

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE EXECUTIVE – 3 NOVEMBER 2008

SUBMITTED TO THE COUNCIL MEETING – 16 DECEMBER 2008

[NB - Agenda Items 7.1 and 7.2 (Appendices B.1 and B.2) relating to East Street, Farnham issues were considered as a separate set of minutes presented to the Special Council Meeting on 4 November 2008]

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

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| * Cllr Richard Gates (Chairman) | * Cllr Ms Denise Le Gal |
| * Cllr Mike Band (Vice-Chairman) | * Cllr Bryn Morgan |
| Cllr Mrs Carole Cockburn | * Cllr John Sandy |
| * Cllr Mrs Carole King | * Cllr Roger Steel |
| * Cllr Robert Knowles | * Cllr Adam Taylor-Smith |

* Present

Cllr Victor Duckett attended to speak on Agenda Items 10, 11 and 15 (Minute Nos 122, 118 and 126 refer) and Mrs Diane James attended to speak on Agenda Items 8, 9 and 13 (Minute Nos 120, 121 and 124 refer)
Cllrs Jim Edwards and Ken Reed were also in attendance.

117. DECLARATIONS OF INTEREST (Agenda Item 4)

Cllr Roger Steel declared a personal interest in the items relating to East Street, Farnham because of his previous involvement with objectors to the scheme.

Cllr Mrs James declared a personal interest in Item 10 (food waste) on which she spoke, as her husband was a Fellow of the Royal Academy of Engineering which had produced a report on handling food waste.

PART I - RECOMMENDATIONS TO THE COUNCIL

118. LOCAL DELIVERY COMPANY (Agenda Item 11; Appendix F)

118.1 This item sets out the legal and financial principles for setting up a wholly owned Local Delivery Company for affordable housing within the control of Waverley Borough Council, to have available to maximise opportunities when future conditions are suitable.

118.2 Members will be aware of the continuing Government policy of Negative Subsidy, which places continuing financial pressure on Waverley Housing Revenue Account (HRA), and consequently on the extent of the services it can continue to provide for its customers.

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- 118.3 In July 2007 the Government published a Green Paper - Homes for the Future, More Affordable, More Sustainable (CM7191) which positively promotes the idea that alongside Housing Associations, Local Authorities should develop an enhanced role in the provision of new affordable housing.
- 118.4 Furthermore it recommended that vehicles may be set up by Local Authorities which enable them to invest in affordable housing and to keep the income and capital returns in a way that currently the HRA cannot.
- 118.5 A report was submitted to the Executive in October 2007 which recommended that a Special Interest Group be created to receive reports into how a Special Purpose Vehicle (SPV) may deliver new affordable housing for Waverley Borough Council.
- 118.6 Work to determine the shape of a Special Purpose Vehicle has concentrated on the identification of sites, and within certain criteria, developing a business model to determine their viability for development.
- 118.7 In June 2008 the SIG received a paper, outlining within existing resources, the business plan for the provision of 200 homes over a period of 5 years. It concluded that this could be achieved by providing a third of the units for market sale, another third for shared ownership and the final third for intermediate renting.
- 118.8 Whilst the business plan showed that theoretically it was possible to deliver those homes, for the number of units expected within the determined timescale and current resources, it did not in the short term provide rented homes in sufficient number to house those most in need.
- 118.9 Also, although the delivery of any new properties would not be for a minimum of two years, the current and foreseeable condition of the housing market means that the risk assessments carried out on the business plan produced unacceptable results at this time.
- 118.10 This arises from the lack of mortgage finance, which is having a profound negative effect on sales of both shared ownership and for-sale properties at this time.
- 118.11 At its meeting in October 2008, the New Subsidised Affordable Housing Special Interest Group reached its conclusions and recommended that the Executive endorses the proposal to establish a Local Delivery Company.
- 118.12 The principles established during this project have provided an opportunity to look again at how a Company or Local Delivery Vehicle (LDV) wholly owned by Waverley Borough Council might be set up to benefit potentially the Council in delivering its services.
- 118.13 Investigations with the help of legal consultants, Trowers and Hamlin, have shown that currently for Waverley the most appropriate vehicle would need to be non-charitable, not-for-profit and with no equity partners. The main advantage that an LDV would have over the regulated normal accounts administered by the Council is its relative freedom from Government controls.

- 118.14 If the company were to develop a portfolio of housing in the future, because of the negative subsidy regime, revenue income generated by the LDV would be 48.5% greater than that generated by the HRA. This principle would also apply to capital income, which would not be subjected to governmental capital receipts pooling.
- 118.15 Balancing these advantages is the fact that an LDV would be subject to company rules and would be liable for tax. However there are different company structures, which seek to mitigate these effects. A paper which sets out the most suitable models has been prepared by Trowers and Hamlin and is attached to this report – see Annexe 1.
- 118.16 The following headings describe the possible uses an LDV may have
- 1) Receiving vacant properties that require major works
 - 2) Receiving other voids through a trickle transfer programme
 - 3) New house building, either independently or in partnership with a Housing Association
 - 4) Involvement in estate remodelling including land acquisition
 - 5) Possible use as a vehicle to build other facilities normally financed through or by the general fund
- 118.17 The initial setting up of a Local Delivery Vehicle is not a complicated or difficult process, involves only modest financial outlay, and can be carried out in-house. It can then remain dormant until a business case and risk assessments are developed for its use at an appropriate time. Its creation now would deal with any potential administrative issues in advance, and would be carried out in parallel with the development of any business plans.
- 118.18 Trowers and Hamlin in their paper indicate some legal and financial limitations of a possible four models of LDV in two categories, and touch on the governance required. The two categories are defined as
- 1) A company, which is set up as a sole entity without equity partners
 - a) Company Limited by Guarantee- (CLG)
 - b) Industrial and Provident Society (IPS)
 - 2) A company, which forms the nucleus of a joint venture or project
 - a) A Company Limited by Shares (CLS)
 - b) Limited Liability Partnership (LLP)

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- 118.19 It is considered that a sole company can also become a partner of a joint venture company without losing its sole status, thereby maintaining flexibility for the future. Significantly an IPS and an LLP are not easily set up as dormant companies as they both require specific reasons for their registration process, and the implied recommendation is to consider a CLG.
- 118.20 The registration of the Company Limited by Guarantee needs to be with Companies House and can be carried out by one subscriber—normally a member of the legal in house staff, and one shareholder with a registration fee of £20. Registration normally takes a week to ten days. Subsequently there is an annual fee payable of £30.
- 118.21 Beyond the actual registration fees there would be a consultant's fee for advice and guidance during registration of approximately £800. A suggested name for the new Company is Waverley Initiatives Ltd. Preliminary investigations through Companies House website shows that currently this form of name is available to be used.
- 118.22 The creation of an LDV as a Company Limited by Guarantee (CLG) wholly owned by the local authority, and used to potentially benefit Council services, is possible, even if the business case to build new homes is not currently viable. Once legally established, the Company could remain dormant until business plans for its possible functions are prepared, and appropriate arrangements made for its governance. The most advantageous use of an LDV is to enable a maximum possible return on investments made, and not be subject to governmental levies as in the negative housing subsidy on the HRA.
- 118.23 The Executive

RECOMMENDS that

- 35. approval be given to setting up a Company Limited by Guarantee called Waverley Initiatives Ltd, as a wholly-owned Local Delivery Vehicle by Waverley Borough Council.**

Background Papers (SDCS)

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

PARTS II AND III - MATTERS OF REPORT

Background Papers

The background papers relating to the following items in Parts II and III are as specified in the agenda for the meeting of the Executive.

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

Part III – Brief Summaries of Other Matters Dealt With

119. EXECUTIVE FORWARD PROGRAMME (Agenda Item 6; Appendix A)

RESOLVED that the forward programme of key decisions for Waverley Borough Council be adopted, subject to the dates for the Clean Neighbourhoods Act and the Countryside Management Review being amended to January 2009.

120. BUDGET MONITORING (Agenda Item 8; Appendix C)

RESOLVED that the Action Plan put forward by the Corporate Management Team be endorsed and the prompt action taken welcomed.

121. TREASURY MANAGEMENT - BORROWING AND INVESTMENT TRANSACTIONS AND PERFORMANCE MEASUREMENT (Agenda Item 9; Appendix D)

RESOLVED that the finance team be congratulated for the first half-year performance and the approach to maintaining the security of Waverley's investments, as described in paragraph 9 of the report, be endorsed.

122. HOUSEHOLD FOOD WASTE COLLECTION (Agenda Item 10; Appendix E)

RESOLVED that

1. Waverley's strong aspiration for such a service be affirmed and the officers be thanked for the excellent report demonstrating how a dedicated weekly kerbside food waste collection service could be introduced in Waverley, and the associated financial implications;
2. the implications of Waverley introducing such a scheme be determined during the forthcoming budget discussions, recognising that it may not be possible to start immediately in the current economic circumstances that affect Waverley; and
3. officers be instructed to seek increased financial support from Surrey County Council.

[This decision was subsequently called-in for scrutiny by the Environment and Leisure Overview and Scrutiny Committee].

123. DOUBLE-GLAZING PROGRAMME FOR HOUSING REVENUE ACCOUNT PROPERTIES (Agenda Item 12; Appendix G)

RESOLVED that

1. the good progress being made on the delivery of the programme and the value for money achieved thus far be noted; and

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2. the contract with Dorwin Ltd be extended further to enable approximately 400 additional homes to be double-glazed, at prices to be negotiated with the Head of Housing and Deputy Chief Executive, and the costs of which to be contained within the original HRA capital budget provision of £3.7 million.

124. CONSULTATION ON SOUTH EAST PLAN PARTIAL REVIEW: GYPSIES, TRAVELLERS AND TRAVELLING SHOWPEOPLE (Agenda Item 13; Appendix H)

RESOLVED that

1. the response to the consultation be agreed; and
2. the Head of Planning be authorised, after consultation with the Deputy Leader, to agree any necessary drafting amendments to the joint submission before the end of the consultation period on 21 November 2008.

125. SALE OF ROADWAY ADJACENT TO 15 CHATSWORTH AVENUE, HASLEMERE (Agenda Item 14; Appendix I)

RESOLVED that this item be deferred until the next meeting of the Executive.

126. ACTION TAKEN SINCE LAST MEETING (Agenda Item 15)

RESOLVED that the action taken since the last meeting relating to the appointment of the Rowland House Special Interest Group be noted, subject to the deletion of Cllr Victor Duckett and the addition of Cllr Mrs Diane James in his place.

The meeting commenced at 6.45 p.m. and concluded at 8.19 p.m.

Chairman

Comms/exec/2008-09/203