

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE EXECUTIVE – 5 OCTOBER 2010

SUBMITTED TO THE COUNCIL MEETING – 12 OCTOBER 2010

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

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| * Cllr Robert Knowles (Chairman) | * Cllr Stephen O’Grady |
| * Cllr Mike Band (Vice-Chairman) | * Cllr Stefan Reynolds |
| * Cllr Mrs Carole King | * Cllr Roger Steel |
| * Cllr Bryn Morgan | * Cllr Adam Taylor-Smith |
| * Cllr David Munro | * Cllr Keith Webster |
- * Present

Cllr Ken Reed was also in attendance and spoke on Agenda Item 6 - Forward Programme

67. MINUTES (Agenda Item 1)

The Minutes of the Meeting of the Executive held on 7 September 2010 were confirmed and signed.

68. DISCLOSURE OF INTERESTS (Agenda Item 3)

Cllr Adam Taylor-Smith declared a personal and prejudicial interest in Agenda Item 9 relating to the Godalming Key Site. He left the meeting during consideration of the item.

Part I - Recommendations to the Council

69. GODALMING KEY SITE APPEAL: REQUEST FOR SUPPLEMENTARY ESTIMATE (Agenda Item 9; Appendix D)

[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)]

- 69.1 In August 2009, the Council received a planning application for development of a mixed use development upon the Godalming Key Site (WA/2009/1674).
- 69.2 On 23rd February 2010, the Joint Planning Committee refused planning permission for the application. The Decision Notice was dated 24 February 2010.
- 69.3 An appeal has been lodged against the Council’s refusal. The appeal will be determined by way of Public Inquiry in the first quarter of 2011. The exact date of the Inquiry is yet to be confirmed by the Planning Inspectorate but it is likely to last for approximately 8 days.

- 69.4 Whilst the Planning Service budget includes sums for both consultants and legal expenses, it would not cover the cost of an Inquiry of this size. It is therefore necessary to seek additional funding to support the Inquiry. Members would wish to be assured that the Council's position is robustly defended with appropriate advocacy and planning expertise. Options for advocates are set out in (Exempt) Annexe 1.
- 69.5 In the past, for inquiries of this type, the normal practice has generally been for the necessary planning and other witnesses to be resourced externally although the Council's main planning witness for the previous Godalming Key Site Inquiry in 2008 was an internal member of staff. [Exempt Annexe 1 lists the areas where consultants would be needed, with an indication of costs. In addition, there would be various internal costs, particularly from staff that would need to support the consultant team].
- 69.6 The more cost-effective option would be to use Waverley's planning officers as planning witnesses. This was the approach successfully used for the Dunsfold Park Inquiry in March 2009. Officers consider that adequate experience exists but this would divert resources away from existing duties and this shortfall would need to be replaced by alternative cover estimated over a six week period to cost around £10,000. External specialist design and drainage advice would be required in any scenario. In addition, an external planning consultant would be required to defend reason for refusal No.4 (impact upon neighbouring amenity). Members disagreed with officers that the harm identified in the original application, had been overcome by amended plans presented to the Central Area Committee on 14th July 2010. If these same plans form part of the appeal submission, which is likely, then a Planning Consultant would be more appropriate as an expert witness to defend the Council's decision on that reason for reasons of professional conflict.
- 69.7 With the officers' preferred option of appointing a planning witness from existing staff resources, it is estimated that the total costs could be in the region of £55,500 - £73,500. To take account of contingencies, it is recommended that a further £10,000 is authorised in either instance. Members should note that transportation evidence will be provided by Surrey County Council, who will have to bear their own costs.
- 69.8 The Council is obliged to defend its decision to refuse planning permission. To do otherwise would be likely to be considered to be "unreasonable" within the terms of Circular 03/2009 and result in the Council having to pay the costs of the appellant in respect of the appeal.
- 69.9 The Council also needs to produce evidence to substantiate each of its reasons for refusal, by reference to the development plan and all other material considerations. If it cannot do so, again costs may be awarded against it. Having said that, officers will seek to engage with the developers, as required in Central Government advice, to seek to agree Statements of Common Ground. These may involve reporting back to Members, if agreement can be reached on any of the reasons for refusal, for example, by the submission of further information. These may result in the withdrawal of

one or more reasons for refusal and the consequent financial savings associated with this. However, this should not be relied upon.

69.10 The Executive accordingly

RECOMMENDS that

- 14. a supplementary estimate of £73,500 be approved to meet the costs of the professional and other costs, with a further £10,000 being approved but only spent subject to the agreement of the Chief Executive, Leader of the Council and the Portfolio Holder for Finance.**

Background Papers

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

70. NEW GODALMING LEISURE CENTRE (Agenda Item 10; 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)]

The Executive resolved to discuss this item in (Exempt) Session (Minute No. 73 refers) and then returned into open session at 7.57 p.m.

- 70.1 In December 2009, the Council agreed to build a new leisure centre in Godalming. This decision followed extensive work by the Godalming project group, comprising existing users, Godalming councillors and Sport Godalming, to consider the best facilities mix and site options for the new centre. The group engaged specialist advisors to undertake a cost-benefit analysis on the shortlisted sites after the project group had narrowed down a large number of potential sites to four. The cost-benefit analysis identified two viable alternative sites for the Council to invite tenders on. The group also employed a local research company to undertake a comprehensive consultation with residents and users of the existing centre to identify facilities priorities. The full reports for both pieces of work were included with the December committee report.
- 70.2 The Council considered the outcome of this work and instructed officers to tender a design and build contract for a new centre on either 1) the existing site or, 2) the site adjacent to the tennis club. In April, the Council agreed the process and criteria for evaluating the tenders and site options. This process is explained in more detail later in the report.
- 70.3 Members also instructed officers to engage consultants specialising in renewable technologies and the environmental credentials of construction projects. The 'green' consultant has worked with officers to produce an

environmental strategy, which tenderers must comply with in their bids, that included the requirement to submit costed options for renewable energy technology in the new centre. Once the preferred contractor is approved, officers, Members and advisors will work with the contractor to develop firmer proposals and any further approvals necessary will be the subject of a separate report to Members at a future date.

70.4 Members approved the list of five contractors to invite to tender. One contractor withdrew before being invited to tender so the next highest ranked company was invited in their place. Of these five, only three contractors submitted a tender.

70.5 The two site options made the evaluation of the proposals more complicated than a standard tender evaluation. Members agreed that the evaluation should comprise the following three stages:

Stage1 - Pre-qualification and invite to tender

Stage 2 - Tender evaluation based on pre-determined criteria

Stage 3 - Site evaluation and contract award

Members agreed that the contract evaluation should be on the basis of 50% Quality and 50% price. A range of quality criteria was agreed including internal and external design, environmental credentials and the build quality. This evaluation would provide the highest scoring scheme for each site.

70.6 Between invitation to tender and submission, each contractor was invited to meet with a range of officers and advisors to clarify the Council's requirements. Following the receipt of tender, the technical team completed a first draft evaluation based on the tender submission. Each contractor then attended a tender clarification meeting that enabled officers and advisors to seek further information to enable the tenders to be considered on an even basis. As a result of this analysis, each contractor was invited to firm-up on the provisional sums within their tender and to adjust the mechanical and engineering elements and prices as none were fully compliant with the specification. All three contractors responded to this request and the additional information has been taken into account in the revised prices and scores.

70.7 Finally, contractors were required to present their scheme proposals to the Strategic Evaluation team comprising Councillor Band, Councillor Steel and the Chief Executive. Following this stage, quality scores were finalised.

70.8 The site evaluation would be applied to the highest scoring tender for each site. Members agreed that the choice of site would be determined by considering a range of non-financial criteria, such as disruption to service, against the price difference between the two schemes. The project has remained within agreed timescales throughout the tender process. However, the project plan does not allow for any protracted negotiations or planning call-in difficulties.

70.9 The tender prices and evaluation scores are summarised in (Exempt) Annexe 2. This table shows that there is a clear front-runner for each site which is Contractor B. When these proposals are considered using the pre-determined site-evaluation process, Contractor B on the site adjacent to the tennis club emerges as the recommended scheme. The estimated construction time for this scheme is approximately 15 months.

70.10 The table below shows the financial summary of the preferred tender and location. More details are included in (Exempt) Annexe 2.

Financial Summary of Overall Leisure Strategy

	Current Approval December 2009	Latest Estimate incorporating preferred contractor and location for new Godalming centre
Total capital cost	£11.5m	£11.3m
Total borrowing requirement	£7m	£6.7m
Additional net annual revenue cost	£110,000pa	£46,000pa

70.11 The table shows that the recommended scheme for the new Godalming Leisure Centre can be delivered within the approved financial limits. This is in part due to the successful delivery of the Cranleigh and Farnham schemes as this has released budget contingencies that can now be reallocated to the Godalming scheme. As part of the budget process, reconsideration of the Council's financing arrangements could deliver the Leisure Investment Strategy at nil additional revenue cost.

70.12 The capital cost does not include the provision of any renewable energy technology in the new Godalming leisure centre. This will be the subject of a separate report which would include a detailed financial and environmental implications.

70.13. Subject to Council approval, contractual negotiations will commence in line with approved procedure with a view to signing contracts early in 2011. However, the Council will require the preferred contractor to prepare and submit a planning application in October/November 2010 with variations included to accommodate potential renewable energy technology as appropriate. This will require Waverley to issue a limited order to the value of £100,000.

70.14 The new alternative site option, the former grass tennis court area, that the Council approved no longer affects Godalming Lawn Tennis Club. However it now potentially affects Farncombe Wanderers Cricket Club which leases the pavilion situated within the new proposed contractor site compound. This site may also be subject to restrictions enforced by the Fields In Trust organisation who oversee the requirements of the King George 5th covenant. Officers have been working with the relevant parties to seek to clarify the procedure to enable this alternative option to be pursued.

- 70.15 The primary focus has been to negotiate and reach agreement with the two key stakeholders, Farncombe Wanderers Cricket Club and Fields In Trust, to allow the option of building the new leisure centre on the adjacent tennis courts to be considered. The recommended scheme does not require the Cricket pavilion to be moved so this will avoid disruption to the Club during the construction period. However, the tender does include a provision to make some improvements to the pavilion.
- 70.16 A summary of the negotiations with Fields in Trust is included at (Exempt) Annexe 2. Final agreement has not been reached yet and discussions are ongoing.
- 70.17 The Executive noted that by approving the recommended scheme, the Council's leisure commitment can be delivered within the approved financial limits and accordingly

RECOMMENDS that

- 15. Contractor B is selected as Waverley's preferred contractor for the design and build of the new Godalming leisure Centre;**
- 16. the new centre is constructed on the site adjacent to the tennis club;**
- 17. the Deputy Chief Executive in conjunction with the portfolio holders for Finance and for Leisure be given delegated authority to negotiate terms and enter into a contract with the preferred contractor;**
- 18. the Deputy Chief Executive in conjunction with the portfolio holders for Finance and for Leisure be given delegated authority to negotiate with the preferred contractor to firm up on costed options for renewable energy technology that could be incorporated within the scheme, subject to cost, and to report back to Members with proposals at a future date; and**
- 19. a limited order be issued up to the value of £100,000 for the preferred contractor to submit a planning application as soon as possible to include variations based on renewable energy technology being incorporated within the scheme, subject to the Council obtaining legal advice on the site-related issues to the satisfaction of the Leader of the Council and Portfolio Holder for Leisure.**

Background Papers

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

71. RESIDENTIAL EXTENSIONS - SUPPLEMENTARY PLANNING DOCUMENT
(Agenda Item 12; Appendix G)

- 71.1 The Supplementary Planning Guidance Advice Note - Residential Extensions: Design Guidelines was adopted in December 2002 to support the policies contained within the Waverley Borough Local Plan 2002 and amplify the principles set out in Surrey Design (2002).
- 71.2 Whilst the document has proved to be useful when advising applicants on the expectations of the Planning Authority, the lack of a comprehensive consultation process prior to its adoption has meant that the document is often afforded limited weight when relied upon at appeal.
- 71.3 It was therefore considered timely to undertake a review of the document, update it to reflect current design thinking, and subject it to a robust consultation procedure with the intention for it to be adopted by the Council as a Supplementary Planning Document (SPD).
- 71.4 Given the recent amendments to the Town and Country Planning Act (Local Development) (England) Regulations 2004, there is no longer a need for a SPD to be included within the Local Development Scheme (LDS) or be subject to a Sustainability Appraisal (SA). As a result, the time and resources required to produce a SPD have been reduced, giving greater opportunity to produce the Residential Extensions SPD.
- 71.5 The draft Residential Extensions SPD is attached at Annexe 3. The intention of this document is to set out clear guidelines for new residential extensions; build on evolved best practice; clarify existing design thinking; improve its use at appeal and plug any identified gaps in relevant advice. It is not the intention of the document to stifle innovative or unusual design, but to provide a clear framework for consideration by all applicants when developing new residential extensions that require planning permission.
- 71.6 A formal six-week consultation was undertaken between 19 February and 1 April 2010 where key stakeholders were invited to comment. The public were also informed of the consultation through Waverley's Making Waves publication, and a formal notice being published in the local newspapers.
- 71.7 In accordance with Regulation 17 of the Town and Country Planning (Local Development) (England) Regulations 2004 as amended (2008 and 2009), a Consultation Statement has been produced. This is available on request.
- 71.8 Thirty-one responses were received containing the following comments:
- Saved policies RD2 and RD2A are out of date, too prescriptive and should be deleted.
 - How will the guidelines be enforced?
 - The policy that extensions should be subservient to the original dwelling has no architectural or planning basis. Planners must be given the flexibility to take into account the design and beauty of the original building, rather than stick inflexibly to a rulebook.

- There should be no blanket ban on the use of crown flat roofs, these can work perfectly well in appropriate locations.
- There is no justification for preventing the use of garage attic space to increase accommodation.
- The general assumption throughout the document is that all residential extensions will be of a traditional form. More general and specific guidance needs to be given on how good contemporary design and use of modern building methods can actually enhance the environment.
- The sustainability section does not go far enough.
- The document does not include anything on Secured By Design, Flood Risk, enforcement and what happens during construction.

71.9 Where practicable and appropriate, amendments have been made to the SPD to take into account the responses of the consultation and where this has not been possible, the Consultation Statement has explained why this is the case.

71.10 In order to ensure that the guidance given to applicants is up to date, reflective of current design thinking and robust enough support decisions at planning appeal, it is considered appropriate and timely to update the Residential Extension Guide. It is considered that the document has followed a robust consultation process in accordance with the relevant regulations and the Statement of Community Involvement. This will give it sufficient weight when relied upon through the planning appeal process. The Executive commended the document and asked that once produced as a leaflet it be sent to all current Councillors and those elected in May 2011.

71.11 The Executive

RECOMMENDS that

20. the Residential Extensions Supplementary Planning Document be adopted to replace the 2002 Supplementary Planning Guidance.

Background Papers

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

72. AMENDMENT TO THE SCHEME OF DELEGATION TO OFFICERS IN RELATION TO TREE WORKS APPLICATIONS (Agenda Item 13; Appendix H)

72.1 As Members will know, anyone proposing to either fell or lop trees that are subject to a TPO, must first obtain permission from the Council. These applications are referred to as 'Tree Works Applications'. The procedures for dealing with these are similar to those applying to planning applications. They appear on the Weekly List, neighbours are notified of the applications and the target is to deal with them within 8 weeks.

- 72.2 As it stands, the authority to determine these applications is delegated directly to the Head of Planning and there are no arrangements whereby these applications can be brought before the Area Planning Committee at the request of the Ward Councillor. Some concern has been raised about the fact that there is currently no scope for Members to be involved in the determination of these applications.
- 72.3 Currently the Council receives between about 100 and 130 Tree Works Applications each year. Of these, almost all are approved. For example, in 2009 out of 132 applications, only 2 were refused. A significant factor in keeping the number of refusals to a minimum is the fact that the tree officers spend a lot of time at the pre-application stage discussing with tree owners the works they propose and, if necessary, suggesting changes that would make a proposal more acceptable.
- 72.4 There are also relatively few representations made on these applications. Again in 2009 the 132 applications only attracted 7 objections, 19 expressions of support and 3 general comments.
- 72.5 There are also separate arrangements whereby owners of trees within Conservation Areas are required to notify the Council of their intention to do works to these trees. The Council receives a similar number of these notifications. They differ from Tree Works Applications in that the notification only runs for 6 weeks, after which the owner can carry out the works unless the Council takes action within the 6-week period to make the tree(s) the subject of a TPO. In the large majority of cases the owners are allowed to proceed with the works.
- 72.6 Clearly the majority of Tree Works Applications are not in any way controversial. However, it is still possible for some to become contentious and for those rare cases, it is proposed that the Scheme of Delegation to officers be amended by adding this type of application to the list of application types that Members can request to be brought before the Area Planning Committee.
- 72.7 Members are reminded that there are two situations where an application may be referred to the Area Planning Committee. The first is where the Ward Councillor and the relevant town or parish council make a formal request for the matter to be referred to Committee. The second is where the Ward Councillor makes the request to the officers with a justification based on relevant planning grounds.
- 72.8 The Executive

RECOMMENDS that

- 21. the Scheme of Delegation to Officers be amended to add applications to fell or lop trees that are the subject of a TPO to the list of those where Ward Councillors can request that they are determined by the relevant Planning Committee.**

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

At 7.23 p.m., it was

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 this item there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in the following paragraphs of the revised Part I of Schedule 12A to the Act, namely:-

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

74. STAFFING MATTER (Agenda Item 20; (Exempt) Appendix L)

The Executive has considered a report on this matter. The report is attached as (Exempt) Annexe 4. The Executive accordingly

RECOMMENDS that

22. the recommendations set out in **(Exempt) Annexe 4** be approved.

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

There were no matters falling within these categories.

Part III – Brief Summaries of Other Matters Dealt With

75. FORWARD PROGRAMME (Agenda Item 6; Appendix A)

RESOLVED that the forward programme of key decisions for Waverley Borough Council be adopted.

76. FUNDING COMMUNITY FACILITIES USING DEVELOPERS CONTRIBUTIONS (Agenda Item 7; Appendix B)

RESOLVED that

1. the proposed approach for utilising planning tariff contributions to fund new or improved community facilities be agreed;
2. the approval of expenditure proposals and partnership grants be the responsibility of the Deputy Chief Executive in consultation with the appropriate portfolio holders, involving ward members, Surrey County and town and parish councils where appropriate;

3. officers be requested to prepare guidance and eligibility criteria for the funding scheme set out in Annexe 2 for those projects where partnership delivery is appropriate; and
4. officers report back to Members periodically with the budget monitoring report on the amount of developers' funds received and allocated to schemes.

77. RESPONDING TO THE HEALTH WHITE PAPER - EQUITY AND EXCELLENCE: LIBERATING THE NHS (Agenda Item 8; Appendix C)

RESOLVED that the report be noted and

1. the responses to the consultation attached at Annexe 1 to the report be agreed;
2. local GP consortia in the Borough be engaged with to identify areas of common interest in meeting the wider needs of the community; and
3. the Government be urged to consider fully in the white paper the particular health needs of rural areas.

78. PERFORMANCE MANAGEMENT REPORT, QUARTER 1 (APRIL - JUNE) 2010/11 (Agenda Item 11, Appendix F)

RESOLVED that

1. the performance figures for quarter one 2010/11 be noted, as set out in Annexe 1;
2. the Overview and Scrutiny Committees be thanked for their observations regarding the first quarter of 2010/11, as set out in Annexe 1; and
3. in the light of Government announcements on localism, the Overview and Scrutiny Committees be invited to review Performance Indicators to see which might be removed without reducing their effectiveness.

79. SEVERE WEATHER PREPARATIONS (Agenda Item 14; Appendix I)

RESOLVED that

1. the comments of the Overview and Scrutiny Committee be noted; and
2. the Waverley Corporate Severe Weather Plan and the plan for identifying vulnerable people during a major emergency, as attached as Annexes 1 and 2, be endorsed.

80. PROPOSAL TO REALLOCATE WBC CAPITAL FUNDS COMMITTED FOR PLAYGROUND REFURBISHMENTS TO BE ADDED TO THE CURRENT HERONS SKATEPARK/MUGA REFURBISHMENT PROJECT (Agenda Item 15; Appendix J)

RESOLVED that

1. the transfer of £25,000 capital fund, previously allocated to Canon Bowring playground refurbishment, into the Herons Skatepark/MUGA refurbishment project be approved; and
2. the Canon Bowring refurbishment project be deferred until next year.

81. PROGRESS ON WAVERLEY'S REDUNDANCY POLICY (Agenda Item 16)

The Executive noted that a meeting of the Joint Negotiating Committee (JNC) had taken place on 23 September to review the Council's Redundancy Policy. Work was continuing and the JNC would be meeting again on 4 November with a view to recommending a revised policy to the Council in December for adoption.

82. STRATEGIC DIRECTOR - CONFIRMATION OF PANEL APPOINTMENT BY THE COUNCIL

The Executive noted the report from the Leader of the Council that the Selection Panel (consisting of the Chief Executive, Leader and Deputy Leader of the Council, Leader of the Principal Opposition Group and an HR Consultant) had earlier in the day appointed Mr Jon Poore as Strategic Director, subject to confirmation of the appointment by the Council.

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

The Executive noted the actions taken by the Chief Executive after consultation with the Chairman and Vice-Chairman since the last meeting on property matters at Cambridge Place, Sandy Hill and Woolmer Hill Lodge.

84. DEVELOPMENT AT STATION ROAD, GODALMING (Agenda Item 18; Appendix K)

RESOLVED that

1. the development of Station Road Godalming be procured and carried out from resources currently held for affordable housing by WBC's HRA capital funds with costings as set out in (Exempt) Annexe 1 to the agenda report;
2. further work be carried out on the viability of the development being undertaken by Waverley Initiatives (WI) and upon completion of the viability study, a report be made to the WI board for a final decision;

3. a waiver be agreed for Thames Valley Housing Association to be appointed to carry out the full range of functions of development agent to procure, monitor and supervise the design and build on Waverley's behalf;
4. a waiver be agreed for the Executive to endorse the appointment of Churchill Hui as architects for the scheme to planning stage; and
5. subject to satisfactory tender prices, WBC enters into a Design and Build contract with a contractor selected on an open tender basis, and upon receipt of tenders, a further report be made to the Executive prior to a contract being awarded.

The meeting commenced at 6.45 p.m. and concluded at 8.03 p.m.

Chairman