

HERTSMERE BOROUGH COUNCIL

EXECUTIVE

**Minutes of the meeting held in Committee Rooms A, B and C, Civic
Offices, Elstree Way, Borehamwood**

20 March 2019

Present:

Voting Members:

Councillors Bright (Chair), Graham (Vice-Chair), Choudhury, Clapper,
Dr Cohen, Morris and Quilty

Non-Voting Members:

Councillors RZ Butler, Davis, Keates, Lambert, Newmark and L Silver

Officers:

D Graham	Chief Executive
M Bunyon	Head of Finance & Business Services
M Greaves	Property Services Manager
H Patterson	Head of Legal & Democratic Services
H Shade	Head of Partnerships & Community Engagement
M Silverman	Planning Policy Team Leader
L Wood	Panning Strategy Manager
J Smith	Principal Democratic Services Officer

Other Officers in Attendance:

A Raichura	Webcaster
J Deacon	Temporary Principal Democratic Services Officer

Note: All decisions taken at this meeting are non-urgent, and therefore subject to the provisions of the call-in procedure unless otherwise specified.

80. **COMMUNICATIONS AND APOLOGIES**

The Chair welcomed Members and Officers to the meeting and advised that, in accordance with normal procedure, the meeting was being webcast. He also welcomed a number of residents from Bushey who were in attendance at the meeting.

Apologies for absence were received from Councillor Heywood and the Corporate Director, Sajida Bijle.

He also reminded Members that the Council had entered the elections 'purdah' period and that any comments they made at the meeting should be of a suitably non-political nature.

The Chair announced that Jenny Smith from Democratic Services was retiring from the Council after 12 years with the Executive and 15 years with the Council and that this was consequently her last meeting. He said that he would like to thank her, on behalf of the Executive and Council, for her patience, tolerance and understanding and her excellent minute-writing. He wished her well in her retirement.

81. **DECLARATIONS OF INTEREST**

No Members had an interest to declare in any of the items of business on the agenda.

82. **SPEECHES BY NON-EXECUTIVE MEMBERS**

The Chair confirmed that the usual arrangements for speeches by non-Executive Members applied at this meeting.

He added that there was no constitutional right allowing members of the public to speak although this could be permitted at the discretion of the Chair. With that in mind, he advised that he would be allowing two non-councillor members of the Bushey Country Club Consultation Group to speak under agenda item 7.1 (Bushey Country Club).

83. **MINUTES**

The minutes of the meeting of the Executive held on 13 February 2019 were approved and signed as a true record.

84. **KEY DECISIONS**

84.1 **ARTICLE 4 DIRECTION TO RESTRICT PERMITTED DEVELOPMENT RIGHTS IN THE BOROUGH'S EMPLOYMENT AREAS, KEY EMPLOYMENT SITES AND LOCAL SIGNIFICANT EMPLOYMENT SITES**

Decision that:

1. it is considered that the exercise of the permitted development rights granted by Classes O, P and PA of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the Order") in respect of the

areas shown for identification purposes on the Maps in report Appendix 1, being the Council's Employment Areas, Key Employment Sites, and Locally Significant Employment Sites ("the Specified Areas") would be harmful to the wellbeing of the Council's area;

2. the Executive is satisfied that it is expedient that the development permitted by Classes O, P and PA of Part 3 to Schedule 2 of the Order should not be carried out in the Specified Areas unless permission is granted for it on an application to the Council;
3. the Head of Legal and Democratic Services, in consultation with the Head of Planning and Economic Development, be authorised to make a Direction under Article 4(1) of the Order ("the Direction") to remove permitted development rights under Classes O, P and PA of Part 3 to Schedule 2 of the Order in respect of the Specified Areas in order to restrict the prior approval process that permits changes of use from offices (Use Class B1a), light industrial (Use Class B1c) and storage and distribution (Use Class B8) uses to dwellinghouses (Use Class C3);
4. subject to the Direction being confirmed, it shall come into force one year from the date that the public consultation on the making of the Direction began;
5. the Head of Planning and Economic Development, in consultation with the Portfolio Holder for Planning and Localism, be granted delegated authority:
 - (i) to take all the procedural steps required by Schedule 3 of the Order in relation to the making, notification and confirmation of a Direction without immediate effect; and
 - (ii) at the termination of the public consultation period, to confirm the Direction taking into account any representations made unless the Secretary of State has specified a later date before which the Direction may not be confirmed.

Reasons for the Decision

The making of an Article 4 Direction to restrict permitted development rights on major employment sites in the Borough was necessary to protect the Borough's key employment locations and help sustain a competitive local economy.

The Article 4 Direction made by the Council should be one that did not come into force "with immediate effect" in order to prevent the Council from being exposed to claims to compensation for financial loss and damage directly attributable to the withdrawal of permitted development rights.

An Article 4 Direction “without immediate effect” could not come into force later than two years after the date on which the public consultation on its making began and it was considered reasonable and prudent in this case if the Article 4 Direction, if confirmed, came into effect one year after the date on which the public consultation on its making began.

Alternative Options Considered and Rejected

(a) No Article 4 Direction served:

In the short term, continuing to allow office and other employment buildings to be converted to flats would deliver new homes on brownfield land and reduce pressure on releasing Green Belt land in time to come. However, the cumulative impact of such developments on both local infrastructure and the delivery of an appropriate range of housing tenures would be significant, with such schemes not required to provide affordable housing, Community Infrastructure Levy and generally no s106 contributions. Furthermore, in the long term, if this trend were to continue, it was likely to impact on the Council’s ability to retain its employment stock. This could irreparably alter the Borough’s economic geography and conflict with Hertsmeres’s 2020 Vision which sought among other things to support a thriving local economy. This option was therefore not supported.

(b) An Article 4 Direction is made which takes immediate effect:

This option was not agreed as the Council would be exposed to compensation claims for costs and damages incurred as a result of removing permitted development rights, nor had Officers been able to identify any other local authorities which had served an immediate effect Article 4 to control the conversion of offices and other commercial premises into residential units. For this reason and having regard to the potential negative impact on the public purse, it was agreed that the Article 4 Direction should not come into force for 12 months from the date that the Council began the public consultation on the making of the Direction.

(c) An Article 4 Direction covers the whole of the Borough’s office, light industry and warehouse stock:

This option was also not regarded as appropriate. The Council was required to notify the Secretary of State of the making of any Article 4 Direction and the Secretary of State has the power to intervene to prevent the Direction from being confirmed. Government advice in the National Planning Policy Framework was that the use of Article 4 Directions should be limited to situations where this was necessary to protect local amenity or the wellbeing of the area. It was considered expedient that permitted development rights should be restricted in the major employment areas of the Borough, for the reasons given above,

and that it would be much more difficult to justify a Direction affecting the whole of the Borough's light industry and warehouse stock. It would also be very likely that the Secretary of State would intervene to prevent any such Direction being confirmed.

Key Points Arising from the Discussion

- A non-Executive Member expressed concern about the risk that the planned 12-month 'buffer period' might exacerbate the problem by provoking a proliferation of permitted development under permitted development rights within that period. He sought assurances from the Executive that all options had been explored to ensure there was no risk to the Council of legal challenge. The Planning and Localism Portfolio Holder confirmed that the risk had indeed been investigated, including taking legal advice and exploring insurance options, with the result that confirmation of the Direction was recommended to occur one year from the start of the public consultation.
- The Environment and Transport Portfolio Holder gave his full support to the proposals which he said provided a mechanism for protecting the Borough's properties and businesses and allowed landowners to apply for a change of use if they so wished.

(Action: Planning Policy Team Leader)

85. **NON-KEY DECISIONS**

85.1 **BUSHEY COUNTRY CLUB**

Decision that:

1. an Executive Panel be appointed with the Terms of Reference set out in Appendix C to the report in order to progress development of Bushey Country Club (BCC);
2. a Masterplan be commissioned for the development of the BCC site and funding be approved from previously earmarked resources, as detailed in paragraph 6.2 of the report; and
3. the attached "Bushey Country Club Consultation Group Report" at Appendix A be noted and all those members of the public as well as elected members who participated in this exercise be thanked.

Reasons for the Decision

Hertsmere Borough Council was no different to any other council across the nation experiencing significant financial strain due to reduced government grants and increasing service demands resulting from an increased population

and downturn in the economy. Over the years, the Council had made strenuous efforts to achieve cost efficiencies which meant that there was not much leeway for securing further cost or expenditure efficiencies. Thus, in order to achieve long term self-sustained financial resourcing, the Council needed to focus on income generation from all of its assets to an optimum level.

Hence, assets such as BCC required serious consideration and the Council needed to determine the future of the site with a view to achieving the maximum potential for both financial and community gains.

The production of a Masterplan would assist with identifying market opportunities as well as any possible constraints and, subject to this, the best possible way forward. The Masterplan would enable the Council to then carry out a wider consultation exercise by providing a range of viable options for consideration by Hertsmere residents.

The Executive Panel would be taking expedient action, with the support of Council Officers and external advisors, to ensure that the project of BCC redevelopment moved forward in the most efficient and effective manner. As the Executive's scheduled meetings were on a monthly basis, the Panel had the freedom to meet more frequently and to accelerate the project.

Alternative Options Considered and Rejected

The Council could have chosen to evaluate the success of the 'meanwhile use' leasing operation and be satisfied these facilities were integral to any redevelopment. However, not carrying out a strategic appraisal of the site would result in decision-making that failed to consider every opportunity. Additionally, the Council would be at risk of breaching its fiduciary duty of achieving best value from its asset.

The Council was not in a position at this time to test the viability of any proposal in the absence of a Masterplan.

The Council could have given consideration to selling off the site, leasing it to a third party or forming a joint venture with both the public and/or private sector without carrying out a site appraisal and without the proposed production of a Masterplan. However, in this eventuality, the Council would not have been able to evidence whether it had achieved the best return from its asset in terms of income and community benefit.

For the reasons stated above, these options were not supported.

Key Points Arising from the Discussion

- In accordance with Minute 80 above, Mr Philip Nowlan, member of the Bushey Country Club (BCC) Consultation Group, spoke about local residents' concerns about any potential large scale over-development of the site and sought confirmation that the outcomes of the Borough-wide

survey would give more weight to the responses from Bushey residents and that this element would be included in the Masterplan.

- Dr Raymond Coffey, also a member of the Bushey Country Club Consultation Group, praised Councillor Morris' chairmanship of the Group. On behalf of local residents, he emphasised the need to enhance the level of publicity for the consultation and expressed concerns about the mathematical calculations regarding the size of the site required.
- In response, the Chief Executive referred Members to report paragraph 2.8 concerning the commissioning of a Masterplan for which there were up to three options. He advised that feasibility depended on the valuation and that the preferred methodology would be published as advised to the Council. He advised that the Executive Panel would be set up to guide the process and ensure all aspirations were addressed and that Bushey residents would be kept fully informed. He added that the rate of return had been projected against the existing reasonable rateable returns for councils investing in assets. He highlighted the scheme's two major features and the importance of balancing the financial interest with the community interest which he suggested were not incompatible.
- The Finance and Property Portfolio Holder concurred with the need to establish a balance between the financial return and the support of the local community. He highlighted report paragraph 6.1 for Members' particular interest which referred to the Council's aspirations to achieve a minimum rate of return of 7% and an estimated annual income of £2.5m but emphasised that these were benchmark figures and were not set in stone.
- Other non-Executive Members thanked the BCC Consultation Group Chair and his team for their work and the excellent foundation laid.
- Another non-Executive Member cautioned the Council against raising possibly unrealistic expectations in the community in terms of the cited aspirations and suggested tightening up the wording on the legal definition of "the best consideration reasonably obtainable" (paragraph 7.1 refers).
- Members of the Executive gave their full support to the report's recommendations.
- The Portfolio Holder for Community and Economic Development thanked each and every member of the Consultation Group team for their invaluable contributions and in particular Councillors Silver, Quilty, Butler, Lambert and Di Hoeksma. He added that the Council's interpretation of best value was not solely based on financial considerations but also benefit to the community. He advised that the appointment of the meanwhile use operative, SMM UK Ltd, would maintain the relationship between the local community and the site whilst a Masterplan was devised and he

considered that having a central hub was of key importance for the consultation.

(Action: Chief Executive)

85.2 **2020 VISION PERFORMANCE REPORT FOR QUARTER 3 2018/19**

Decision that the Quarterly Performance Indicator Report at Appendix A to the report and the Corporate Action Plan Projects Update Report at Appendix B be noted and the Data Quality Policy Statement at Appendix C be approved for implementation during 2018/19.

Reasons for the Decision

Quarterly monitoring of performance indicators formed part of the Council's Performance Management Strategy. The statistics provided Members with an overview of the Council's performance across the Quarter and were a means of capturing high level performance information across the organisation, of highlighting areas where performance was not matching targets and detailing the remedial action being taken to address the issues.

The report set out the Council's performance over Quarter 3 (October to December 2018). Members were presented with the Quality Service Indicators at Appendix A which measured progress against the agreed 15 key performance targets and reflected the main services delivered by the Council; Appendix B which detailed progress made against the Council's Corporate Action Plan for the period up to the end of December 2018; and Appendix C which comprised the Council's Data Quality Policy Statement.

Alternative Options Considered and Rejected

The decision could have been made not to monitor performance at a corporate level and accordingly not provide this information to Councillors and members of the public. However, as Members would lose the benefit of a rolling overview of the Council's overall service performance, this option was not supported.

Key Points Arising from the Discussion

- With reference to red indicator P&CE9: Participation rates at leisure facilities, the Portfolio Holder for Leisure, Culture and Health drew Members' attention to the reason for the figures which meant that like for like comparisons with Quarter 3 2017 were not possible. She added that strenuous efforts were being made to increase participation.

- HOU22: Homelessness approaches/issue of Personal Housing Plan within 10 working days - The Finance and Property Portfolio Holder commented that the performance of the Council's Housing Department in handling the demands of the new Homelessness Reduction Act had been very good despite some criticism of the legal methods employed. He said that Officers should be congratulated on their performance.

(Action: Head of Partnerships and Community Engagement)

86. **DATE OF NEXT MEETING**

Noted that the next meeting of the Executive was scheduled to be held on Wednesday, 17 April 2019 at 6.00pm.

87. **EXCLUSION OF THE PUBLIC**

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I, Schedule 12A to the said Act:-

<u>Part II Agenda Item</u>	<u>Paragraphs in Schedule 12A</u>
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1. **KEY DECISIONS**

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| 1.1 | Furzehill Leisure Centre Re-roofing Contract | 3 |
| 1.2 | Repairs and Maintenance Contract | 3 |
| 1.3 | Elstree Cricket Club – Lease Renewal | 3 |

2. **NON-KEY DECISIONS**

- | | | |
|-----|---|----------|
| 2.1 | Restructure in Environmental Health and Licensing | 1, 2 & 4 |
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88. **FURZEFIELD LEISURE CENTRE RE-ROOFING CONTRACT**

Decision that:

1. M & J Group be awarded a contract for the replacement of roof coverings at Furzefield Leisure Centre; and
2. the required funding from the 2018/19 contingency budget, as set out in section 6 of the report, be approved.

Reasons for the Decision

The single ply flat roof covering above the plant room areas of the Furzefield Leisure Centre had failed, resulting in water ingress and a collapse of the insulation layer below. This had been identified at the time of transfer to Hertsmere Leisure Trust and its renewal was an outstanding commitment.

Complete renewal was necessary as the roof covering had reached the end of its life and this included new insulation and repairs to the defective steel deck in one area. It was proposed to insulate the replacement roof covering to current standards making it more energy efficient and thus contributing to energy savings.

Alternative Options Considered and Rejected

The Council could have decided not to award a contract. However, since the roofing was now beyond any form of economical repair, the collapse of the insulation layer and resultant ponding carried a considerable risk of water penetration to the plant rooms below with the potential to disrupt business and cause both financial and reputational damage to Hertsmere Leisure Trust and the Council. For this reason, this option was not supported.

Key Points Arising from the Discussion

- Responding to a question from the Chair, the Property Services Manager clarified that, in terms of Building Regulations compliance, the insulation levels of the building might not need to be upgraded as the area affected was above the plant room and adding further insulation was intrinsically difficult because it affected the periphery.

(Action: Property Services Manager)

89. **REPAIRS AND MAINTENANCE CONTRACT**

Decision that TSG Building Services PLC be awarded a contract for the repair and maintenance of the Council's buildings.

Reasons for the Decision

The Council required contractors to undertake repairs, maintenance and minor works to its buildings. To ensure this took place in a timely and economic manner, a term contract had been established to allow a call off without the need for procurement on each occasion.

The existing repairs and maintenance contracts were due to expire in May 2019 providing an opportunity to review the Council's requirements and test the market. Whilst the existing contracts were extendable for a

period of up to one year, due to the uneconomic nature of the work it was deemed appropriate to re-tender the work on the open market.

Alternative Options Considered and Rejected

The Council could have chosen not to award a new contract and instead extend the existing arrangements for a period of up to one year. However it had proven difficult to deliver the works at the current tendered rates and it was therefore considered prudent to take advantage of the opportunity to re-procure the services.

Another option was not to award a term contract and procure the services individually. However, it would be difficult to secure consistency, value for money and assured levels of service, resulting in a risk of poor response to routine, compliance and emergency repairs with the consequent impact on service delivery.

These options were therefore not supported.

(Action: Property Services Manager)

90. **ELSTREE CRICKET CLUB - LEASE RENEWAL**

Decision that a new 30-year lease be granted to the lessee in the name of Elstree & Hatch End Cricket Club, the amount of the rent to be index linked and reviewed every five years.

Reasons for the Decision

It was considered that the grant of a new lease would produce a rental income stream for at least the next 5 years at a commencing level of £1,000, an increase on the previous rent of £150 per annum.

The decision would also enable the lessee to apply for grant funding within the requirements of the grantor which specified a minimum term of 30 years.

The existing lease conformed with the Landlord and Tenant Act 1954 giving the tenant the right to renewal.

Alternative Options Considered and Rejected

As this lease is inside the Landlord and Tenant Act the Councils' are limited as there are no grounds to refuse a new lease.

(Action: Estates Surveyor)

91. **RESTRUCTURE IN ENVIRONMENTAL HEALTH AND LICENSING**

Decision that:

1. the efficiency savings set out in paragraph 8.1 of the report be noted; and
2. the cost of the settlement agreement in report paragraph 8.2 be approved.

Reasons for the Decision

The Executive's approval was required for the financial implications arising from the Personnel Committee's decision at its meeting on 12 February 2019.

The proposal had been made to create a more robust and resilient service for delivering business development opportunities and to reflect demand, the Hertfordshire local authorities had explored a county-wide partnership. The East of England Local Government Association (EELGA) had been appointed to investigate the feasibility of the options with the result that a cluster of three to four districts with adjoining boundaries was recommended as a more efficient and effective partnership arrangement.

Following this finding, Hertsmere Borough Council, Watford Borough Council and Three Rivers District Council had started a dialogue to form a partnership as neighbouring boroughs. In addition to service resilience, it was considered that partnership working could deliver business development, performance management and new ways of working, as well as achieving significant cashable efficiency gains from reduced management structure costs.

Alternative Options Considered and Rejected

The EELGA review had identified key areas for developing the service such as revenue generation and these options would be explored should a partnership not come to fruition.

Key Points Arising from the Discussion

- Responding to questions from the Chair, the Head of Finance and Business Services confirmed that the recommendations made financial sense. The Chief Executive confirmed that the Council was satisfied that the service would not suffer.
- The Community Safety and Performance Portfolio Holder advised that the restructure itself had been approved by the Personnel Committee at its last meeting on 12 February 2019.

(Action: Head of Street Scene Services)

CLOSURE: 7.20 pm

CHAIR