

Public Document Pack



Chairman and Members of the Council

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Date: 23 October 2020

cc. All other recipients of the Council agenda

Dear Councillor

COUNCIL - 21 OCTOBER 2020

Please find attached the following responses to public questions in relation to the item for the above meeting:

6. Public Questions (Pages 3 - 12)

Responses to public questions.

Yours faithfully

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MEETING : COUNCIL
VENUE : ONLINE MEETING - LIVESTREAMED
DATE : WEDNESDAY 21 OCTOBER 2020
TIME : 7.00 PM

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PUBLIC QUESTIONS

Question 1

Mr Chris Ramsden to ask Cllr Geoffrey Williamson, Deputy Leader and Executive Member for Financial Sustainability:

The council has been wise to re-examine the current business plans for the impact of Covid and Brexit. If I am not mistaken, the capital budget over the next 4 years is 120M which is a considerable amount of money, and if borrowed at existing interest rates would lead to an annual finance charge of just under 6M which is roughly 40% council tax income. If any of these figures are wrong, I am of course happy to be corrected. In the interests of prudent financial management and Council taxpayer buy in, all business plans should be independently, objectively and transparently reviewed by publishing as much information as possible so that interested Council tax payers are able to assess the position and that they are assured that the plans are robust to future changes, likely to achieve the benefits and planned returns, and that the risks of non-achievement are manageable. In my attempts to achieve this, my brief investigations have encountered a number of issues including entire documents being restricted and missing figures. In order for such a review to occur:

- All business plans currently being re-examined should be published. If there is a need to restrict any content, then they should be published in a way that minimises the restriction to sensitive data only.
- All published business plans should contain figures for Top line (total revenue), broken down into components, the various deductions, and the bottom line (council contribution surplus/subsidy). Various deductions includes figures for direct costs, indirect costs, staff costs, financing costs, and service costs as separate line items.

The council Tax payer (as end customer, ultimate funder and risk taker) requires from the review assurances that

- There is high confidence that the top and bottom line figures are achievable, and that any risks of non-achievement are manageable
- all assumptions are valid over a time period of at least the duration of the loans.
- The plans are robust with respect to any future long term Covid consequences and new trends including possible changes to car parking needs, cinema going use, retail shopping habits and EH residents working at home etc.

Please will the council

1. publish the business plans as openly and transparently as possible (along the lines above) in a report to Council
2. perform an independent open, and objective review that publishes as a report the answer to the question "What assurances can the council give that each business plans is viable and that, for example, an independent hard-nosed business person would invest in each project"?

Response from Cllr Williamson

Thank you for your question Mr Ramsden.

Within your question you say you are happy to be corrected if any of the figures you have given are wrong so, if I may, for the public record and to give context to my answer, I do feel it necessary to state the following:

- Firstly, the capital programme as agreed by the Council in January is indeed £120M as you have correctly stated. However, not all of this is being used on our major schemes – there is a range of other small and medium sized projects into which we

are also making capital investment included in this number, and not all involve bricks and mortar;

- Secondly, there is no need for us to borrow anything close to the full amount as we are starting with considerable capital reserves, and furthermore the business cases include costs of any borrowing required, and still meet the rate of return test;
- Thirdly, for such borrowing as may be needed, the interest rates on public sector borrowing sourced via the Public Works Loans Board are much less than the 5% you have been working with – depending on the type and term of the loan, rates as of last Friday ranged between 2.2 and 2.73%.
- Lastly and this is really key, I should also make it clear that once the leisure centres are completed the operator will move from requiring a subsidy to paying money to the Council making a major saving on the revenue account. Similarly Hertford Theatre, once complete, moves from requiring a subsidy to returning a surplus. This means that rather than the schemes being a burden on our Council Tax payers, the improved revenue position actually releases resources which can be used to support the delivery of other Council services. However the key driver behind these projects is not just the financial return, but that we will be providing enhanced facilities for our residents. Due to these non-financial community values there is therefore a key distinction between how a local authority views investing in its projects to the way a private business person would, hard-nosed or otherwise.

Nonetheless it is quite right that the business cases for our major projects do undergo appropriate degrees of scrutiny and there are various levels of scrutiny that the Council has in place.

Various senior officers of the Council are directly involved with the projects and keep a watching brief on viability as each project progresses. Particular among these is our Head of Strategic Finance & Property who acts as what is known as our Section 151 Officer, a post every authority is required to have by law and must be held by a qualified accountant, and he has responsibility for the proper administration of the Council's financial affairs. In addition he has a

statutory responsibility to report in the public interest if the Council is about to, or has incurred unlawful expenditure or is setting an unbalanced budget.

In terms of being tough and ruthless with costs arguably local government finance officers are particularly adept – they have assisted local authorities to survive the last decade of decreasing central government funding and in this time out of many hundreds only one council has failed, requiring government intervention.

There are also a number of Council Members here with considerable business acumen who look at and vote on the budget. Indeed it was a call from Members that led to the recent full reviews of the major project business cases to be undertaken, particularly in the light of this changing world we are now living in as you have alluded to.

Therefore you and the public can be assured that the budget and the major projects business plans have been subject to a rigorous examination by the Section 151 officer and others using a range of scenarios and have proved robust. I can also assure you that the Section 151 officer continues to challenge colleagues and Members on expenditure and risks, as is quite right and proper. The Section 151 officer has also informed me that our external auditors, Ernst and Young, will examine the business cases during the current year's audit to assess their value for money and their effect on the Council's Medium Term Financial Plan.

Following completion of the reviews, (and I am addressing my colleagues here too) in order to give all Members a full briefing, the Chief Executive is arranging for Members to be invited to an information session at which there will receive a presentation on each business case and Members will have the opportunity to ask searching questions. Many Members in of the Council who are hard-nosed business people will, no doubt, bring their skills to bear.

However in terms of the public or independent scrutiny that you have requested I am advised by our Section 151 officer and our Monitoring Officer who safeguards the Council's legal position that the major projects business cases cannot be put in the public realm, because they contain information that would prejudice current and future tendering for the works to be carried out. Quite simply, if

these business cases were public knowledge then bidders for contracts would know our budgets for construction and for contingencies and then their prices would simply reflect those budgets. To put in very formal terms the information is exempt from publication under Paragraph 8 of Part 1 of Schedule 12a of the Local Government Act 1972, as it contains the amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.

So whilst I cannot place these business cases into the public domain, I hope that the measures I have outlined reassure you and other council tax payers of East Hertfordshire that the business cases have been subject to full governance and democratic scrutiny and will continue to be so.

Supplemental from Mr Ramsden

I do not find the answer reassuring, and am surprised that more than what is already in the public domain will not be published. Will you look more thoroughly at what can or cannot be published, and once tenders have been agreed, could you publish more?

Response from Cllr Williamson

In accordance with advice of the s.151 Officer and Monitoring Officer I am only able to publish the information which we have published. The sensitive material which is not in the public domain would only be published once the data is no longer sensitive.

Question 2

Yvonne Estop, representative of the Bishop's Stortford Climate Change Group, to ask Cllr Jan Goodeve, Executive Member for Planning and Growth:

The Bishops Stortford Climate Change group is very concerned that the planning white paper seriously threatens your policy-making role as Local Planning Authority, and gives unconstrained freedoms to developers. Can you let us know what representations you have made to the government challenging the white paper?

Response from Cllr Goodeve

The Council will be submitting a detailed response to the Planning White Paper. The draft response is currently being considered via the non-key decision route and is available to view on the Council's website:

<http://democracy.eastherts.gov.uk/mglIssueHistoryHome.aspx?IId=27704&Opt=0&J=5>.

The Council's final response also will be available to view on the Council's Website in due course.

Supplemental from Ms Estop

I welcome the fact the Council is to make representations. Will you undertake to vigorously pursue this, to interrogate the white paper and make local authority planning obligations consistent with the Environment Bill?

Response from Cllr Goodeve

I would refer you to our website, to see the concerns we have set out in the response. The public can also comment on the white paper in their own right.

Question 3

Mr Martin Adams to ask Cllr Linda Haysey, Leader:

I consider that the published policies Map being presented today is inaccurate because a part of it was not a part of the normal Plan adoption process. I am referring to a change to the village boundary at Millers View, Much Hadham. My research indicates that it was not consulted upon, or presented to Council for adoption. I believe it was added entirely as a staff initiative.

As per my two letters to Mr Cassidy I consider this to be a significant change, and that it has not been handled in a Democratic fashion. I have repeatedly put forward questions about this change that have never been answered, as per my second letter to Mr Cassidy.

I would request that this Boundary change is withdrawn by staff because it was drafted after the Plan was adopted. Failing that I would like to see the matter opened up for proper consultation, so that my unanswered questions (as per my second letter) can be considered alongside comments from other interested parties.

Staff have always dealt with my queries politely and respectfully, but I believe their overall response has been to say 'We're sorry that it happened this way, but we won't consider changing it'.

I would ask Council to support the request that I make above. This would ensure fairness, consistency of decision making and ensure proper consultation about Planning Decisions.

Response from Cllr Haysey

To clarify, Mr Adams' request does not directly relate to the material within the Council Report before members tonight, this report seeks

to make 3 factual amendments to Policy CFLR1 on the policies map in Perry Green and Green Tye. Mr Adams request relates to a concern about the Much Hadham village boundary and how the materiality of the boundary could impact upon a planning application at Millers View in Much Hadham – which has been refused and is currently at appeal.

Mr Adams refers to a change that was made to the Much Hadham village boundary following the District Plan examination. Mr Adams is concerned that the change was made without consultation and does not reflect the built-up area of Much Hadham. Officers have previously advised that the area in question was incorporated into the village boundary to be consistent with Policy VILL1 which notes that village development boundaries are drawn around the main built-up area of the village. As such, the change made to the village boundary at Much Hadham was to incorporate a development that was being built-out at Millers View during the examination period. Once built out this development would clearly form part of the main built-up area of the village and its inclusion ensured that the policies map was consistent with policy VILL1.

In response to the specific questions that Mr Adams raises; The Council is required to maintain a policies map, the function of which is to geographically illustrate the application of the policies in the District Plan. The process for updating the policies map differs from the process for adopting a District Plan as the Local Planning Authority is *only* required to update its policies map to ensure that it is consistent with the adopted District Plan.

Any changes that are required to be made to the policies map to ensure its consistency during the District Plan examination process are only considered as minor changes. There are no requirements to consult on any minor changes as they do not affect the soundness of the Plan and are not matters considered by a Planning Inspector.

Officers identified a number of minor changes to assist the public and members during the examination process, some of those minor

changes included changes to the policies map – despite the fact there was no requirement to do so. The change to the Much Hadham village boundary was not incorporated into the minor changes table that was presented to members on October 23rd 2018 as the aforementioned build-out of the Millers View development was not identified until after the main modifications consultation. However, the change was made to the policies map to ensure that the LPA addressed its responsibility of maintaining a consistent and up-to-date policies map upon adoption of the District Plan.

Finally, the Council Report on October 23rd 2018 is clear that the Council would need to update its policies map following the adoption of the Plan and the Council did just that.

Supplemental from Mr Adams

There are inconsistencies to the village boundaries, which I have raised many times but to which I have never had a satisfactory response. Thankyou for your answer, but the change is illogical. Why do you consider my house should, after 60 years, suddenly be included in the village boundary, when other places which more obviously should be included are not?

Response from Cllr Haysey

This further question is not relevant to the policies maps, but to how the boundaries were determined, which is not for full Council to consider, as it is a planning matter.

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