

Cabinet
6 March 2018

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the WELWYN HATFIELD COUNCIL CABINET held on Tuesday 6 March 2018 at 7.30pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors J.W.Dean (Leader of the Council) (Chairman)
A.L.Perkins (Deputy Leader and Executive Member,
Planning, Housing and Community) (Vice-
Chairman)

D.Bell (Executive Member, Resources)
H. Bromley (Executive Member, Environment)
T.Kingsbury (Executive Member, Policy and Culture)
B.Sarson (Executive Member, Business, Partnerships
and Public Health)
R.Trigg (Executive Member, Governance, Community
Safety, Police and Crime Commissioner and
Corporate Property)

ALSO
PRESENT: T.Mitchinson

OFFICIALS Chief Executive (R.Bridge)
PRESENT: Executive Director (Resources, Environment and Cultural Services) (K.Ng)
Executive Director (Public Protection, Planning and Governance) (N.Long)
Head of Law and Administration (M.Martinus)
Head of Planning (C.Haigh)
Head of Housing Operations (S.Pearson)
Governance Services Manager (G.R.Seal)

103. MINUTES

The Minutes of the meetings held on 23 January and 6 February 2018 were approved as correct records and signed by the Chairman.

104. ACTIONS STATUS REPORT

The status of actions agreed at the Cabinet meeting on 6 February 2018 in the report of the Executive Director (Public Protection, Planning and Governance) was noted.

105. DECLARATIONS OF INTERESTS BY MEMBERS

Councillor M.Perkins declared a non-pecuniary interest in Agenda Item 8(a) Garage Maintenance Contract – Extension of Contract as a tenant of a Council garage (Minute 107.1 refers).

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106. ITEMS RELATING TO THE BUDGET AND POLICY FRAMEWORK FOR RECOMMENDATION TO THE COUNCIL

The following items were considered:-

106.1. Transfer of Building Control Functions to Three Rivers District Council

Report of the Executive Director (Public Protection, Planning and Governance) updating the Cabinet on the further work undertaken on the joint outsourcing project and the next steps to be taken to finalise the project.

(1) The Decision Taken

RESOLVED:

- (1) That the Council's statutory building control functions (as set out in Appendix A to the report) be transferred to Three Rivers District Council so that it could carry out the duties and responsibilities of LA1 as described in the report on behalf of Welwyn Hatfield Borough Council.
- (2) That the Executive Director (Public Protection, Planning and Governance) be given delegated authority to authorise the Services Agreement and Inter-Authority Agreement referred to in the report using the power in Section 5(2)(a) of the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2012 to transfer the functions listed in Appendix A to the report to Three Rivers District Council.
- (3) That the Head of Public Health and Protection be appointed as the Council's "Commissioning Panel Representative" as part of the Commissioning Panel established in accordance with the Services Agreement and Inter-Authority Agreement.
- (4) That delegated authority be given to the Head of Public Health and Protection, in consultation with the Executive Director (Public Protection, Planning and Governance), to appoint a "Deputy Commissioning Panel Representative" to attend the Commissioning Panel in the event of the Panel representative's absence.
- (5) That the Council be recommended to give delegated authority to the Head of Public Health and Protection, in consultation with the Executive Director (Resources, Environment and Cultural Services) as the Council's Section 151 Officer and Executive Member (Resources), to negotiate and agree fees for both statutory and non-statutory building control activities, in negotiation with other members of the Commissioning Panel,

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Three Rivers District Council acting as LA1 and Hertfordshire Building Control Ltd.

- (6) That consideration be given to any consequential revisions to be made to the Council's Constitution and schemes of delegation with recommendations made to the Council for adoption of these revisions.

(2) Reasons for the Decision

In July 2015 the Cabinet received a report setting out the challenges facing building control and it was agreed that the Council should explore the principle of transferring functions into a Hertfordshire joint arrangement.

In August 2016 the Cabinet received a report setting out the business case and financial, legal and risk implications of a joint service. It agreed to form a holding company and two subsidiary companies and to transfer delegable building control functions to these companies. It also confirmed that non-delegable functions would be transferred to one of the authorities in the joint service.

As a result the companies were formed and staff from the seven participating authorities including this Council were TUPE transferred into them in August 2016.

It was now confirmed that Three Rivers District Council would be the company LA1 to whom non-delegable functions would be transferred.

Contrary to the original proposal, it had been decided that LA1 would not employ a qualified building surveyor to make decisions, but would apply checks and balances and auditing arrangements to give proper consideration to each decision and ensure quality control was maintained. This recognised the direction of travel established by Dame Judith Hackitt's interim report into the Grenfell tragedy.

Three Rivers District Council would employ a contract manager to oversee the building control companies and each participating authority would nominate a representative to sit on a commissioning panel to oversee the contract manager and building control companies.

This Council would pay about £28,000 per year for statutory functions and lead authority costs. Other functions such as events safety advice could be procured at an hourly rate.

Legislation indicated that all fees should as nearly as possible equate to the costs of providing the service. Fees would be proposed by the building control company and confirmed by LA1 and the commissioning panel.

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It was considered that these arrangements would create a robust, professional and resilient building control service and ensure structural, electrical and fire safety for the Borough's residents and business.

(Note: The Chairman of the Environment Overview and Scrutiny Committee had been given notice that it was impracticable to comply with the requirement that at least twenty eight days' notice must be given of the intention to make a key decision on the Forward Plan in accordance with Regulation 10 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 because it was urgent and could not reasonably be deferred for the reason specified).

The reason for this item was to enable the next steps to be taken to finalise the project without delay.

(Note: There were no declarations of interest by a Member(s) in respect of the matter decided).

106.2. Tenancy Policy and Flexible Tenancy Policy (Forward Plan Reference FP829)

Recommendation from the meeting of the Cabinet Housing Panel on 22 January 2018 on approval of a revised policy and procedure.

This item was being brought back to the Cabinet after the decision to approve the policy was deferred at the Special Council meeting on 21 February 2018 (Minute 59.2 refers). The decision was deferred pending clarification on whether any future changes to procedures in relation to this policy would need to be referred back to the Cabinet Housing Panel for approval.

The nature of the decision which the Cabinet was being asked to make in respect of this Policy, prior to the policy being re-presented to the Council for approval was clarified.

(1) The Decision Taken

RESOLVED:

That the revised Tenancy policy be recommended for adoption by the Council.

(2) Reasons for the Decision

The Cabinet Housing Panel had considered an update of the Council's Tenancy Policy which included the removal of references to the Housing Trust and also aligned the policy with the Tenancy Strategy which was published in 2013.

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The previous tenancy policy had been approved in April 2012 by the Housing Trust's Board.

The Council had been granting five year flexible term tenancies since November 2013 and the review process for these had been due to commence in November 2017. Now that this process was about to commence on current tenancies, the functional details of the review process had been identified, including reporting, and had been updated in a new, separate, procedural document to provide better guidance for staff who would be carrying out the reviews.

There were no changes in the updated policy to the grounds for refusing to renew a flexible tenancy at the end of the five year term. These were the same as already approved in April 2012.

The legally mandated procedural guidance for tenants who wished to seek a review of a decision not to renew a flexible tenancy was now also in a separate document that could be issued to tenants separately on request.

The changes made to the original Tenancy Policy, dated April 2012 were identified.

It was agreed that any future amendments to the flexible tenancy review procedure made in line with any future legal changes or changes in procedure should be brought back to the Cabinet Housing Panel.

Following discussion the Panel had agreed that further information on the assessment of financial assessment, including trigger points relating to income levels, savings, investments or equity be brought to a future meeting of the Panel.

(Note: There were no declarations of interest by a Member(s) in respect of the matter decided).

107. ITEM REQUIRING KEY DECISION

The following item for decision in the current Forward Plan was considered:-

107.1. Garage Maintenance Contract - Extension of Contract (Forward Plan Reference FP838)

Report of the Executive Director (Resources, Environment and Cultural Services) recommending a one year extension of the current contract for garage maintenance services.

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In April 2015, the Cabinet agreed to award a three year contract (with an optional one year extension) to RPT Building and Maintenance Services for maintenance services (reactive repairs and planned reroofing).

(1) The Decision Taken

RESOLVED:

That the Cabinet agrees to a one year extension of the current contract (from 1 May 2018 to 30 April 2019) with RPT Building and Maintenance.

(2) Reasons for the Decision

The service being provided by RPT Building and Maintenance Services still reflected best value in both performance and cost to the Council. The garages team had received numerous compliments regarding the contractor's staff and were also keen to see this extended.

(Note: Councillor M.Perkins declared an interest in this item – Minute 106 refers).

108. DATA PROTECTION POLICIES

Report of the Executive Director (Resources, Environment and Cultural Services) seeking approval to the Council's overarching Data Protection Policy.

The policy outlined how the Council would deal with data protection, along with the responsibilities of employees, Councillors, partners and contractors. It would assist in ensuring compliance with the Data Protection Act and General Data Protection Regulations (GDPR) and respect the privacy rights of individuals.

RESOLVED:

- (1) That the Cabinet agrees the Data Protection Policy.
- (2) That delegated authority to be given the Executive Board for approval of the following policies and procedures:
 - Subject Access Requests Procedure
 - Data Breaches Procedure
 - Data Protection Training Procedure
 - Privacy Impact Assessment Procedure
 - Paper Records Secure Handling Procedure
 - Secure Office Procedure
 - Patient Identifiable Information Policy

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109. PERFORMANCE EXCEPTION REPORT- QUARTER 3 (2017/18)

Report of the Executive Director (Resources, Environment and Cultural Services) summarising strategic performance data for Quarter 3 of 2017/18.

Performance clinics were held quarterly to review progress towards business plan targets, performance indicator targets, financial performance and service complaints and report on current strategic and operational risks.

RESOLVED:

That strategic performance data be noted and any proposed actions highlighted be approved.

110. COUNCIL'S ACHIEVEMENTS LIST - OCTOBER TO DECEMBER 2017

Report of the Executive Director (Resources, Environment and Cultural Services) summarising key achievements and service improvements for Quarter 3 of 2017/18.

RESOLVED:

That the Achievements List be noted.

111. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That under Section 100(A) (2) and (4) of the Local Government Act 1972, the press and public be now excluded from the meeting for Agenda items 14 and 15 (Minutes 112 and 113 refer) on the grounds that they involved the likely disclosure of confidential or exempt information as defined in Section 100A (3) and paragraph 3 (private financial or business information) of Part 1 of Schedule 12A of the said Act (as amended).

In resolving to exclude the public in respect of the exempt information, it was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

112. ITEMS OF AN EXEMPT NATURE REQUIRING KEY DECISIONS

To consider the following items of an exempt nature for decision in the current Forward Plan:-

112.1. Minor Works Contract (Forward Plan Reference FP844)

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Exempt report of the Executive Director (Resources, Environment and Cultural Services) on the award of contracts for minor building works and extension of contract for electrical minor works.

(1) The Decision Taken

RESOLVED:

- (1) That a three year framework contract, with an optional one year extension, for minor building works be awarded to
 - RCP Contractors Ltd
 - D. Smith Builders (Welwyn) Ltd
- (2) That the contract for electrical minor works (undertaken by Baldwin and Bleakley Electrical Services Ltd) be extended by a further twelve months until 31 March 2019.

(2) Reasons for the Decision

The Council had a need for companies to provide a responsive maintenance service to ensure that the corporate property stock was adequately maintained.

Contractors were employed through an hourly rates framework contract.

(Note: Councillor M.Perkins declared a non-pecuniary interest in this item as she on occasion used D.Smith Builders, Welwyn Ltd for work at home).

112.2. Cleaning Contract (Forward Plan Reference FP845)

Exempt report of the Executive Director (Resources, Environment and Cultural Services) on the procurement process for this contract.

(1) The Decision Taken

RESOLVED:

- (1) That the Council does not exercise the extension clause in the contract
- (2) That a Member Procurement Board be established to oversee the procurement process (Constitution 3 Members Ratio 3:2).

(2) Reasons for the Decision

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On 1 November 2016, Cabinet agreed to enter into a two year contract (with an optional one year extension) with Birkin Cleaning Services Ltd for office and general cleaning services. The contract commenced on 1 January 2017 and the initial term expires on 31 December 2018. There is a Council only option to extend the contract to 31 December 2019.

113. ITEM OF AN EXEMPT NATURE REQUIRING KEY DECISION NOT IN THE FORWARD PLAN

The Cabinet considered the following item of an exempt nature for decision not in the current Forward Plan:-

113.1. Property Investments

Exempt report of the Executive Director (Resources, Environment and Cultural Services) setting out the property investments opportunities going forward.

(1) The Decision Taken

RESOLVED:

- (1) That the Cabinet notes the recent changes in the statutory prudential framework of capital finance and the implications on commercial property investment as outlined in the exempt report.
- (2) That delegated authority be given to the Executive Director (Resources, Environment and Cultural Services), in consultation with the following Members, to agree direct property investments as set out in paragraphs 3.8 – 3.12 of the exempt report:-

Leader/or Deputy Leader plus any two of the following three Executive Members:-

- Executive Member (Business, Partnerships and Public Health)
- Executive Member (Governance, Community Safety, Police and Crime Commissioner and Corporate Property)
- Executive Member (Resources).

- (3) That a maximum threshold of £3M be applied for any individual transaction under this delegated authority.

(2) Reasons for the Decision

In September 2017 the Cabinet agreed to establish a commercial property company as an income generating investment vehicle with the aim to make significant annual contributions to the Council's General

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Fund in the face of funding shortfalls, and by doing so, put services on a more sustainable footing to support local people.

The draft business plan for the property company assumed most of the property investment would be located outside of the Borough, however given the change in the statutory framework, it would be logical to consider direct property investment by the Council, in addition to any investments that might be made indirectly through the property company in the future.

(Note: The Chairman of the Resources Overview and Scrutiny Committee had been given notice that it was impracticable to comply with the requirements that at least twenty eight days' notice must be given of the intention to make a key decision not in the Forward Plan and to consider the item in the private section of the meeting in accordance with Regulations 5 and 10 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 because it was urgent and could not reasonably be deferred for the reason specified).

The reason for this item was to enable the Council to consider property investments going forward and not miss any opportunities.

(Note: There were no declarations of interest by a Member(s) in respect of the matter decided).

Meeting ended 8.10pm
GS