

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE EXECUTIVE – 3 JUNE 2014

SUBMITTED TO THE COUNCIL MEETING – 15 JULY 2014

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

- |                                    |                          |
|------------------------------------|--------------------------|
| * Cllr Robert Knowles (Chairman)   | * Cllr Donal O’Neill     |
| * Cllr Julia Potts (Vice-Chairman) | * Cllr Stefan Reynolds   |
| * Cllr Brian Adams                 | * Cllr Adam Taylor-Smith |
| * Cllr Carole King                 | * Cllr Simon Thornton    |
| * Cllr Tom Martin                  | Cllr Keith Webster       |
- \* Present

Cllr Patricia Ellis was also in attendance and spoke on Agenda Item 8 (Minute No. 6 refers)

1. APPOINTMENT OF CHAIRMAN

RESOLVED that the Leader of the Council, Cllr Robert Knowles, be appointed Chairman of the Executive for the Council Year 2014/2015.

2. APPOINTMENT OF VICE-CHAIRMAN

RESOLVED that the Deputy Leader of the Council, Cllr Julia Potts, be appointed Vice-Chairman of the Executive for the Council Year 2014/2015.

3. MINUTES

The Minutes of the Meeting held on 1 April 2014 were confirmed and signed.

4. APOLOGY FOR ABSENCE

An apology for absence was received from Cllr Keith Webster.

5. DECLARATION OF INTERESTS

There were no declarations of interest raised under this heading.

6. PETITION

- 6.1 The Executive received a petition containing 1482 valid signatures from residents of the Borough. The prayer of the petition was as follows:-

“We, the undersigned residents of Cranleigh, register our strong opposition to any major development on green field sites in Cranleigh, as proposed in Waverley’s Core Strategy. These proposals would place unacceptable pressures on our road networks and other community facilities. In addition we call for the brownfield sites, such

as Hewitts Industrial Estate and Dunsfold Aerodrome in the Borough to be utilised before green fields for housing developments, as is the expectation within the Government's National Planning Policy Framework".

6.2 The Executive agreed that the following response be sent to the petitioner:-

"Waverley's Core Strategy was withdrawn last October. We are currently working on Waverley's new Local Plan and we will be consulting on this in due course".

## **PART I - RECOMMENDATIONS TO THE COUNCIL**

### **7. CAPITAL PROGRAMME OUTTURN (GENERAL FUND and HOUSING REVENUE ACCOUNT)**

7.1 The Executive received a report which presented the outturn for the Council's 2013/14 Capital Programme and sought approval to add rescheduled expenditure and minor slippage from the 2013/14 Programme to the 2014/15 Programme.

7.2 With regard to the Housing Revenue Account Capital Programme, the Executive noted that due to the cost saving and value for money (noted last year) within the windows and doors contract, part of the slippage (£500,000) from 2012/13 into 2013/14 had not been required. It was therefore requested that this budget be transferred to 2014/15 and then vired to enable essential capital works in the Sheltered Units to be undertaken, which was a key priority.

7.3 RESOLVED that:

1. the Capital Outturn position for 2013/14 be noted;
2. the transfer of budgets totalling £1,918,597, as shown in Annexe 1 to the report, from the 2013/14 General Fund Capital Programme and Revenue Projects to the 2014/15 General Fund Capital Programme and Revenue Projects be approved;
3. the transfer of budgets totalling £1,010,500 as detailed in Annexe 2 to the report from the 2013/14 HRA Capital Programme to the 2014/15 HRA Capital Programme be approved;
4. the transfer of budgets totalling £404,365 as detailed at Annexe 3 to the report from the 2013/14 New Affordable Homes programme into 2014/15 be approved;
5. the transfer of budgets totalling £63,113 as detailed at Annexe 4 from the 2013/14 Stock Remodelling programme into 2014/15 be approved; and
6. the capital financing set out in paragraph 15 of the report be approved, noting the HRA Capital savings proposals detailed in Annexe 2 to the

report, which will enable the additional expenditure on responsive and cyclical repairs to be met from not making the planned HRA revenue contribution of £770,000 to the capital budget.

The Executive now

**RECOMMENDS that**

- 1. £500,000 of the capital slippage be vired to the housing sheltered schemes capital budget in 2014/15.**

*[Reason: To present the outturn for the Council's 2013/14 Capital Programme and seek approval to add rescheduled expenditure and minor slippage from the 2013/14 programme to the 2014/15 programme].*

Background Papers

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

8. RIPA POLICY - 2014 UPDATE

- 8.1 The Executive received a report which provided an update on the Council's use of its covert surveillance powers under the Regulation of Investigatory Powers Act 2000 ("RIPA"), and an amended Covert Surveillance Policy.
- 8.2 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.
- 8.3 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).

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.

- 8.4 Since June 2010 when the Covert Surveillance Policy was last updated, the Council has authorised the use of covert surveillance powers on one occasion, in November 2011, in relation to allegations of criminal anti-social behaviour affecting a number of Council tenants. While 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. The Council uses covert investigation techniques sparingly, and only when considered absolutely necessary and proportionate in the circumstances of each individual case.
- 8.5 In May 2013 the Office of Surveillance Commissioners (“OSC”) conducted an inspection of the Council’s use of RIPA powers and its compliance with the legislation and RIPA Codes of Practice. This followed the OSC’s previous inspection in 2010. The OSC inspection covered a number of areas, including the Council’s policy documentation, its authorisation process, the use of surveillance equipment, and corporate oversight of the use of RIPA. A number of officers were interviewed as part of that inspection, including the Executive Director and the Borough Solicitor.
- 8.6 The OSC concluded that:
- “[The] Council uses [RIPA] powers sparingly, largely due to its proactive engagement with local residents and housing tenants, working in very close partnership with other services to prevent criminality and wider social ills. The single use of the powers was undertaken in a proportionate manner, with very compliant documentation and considerations, and cancelled timeously.”
- 8.7 The OSC recommended that the Council update its Policy, and a revised Covert Surveillance Policy is attached at Annexe 1. The Policy has been amended to:
- reflect changes to the legislation which mean that the Council can now only grant an authorisation under RIPA where the Council is investigating criminal offences that attract a maximum custodial sentence of six months or more;
  - reflect changes to the legislation which mean that authorisations under RIPA can only be given effect once an order approving the authorisation has been granted by a Magistrate;
  - remove the ‘urgency provisions’, as emergency authorisations will now be dealt with by the Magistrates’ Court;
  - update the list of Authorising Officers who are able to authorise the use of RIPA powers;
  - ensure that the Policy continues to maintain the appropriate use of covert surveillance techniques.
- 8.8 It is good practice for the Council 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 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 Council, and the RIPA Codes of Practice 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.

- 8.9 It is proposed that the Executive Director is appointed as the Council's SRO on a permanent basis, with the Director of Operations and Director of Finance and Resources acting as Deputy SROs. These changes are reflected in the revised Policy at Annexe 1.
- 8.10 Refresher training will also be provided for both Authorising Officers and operational staff who may make use of the RIPA powers within their investigations.
- 8.11 The Executive RESOLVED to note the Council's ongoing use of its covert surveillance powers and the positive outcome of the Office of Surveillance Commissioner's inspection and accepted the OSC's recommendations set out at paragraphs 12 and 14 of the report. The Executive now

**RECOMMENDS that:**

- 2. the revised Covert Surveillance Policy at Annexe 1 be adopted; and**
- 3. the Executive Director be appointed as the Council's Senior Responsible Officer, with the Director of Operations and the Director of Finance and Resources acting as Deputy Senior Responsible Officers.**

*[Reason: To update Members on the Council's use of its covert surveillance powers under the Regulation of Investigatory Powers Act 2000 ("RIPA"), and to present an amended Covert Surveillance Policy for the approval of the Executive].*

Background Papers

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

## 9. SHELTERED SCHEME LIGHTING RENEWAL PROPOSAL

*[This item contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 1 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:-*

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

- 9.1 The Executive received a report setting out a proposal for the renewal of the communal lighting (inc. emergency lighting) at seven sheltered schemes, and which sought authority to appoint the Council's term contractor (electrical) to undertake this work. The financial implications are set out in (Exempt) Annexe 2.
- 9.2 The communal lighting (inc. emergency lighting) within the Council's Sheltered Schemes has recently been identified in a routine survey as requiring replacement earlier than originally programmed. This affects 7 schemes located at:
- Blunden Court
  - Faulkner Court
  - Shepherds Court
  - Bowring House
  - Moat Lodge
  - Dower House
  - Riverside Court
- 9.3 An independent survey of the seven schemes was commissioned with the following observations made:
- The replacement of the communal lighting (inc. emergency lighting) is now required and should be designed in conjunction with a contemporary Fire Risk Assessment (FRA) for each scheme to ensure escape routes are appropriately considered during the new lighting design.
  - It is proposed that new technology LED (Light Emitting Diode) type lamps are specified as these use significantly less energy, have up to 50,000 hours lamp life and provide increased reliability which together will help offset the cost of installation.
  - The lighting controls and switching were noted to be inconsistent across the different schemes with the communal lighting generally operating continuously, 24-hours-a-day, 7 days-a-week. The introduction of proximity sensors to automatically control the lighting would also decrease usage of the lights during the night, increasing lamp life and further reducing energy costs.
- 9.4 The survey identified the requirement for renewal of the communal lighting (inc. emergency lighting) across the seven sheltered scheme sites and it is estimated that this can be met from the 2013-14 capital programme slippage. This includes a provision for an element of builders work in connection with the ceilings potentially affected by removal/replacement of light fittings.

- 9.5 Noting the timing of this work, three routes exist to obtain the required technical services from a suitably qualified electrical contractor to undertake the lighting upgrade:-
- i) To instruct the Council's appointed electrical term-contractor (T Brown Group) to carry out this work under the terms of their contract (*Term Partnering Agreement for Lot 8 – a programme of electrical rewiring works*).
  - ii) To tender the work competitively.
  - iii) To waive the Council's Contract Procurement Rules (CPRs) and instruct a contractor to carry out the work.
- 9.6 The work required is deemed to be covered by the scope of the Council's existing term contract with the T Brown Group who was appointed in 2012 on a 7 + 7 year partnering arrangement for electrical works via a competitive tender exercise. Option 1 above is considered to be the recommended choice with appointment of the T Brown (Group) undertaking this work to secure the following benefits for Council:
- ✓ Removal of the time delay necessarily incurred if a competitive tender exercise via a formal tender is undertaken (estimated to be up to 14-weeks).
  - ✓ Assurance around the use of a known and trusted contractor with demonstrable track-record and long-term commitment to the Council and its tenants, together with a proven Resident Liaison Officer (RLO) capability to support tenants during the works.
  - ✓ Opportunity for the contractor to assist with the design (not usually possible for this type work within a competitive tender process).
  - ✓ Deployment of appropriate work to one of the primary partnering contractors already appointed by the Council.
  - ✓ Compliance with the Council's Contract Procedure Rules (CPR).
- 9.7 Noting the size, complexity and timescale of this project, additional support from an external Mechanical & Electrical Cost Management consultant is required to assist with the following key tasks:
- Establishing a robust (pre-contract) financial basis upon which the work should proceed to ensure effective cost control against benchmarked prices so that a value-for-money outcome is achieved for the Council.
  - Ensuring a suitable lighting design is produced in conjunction with the appointed contractor and the Council's preferred lighting supplier.
  - On-site management of the project to ensure work is completed in accordance with the design specification.
  - Contract Management services during the project for close control of cost, quality and time.

- Compliance with the Construction Design Management Regulations (2007) fulfilling the role of Construction Design Management Co-ordinator (CDMc).

The cost of this range of consultancy support is estimated to be contained within 8% of the overall project (works) cost.

9.8 It is envisaged that some additional costs will be incurred for '*builders attendance*' associated with the work of electrical contractor i.e. works to repair/renew the ceilings of the sheltered schemes as remedial works are required to repair damage or provide replacement ceiling tiles etc. The magnitude and cost of this work cannot be precisely determined until the design/product selection is complete, but an allowance of circa. 10% of the contract value is included within the overall estimate above.

9.9 The Executive

**RECOMMENDS that:**

- 4. subject to satisfying robust value-for-money assessment, the appointment of the T Brown (Group) be approved under the 'Term Partnering Agreement for Lot 8 – a programme of electrical rewiring work' contract to undertake renewal and upgrade of the communal lighting at seven sheltered schemes - with the final project being subject to the approval of the Director of Operations and Director of Finance and Resources in conjunction with the Portfolio Holders for Finance and Housing Operations;**
- 5. in the event that a satisfactory proposal cannot be agreed as set out in recommendation 4 above, that officers proceed to tender this work externally;**
- 6. the appointment of a specialist consultant be approved to assist with this project for a fee not exceeding 8% of the overall estimated cost to provide the following services:**
  - value-for-money assurance via robust negotiation and cost management**
  - lighting design for the seven sheltered scheme lighting projects**
  - project management services for on-site supervision of the works and**
  - Construction Design Management (CDM) co-ordinator role to ensure health and safety compliance.**

*[Reason: To provide members with a proposal for the renewal of the communal lighting (inc. emergency lighting) at seven sheltered schemes, together with seeking authority to appoint the Council's term contractor (electrical) to undertake this work].*

### Background Papers

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

## 10. RECORDED VOTES AT COUNCIL BUDGET MEETINGS

10.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 came into effect from 25 February 2014 which make it mandatory for Councils to amend their Standing Orders to include a provision for requiring recorded votes at budget-setting Council meetings. These regulations were not in force in time for this to apply at the budget-setting Council meeting which took place on 18 February 2014 but the Waverley constitution needs to be amended now to ensure that the provision is in place for future budget-setting Council meetings.

10.2 The Executive

### **RECOMMENDS that**

- 7. the constitution be amended to include a provision for requiring recorded votes to be carried out at budget-setting Council meetings.**

*[Reason: To seek approval for an amendment to the constitution to allow provision for mandatory recorded votes to be carried out at budget-setting Council meetings].*

### Background Papers

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

## 11. EXCLUSION OF PRESS AND PUBLIC

At 7.20 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 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 the following paragraph of the revised Part I of Schedule 12A to the Act, namely:-

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

12. PURCHASE OF PROPERTIES

The Executive considered a report on this matter, attached as (Exempt) Annexe 3 and now

**RECOMMENDS that**

- 8. the recommendations set out in (Exempt) Annexe 3 be agreed.**

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 of Report**

13. EXECUTIVE FORWARD PROGRAMME

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

14. OVERALL REVENUE OUTTURN (GENERAL FUND and HOUSING REVENUE ACCOUNT)

RESOLVED that:

1. the Revenue Outturn position for 2013/2014 be noted and the transfer of the total net General Fund underspend of £590,000 to the Revenue Reserve Fund be approved;
2. Revenue Carry Forwards of £138,657 on the General Fund from 2013/14 to 2014/15 as detailed at Annexe 3 of the report be approved;
3. Revenue Carry Forwards of £15,000 on the HRA from 2013/14 to 2014/15 as detailed at Annexe 3 of the report be approved;
4. officers be requested to carry out investigations into the areas including the HRA where significant variances have occurred in 2013/14; and
5. officers be requested to undertake a mid-year budget review and report to the Executive in September.

*[Reason: To provide a summary of 2013/14 Outturn for the General Fund and the Housing Revenue Account]*

15. CHIDDINGFOLD AND ALFOLD NEIGHBOURHOOD PLAN AREA APPLICATIONS

RESOLVED that the neighbourhood area applications from Chiddingfold Parish Council and Alfold Parish Council be approved for the purposes of the Chiddingfold and Alfold Neighbourhood Plans.

*[Reason: To approve the neighbourhood plan applications from Chiddingfold and Alfold Parish Councils].*

16. REVIEW OF THE SURREY HILLS AREA OF OUTSTANDING NATURAL BEAUTY (AONB) MANAGEMENT PLAN 2014-2019

RESOLVED that the review of the AONB Management Plan be adopted as the statutory AONB Management Plan for the Surrey Hills AONB for the period 2014 to 2019.

*[Reason: To seek endorsement of the review of the AONB Management Plan which has been prepared by the Surrey Hills AONB Board].*

17. DEVELOPMENT OF GARAGE SITE AT NURSERY HILL, WONERSH – APPROVAL TO SUBMIT PLANNING APPLICATION

RESOLVED that the submission of a planning application be approved and the budget be agreed for pre-development costs to enable the delivery of five new affordable homes at Nursery Hill, Wonersh to meet housing need from the New Affordable Homes Reserve.

*[Reason: To seek approval for the submission of a planning application to enable the delivery of new affordable homes].*

18. APPOINTMENT OF EMPLOYER'S NEGOTIATING TEAM 2014/2015

RESOLVED that the following Members be appointed to the Employers Negotiating Team for 2014/15:

Leader	Deputy Leader
Cllr Peter Isherwood	Cllr Stewart Stennett
Cllr Simon Thornton	Cllr Brian Adams

19. APPOINTMENTS TO OUTSIDE BODIES 2014-2015

RESOLVED that the appointments to Outside Bodies for 2011-2015 be agreed as set out in Appendix H of the agenda papers.

20. APPOINTMENTS TO SURREY COUNTY COUNCIL LOCAL COMMITTEE TASK GROUPS 2014-2015

RESOLVED that the following appointments to Waverley Local Committee Task Groups be agreed:

Farnham Task Group (3 members)

Cllrs Julia Potts, Donal O'Neill and Carole Cockburn

Godalming, Milford and Witley Task Group (2 members)

Cllrs Simon Thornton and Denis Leigh

Haslemere and Western Villages Task Group (2 members)

Cllrs Robert Knowles and Brian Adams

Cranleigh and Eastern Villages Task Group (2 members)

Cllrs Brian Ellis and Maurice Byham

Youth Task Group (2 members)

Cllrs Carole King and Simon Thornton.

21. NOMINATIONS TO SURREY LEADERS' GROUP OUTSIDE BODIES

RESOLVED that the following nomination to the Surrey Leaders Group outside bodies be agreed, subject to the councillor completing the necessary paperwork within the time limit:

- Countryside Access Forum – Cllr Bryn Morgan

22. PROPERTY MATTERS

*[This item contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 1 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:-*

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

RESOLVED that:

1. Badshot Lea Football Club be granted a lease of 30 years of the land at the former rugby ground at Westfield Lane in Farnham, as shown on the plan at Annexe 1 of the report, on terms and conditions set out in (Exempt) Annexe 1A and with other terms and conditions to be negotiated by the Estates and Valuation Manager;
2. a lease be granted to Godalming Town Football Club for a period of 30 years on the terms and conditions described in (Exempt) Annexe 2A of the report, with other terms and conditions to be agreed by the Estates and Valuation Manager;
3. Waverley should join with its landlord, the National Trust, in renewing the lease of land for observation boreholes at the Flashes, Frensham, to the Environment Agency for a period of 40 years, on terms and conditions as in the existing lease and with other terms and conditions to be agreed by the Estates and Valuation Manager; and
4. terms be agreed with Whitbread to grant the access rights to the Patrick Stonemason site in Farnham, in return for them agreeing to pay a premium sum as detailed in (Exempt) Annexe 4A of the report upon

commencement of the new development, with Whitbread also meeting Waverley's legal costs and contributing a sum towards the surveyor's fee as also detailed in the (Exempt) Annexe.

*[Reason: To consider and approve a number of property-related issues in the Borough].*

23. EXECUTIVE DIRECTOR'S ACTION

The Executive Director reported the following urgent action that had been taken since the last meeting of the Executive:-

- (i) Authority to approve a supplementary estimate of up to £40,000 to meet the costs of a proposed application for an injunction under Section 106(5) of the Town and Country Planning Act 1990 to secure compliance with a Section 106 agreement.

The meeting commenced at 6.45 p.m. and concluded at 7.23 p.m.

Chairman