

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE EXECUTIVE – 25 MAY 2010

SUBMITTED TO THE COUNCIL MEETING – 20 JULY 2010

(To be read in conjunction with the Agenda for the Meeting)

Cllr Mike Band	* Cllr Stephen O'Grady
* Cllr Mrs Carole King	Cllr Stefan Reynolds
* Cllr Robert Knowles	* Cllr Roger Steel
* Cllr Bryn Morgan	* Cllr Adam Taylor-Smith
* Cllr David Munro	* Cllr Keith Webster

* Present

Cllr Ken Reed was also in attendance

1. APPOINTMENT OF CHAIRMAN (Agenda Item 1)

The appointment of the Leader of the Council, Cllr Robert Knowles, as Chairman of the Executive, was confirmed.

2. APPOINTMENT OF VICE-CHAIRMAN (Agenda Item 2)

The appointment of the Deputy Leader of the Council, Cllr Mike Band, as Vice-Chairman of the Executive, was confirmed.

3. MINUTES (Agenda Item 4)

The Minutes of the Meeting of the Executive held on 13 April 2010 were confirmed and signed.

4. APOLOGIES FOR ABSENCE (Agenda Item 5)

Apologies for absence were received from Cllr Mike Band and Cllr Stefan Reynolds.

5. DISCLOSURE OF INTERESTS (Agenda Item 6)

There were no interests raised under this heading.

PART I - RECOMMENDATIONS TO THE COUNCIL

6. WAVERLEY'S SUSTAINABLE COMMUNITY STRATEGY (Agenda Item 9; Appendix B)

- 6.1 Under the Local Government Act 2000 and the Sustainable Communities Act 2007, all Local Authorities must agree a Sustainable Community Strategy (SCS) for their areas, in consultation with partners. In most areas this is agreed through the Local Strategic Partnership.

- 6.2 In April 2008, both the Executive and the Waverley Local Strategic Partnership (now the Waverley Strategic Partnership or 'WaSP') identified that the priorities of the initial draft Surrey Sustainable Community Strategy accurately reflected the key issues in the Waverley area and agreed to adopt the Surrey Strategy. At its meeting in February 2009, the Executive endorsed the revised draft Surrey Sustainable Community Strategy, which was out for consultation, and agreed a response to the consultation.
- 6.3 Following the consultation, the Surrey SCS was reviewed, and a final version – 'Standing up for Surrey – the Surrey Partnership Plan 2010-2020' - was published in April 2010. In addition to the original priorities, the five main challenges for Surrey were identified and included in the Plan (page 2 of Annexe 1)
- 1) Climate Change – a global problem with local implications
 - 2) Sustainable Surrey – stimulating the debate
 - 3) The internet – a better connected Surrey
 - 4) Public finances – reduced spending
 - 5) Changing political landscape – local decision making involving Surrey residents
- 6.4 The summary version of the Plan is attached at Annexe 1. The full version of the plan is available at www.surreycc.gov.uk/communityplanning. The ten priorities in the full plan are set out below:

<i>Children and Young People</i>	
Priority A	Improve learning, health and employment outcomes for children and young people, particularly for the vulnerable and disadvantaged
Priority B	Improve the safeguarding of Surrey's most vulnerable children and young people
<i>Health and Wellbeing</i>	
Priority C	Promote healthy lifestyles, particularly targeting groups and communities at most risk
Priority D	Support more vulnerable people to live independently and to have greater choice and control over their health and support arrangements
<i>Economic Development</i>	
Priority E	Improve the global competitiveness of Surrey's economy through sustainable growth, underpinned by appropriate infrastructure
Priority F	Make Surrey's economy more inclusive
<i>Housing Infrastructure and Environment</i>	
Priority G	Help people in Surrey to achieve more sustainable lifestyles
Priority H	Achieve better standards of development to deliver more social, environmental, and economically sustainable benefits
<i>Safer and Stronger Communities</i>	
Priority I	Improve public confidence in the ability of public services to keep Surrey safe, prepare for emergencies, and reduce crime and anti-social behaviour.
Priority J	Strengthen local communities through targeted public and voluntary sector activity, active citizenship and work to tackle inequalities.

- 6.5 In September 2008, the Waverley Local Strategic Partnership and the Safer Waverley Partnership merged to form the Waverley Strategic Partnership (WaSP).
- 6.6 The Waverley Strategic Partnership plays an important role in ensuring the various public bodies and key community organisations work together to deliver outcomes for Waverley's residents. WaSP – though its sub-groups - prepared Waverley-focused action plans to deliver the Surrey Sustainable Community Strategy priorities, Local Area Agreement indicators and other local partnership priorities within Waverley. These action plans were endorsed by WaSP in April 2009 and by the Executive at its meeting in May 2009, and are available online at www.waverley.gov.uk/partnership.
- 6.7 In October 2009, a review of WaSP was started, seeking views of all the partners and proposing a set of options for the way forward. A survey was sent out to all partners and regular attendees and a report summarising the responses and proposing different options for the proposed partnership vehicle going forward, and other recommendations, was considered by WaSP at its meeting in February 2010. Partners agreed that there would be
- A wider plenary group that meets periodically to debate and consider wider issues, set the vision and share information.
 - A smaller Executive Board attended by a high-level representative from each statutory organisation and 'umbrella' organisation, who would also act as chairs of the sub-groups.
 - Sub-groups that 'do' most of the work, directed and scrutinised by the Executive Board. Sub-group chairs to be on the Executive Board.
- 6.8 A further report with detailed proposals will be considered at the next WASP meeting. The Local Area Agreement (LAA) 2008-11 is a three-year agreement between the Surrey Strategic Partnership (of which Waverley is one of the partners) and central Government. It contains 28 indicators selected from the Government's national set of targets, which reflect the priorities of Surrey's Partnership Plan. The targets in the LAA were revised in April 2010. The latest version of the LAA is attached at [Annexe 2](#).
- 6.9 Surrey-wide delivery plans for the LAA indicators have been prepared by the lead agency for each indicator from the Surrey Strategic Partnership and are available on the Surrey County Council website. Quarterly monitoring reports are produced. For many indicators data is only available and reported on a Surrey-wide basis.
- 6.10 The Executive

RECOMMENDS that

1. **the priorities of the Surrey Partnership Plan 2010-2020, as set out in the table at paragraph 6.4, be adopted as Waverley's Sustainable Community Strategy, recognising that many of the ambitions set out in this strategy are dependent on this Council working to influence other organisations and service providers.**

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

7. COVERT SURVEILLANCE POLICY (Agenda Item 12; Appendix D)

7.1 The Regulation of Investigatory Powers Act 2000 ("RIPA") came into force on 25 September 2000 and introduced a regulatory framework within which public authorities, including the Council, use covert investigatory techniques.

7.2 The introduction of the Human Rights Act 1998 meant that public authorities were obliged by law to justify any interference with the Article 8 right to a private and family life of the subjects of any investigation. There was at that time no regulatory system in place to govern the use of covert investigatory techniques, and so RIPA was introduced in order to address this gap in the law.

7.3 RIPA sets out a regulatory framework under which public authorities must justify their interference with the Article 8 right, and RIPA also dictates which covert techniques each public authority is able to use, and the purposes for which those techniques can be used. In the Council's case, the only ground on which it may authorise the use of covert techniques and intrude on private and family life is the "legitimate aim", as defined by the 1998 Act, of the "prevention and detection of crime or the prevention of disorder."

7.4 RIPA dictates that the Council can use the following three covert techniques:

Directed Surveillance: Covert surveillance that is not intrusive but is carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about any person, and which is undertaken otherwise than as an immediate response to events or circumstances such that it is not reasonably practicable to seek authorisation under RIPA. Examples include observation of movements, photographing or filming, tracking vehicles in person and recording of noise escape from premises.

Acquisition of Communications Data: Information about a communication, such as telephone numbers involved and the time and place a call was made, but not the content of the communication. The same applies in respect of an email. Local authorities are currently permitted to intercept service use data and subscriber data.

Covert Human Intelligence Sources: A person authorised by a local authority to establish or maintain a relationship in order covertly to obtain information and disclose it to that local authority. The person acting as a 'CHIS' can be an undercover officer or a tasked informant (e.g. a member of the public).

7.5 It is important to note that if the Council wishes to use any of the above investigatory techniques, it must be sure that it is necessary and proportionate to do so in the circumstances of each individual case. On 7 July 2009 the

Executive received a report setting out the detail of a Home Office consultation paper regarding RIPA and its supporting legislation and codes of practice. The consultation sought views on the extent of the use of RIPA by public authorities, as well as ways in which the RIPA authorisation and oversight process could be strengthened. The Executive, having noted comments received from the Community Overview and Scrutiny Committee, endorsed the Council's response to the consultation as set out in the July 2009 report.

- 7.6 The consultation closed on 10 July 2009 and the Government recently published revised RIPA Orders and codes of practice, which all came into force on 6 April 2010. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010:
- consolidates previous orders which set out who within each public authority can authorise directed surveillance;
 - maintains the ground for which an authorisation could be granted by a local authority – i.e. for the purpose of preventing or detecting crime or of preventing disorder;
 - revises the level of officer that can sign such authorisations to "Director, Head of Service, Service Manager or equivalent." This includes any more senior positions.
- 7.7 The Regulation of Investigatory Powers (Communications Data) Order 2010 consolidates all earlier Orders relating to communications data and prescribes the same ground and levels of authorisation in respect of communications data as are set out in the preceding paragraph in respect of directed surveillance and CHIS. The revised codes of practice (available to view on the Home Office website at <http://security.homeoffice.gov.uk/ripa/making-an-app-under-RIPA/codes-of-prac/>) entitled 'Covert Surveillance and Property Interference' and 'Covert Human Intelligence Sources' provide expanded guidance on fundamental RIPA considerations such as necessity, proportionality and collateral intrusion, and are more user-friendly than previous versions. The Codes also introduce new responsibilities into the RIPA framework, namely the 'Senior Responsible Officer' and an enhanced role for councillors (see below).
- 7.8 The revised Codes now set out a number of practical examples intended to assist those involved in the authorisation process when deciding whether a RIPA authorisation is appropriate in a particular case. One such example relates to the investigation of relatively minor offences such as littering, leaving waste out for collection a day early, or permitting dog fouling in a public place without clearing up afterwards, and the Covert Surveillance Code suggests that a RIPA authorisation would not be appropriate in such circumstances. Members will remember that much of the negative publicity surrounding local authorities' use of covert surveillance centred on the use of RIPA to investigate minor offences such as dog fouling.
- 7.9 The 'Acquisition and Disclosure of Communications Code of Practice' was not subject to the consultation and remains unchanged.

7.10 The Codes relating to directed surveillance and CHIS state that it is considered good practice for every public authority to appoint a Senior Responsible Officer ("SRO"), who should be responsible for:

- the integrity of the process in place within the local authority to authorise directed surveillance and interference with property;
- compliance with RIPA and the Codes of Practice;
- engagement with the Office of Surveillance Commissioners ("OSC") and its inspectors when they conduct inspections; and
- where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Commissioner.

The SRO should be a person holding the position of an Authorising Officer within the public authority, and the Codes state that within local authorities the SRO should be a member of the corporate leadership team and should be responsible for ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations made by the OSC.

7.11 The 'Acquisition and Disclosure of Communications Code of Practice' states that it is considered good practice for every public authority to appoint a Senior Responsible Officer in respect of communications data.

7.12 As a result of the consultation, the revised directed surveillance and CHIS Codes now state that it is best practice for elected Members to review the Council's use of RIPA and set its policy at least once a year. Further, they should also consider internal reports on the use of RIPA on at least a quarterly basis to ensure that it is being used in a manner consistent with the Council's policy and that the policy remains fit for purpose. However, the Codes state that Members should not be involved in making decisions on specific RIPA authorisations. The Code relating to communications data contains no such similar provision in respect of elected Members. However, there is no reason why the Council should not adopt the same best practice approach by reporting to Members on the Council's use of RIPA in respect of communications data.

7.13 Since the date of the report to the Executive in July 2009, the Council has not granted any RIPA authorisations in respect of any of the three permitted investigatory techniques. During the 2009 calendar year a single authorisation was granted for the use of directed surveillance, details of which were included in the previous report. Although the Council is permitted under RIPA to authorise both the interception of communications data and the use of CHIS, it has not done so since RIPA came into force. In short, the Council continues to use covert investigatory techniques sparingly, and only when considered absolutely necessary and proportionate in the circumstances of each individual case.

- 7.14 The Council adopted a revised Covert Surveillance Policy, and approved a revised list of Authorising Officers, on 11 December 2007. That revision followed an inspection of the Council by, and subsequent recommendations from, the Office of Surveillance Commissioners in April 2007.
- 7.15 A proposed revised Policy is attached at Annexe 3. In summary, the suggested changes are as follows:
- Appointment of a Senior Responsible Officer with responsibility for the matters set out above.
 - Introduction of an oversight process by elected Members.
 - A revised list of Authorising Officers (see the Appendix to the Policy) that reflects the intervening internal Council restructure and accords with the revised RIPA Orders.
 - Updated references to the relevant RIPA Orders.
 - Minor amendments throughout the Policy to reflect the distinction between covert surveillance (directed surveillance and CHIS) and the acquisition of communications data. The title of the Policy has also been amended to make this distinction clearer.
- 7.16 There is scope for the Council to reduce its number of Authorised Officers, given the Council's limited use of RIPA, without impacting on the robustness of the authorisation process. Reducing numbers would ensure that requests for authorisations are considered by the more senior ranks prescribed by the legislation. A smaller pool of Authorised Officers would also ensure that each of the Authorised Officers is more likely to assess a request for authorisation and therefore put into practice relevant training provided by the Council and maintain practical knowledge of the authorisation process. This would in turn reduce annual training costs by reducing the number of Officers for whom such training would be required.
- 7.17 All Authorised Officers are subject to the same annual training covering the key issues of proportionality, necessity and collateral intrusion, and should therefore be able to assess these issues whether or not the authorisation comes from an officer within their Service. However, the Authorised Officer needs to be familiar enough with any equipment in order to be able identify any operational risks, and therefore investigating officers are again more likely to seek authorisation from their Head of Service or Director. Members should note that the Council's internal RIPA working procedures for Officers are also being updated so that they accord with the changes to the legislation and codes of practice.
- 7.18 The Executive has agreed to receive quarterly update reports in respect of the Council's use of RIPA and accordingly

RECOMMENDS that

2. **the revised Covert Surveillance Policy and the revised list of authorised officers be approved and adopted, and the Chief Executive be approved as Senior Responsible Officer and the Deputy Chief Executive as her deputy.**

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

Part II – Matters Reported in Detail for the Information of the Council

There were no matters falling within this category.

Part III – Brief Summaries of Other Matters Dealt With

8. EXECUTIVE FORWARD PROGRAMME (Agenda Item 8; Appendix A)

RESOLVED that the forward programme of key decisions for Waverley Borough Council be adopted, subject to

1. the addition of the following two items to the Economic Development and Community Portfolio:-
 - i. Grants Programme
 - ii. Review of Economic Development (being undertaken by the Community Overview and Scrutiny Committee); and
2. the amendment of the item within the Leisure and Culture Portfolio to say **Farnham** Museum Review.

9. CONSULTATION ON THE POLITICAL LEADERSHIP OF WAVERLEY BOROUGH COUNCIL (Agenda Item 10; Appendix C.1)

RESOLVED that the report and consultation proposals on Waverley's political leadership arrangements post 2011 be endorsed, with the timing of implementation to be agreed by the Chief Executive in consultation with the Leader of the Council, in the light of any detail of proposed legislative change.

10. WAVERLEY'S CITIZENS' PANEL - FIRST CONSULTATION (Agenda Item 11; Appendix C.2)

RESOLVED that

1. the principle of the consultation be endorsed; and
2. the Chief Executive, in consultation with the appropriate Portfolio Holder(s), refine the final wording of the proposed questions.

11. URGENT ITEM - THE WAVERLEY BOROUGH COUNCIL (OFF-STREET) PARKING PLACES) ORDER 2010 (Agenda Item 12A; Appendix G)

The Leader agreed to certify this item as urgent business. The figure quoted in the report for over 2 hours car parking should have read £3.50 and not £2.50 but this did not affect the decisions taken.

RESOLVED that

1. the objections received be noted but the Executive agreed not to change the proposed approach to charging;
2. officers be instructed to proceed with making the Parking Order as soon as possible; and
3. the estimated drop in income of approximately £15,000 for 2010/11 be noted as a result of the delays in implementing the charges.

12. RE-APPOINTMENT OF SPECIAL INTEREST GROUPS (Agenda Item 13)

RESOLVED that the following Special Interest Groups be reappointed and Portfolio Holders agree the memberships and chair their appropriate SIGs in 2010/2011:-

- i. Landlord Services Partnership SIG (8 Waverley)
- ii. Planning Policy SIG (9)
- iii. Healthcare SIG (7)
- iv. Restructuring and HR SIG (8+1 co-opted)
- v. Constitution SIG (6)
- vi. Godalming Leisure Centre Project Group (SIG) (10) [including the finance, facilities and site working groups (3)]
- vii. Member Development SIG (6)
- viii. Customer Services SIG (7)
- ix. LDF SIG (8); and

that the Haslemere Area SIG should be discontinued.

13. APPOINTMENT OF EMPLOYERS NEGOTIATING TEAM (Agenda Item 14)

RESOLVED that the following members be appointed to the Employers' Negotiating Team for 2010/2011:-

Cllr Mike Band
Cllr Victor Duckett
Cllr Lucinda Fleming

Cllr Peter Isherwood
Cllr Robert Knowles
Cllr David Munro

14. APPOINTMENT OF REPRESENTATIVES ON SURREY LOCAL GOVERNMENT ASSOCIATION (SLGA) AND NOMINATIONS TO OTHER BODIES (Agenda Item 15)

RESOLVED that

1. the Leader of the Council be appointed as the Borough Council's representative (and the Deputy Leader as the reserve) on the Surrey Local Government Association in 2010/2011; and
2. Cllr Tony Gordon-Smith be nominated for appointment by the Surrey Local Government Association to the Surrey Historic Buildings Trust.

15. APPOINTMENTS TO OUTSIDE BODIES - 2010-2011 (Agenda Item 16)

RESOLVED that the following appointments be made to Outside Bodies for 2010-2011:-

A5	Joint Waste Strategy Consultative Board	Cllr Bryn Morgan
A5a	SLGA Surrey Waste Partnership	Cllr Bryn Morgan
A5b	SLGA Surrey Climate Change Partnership Member Group	Cllr Bryn Morgan
A6	Local Government Association Rural Commission	Cllr Bryn Morgan [Reserve: Cllr Band]
A7	Local Government Association Urban Commission	Cllr Bryn Morgan [Reserve: Cllr Band]
A9	South East England Council	Cllr Robert Knowles [Reserve: Cllr Band]
A10	South East Employers	Cllr Mike Band [Reserve: Vacancy]
A17	Surrey Local Government Association	Cllr Robert Knowles [Reserve: Cllr Band]
A20	Parking and Traffic Regulation Outside London Adjudication Joint Committee	Cllr Mrs C A King [Reserve: Cllr S P Connolly]
A21	Royal Surrey County Hospital Foundation Trust	Cllr Len Bate

16. APPOINTMENTS TO SURREY COUNTY COUNCIL LOCAL COMMITTEE TASK GROUPS 2010/2011 (Agenda Item 17)

RESOLVED that Councillor Duckett be replaced as substitute by Councillor Mrs Diane James on the Local Committee and the following councillors be nominated to the Task/Sub-Groups of the Waverley Local Committee:-

Farnham Transportation Task Group

Councillors L C Bate, R D Frost, J A Ward.

Godalming, Milford and Witley Transportation Task Group

Councillors R A Gordon-Smith, K Webster

Haslemere and Western Villages Transportation Task Group

Councillors R A Knowles, B J Morgan

Cranleigh and Eastern Villages Transportation Task Group

Councillors B A Ellis, Mrs D M James

17. ACTION TAKEN SINCE LAST MEETING (Agenda Item 18)

The action taken by the Chief Executive, after consultation with the Chairman and Vice-Chairman since the last meeting, was noted, on the following:-

- i. a Counter Notice at 9 Forburys;
- ii. VAT on Car Parking; and
- iii. a mail order initiative for Green Cones and Johannas.

18. SALE OF LAND AT THE QUILLET, HILLCREST, ELSTEAD (Agenda Item 19; Appendix E)

[This item contains exempt information by virtue of which the public is likely to be excluded. The information is as specified in paragraph 3 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information)].

RESOLVED that the land shown outlined on the plan at Annexe 1 to the report, be sold to the present licensee, the owners of 4 Little Green, Elstead.

19. EXCLUSION OF PRESS AND PUBLIC (Agenda Item 20)

RESOLVED that, pursuant to Procedure Rule 20, and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 1 of the revised Part I of Schedule 12A to the Act, namely:-

Information relating to an individual.

20. PLANNING SERVICES - POLICY TEAM RECRUITMENT (Agenda Item 21; (Exempt) Appendix F)

RESOLVED that the staffing structure which has been introduced in the planning policy team be endorsed which will produce a saving of £2,300 in 2010/11 to the Planning Service and ongoing savings of £14,900.

The meeting commenced at 6.45 p.m. and concluded at 7.26 p.m.

Chairman