fact that site visits are usually called by Ward Members rather than officers.

Against the Motion it was observed that, with a 39 Member Committee responsible for acting in the interests of the District as a whole rather than individual Wards, it should be incumbent on Members to familiarise themselves with sites. It was also observed that weighting should be given to lessons that can be learned from Ombudsman cases and to the likelihood that the proposed revised arrangement could mean that Members feel that they are putting themselves in a difficult position if signing a book.

The Motion was lost on a show of hands.

During consideration of this item, Members also observed that:-

- There could be merit in officers considering the possibilities for a loose-leaf facility aimed at easing signage arrangements.

- Where there is evidence that a Member has attended an organised site visit, this should preclude a need for book signing.
- Members needing to travel long distances from, say, work in the City, can be precluded from attending mid-week early evening site visits by virtue of the travel time from work.

Recommendation (3) was endorsed. Recommendation (4) was agreed, subject to account being taken of the first two bullet points above.

Recommendation (5) – Improved Pointer/Cursors

This was endorsed, some improvement already now being in place. Different views could be taken on the merits of pointers/cursors being available for Members and there would be a need to be cognisant of potential health and safety factors.

Recommendation (6) – Web Casting or Oral broadcasting

This was agreed.

Recommendation (7) – All Members attending Training Sessions

A motion that the words ‘mandatory’ and ‘otherwise sanctions might be considered’ be removed from the recommendation was moved by Councillor P F A Webster and seconded by Councillor P A Capon.

In favour of the motion, it was observed that it would reflect the principle of Councillors being equally responsible for making their own judgements. It was likely that there will be circumstances when Councillors will not be able to attend training and, depending on time of appointment, this could be an issue with newly appointed Councillors. Whilst political groups may sanction their own Members, this could be seen as a different context. The nature of the sanctions that might be considered was unclear.

Against the motion, reference was made to how mandatory training was a feature of a number of areas of professional development away from local government. The need for certain levels of competence could be associated with the subject of Planning, a feature of which was changing legislation. Reference was also made to the fact that training was a pre-requisite of Council involvement in some appeals situations.

Responding to questions, officers advised that various training tools are available.

The motion was carried on a show of hands.

Resolved

- (1) That the Development Control Committee comprise all 39 Members of the Council.
- (2) That, subject to a review of arrangements after six months by the Planning Policy and Transportation Committee, public speaking be introduced within the framework of Appendix 1 to the report, subject to the time allowed for public speaking being limited to 'up to 5 minutes' each for the applicant/representative, one objector/ representative and the Parish Council. The Head of Planning & Transportation to determine the name of the objector/representative.
- (3) That all Members of the Development Control Committee should be encouraged to attend scheduled planning site visits, or to familiarise themselves with the sites if unable to attend to ensure that they have sufficient information on those applications.
- (4) That, subject to officers considering the possibilities for a loose-leaf facility and the exclusion of Councillors that are already recorded as attending an organised site visit, a book be made available before Committee meetings for Members to sign to confirm that they had made alternative arrangements to visit a site which has been the subject of an organised site visit, or were familiar with the site for other reasons, including their role as a Ward Member.
- (5) That there should be improved pointers/cursors for the officer presentations.
- (6) That the desirability of web-casting or oral broadcasting be endorsed, this to be further investigated with a report made in due course to the Policy, Finance & Strategic Performance Committee.
- (7) That all Members of the Development Control Committee should attend two Planning Training Sessions totalling four hours in each Municipal year, or make alternative training arrangements with officers if unable to attend scheduled sessions.
- (8) That the changes in resolutions (1) to (7) above be brought into operation from 1 September 2006. (HP&T)

EXCLUSION OF THE PUBLIC AND PRESS

Resolved

That the public and press be excluded from the meeting for the remaining business on the grounds that exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 would be disclosed.

209 PLANNING APPEAL – RETAIL FOOD STORE AND ASSOCIATED DEVELOPMENT AT FORMER PARK SCHOOL, RAWRETH LANE, RAYLEIGH

Council considered the exempt report of the Head of Legal Services on the Appeal arrangements following the decision of the Development Control Committee at its meeting on 25 May 2006.

Responding to questions, the Head of Legal Services advised that:-

- Only one Appeal relating to a decision in November 2005 had been lodged at present.
- The written representation procedure allowed any interested party to submit a view/opinion/evidence. The Planning Authority could submit evidence used to reach its decision. To go beyond this would mean that Appellants would have to respond to new evidence, and the use of the written representation procedure would no longer be appropriate.
- In the event that the Appeal was to be heard at an inquiry, it is unlikely that it would be before March/April 2007.
- In cases where an Appeal is successful, costs are only awarded where a local authority cannot substantiate its decision by credible evidence.

Resolved

- (1) That the pending Appeal be dealt with by Written Representations, subject to the Planning Inspectorate accepting that they can be dealt with on this basis.
- (2) That, in the event that the Appeals proceed by way of Inquiry, specialist Counsel and expert witnesses be engaged to give evidence in support of the Council's decision and a contingency sum as specified in the exempt report be set aside to meet the cost of defending the action and any consequent liability arising from a cost award, to be funded from balances in the first instance and taken into account as part of a Budget Strategy for 2007/08. (HLS).

The meeting closed at 10.21 pm.

Chairman

Date