

CABINET
10 April 2014 at 7.00 pm

Further to the recent despatch of agenda and papers for the above meeting, please find the following item(s) which were marked as 'to follow':

4. **Matters referred from Council** (Pages 1 - 2)
5. **Matters referred from the Audit Committee and Scrutiny Committee (Paragraph 5.20 of Part 4 (Executive) of the Constitution)** (Pages 3 - 4)
 - a) Risk Management Strategy (*Audit Committee – 18 March 2014, Minute 36*)
6. **Recommendations from the Cabinet Advisory Committees** (Pages 5 - 12)
 - a) *Gypsies and Traveller Plan Consultation (Local Planning & Environment Advisory Committee – 25 March 2014)*
 - b) *Establishment of a Local Authority Trading Company Structure (Finance & Resources Advisory Committee – 26 March 2014)*
 - c) *Rural Broadband (Economic & Community Development Advisory Committee – 26 February 2014, and Finance & Resources Advisory Committee – 26 March 2014)*
 - d) *White Oak Leisure Centre Asset Maintenance – Update (Economic & Community Development Advisory Committee – 26 February 2014, and Finance & Resources Advisory Committee – 26 March 2014)*
 - e) *Asset Management Plan - Update (Finance & Resources Advisory Committee – 26 March 2014)*
 - f) *Investment Strategy (Finance & Resources Advisory Committee – 26 March 2014)*

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

The Democratic Services Team (01732 227241)

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MATTERS REFERRED FROM COUNCIL

New proposals for the Advisory Committees:

Review of New Governance Arrangements (Minute 48(d), Council – 1 April 2014)

Councillor Fleming proposed and Councillor Mrs. Davison seconded the recommendations from the Governance Committee along with an additional recommendation that no Member could Chair more than one Advisory Committee.

Resolved: That the implementation of the following recommendations take effect from the date of Annual Council on 13 May 2014:

- a) the Scrutiny Committee changes to a fixed membership of 9 members plus a Chairman and Vice Chairman with all members of the committee being independent of the Cabinet Advisory Committees;
- b) the membership of the Cabinet Advisory Committees increase from 10 members to 12 members including the relevant Cabinet and Deputy Cabinet Members on each of the Cabinet Advisory Committees;
- c) Members be able to sit on more than one Cabinet Advisory Committee;
- d) with the number of Cabinet Advisory Committees remaining at 5 the Committees should normally meet 4 times a year;
- e) the Advisory Committees be able to choose their own Chairman;
- f) the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance;
- g) Portfolio Holders to individually present a report to each ordinary Full Council meeting in the same way the Chairmen of the Select Committees did previously;
- h) a comprehensive training plan for Members be developed for implementation in May 2015; and
- i) no Member to be Chairman of more than one Advisory Committee.

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**MATTERS REFERRED FROM THE AUDIT COMMITTEE AND SCRUTINY COMMITTEE
(PARAGRAPH 5.20 OF PART 4 (EXECUTIVE) OF THE CONSTITUTION)**

Risk Management Strategy (*Minute 36, Audit Committee – 18 March 2014*)

The Audit Risk and Anti Fraud Manager presented a report which informed Members of the Council's Risk Management Strategy. It ensured that the Council adopted appropriate objectives for the management of risk which allowed the Council to deliver on the Vision and Promises as set out in the Corporate plan. He informed Members that it had also been updated to reflect the new Management Structure, professional development and regulatory requirements.

In response to a question, the Audit Risk and Anti Fraud Manager advised Members that succession planning would be included within the strategic risk register which was currently being updated to reflect recent developments; and would be sent to to Members for their consideration at the next meeting of the Committee.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That Cabinet be recommended to adopt the Council's Risk Management Strategy.

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RECOMMENDATIONS FROM CABINET ADVISORY COMMITTEES

- a) Gypsies and Traveller Plan Consultation (*Minute 36 , Local Planning & Environment Advisory Committee – 25 March 2014*)

The Planning Officer presented a consultation draft of the Gypsy & Traveller Plan for the District. This had been produced in light of the Gypsy & Traveller and Travelling Showpeople Accommodation Assessment (GTTAA) undertaken by the Council in March 2012. The GTTAA had identified the need to provide 72 pitches between 2012 and 2026 in order to fulfil the housing needs of those anticipated to meet the planning definition of Gypsies & Travellers. The Planning Officer advised that, since the publication of the report, a pitch (at Crockenhill) had been granted permanent planning permission, thereby reducing the needs requirement to 71.

The consultation draft identified 14 site options, with a total number of 93 additional permanent pitches for potential allocation. These sites had been subjected to an initial assessment against pre-defined selection criteria, including constraints; impact; and sustainability. The purpose of the proposed consultation was to seek the views of stakeholders on these sites and to invite suggestions for any others which may be suitable.

The Planning Policy Team Leader referred to the supplementary information which had been circulated regarding the site on land west of Enterprise Way, Edenbridge (the 'Reserve Land'). This explained that the Planning Inspector examining the Council's Allocations and Development Management Plan had indicated his intention to recommend a 'main modification' to allocate the site for housing under Policy H1. The Inspector considered that this would be incompatible with any proposals for Gypsy & Traveller pitches and, in light of this, Officers recommended that the site be removed from the consultation document.

The report acknowledged that it would not be possible to meet the identified need without planning for sites in the Green Belt. It also emphasised the importance of developing a plan to meet the accommodation needs of Gypsies & Travellers as, without the identification of suitable sites, the Council would have difficulties in resisting proposals for sites coming forward through the development management (including appeal) process regardless of their locations.

Reference was also made to the fact that Gypsies & Travellers were covered as a 'protected group' from discrimination under the Equalities Act 2010. The consultation draft had therefore been subjected to an Equalities Impact Assessment.

The Chairman invited comments from Councillors and members of the public. Arising from this, the following views were expressed as follows:

Site at Seven Acres Farm, Hever Road, Edenbridge

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The field in question appeared capable of accommodating additional pitches (i.e. besides the 7 temporary pitches which were there at the moment);

Site at Malt House Farm and land adjacent to Valley Park South (both Lower Road, Hextable)

The proposed potential allocations were inappropriate for the village;

Land east of Knockholt Station, London Road, Halstead

There were a number of sites in the area representing an unacceptable density of provision;

Holly Mobile Home Park, Hockenden Lane, Swanley

Reference in the report to the site not being in an Air Quality Management Area should be checked. [A Councillor asserted that this aspect of the report was incorrect]. The site was adjacent to the A20, not the M25. Some of the current residents do not meet the local housing needs criteria. Swanley would be surrounded by traveller sites;

Site at Barnfield Park, Ash-cum-Ridley

Further provision of pitches would be incompatible with the Government's Planning Policy for Traveller Sites which advocated measures to: respect the interests of the settled community; reduce tensions in plan-making, ensure economic, social and environmental sustainability with accessible education, health, welfare and employment infrastructure; and relate pitch numbers to the circumstances of the specific site and the surrounding population's size and density. This was on the basis that:

- responses to the Ash-cum-Ridley 2013 Neighbourhood Plan questionnaire demonstrated a lack of support for and opposition to additional pitches;
- Ash has no public transport and was poorly connected with no vehicular access to The Street in Ash;
- there are no services in Ash to benefit the education, health, welfare or employment needs of the traveller community;
- there were some 65 residential properties in the core of Ash Village: Billet Hill and The Street, and the 35 pitch site at Barnfield Park already dominated the village. The site was already overdeveloped as a result of the present development exceeding that allowed by the planning permission for the site;
- the Government's guideline of 15 pitches as the optimal size for managing a site should relate to the total number of pitches on the whole site, not to the 8 newly proposed additional pitches

Land west of Enterprise Way, Edenbridge

The supplementary recommendation to remove this site from the consultation document (in light of the Planning Inspector's comments, as referred to above) was strongly supported;

Land south of Mesne Way, part of Timberden Farm, Shoreham

The site was wholly unsuitable for 15 pitches. It could be viewed from a well used footpath on the North Downs; the potential for screening was dubious. It had also suffered from flooding in the past. Shoreham was a small village with narrow roads (vehicular access to the sites via Filston Lane, not the High Street). The village school would become oversubscribed. The proximity within the Kent Downs AONB was especially significant. The pitches would be unsustainable and would have a negative impact on the village.

General comments

The clusters of potential allocations were too dense and should be distributed more evenly among other settlements to facilitate integration and to create more balanced communities. The management of sites was generally poor. There was inadequate infrastructure in rural locations. Some sites were close to the District's boundaries and the area of search for additional provision needed to be widened beyond this with neighbouring authorities being required to fulfil their 'Duty to Co-operate'.

Resolved: That it be recommended to Cabinet that

a)subject to:

i)the deletion of the following sites

- Malt House Farm, Lower Road, Hextable
- Land adjacent to Valley Park South, Lower Road, Hextable
- Land east of Knockholt Station, London Road, Halstead
- Barnfield Park, Ash-cum-Ridley
- Land west of Enterprise Way, Edenbridge
- Land south of Mesne Way, part of Timberden Farm, Shoreham; and

ii)the inclusion of the Holly Mobile Home Park, Hockenden Lane, Swanley being conditional upon Officers confirming that the site is not located within an Air Quality Monitoring Area

the 'Gypsy and Traveller Plan – Site Options Consultation' and the 'Gypsy and Traveller Plan – Site Options – Assessments' (Appendices 1 and 2 to the report) be published for consultation (along with the Sustainability Appraisal) during a period to be agreed by the Portfolio Holder;

b)the Portfolio Holder be authorised to agree minor presentational changes and detailed amendments to the consultation documents to improve their clarity; and

c)the consultation document be published on the Council's website and made available for purchase in hard copy at a price to be agreed by the Portfolio Holder.

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- b) Establishment of a Local Authority Trading Company Structure (*Minute 52 , Finance & Resources Advisory Committee – 26 March 2014*)

The Chief Officer Legal and Governance presented a report which proposed that the Council establish a generic trading company, wholly owned by the Council, to enable the Council to take advantage of the trading opportunities introduced by the Localism Act 2011. The recent Peer Challenge had suggested that the Council become more self-sufficient by generating more income. The Chairman added that most existing sources of income for the Council had reached their limit, had been capped, or were controlled. The Chief Officer clarified that the Localism Act allowed the Council to do anything which an individual could do, where there was not an existing statutory duty, but anything done for a commercial trading purpose must be done through a trading company.

The report advised that senior officers would be the executive directors of the company with 3 Members, appointed by the Leader, as non-executive directors. Authority would be sought from Cabinet for particular projects and Cabinet would act as the principal overseer.

A Member suggested that a separate bank account for the company could be simpler, especially for auditing purposes. It was noted the company may have several subsidiaries for different projects.

Subject to approval of the principle by Cabinet, it was agreed that the details of the company be developed and brought back to the Committee for consideration at a future meeting, possibly June 2014.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: It be recommended to Cabinet

- a) that the Chief Officer Legal and Governance be authorised to incorporate a company wholly owned by the Council so as to allow the Council to exercise the power to trade contained in the Local Government Act 2003 and the Localism Act 2011.
- b) that the broad governance and funding arrangements for the trading company, as set out in this report, be approved and the Chief Officer Legal and Governance in consultation with the Chief Executive, Chief Finance Officer and Portfolio Holder for Finance and Resources be given delegated authority to settle the detailed arrangements for the establishment of the company.
- c) that consideration be given by the Cabinet as appropriate to any individual business cases in respect of the use of the Council's trading

powers as part of the development of the future strategy for income generation.

c) Rural Broadband

(Minute 34 , Economic & Community Development Advisory Committee – 26 February 2014)

The Chief Officer, Communities and Business presented a report which summarised the work that had taken place to improve broadband within the District. She advised Members that the Government had announced that it would invest £530 million in superfast broadband infrastructure in rural areas. Kent County Council (KCC) was successful in bidding for £10 million from the BDUK funding which was matched with an additional £10 million from the KCC Regeneration Fund. KCC signed a contract with BT which agreed that at least 95% of properties in Kent will have access to high speed broadband and every property will have access to at least 2mbps. The Council had also applied for funds from DEFRA Rural Community Broadband Fund (RCBF) with Tunbridge Wells Borough Council to upgrade some of the 'heard to reach' rural areas. Parts of Leigh, Chiddingstone, Penshurst, Cowden and Hever would benefit from the funds.

The Economic Development Officer advised Members that the Rural Broadband Working Group had considered the options and favoured options 1 and 5. Members were informed that a technical study would have to be postponed until the roll out was on target.

In response to questions Members were advised that Edenbridge exchange cabinet would be upgraded in the next role out and that option 1 could be combined with any option. Option 2 was already functioning in Underriver, however there were other companies which could be used.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That either options 1 and 2; or 1, 2 and 3 contained in the report be recommended to Cabinet.

(Minute 53 , Finance & Resources Advisory Committee – 26 March 2014)

The Chief Officer Communities and Business presented a report which advised the Government had announced that it would invest £530 million to stimulate commercial investment in superfast broadband infrastructure in rural areas. Kent County Council (KCC) was successful in bidding for £10 million from the BDUK funding which was

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matched with an additional £10 million from the KCC Regeneration Fund. KCC signed a contract with BT which agreed that at least 95% of properties in Kent will have access to higher speed fibre-based broadband, 91% of properties to have access to at least 24mbps and every property to at least 2mbps. The Council had also applied for funds from DEFRA Rural Community Broadband Fund (RCBF) with Tunbridge Wells Borough Council to upgrade some of the 'heard to reach' rural areas. Parts of Leigh, Chiddingstone, Penshurst, Cowden and Hever would benefit from the funds. Officers were hopeful of a positive response soon.

The item had been brought to the Committee particularly for consideration of the investment opportunities presented in options 3 and 4 in the report. Officers advised the Committee that the payback on the schemes would be low, could be over 10 to 15 years and may only be where there had already been market failure. Selling Parish in Kent had spent over £500,000 but only connected 36 properties. Often, once a successful local group had been established then BT would step in and take on the rollout instead. The Committee was concerned at the proposals in options 3a, 3b and 4 in the report. They did not feel that the returns were sufficient as an investment opportunity. Nor was option 5 to be recommended.

Members raised concern at the ability of BT to achieve the rollout. There had been delays and some broadband performance had suffered due to capacity issues.

Action 1: Chief Officer Communities and Business to discuss with BT the possibility of providing residents with more information about upcoming works and any disruption that could be caused.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That options 1 and 2 contained in the report be recommended to Cabinet.

d) White Oak Leisure Centre Asset Maintenance - Update

(Minute 38, Economic & Community Development Advisory Committee – 26 February 2014)

(Exempt Information Schedule 12a paragraph 3 LGA 1972)

Members discussed the options that were in the confidential report and it was

Resolved: That options 51, 55 and 56 as set out in the confidential report be recommended to Cabinet.

(Minute 57 , Finance & Resources Advisory Committee – 26 March 2014)
(Exempt Information Schedule 12a paragraph 3 LGA 1972)

The Committee gave consideration to the confidential report, which was presented by the Chief Officer Communities and Business.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: It be recommended to Cabinet that

- a) the proposals considered in paragraph 50 of the report would not be cost effective;
- b) further investigation be made of the proposal considered in paragraph 55 of the report; and
- c) outline proposals be made for the options considered in paragraphs 51 to 54 of the report.

- e) Asset Management Plan Update (Minute 58 , Finance & Resources Advisory Committee – 26 March 2014)
(Exempt Information Schedule 12a paragraph 3 LGA 1972)

The Committee gave consideration to the confidential report, which was presented by the Property and Facilities Management Manager. It provided an update on the previously approved disposals completed since April 2013. It also set out the properties which had been identified for freehold disposal in 2014/15 as part of the rolling programme of review and in line with the adopted Asset Management Plan. These properties had been identified either as underperforming financially or as surplus to the operational requirements of the Council. Further reports would be brought back for consideration before the final disposal of each.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That Cabinet be recommended that they approve in principle the disposal of the land and properties identified in the report.

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- f) Investment Strategy (Minute 59 , Finance & Resources Advisory Committee – 26 March 2014)
(Exempt Information Schedule 12a paragraph 3 LGA 1972)

The Committee gave consideration to the confidential report, which was presented by the Chief Finance Officer. It proposed an investment strategy building on an approach of property based investment in order to deliver increased revenue income. In recent years the Council had faced ongoing reductions in Government Support, compounded by low interest rates resulting in returns on treasury investments generally not higher than 0.8%. Self-sufficiency was a key focus area in the Corporate Plan and was an outcome of the Peer Review, reported to Cabinet in February 2014. Officers had discussed the proposal with Grant Thornton, the Council's external auditors, who viewed it as a coherent case for change and that the solution was consistent with the goal of becoming more self-sufficient.

Concern was raised at the option of borrowing from external sources to invest and whether it would be ultra vires. The Chief Officer Legal and Governance confirmed that specialist legal and financial advice would be taken, to ensure that activities remained within the Prudential Borrowing rules. Members agreed that external borrowing should not be a recommended source for funding.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved:

- a) that, subject to a disapproval of borrowing from external sources at this stage, the Committee endorse and recommend to Cabinet the proposed approach to the principle of an investment strategy based on property assets;
- b) that subject to recommendation (a) the Committee recommend to Cabinet that the proposed investment strategy be adopted subject to the criteria set out in paragraph 22 in the report