

CABINET

Minutes of the meeting held on 19 September 2023 commencing at 7.00 pm

Present: Cllr. Thornton (Chairman)

Cllr. Perry Cole (Vice Chairman)

Cllrs. Dyball, Maskell, and Reay

Apologies for absence were received from Cllrs. McArthur

Cllrs. Baker, Bulford, Clayton, Grint, Gustard, Leaman, James Morgan, Robinson, Shea, Silander, Varley and Williams were also present.

23. Minutes

Resolved: That the Minute of the Cabinet meeting held on 13 July 2023, be approved and signed by the Chairman as a correct record.

24. Declarations of interest

Cllr Reay declared for reasons of transparency that his daughter lived near Clarks Lane, Halstead for Minute 31.

25. Questions from Members (maximum 15 minutes)

Members asked questions which focused around the Asset register as detailed on the Council's website. In response to questions Officers advised that the asset register was in the process of being updated. Asset reviews were continuous and following the last review in 2019.

A Member asked a question regarding Reinforced Autoclaved Aerated Concrete (RAAC). Officers advised that the council were taking a risk based approach in regards to the number of users and those sites were being surveyed first. Should any site have RAAC then the Council would follow the procedures as set out by Central Government which was similar for schools. Presently no assets had been identified as containing RAAC.

A Member asked a question in regards to costs of consultants and advisors and the amount of money that was spent on these. Members were advised that any significant expenditure was published on the website. Officers would provide additional details to Members.

Cabinet - 19 September 2023

In regard to questions regarding the Leisure Centre, Members were advised that there was a marketing plan in place and Everyone Active would be attending People & Places Advisory Committee in November as part of the open book accounting agreement. There were a number of maintenance issues which needed fixing following Everyone Active taking over the site and works had been prioritised. Early membership data showed that Everyone Active was outperforming Sencio's previous performance.

26. Matters referred from Council, Audit Committee, Scrutiny Committee, CIL Spending Board or Cabinet Advisory Committees (if any)

- a) Referral from Scrutiny Committee – held on 6 July 2023

Members considered the referral from Scrutiny Committee which asked Cabinet to look at recycling rates within the District.

Members discussed the referral, noting that a report should be brought to Cabinet for further consideration.

Resolved: That a report be brought to Cabinet concerning recycling rates.

27. Treasury Management Annual Report 2022/23

The Portfolio Holder for Finance & Investment presented the report which sought Members approval. The report was one of a number that were recommended for submission to Members before, during and after the financial year to comply with the CIPFA Code of Practice on Treasury Management. The report constituted the annual report looking at the investment outturn and performance for 2022/23, the capital programme, the Council's borrowing activity and investment strategy.

The Senior Principal Accountant further advised that the report looked back at treasury management activity during the financial year 2022/23. The strategy was approved by Council in February 2022 and the report dealt with treasury management activity in the year ended 31 March 2023, with the continued cautious investment approach as in previous years. Attention was brought to paragraphs 41 - 47 of the report.

Due to rising interest rates during 2022/23 investment interest receipts were greater than budgeted. In addition, investments in multi-asset income funds were placed in May 2022. These investments had the potential for greater returns over the longer term but come with the risk of capital loss as well as capital appreciation. Interest received on the multi-asset income funds contributed to the improved performance during the year.

On the debt side there were no additional long-term borrowing during the year and no rescheduling of existing debt.

Members discussed the report.

Cabinet - 19 September 2023

Public Sector Equality Duty

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

Resolved: That the Annual Treasury Management 2022/23, be approved.

28. Financial Monitoring 2023/24 - to the end of July 2023

The Portfolio Holder presented the report which detailed the year to date financial position to 31 July 2023, and the forecasted position to 31 March 2024. The forecast position in the report showed an unfavourable variance of £1.489m which included £750,000 as the estimated additional cost above budgeted assumptions for the 2023/24 pay award. This was based on the current offer made by employers.

The information included in the table in paragraph 5 of the report showed the significant forecast variances and details were provided within the report. The majority of these were included in the early indications report that was presented to Cabinet in July but as it could be seen the Council was facing a very difficult financial position and it was important that Members engaged to help find solutions to bridge the gap. Members of the Finance & Investment Advisory Committee considered the same report.

The Head of Finance further advised Cabinet that following consideration at the Finance & Investment Advisory Committee the report in front of Members had been updated to provide Members both with graphical and tabular information for greater transparency. The unfavourable variances provided to Cabinet in July were detailed from paragraphs 11 to 16 of the report, and it was brought to Members attention that to date, no pay award had been accepted and as such the £750,000 was the estimated additional cost above budget assumptions, based on the current offer. He highlighted a number of areas affecting the forecast end of year budget position which included services within Direct Services, Development & Conservation and the property income.

There were a number of areas detailed within the report from paragraphs 6 to 10 that provided favourable variances which included interest receipts, resulting in a favourable forecast variance of £322,000. There were a number of vacancies not being currently filled. He highlighted to Members the importance of the capital programme and in particular the funding of that programme, a large part of which was funded by capital receipts from the disposal of assets. Future Issues and Risk Areas were detailed in paragraph 17.

In discussion, it was noted by Cabinet the importance of the capital programme and although the cost of collecting the sustained high levels of waste and recycling, it was positive to see some favourable variances.

Resolved: That the report be noted.

29. Financial Prospects and Budget Strategy 2024/25 and Beyond

The Portfolio Holder presented the report which set out that this was the first report of the 2024/25 budget setting process in what was expected to be the most challenging financial position the council had faced for a decade and he had been working with officers on the budget over the summer.

It was intended that once again the Council used the 10-year financial planning approach and financial strategy which had proved successful to date and put the District Council in a much stronger financial position than most other Councils. The report was intended to start the debate and the assumptions would be updated if more accurate information becomes available. The key messages in the report were that the intention remains that the Council was aiming to continue to have a balanced 10-year budget, and that Members would be required to play a major role in reaching a successful outcome by putting forward their ideas during the process and accepting that some difficult decisions would be required.

The Chief Officer Finance & Trading advised that as stated in the 2023/24 budget process, additional savings and/or income would be required in the next budget process and so many of the items included in the report would not be a surprise and would generally be very similar to those mentioned in the Early Indications report presented at the last meeting. He, along with the Portfolio Holder for Finance & Investment had been working over the summer and in the background officers had started the budget process earlier this year, recognising that this was the biggest budget challenge the council had faced for many years.

The report showed an annual budget gap of £1.368m. The make-up of this amount was detailed in Appendix C and further explanations were detailed in the report. Work was already being undertaken to find solutions to close the budget gap, and would be presented to the Advisory Committees but further ideas would be required. Undoubtedly there would be tougher decisions for Members to make than has been the case for many years. Members would need to be fully engaged in the budget process and a thorough review of fees and charges and a number of other budget related reports would also be brought to Finance & Investment Advisory Committee and Cabinet. He ran through some of the initial bad news items, but there were also some good news assumptions, including increased dividends from Quercus 7, additional interest receipts, and increased income from council tax.

Discussion from Cabinet centred on being fully supportive of the budget process and it was important that all Members were fully involved in the budget process and considering areas for savings and/or additional income. It was important to note that there was a separate process for disposals and that the sale of capital receipts could only be used to fund other capital projects.

Public Sector Equality Duty

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

Resolved: That

Cabinet - 19 September 2023

- a) the ten-year financial planning approach, financial strategy and principles as set out in the report, be endorsed;
- b) the Advisory Committees, be requested to review the Service Dashboards and advise Cabinet of possible growth and savings options; and
- c) Officers, be requested to continue to review the assumptions in the report, and consider options to address the budget gap and report back to Cabinet on 14 December 2023.

30. Disposal of Land - Tranche 2

The Portfolio Holder presented the report, which sought the disposal of two assets deemed to be surplus to the Council's requirements. The report was also considered by the Finance & Investment Advisory Committee (FIAC) on 5 September and following their discussions, he requested further information from Officers. He advised that it was important to note that in accordance with good asset management practice, the Council regularly reviewed its asset register to determine if its estate was still generally speaking fit-for purpose and met the Council's operational requirements. Officers had undertaken an asset review resulting in these sites being identified as surplus. The review involved amongst other activities, consideration of the site for alternative operational uses or needs, and even the potential for the Council to undertake housing development. Alternative uses for Council purposes were therefore considered.

Reviews were undertaken collaboratively and involved officers from across the Council. The sites were then discussed with the Portfolio Holder prior to entering the formal approval process. In accordance with council policy, the relevant Ward Councillors and the Parish Clerks had been notified and commented in advance of the report going to FIAC. As neither site was necessary on an operational level since they were originally held under the Housing Act in conjunction with adjacent land, they needed to be declared surplus to requirements for accounting purposes before any alternative usage could be considered.

As a Local Authority, the Council was obliged to obtain best consideration in accordance with s123 of the Local Government Act 1972 and if applicable, the Housing Act 1985, otherwise it would need to apply for permission from the Secretary of State. The purpose was to ensure, as far as reasonably possible, that public assets were not sold by public authorities at an under value, save, if at all, with the consent, general or specific, of the Secretary of State. It imposed a duty to achieve a particular outcome, rather than follow any particular process.

The Portfolio Holder further advised that the assets had been valued by an independent valuer in order to demonstrate transparency, assist with setting the

Cabinet - 19 September 2023

reserve price and adhere to statutory and policy requirements. From a capital asset management perspective a disposal entailed not only a capital receipt but also a cost saving in terms of ongoing maintenance. The Asset Management Strategy supported the disposal of assets in order to improve the financial position of the Council.

The Strategic Head of Commercial and Property advised that the two sites identified were surplus to the Council's requirements as they were originally held under the Housing Act in conjunction with adjacent land, prior to the transfer of the Council's housing stock to West Kent Housing Association in 1989. The two sites (Clarks Lane, Halstead and The Forstall, Leigh) were identified following an internal asset review process. Alternative uses for the sites were explored and it was decided that the sites were not required for operational purposes and as such were considered surplus to the Council's requirements. The procedure to be followed, in line with policy, requires that once the asset review identified a site or sites considered as surplus and had been evaluated internally, a report should be prepared, discussed with the portfolio holder, before Ward councillors and the parish clerks are notified prior to the report going to FIAC. The Parish Clerks were emailed on 4 August 2023 and so there was sufficient time for comments or representations to be made. Comments received were generally supportive of disposal, albeit requests were made for the sites to be disposed of for affordable housing. He highlighted that the Forstall site was within an archaeological notification area and an area of special control for advertisements, but was not within the green belt, not used as open space and was not designated as an Asset of Community Value.

The strategic reason for disposal was that it would produce much needed capital receipts and improve the current budget position. He further advised that from an asset management perspective the disposal would enable realignment of the Council's property estate, remove corporate landlord liabilities, and provide cost savings for the Direct Services team and the Property team.

The Chairman used her discretion and allowed questions from Members who were also present. In response to questions Members were advised that the receipts from the disposals could bring in additional income to fund other capital projects. It would also reduce the revenue costs, such as the cost of maintenance and grass cutting. The Chairman allowed further input from Members of the Council who expressed their concern at the land being sold and the impact on the community and whether sufficient consultation with the Parish Councils had been taken.

The Cabinet Members discussed the report and in their debate, noted the discussions that had taken place at FIAC. Officer's comments and feedback from the Portfolio Holder were also noted, in particular that the Parish Councils had been emailed and responses had been received, in which no objections had been lodged. The Chairman noted that thorough discussion had taken place at the FIAC meeting, that contributions from Members had been considered throughout the debate, as well as the advice and information given by officers.

Public Sector Equality Duty

Cabinet - 19 September 2023

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

Resolved: That the

- a) properties listed in recommendation (b) below, be declared as surplus to the Council's requirements;
- b) disposal of land at
 - i) Forstall, Leigh, by auction be approved;
 - ii) Clarks Lane, Halstead by auction or private treaty, be approved
- c) Strategic Head of Commercial and Property following consultation with the Head of Legal and Democratic Services and Portfolio Holder for Finance & Investment, be delegated authority to undertake and to enter into the necessary agreements for such land transactions.

31. Farmstead Drive, Spitals Cross, Edenbridge - Development

The Portfolio Holder presented report which provided an update on the Farmstead Drive scheme which provided an update on the project and sought approval from Cabinet for the proposed recommendations.

He advised that the report had been considered by the Finance & Investment Advisory Committee and Members spoke enthusiastically for the development, but also recognised the marginal financial viability for the project at this time. Essentially the Committee were cautious, taking into account the financial elements, but at the same time recognising the benefits to the community in terms of maintaining improving existing amenities and environment. The view was that these issues should be carefully assessed.

In November 2021, the Council approved the development of the scheme and provided approval to undertake further feasibility and design work, agreed the budget and appropriate delegations, subject to the scheme remaining viable and planning permission obtained. Further consultation with key stakeholders and members of the public had been undertaken and had been used to make improvements to the scheme design.

Since the decision, additional funding of £375,000 had been secured from the Brownfield Land Release Fund. However, as a result of recent global market events, notably increases to construction and material costs, alongside the revised scheme design as a result of the public consultation, there has been an impact on the project's cost. Therefore, the initial budget required had increased, however the scheme remains feasible and viable.

The Portfolio Holder highlighted that the Council was utilising the opportunity to provide a wider ranging community benefit redevelopment constructing a new community hall and retail premises, as well as an enhanced play area, landscaping and an additional 41 car parking spaces to serve the wider estate. All of which represented significant planning and community benefits for the local community and residents but would come at significant cost, of which arguably a mainstream private developer would not be providing. If the Council were not intent on delivering these important community benefit facilities and infrastructure the scheme's total project cost would be around £7.952m, which would result in a greater surplus positive margin for the scheme, yielding a 24% profit margin.

The budget required for the project had increased, resulting in an additional funding requirement of £2,741,785. However, the scheme remained feasible and marginally financially viable in accordance with the key financial assumptions outlined in the report and in Appendix B. It was viewed that the significant social and community benefits outweighed the weakness of the scheme's marginal viability on purely financial evaluation.

Subject to Council approval of the additional funding required, demolition and enabling works are expected to start in mid-November, with start on site for the main construction works in January next year, with completion in January 2026.

Having discussed the questions raised at Finance & Investment Advisory Committee with Officers he was satisfied that all matters have been appropriately considered and dealt with.

The Regeneration and Development Project Manager further advised that financial due diligence works had been undertaken for the procurement of the contractor by means of tender using the LHC Framework that was compliant with public procurement regulations and the Council's standing orders. It was important to note that officers had been successful in negotiating a fixed works price construction lump sum from the contractor so the cost plan has a very high degree of cost certainty and this price will be locked into. This lump sum fixed price includes key risk items which are being transferred to the contractor.

He advised that expert advice on the VAT implications for the scheme had been received. The residential units would be zero-rated for VAT purposes, so all the related VAT costs would be recoverable by the Council. The lease to be granted for the new convenience store would be VAT-exempt. The lease for the new community hall would be either VAT-exempt or zero-rated, depending on how long the lease is and how the hall will be used.

The Chairman used her discretion to allow Members also in attendance to ask questions of clarification. Officers advised they were content with the due diligence exercises undertaken and were reassured by the fixed price lump sum and the insurance cover within the contract arrangements. The Cabinet discussed the community benefit of the scheme and stakeholders involvement.

Public Sector Equality Duty

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

Resolved: That

- a) the impacts on the project budget outlined in this report, including; recent global events and economic pressures impacting regeneration and construction and changes to the scheme design, including the provision of fewer homes, additional parking, open space improvements and community facilities as a result of feedback from the public consultation, be noted;
- b) the scheme remains viable, be noted;
- c) Subject to approval of recommendation (e) by Council and planning approval being obtained, authority be delegated to the Strategic Head of Property and Commercial following consultation with the Chief Officer - Finance and Trading and the Head of Legal Services to enter into any necessary contracts to facilitate the development and construction of the proposed scheme in accordance with the Council's Contracts Procedure Rules and for the disposal of the residential and commercial units.
- d) the development sites as outlined red in the Plan (Appendix D) be appropriated for planning purposes in accordance with the section 122 of the Local Government Act 1972 (in reliance on section 227 of the Town and Country Planning Act 1990) consequentially facilitating the Council's powers under sections 203 to 206 of the Housing & Planning Act 2016 to override any outstanding interests, be approved; and
- e) that it be recommended to Council that the total project budget be increased by £2,741,785 to £10,351,405 and that the Capital Programme, be accordingly amended;

IMPLEMENTATION OF DECISIONS

This notice was published on 21 September 2023. The decisions contained in Minute 27,28, and 29 take effect immediately. The decisions contained in Minute 30, and 31 (c) take effect on 29 September 2023. The decisions contained in Minute 31 (e) is a reference to Council.

THE MEETING WAS CONCLUDED AT 8.36 PM

CHAIRMAN