

MINUTES OF A MEETING OF THE
EXECUTIVE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
TUESDAY 19 APRIL 2022, AT 7.00 PM

PRESENT: Councillor L Haysey (Chairman/Leader)
Councillors P Boylan, E Buckmaster,
G Cutting, J Goodeve, G McAndrew and
G Williamson.

ALSO PRESENT:

Councillors M Brady, B Crystall, M Pope,
C Redfern and P Ruffles.

OFFICERS IN ATTENDANCE:

Richard Cassidy	- Chief Executive
James Ellis	- Head of Legal and Democratic Services and Monitoring Officer
Steven Linnett	- Head of Strategic Finance and Property
Katie Mogan	- Democratic Services Manager
Kevin Steptoe	- East Herts Garden Town Lead Officer
Su Tarran	- Head of Revenues and Benefits Shared Service

408 APOLOGIES

An apology for absence was received from Councillor Kaye.

409 LEADER'S ANNOUNCEMENTS

The Leader of the Council welcomed Members and Officers to the meeting. She also welcomed Matthew Collings who was the Council's external legal advisor for the Gilston Area.

410 MINUTES - 8 FEBRUARY 2022

Councillor Haysey proposed, and Councillor Williamson seconded a motion that the Minutes of the meeting held on 8 February 2022 be approved as a correct record and be signed by the Leader. On being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 8 February 2022 be approved as a correct record and signed by the Leader.

411 DECLARATIONS OF INTEREST

There were no declarations of interest.

412 UPDATE FROM OVERVIEW AND SCRUTINY COMMITTEE

Councillor Haysey noted the comments and recommendations made by the Overview and Scrutiny Committee on Digital Exclusion. She said that the

council was aware that not everyone was able to access services on the internet and assured Members that those who were unable to access services online will still be catered for at the council.

413 UPDATE FROM AUDIT AND GOVERNANCE COMMITTEE

Councillor Pope, Chairman of the Audit and Governance Committee, updated the Executive on the external audit position. He hoped that Council would be able to sign off the accounts in May.

414 DISCRETIONARY ENERGY REBATE SCHEME

The Executive Member for Financial Sustainability presented the Discretionary Energy Rebate Scheme. He said that the government scheme to award a £150 fuel rebate to households had been well publicised and the government were providing local authorities with additional funding to introduce discretionary schemes to reach those vulnerable households that did not benefit from the standard scheme.

Councillor Williamson said that East Herts had been provided with approximately £250,000 and the proposed scheme is outlined in paragraph 2.4 of the report. He said that the funding had to be spent by November 2022 and any leftover was to be returned to the government and so after the first application window has closed, the criteria will be reassessed and varied accordingly to use the full funding.

Councillor Redfern asked whether Members would be informed of how many households had been helped

and how much of the funding spent. She asked how the grant would be allocated and if individuals would have to apply.

The Head of the Revenues and Benefits Shared Service said the number of households in receipt of the scheme would be added to the Members Information Bulletin weekly. She confirmed that individuals were required to apply in order to carry out pre and post payment verification. She said that the council can prompt a claim for those households who were in receipt of Council Tax Support and Housing Benefit.

Councillor Pope asked how the administration of the scheme would impact on the department's workload.

The Head of the Revenues and Benefits Shared Service said the discretionary scheme was not too onerous but the main scheme would have a significant impact as there were over 30,000 houses in East Herts in Bands A-D.

Councillor Williamson proposed, and Councillor Cutting seconded a motion supporting the recommendations in the report. On being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – That (A) the Discretionary Energy Rebate Scheme as detailed at paragraph 2.4 in the report be approved; and

(B) the Head of Revenues and Benefits Shared Service in conjunction with the Deputy Leader

and Executive Member for Financial Sustainability, amend the scheme criteria for any subsequent rounds of applications if allocated funding is not distributed in full in the first round (see paragraph 2.4(h))

415 WASTE SHARED SERVICE GOVERNANCE REPORT

The Executive Member for Environmental Sustainability presented the Waste Shared Service Governance Report which set the scene for the future of waste and street cleansing in partnership with North Herts District Council. He said there was a recommended to support a cross party joint working group with North Herts to look at the strategic direction and design of the contract which will come into effect from 2025.

Councillor McAndrew said that an aligned service made it more attractive to the market when out for tender and in the coming years, there will be significant legislative changes affecting waste management and it was prudent that the contract and the service was fit for purpose and sustainable for the future.

Councillor Redfern asked if the Executive Member knew what the cross party working group would look like or if it was too early to say.

Councillor McAndrew confirmed it was too early to say.

Councillor Redfern asked if Members would have an opportunity to scrutinise the group's

recommendations.

Councillor McAndrew said the recommendation would go through the committee cycle.

Councillor McAndrew proposed, and Councillor Buckmaster seconded a motion supporting the recommendations in the report. On being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – That (A) the comments from Overview and Scrutiny Committee, as shown in Appendix B, be considered and the recommended actions endorsed;

(B) the new overarching aim of the shared services and principles outlined in 3.10 and 3.12 be agreed;

(C) The formation of a joint cross party working group be endorsed. The terms of reference for which are outlined in Appendix A and the outline work programme described in 3.19;

(D) the future options be explored and agreed for governance of the Shared Waste Service, including consideration of a joint committee consisting of representation by both East Herts Council and North Herts Council.

416 GILSTON AREA COMPULSORY PURCHASE ORDER

The Leader of the Council presented the Gilston Area

Compulsory Purchase Order Report. The report follows the consideration of the matter by Executive and Council in October 2020, when it was decided, in principle, to proceed with a Compulsory Purchase Order (CPO) in the Gilston Area if it was necessary to enable essential infrastructure to be delivered to support development in the Gilston Area and wider Garden Town.

That essential infrastructure comprises the enhancement of the existing A414 River Stort crossing between the Gilston Area and Harlow, and the construction of a new eastern River Stort crossing, together identified as 'the Crossings'. As indicated, the Crossings are required to enable the delivery of housing in the Gilston Area and across the wider Harlow and Gilston Garden Town.

At the meeting of the Development Management Committee of 22 February 2022, the Committee considered planning applications for the Crossings and, after very careful and lengthy consideration, determined that planning permissions be granted. As the Crossings span the boundary between East Herts and Harlow, Harlow District Council has also considered and determined planning applications permitting the development to proceed.

The applicant for the Crossings is Places for People (PfP), the owner of the majority of the Gilston Area allocation in the District Plan and sufficient to enable 8,500 of the planned 10,000 new homes to be delivered. PfP has also sought to acquire by agreement all the land necessary to enable the

Crossings to be built. However, despite ongoing negotiations with current landowners, it has not been possible for it to do so and, as a result, it is now necessary for the Council to determine whether or not to proceed with a CPO.

The delivery of the Crossings is essential to enable the delivery of development in the Gilston Area and the wider Garden Town. Without their construction the Council and the wider Garden Town partners will not be able to achieve the aspirations set out in the Garden Town Vision and elsewhere. Primary amongst these is the desire to achieve development that moves away from reliance for transport on the private vehicle and instead enables the majority of journeys to be undertaken by healthy and active transport modes – walking, cycling and public transport.

For those reasons alone, and given the ongoing inability of the applicant to secure all the land necessary to deliver the Crossings, it is now necessary to proceed with CPO action.

Executive Members will have had regard to the full details of the case, which supports the need to move ahead with a CPO, and which is set out in the report and the appendices.

Given the cross boundary nature of the Crossings, the need for CPO action has already been considered by Cabinet at Harlow DC at its meeting of 24 March 2022. It has already resolved to proceed with a CPO. The report seeks to delegate to Officers the authority to execute all the detailed matters and actions necessary to proceed with a CPO. In that respect, Officers of both

Councils will also continue to engage and liaise to ensure that all actions are undertaken in a fully co-ordinated way.

The Leader of the Council said that her recommendation was that the council now proceed with a CPO in the Gilston area as necessary and that officers be delegated, as set out in the detailed recommendations, to take all the necessary steps to make, serve and subsequently advocate a CPO through all relevant and appropriate processes.

Executive members were referred to paragraphs 3.27a, b and c which detailed matters relating to the impact of any CPO on land identified as Open Space. Since the publication of the report, matters have moved on further with regard to this and the Leader invited officers to provide an update which included the requirement to consider revisions to recommendations (a) and (e).

The Garden Town Lead Officer provided an update on the Open Space issues. He said that it was necessary to provide exchange land as a replacement to offset the loss due to an area of Open Space being acquired through the CPO. PfP had identified a number of possible exchange sites which had been subject to both a high level and, for those remaining in consideration, a more detailed assessment. When the report for this meeting was published, Officers considered that insufficient information had been provided and so it was not possible to be able to conclude that the results of the high level assessment process were acceptable. Work had continued since

the report had been published and, with the further information provided, it was now possible to reach agreement that the exchange land options remaining under consideration after the high level assessment exercise were the most appropriate sites. Those sites, identified as Options 1, 2 and 3 were set out for Members of the Open Space and Exchange Land Options Plan which had been circulated to Members before the meeting and hard copies provided at the commencement of the meeting.

The Garden Town Lead Officer said that the recommendations in the report would need to be updated as follows:

Amendment to recommendation (a) with the addition of a new section (iii):

- (a)(iii) if the exchange land site identified as option 3 on the Open Space and Exchange Land Options plan is selected as the preferred exchange land site, to acquire all of that land hatched blue on the additional plan for the purpose of it being given in exchange for the area of Open Space that is being acquired

Amendment to recommendation (e)(iii):

- (e)(iii) the acquisition of the selected exchange land site (from the options identified on the Open Space and Exchange Land Options plan) and subsequent disposal or vesting of any rights in it, (remainder as per rec in report)

He explained that the first of these amendments, the addition to recommendation (a) was required as, if

Option 3 was selected as the preferred exchange land site, part of that site was currently outside of the land owned by PfP. The amendment to recommendation to (e)(iii) was necessary as it had now been agreed that the exchange land options identified were the most appropriate options.

Councillor Haysey asked if the recommendations were different to the ones passed at Harlow Council.

The Garden Town Lead Officer said that the open space issue was only relevant in East Herts and there was no land in Harlow identified as open space under the CPO. The open space recommendations therefore were relevant to East Herts only. The other recommendations were consistent with those considered and agreed by Harlow District Council's Cabinet.

Councillor Haysey sought confirmation that the amended recommendations could be approved together.

The Monitoring Officer confirmed the Executive could take the recommendations en block.

Councillor Buckmaster said that he had four clarification questions. His first question was why the planning authority was taking this action not the highway authority.

The Garden Town Lead Officer explained that it related to the need to ensure that the most appropriate power was used. In this case, although the infrastructure

being delivered comprised transport infrastructure, and therefore it may seem appropriate that Highways Act powers were used, the requirement of the delivery is to enable the development of the Gilston area allocation in the East Herts District Plan and development across the wider Garden Town. These are objectives for the Council through its planning policies and therefore it was appropriate to utilise powers under the Town and Country Planning Act. He reassured Members that the council had taken considerable legal advice in this respect.

Mr Collings, the external legal advisor, said that the Secretary of State guidance was that authorities must use the most appropriate power when making a CPO. The planning powers were the most appropriate in this case and had been endorsed by counsel and the developers own legal advisors.

Councillor Buckmaster referred to the report which says at the end of the process; East Herts will be the default owner of the CPO land. He said there was a mutual deliverability element and the highways infrastructure would be done under Section 278 which is usual process and the delivery of the housing depends on the deliverability of the new infrastructure under Section 278 of the Highways Act. He asked if that was correct.

The Garden Town Lead Officer said that if the CPO is exercised and the process was followed through to a successful completion then East Herts does become an owner of the land in the Gilston Area. The council will then have a role to play as the land owner as well as

the local planning authority. He said that as the land owner, the council will work with the highways authority to ensure delivery takes place to the right specification and quality, which is the purpose of Agreements under s278 of the Highways Act. The council was indemnified against risks that may arise through the construction process by a s278 agreement. Such risks could include the development not commencing or not being completed to the right quality. There were a mutual set of objectives for the Council as landowner, as local planning authority and for the Highway Authority and the parties could take coordinated action to ensure that any risks are minimised.

Councillor Buckmaster referred to Terlings Park and asked if the land could be given back to the community if it was not used.

The Garden Town Lead Officer said that the area impacted to the frontage of Terlings Park with Eastwick Road was an area of grass and footpaths with open access for residents. However the route of the new highway between Terlings Park and Pye Corner meant that some land would be acquired permanently. However, land acquired for construction purposes and not required for the ongoing operation and maintenance of the new roadway could be returned to previous land owner free of charge. If the previous landowner declined, the Council would look at other options for the future control of the land including the potential for it to be included in any emerging stewardship arrangements for the Gilston Area.

Councillor Buckmaster said this would be an opportunity for a public engagement exercise to understand what the local community would like to use the land for.

Councillor Haysey said that community input would be important.

Councillor McAndrew said he was excited about the report and the proposed cycling and walking routes to encourage sustainable transport. He said that East Herts had demonstrated they had gone the extra mile for sustainable and active travel.

Councillor Haysey proposed, and Councillor Goodeve seconded a motion supporting the amended recommendations. On being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – That (A) East Herts District Council approves the making and sealing of a compulsory purchase order under the powers conferred by sections 226(1)(a), 226(3)(a) and 226(3)(b) of the Town and Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 to:

- (i) acquire all that land shaded pink and edged red on the four plans attached at Appendix 1, including the area of Open Space which is shown more particularly (shaded green) on the plan at Appendix 2;
- (ii) acquire all those rights (or interfere with

existing rights) over the land shaded blue and edged on the four plans attached at Appendix 1,

- (iii) if the exchange land site identified as option 3 on the Open Space and Exchange Land Options plan is selected as the preferred exchange land site, to acquire all of that land hatched blue on the additional plan for the purpose of it being given in exchange for the area of Open Space that is being acquired

the interests in which are described in the schedule of interests, attached at Appendix 3 (collectively known as the Order Land).

- (b) The Head of Planning and Building Control in consultation with the Head of Legal and Democratic Services be authorised to take all steps, and to enter into all documentation, on behalf of East Herts District Council in connection with the making, confirmation, submission or implementation of the compulsory purchase order, including in respect of any public inquiry, appeal or legal challenge concerning the same
- (c) The Head of Planning and Building Control in consultation with the Head of Legal and Democratic Services be authorised to make amendments to the compulsory purchase order or other connected document (e.g. to

make amendments to the Order Maps and to the boundary of the Order area to align with the Works and the land and rights requirement once the boundary is finalised), provided that the proposed amendments do not significantly alter the scope of the compulsory purchase order as presented to Executive by this report.

(d) The Head of Planning and Building Control in consultation with the Head of Legal and Democratic Services be authorised to take all steps to:

- (i) negotiate agreements with any landowners, leaseholders or occupiers of land included within the compulsory purchase order; and / or
- (ii) negotiate agreements with any party with an interest in or right over any land included within or affected by the compulsory purchase order,

such agreements to include the acquisition of land or interests in land, payment of compensation or any other arrangements needed to facilitate the delivery of the SIW (such as crane over sailing licences) and to assemble the land and interests identified in the compulsory purchase order

(e) The Head of Planning and Building Control in consultation with the Head of Legal and

Democratic Services be authorised to take all steps in respect of any open space land affected by the compulsory purchase order, such authorisation to extend to:

- (i) making an application to the Secretary of State seeking a certificate under section 19(1) and/or paragraph 6 of Schedule 3 of the Acquisition of Lands Act 1980 in connection with a site or sites to be identified, as being a suitable replacement/exchange site for the open space land that is to be acquired or affected by the compulsory purchase order;
- (ii) exercising its powers under section 203 of the Housing and Planning Act 2016 to override any easements and rights over the open space land identified at Appendix 2;
- (iii) the acquisition of the selected exchange land site (from the options identified on the Open Space and Exchange Land Options plan) and subsequent disposal or vesting of any rights in it, the acquisition of the selected exchange land site/s and subsequent disposal or vesting of any rights in it, following the implementation of any necessary works and improvements to the same, so to ensure that the selected exchange land site is equally advantageous to the persons and public that use the existing area of open space land.

417 FINANCIAL MANAGEMENT QUARTER 3 FORECAST TO YEAR END

The Executive Member for Financial Sustainability presented the Financial Management Quarter 3 Forecast to Year End Report. The report stated the council’s financial position in relation to the 2021/22 budget at the end of December. He said that the predicted outturn was currently a £95,000 overspend but it was not unusual to show an overspend at this stage of the cycle.

Councillor Williamson proposed, and Councillor Boylan seconded a motion supporting the recommendations in the report. On being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – That (A) the net revenue budget forecast overspend of £95k in 2021/22 be noted (table 1); and
(B) the revised capital budget of £56.676m for 2021/22, has a forecast underspend of £27.669m, of which £27.603m will be carried forward to 2022/23 (appendix A) be noted.

418 URGENT BUSINESS

There was no urgent business.

The meeting closed at 7.45 pm

Chairman

Date
