

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE EXECUTIVE – 29 NOVEMBER 2011

SUBMITTED TO THE COUNCIL MEETING – 13 DECEMBER 2011

(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 Carole King | Cllr Roger Steel |
| * Cllr Bryn Morgan | * Cllr Adam Taylor-Smith |
| * Cllr David Munro | * Cllr Keith Webster |

* Present

Cllr Paddy Blagden was also in attendance

Cllr Diane James attended and spoke on Agenda Items 6, 11, 13, 14, 16 and 20
(Minute Nos. 103,107,108,109,111 and 114 relate)

96. MINUTES (Agenda Item 2)

The Minutes of the Meeting of the Executive held on 1 November 2011 were confirmed and signed.

97. APOLOGY FOR ABSENCE (Agenda Item 3)

An apology for absence was received from Cllr Roger Steel.

98. DISCLOSURE OF INTERESTS (Agenda Item 4)

Cllr Mike Band declared a personal interest in Agenda Item 23, Disabled Aids and Adaptations, as he was acquainted with the family.

99. QUESTIONS (Agenda Item 5)

The Executive received the following questions in accordance with Procedure Rule 10:-

i. from Patrick Haveron of Godalming

“In the recent job advert for the Head of Housing, Waverley stated one of the attractions of the job was its 'ambitious affordable housing plans'. In light of the reduction in housing number targets, what are these plans from now until 2015?”

The Portfolio Holder for Housing responded as follows:-

"Thank you for your question. In the current uncertain economic climate, building any new affordable homes is both desirable and ambitious. This Council has set a target of producing 250 new affordable homes over 5 years. In common with other local authorities we shall re-examine our affordable home strategy in the light of the move to self financing which requires us to service a large amount of

new debt. The resulting Housing Revenue Account Business Plan will be the subject of public and political scrutiny over the coming months. This Council is committed to providing decent affordable homes for our communities both from the Council's own resources and those from partner housing associations. As you will have now seen Item 16 on tonight's agenda addresses the issues of borough housing targets and protection of our countryside.

The advert to which you refer in your question was aimed at recruiting a new Head of Housing with a wide range of experience in housing matters and particular in the provision of affordable housing. We were delighted therefore to welcome Angela Smithers to head up the Housing team and her wide ranging knowledge will be crucial in shaping our policies in this area."

ii. from Mrs Celia Sandars of Farnham

"I think we can all agree that the world has changed considerably since the contract was signed in 2003 with Crest Nicholson/Sainsbury to develop the East Street/Brightwells area in Farnham and that, in particular, there has been strong growth in retail sales via the internet but not in the retail sector on the ground, especially over the last three years.

Please would you tell me whether Waverley has been kept informed by their development partners of the possible impact of internet shopping on the type of provision that has been planned for the retail element of the CNS scheme? What, if anything, has the Council been told by the developers?"

The Portfolio Holder for Planning and East Street responded as follows:-

"We agree the world has changed considerably and never more so than now do we need jobs and affordable homes. I'm often asked whether the scheme is the right scheme for the times we live in and Crest Nicholson say it certainly is an attractive commercial scheme in terms of the schemes that are out there. A detailed viability statement relating to the commercial elements of the scheme has been provided by Crest Nicholson, and that is referred to in the agenda tonight. We regularly reappraise the viability of the scheme and look at the viability, which appears to be moving in a favourable direction at the moment.

The landscaping and townscape of the scheme have been carefully planned to provide a welcoming environment that has better configured retail units which are attractive to pre-letting. So far deals have been signed with Odeon and solicitors have been instructed to start negotiations with Marks and Spencers, Asda, Wagamama and LK Bennett. Interest has also been expressed by Space NK, River Island and Hennes as well as additional restaurateurs such as Carluccios and Jamies. We and Crest Nicholson believe this is an attractive scheme to retailers and Crest Nicholson make it their business to get it right with regard to commercialism of the scheme."

iii. from Mrs Cooper of Farnham

“As Farnham already has around 40 eateries and restaurants, and that the previous Seven Stars Public House, East Street is soon to be converted into a new restaurant, with another also to open nearby, would the Council and Crest Nicholson reconsider their plans for 2 new restaurants at Brightwell House and restore the theatre instead, to help attract much needed customers to the retail area of the new development?”

The following response was given by the Portfolio Holder for Planning and East Street:

“You ask about restoring the theatre - the Redgrave theatre was closed because of its financial non-viability, incapable of surviving without considerable use of public money. The proposed use of a refurbished Brightwells House as a new café/restaurant will form a central feature to complement the proposed surrounding retail and residential units. Both Crest Nicholson and Waverley Borough Council are confident that the mix of facilities proposed for the new development at East Street will satisfy the future needs and expectations of the Farnham consumer. Bringing restaurants like Wagamama, that are not currently represented in Farnham, will add something to Farnham, complementing the choice already offered.”

iv. from Mr David Wylde of Farnham

“Farnham Conservatives published the following Manifesto Pledge for the Waverley Borough Council local elections in May this year:

‘East Street

The long-stop date (when both Waverley Borough Council and the developer Crest Nicholson can walk away from the existing contract) is 31 December 2011. The Conservatives at Waverley will not extend this.

If the existing contract breaks down, we will campaign for a smaller scheme which still has a cinema and a better day centre.’ Will Waverley Conservatives keep this promise?”

The Portfolio Holder for Planning and East Street replied first:-

“The short response to your question is Yes – we will not expressly extend the longstop date.”

Cllr David Munro then continued to respond as follows:-

“Yes, it was included in my election literature as it was for all Conservatives standing for Waverley in Farnham – they were all successful as it happens. Indeed if there is an application to extend the long-stop date before it expires then I will campaign, speak and vote against extending that application. I do not think there will be an

application to extend it in the just over one month before it falls anyway, but I actually think that the fact that we had this in the Farnham manifesto a full 8 months ago when it was put together, actually plays some part in the developer not asking for it to be extended – but that is conjecture, I have no evidence. If the existing contract breaks down we will campaign for a smaller scheme. I can confirm the pledge of Farnham Conservatives and as far as I am personally concerned if the contract breaks down then I will do my best to fulfil that pledge.”

v. from Mrs Ann Thurston of Farnham

“It is claimed that the recession is the reason why Crest Nicholson have not started the East Street development in Farnham. An inspection of their website shows that currently they are developing nearly 50 sites which are apparently unaffected by the recession. With the contract extension due to expire on the 31st of December, would not now be the time to re-think the development? Hopefully an alternative developer would provide something that the people of Farnham want and something that would be a viable proposition.”

The Portfolio Holder for Planning and East Street answered:

“Brightwells East Street Scheme is a complicated project incorporating retail, commercial and residential, and its viability as such has been affected by differing factors. You are referring to 50 sites and I don't believe there are similar sites to this scheme and I don't actually believe the 50 sites they are working on are a mixed use retail lead scheme. I am not aware, and I've asked reasonably widely in the market, of any similar schemes to the Brightwells Scheme started since 2007 reflecting when the credit crunch hit that sort of scheme. However, we are told that actually, in terms on the market view by people such as DTZ who have been giving their view and assessment of the scheme, that, actually, it is one of the schemes most likely to start up once the market recovers. Market conditions over the past three years have delayed a commencement date. However, regardless of the recession the complexity of the project has required a significant preparatory period which includes the submission of a CPO. Progress is now being made on these issues by both Crest Nicholson and Waverley Borough Council”.

vi. from Mr Jerry Hyman of Farnham

“Waverley have estimated in the past that 'East Street' CPO proceedings might cost £170,000. Section 226 of the TCPA requires that CPOs must be "for the purposes of proper planning of an area", so there is a significant risk that the money would be wasted. We can reasonably expect that a public airing of the 9 years of accumulated evidence of a complete failure in proper planning with regard to East Street would prove to be an unnecessary embarrassment and expense for Waverley.

New Members of the council should be made fully aware of the relevant history. Particularly relevant are the council's 2002 truncation of the CABE Report and the post-bid changes to judging criteria, which were used by WBC during the Developer Selection process to justify the choice of CNS over the very people that the proposed CPO seeks to deprive of their property.

There are other central issues due scrutiny. In responses to recent Formal Question the Council has claimed that an assessment of the main traffic and air quality implications from the Royal Deer reconfiguration does now actually exist, and furthermore that the 'Planning Condition' in CNS' expiring contract has been satisfied. Being fundamental to WBC's AQAP and a necessary part of the Environmental Statement of any planning consent, any existing 'Royal Deer Report' would have to be available, but Waverley say they don't have a copy. Members also need to know how the Contract's 'Planning Condition' can be claimed to have been met when the 2009 consent can be demonstrated to have expired - and whether a lawful consent can ever exist given the development partners' refusal to provide the mandatory data necessary to assess likely traffic, air quality and flood risk consequences.

Having been told by Odeon that a new planning application will be submitted in due course with a revised Flood Risk Assessment, Members can be confident that the WBC/Crest planning saga is far from over. Hence my question is:

Will the Leader please now confirm that you will enable new Councillors to properly assess the background to Officers' coming 'East Street' recommendations, by assessing the risk through scrutiny at a Community O&S meeting as appropriate, BEFORE Council is asked to make further decisions relating to East Street, i.e. before risking another £170,000 of public funds on it?"

The Portfolio Holder for Planning and East Street replied again:

"The current report on the Brightwells East Street project does not propose any decisions which put at risk the finance that would be required for the making of a CPO. At this stage it proposes that progress should continue on the internal preparatory work predominantly. A further report will be brought on the progress of the work together with a financial risk assessment of such a type that is normally produced for all Council project decisions".

Part I - Recommendations to the Council

100. NATIONAL NON-DOMESTIC RATES DISCRETIONARY RATE RELIEF POLICY (Agenda Item 10; Appendix E)

100.1 Current legislation allows local authorities to grant discretionary rate relief on the rates payable by the following organisations:

- i) charities
- ii) non-profit making organisations whose objects are charitable, philanthropic or religious or concerned with education, social welfare, science, literature or fine arts.
- iii) non-profit making clubs, societies or other organisations using premises for the purpose of recreation
- iv) village stores, post offices in rural settlements and other businesses in rural settlements that exist to benefit the local community and where the award of relief is in the interests of Waverley's council taxpayers.

100.2 The Council's current policy is to review the guidelines used by the Council for the granting of discretionary relief on a four-yearly cycle, following the election of a new Council. In accordance with this policy, notice was given in March 2011 to all organisations currently receiving discretionary rate relief to terminate the existing relief with effect from 31 March 2012. All organisations will need to reapply under the new policy guidelines. Once the Council has approved its policy, Waverley's Scheme of Delegation allows the Deputy Chief Executive to agree applications from organisations that are eligible under the Policy. Only when an organisation objects to the Deputy Chief Executive's decision will an application come to the Executive for a decision.

100.3 There are two elements of rate relief under the legislation. The first is mandatory relief that attracts relief at the rate of either 50% or 80%. The second, discretionary relief permits the billing authority to offer relief of up to 100%. (This report does not cover the discretionary relief provisions under Section 49 of the Act covering 'hardship', which is an issue considered by the Deputy Chief Executive of the Executive on a case-by-case basis).

100.4 Mandatory relief relates either to charities or trustees of a charity, which receive 80% relief, or to those properties covered by the regulations which are more commonly known as the 'rural rate relief', where the relief is granted at 50%. Where mandatory relief applies, the full amount of the relief given is borne by the NNDR Pool, and no cost of the mandatory relief falls upon the billing authority's General Fund. This item is concerned with the granting of the discretionary relief under Section 47 of the 1988 Act. The Government is currently reviewing the statutory provisions under the Localism Bill.

100.5 Waverley's existing policy for the granting of discretionary rate relief was last reviewed in October 2007. The current policy guidelines adopted by the Council are described below and a summary is attached at [Annexe 1](#). These guidelines indicate both the level of relief given and the type of organisation, and are used when considering applications for relief to ensure that consistent decisions are made in line with Council policy.

100.6 Paragraph 100.1 above identifies the various types of organisations that a local authority can grant discretionary rate relief on the rates payable under the legislation. A billing authority has the discretion to grant up to 100% relief. A full list of the organisations currently receiving discretionary rate relief is included at [Annexe 2](#). Waverley's current policy for the period 2008 to 2012 is to grant discretionary rate relief as follows:

i) Charities receiving 80% mandatory relief will not normally receive any additional discretionary relief, except for a number of individual cases that have previously been approved by the Council. There are currently 53 organisations that receive 20% discretionary relief granted in addition to the 80% mandatory relief. The amount of WBC discretionary relief given in 2011-12 under this category is £49,162 with £36,871 of this being met by the General Fund.

ii) 80% discretionary relief is granted for non-profit making organisations whose objects are charitable, philanthropic or religious or concerned with education, social welfare, science, or for the purpose of recreation and who are not in receipt of mandatory relief. In 2007 the Council agreed to include Waverley's leisure centres under this heading as they are operated under a 'commercial trust' model by DC leisure which meets the rate relief criteria. The amount of WBC discretionary relief given in 2011-12 under this category is £352,243, with £88,060 of this being met by the General Fund.

iii) Where a sports club within Waverley is not allowed to register with the Inland Revenue as a Community Amateur Sports Club (CASC) and therefore be entitled to mandatory relief, the Council has awarded 50% discretionary relief (currently 5 in Waverley). The amount of WBC discretionary relief given in 2011-12 under this category is £11,496, with £2,874 of this being met by the General Fund.

iv) Discretionary rate relief for properties in rural settlements is considered only for sole general stores, post offices or chemist shops. Since the Council first agreed this policy in 1998, applications from a number of other businesses in rural settlements have been considered by Members, but no relief has been granted. The amount of WBC discretionary relief given in 2011-12 under this category is £20,051, with £6,852 of this being met by the General Fund.

100.7 The total amount of relief granted in 2011-2012 is £432,952. As a general rule, 75% of the discretionary relief granted is offset against the contributions made by Waverley to the National Non-Domestic Rates Pool with the balance of 25% being borne locally and met from the authority's General Fund. However, for those charitable organisations that receive mandatory relief, any discretionary relief top-up granted is apportioned 25% to the Pool and 75% locally. As a result of this apportionment, the overall cost to Waverley of granting discretionary relief in 2011/2012 is £134,659 which is included in the approved budget.

100.8 The Localism Act will amend the current legislation around discretionary rate relief and replace the current limitations with a broad power to grant relief to any local taxpayer. It is likely that the full cost of relief given to other ratepayers would fall on the authority. Currently the detail of the regulations is unknown. In the light of this uncertainty, officers suggest that Waverley sets its policy for the 2012/13 year only at this stage and reviews the position in the Autumn 2012 when the detailed regulations and guidance is published.

100.9 The Executive established a Special Interest Group to review the whole area of assistance given by Waverley to community and charitable organisations. The outcome of the review is currently being considered by Members. This report is related as a number of the organisations receiving rate relief also get other forms of assistance from the Council.

100.10 There is a number of options available to the authority for discretionary business rate relief:

- a) To continue with the current policy for the next 4-years;
- b) To continue with the current policy but only for 2012/13 at this stage given the uncertainty around the future legislative framework;
- c) To withdraw some categories of discretionary rate relief;
- d) To withdraw the discretionary rate relief to those organisations receiving a 20% top-up to mandatory relief they receive – this would save Waverley £36,871;

100.11 In considering the options, Members are asked to consider a number of factors:

- Other financial and service pressures
- Consistency of application of the Council's discretion across organisations
- The need for clear and robust policy guidelines that enable the Director of Finance to fulfil his delegated authority to consider applications for relief, minimising the risk of challenge and objection
- Waverley's aims, objectives and priorities
- The outcome of the review of grants to community organisations

100.12 The Local Government Act 2003 added a new Section, 13A, to the Local Government Finance Act 1992, enabling councils to reduce the amounts payable by council taxpayers. It can be used to reduce amounts payable by specific amounts or percentages. The power under S13A allows the Council to introduce local discounts for particular circumstances or by category of property, which are not already covered by the nationally prescribed discounts and exemptions. The cost of granting a S13A discount is met fully by the Council and not passed on to the precepting authorities.

100.13 Some authorities have agreed a procedure and a delegation process to enable them to consider any requests for assistance. It is proposed that Waverley adopts a similar approach to its business rates hardship policy which requires that reductions will only be considered if it is clearly in the wider interests of Waverley's council taxpayers. Delegation will be requested for the Deputy Chief Executive, in conjunction with the Finance Portfolio Holder, to make decisions and only if an objection is received would the Executive need to consider the case.

100.14 Corporate O&S Committee noted that a number of organisations receiving discretionary rate relief also received other forms of assistance from the

Council, the most significant being grant-funding under the Community Partnership Grants scheme.

- 100.15 Corporate O&S Members agreed that, given the uncertainty around the future legislative framework, Waverley should continue to apply the current NNDR Discretionary Rate Relief Policy for 2012/13. However, given the uncertainty about arrangements thereafter, Members suggested that Waverley should take the same approach as had been taken with the Community Partnership Grants, and write to all businesses and other organisations in receipt of discretionary rate relief to give early warning of the possibility that the amount of discretionary rate relief that the Council was able to offer might have to be reduced due to continuing financial pressure.
- 100.16 Careful consideration would need to be given to the impact on the service organisations provided of any reduction in discretionary rate relief and Community Partnership Grant, and the potential for this putting an increased demand on Waverley's services. Corporate O&S Members endorsed the proposed policy for granting discretionary council tax reductions under S13a of the Local Government Act 2003, whereby reductions would only be approved when doing so would be in the interests of the wider council tax payers in Waverley. The Executive thanked the Corporate Overview and Scrutiny Committee for their comments and now

RECOMMENDS that

- 27. the policy for the granting of discretionary rate relief for 2012/13 remain the same as the current policy and officers be requested to report back to Members when the details of the Government's changes to rate relief are known, at which point the Executive will be presented with further options for the period 2013 to 2016;**
- 28. the policy on the use of the provision for granting discretionary council tax reductions under S13a of the Local Government Act 2003 be that reductions will only be considered if it is clearly in the wider interests of Waverley's council taxpayers; and**
- 29. in relation to recommendation 28, delegation be given to the Deputy Chief Executive, in conjunction with the Finance Portfolio Holder, to make decisions about applications for council tax reductions and that only if an objection is received would the Executive need to consider the case.**

Background Papers

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

101. AMENDMENTS TO CONTRACT PROCEDURE RULES AND FINANCIAL REGULATIONS (Agenda Item 12; Appendix G)
- 101.1 Waverley's Financial Regulations and Contract Procedure Rules (CPRs) are reviewed on a periodic basis in order to ensure they reflect current policy and

best practice. The changes proposed to the documents are highlighted in the attached Annexe 3 and Annexe 4. The changes to CPRs are designed to support flexible procurement practice that is necessary to achieve good value for money. However, it is important to maintain sufficient controls and safeguards and the proposed changes seek to achieve this in a proportionate and sensible way.

101.2 The proposed amendments to Financial Regulations and CPRs are highlighted in the attached annexes. There are many detailed changes to the CPRs and Financial Regulations which are designed to keep them up-to-date, meaningful and in line with Council policy. They also modernise the CPRs to reflect changes in the market and new practice undertaken by other local authorities. There is a number of proposed increases in financial limits but no changes to the fundamental structure of the policies. Research was undertaken to identify financial limits in similar sized authorities and the proposals are in alignment with other Councils. For the first time, a toolkit comprising a 'Short Guide', example matrices and useful links has been prepared. The short guide will replace the current Procurement Manual and will help steer officers through the procurement process ensuring that they comply with CPRs.

101.3 Many of the changes to CPRs were identified in a workshop of CMT and Service Heads earlier in the year. The suggested changes will assist understanding and compliance. Officers will test the CPR guidance for staff and will undertake refresher training for managers early in 2012.

Summary of Key Changes – Contract Procedure Rules

- Simplify the exemptions to CPRs
- Give more flexibility in the use of CPRs to avoid waivers when alternative procurement routes are proposed, subject to assessment of risk and S151 Officer and/or Portfolio Holder sign-off
- Tighten controls by requiring evidence supporting competition assessments, estimated contract values, risk assessments and the management of contracts once awarded
- Increase the lower level financial thresholds that determine the procurement and evaluation process and default requirement for two or more quotes even for the lowest value procurement
- Delete the top financial threshold and introduce a top level that broadly aligns to the European tendering rules threshold.
- New procedure for receiving quotes/tenders by e-mail
- Greater clarity around late tenders and the use of quality thresholds in the evaluation of tenders
- Greater flexibility in choice of appropriate financial safeguards in contracts

Summary of Key Changes – Financial Regulations

- Increase financial limits for budget virements (changing purpose of approved budget during the year)
- Increase the financial limits within which the S151 Officer can approve the writing off of debts

101.4 At the Audit Committee on 22 November 2011, the Head of Finance drew the Committee's attention to the revised financial limits for write-offs on page 23 of the Regulations. These were based on inflation levels to bring the limits up-to-date. No analysis had been undertaken as to how many transactions would be affected by these revised limits, but the Committee was reassured that there were very few in a year that would require Executive approval.

101.5 With regard to the Contract Procedure Rules, the Head of Finance explained the reasons for the changes as being to tighten controls in key areas, provide a more simple and flexible framework and to enable more effective and innovative procurement. Attention was drawn to the main changes to the document, the most significant change being the financial threshold levels and the proposed reduction from 5 levels to 4. The highest threshold now would be in line with the OJEU limit for supplies and services. The Committee requested some statistical information about how many contracts in the last two years would have fallen within each of the proposed thresholds. This information is set out below:

Proposed threshold	Number of procurements 2010-11 & 2011-12
One – Up to £10,000	2008
Two - £10,000 to £25,000	176
Three - £25,000 to £100,000	94
Four - £100,000 and over	22
<i>Please note that in the absence of an integrated purchase order system, these figures have been compiled from the best information available to us (spend data and contracts register).</i>	

101.6 The Executive accordingly

RECOMMENDS that

- 30. the revised Contract Procedure Rules and Financial Regulations attached as Annexes 3 and 4 be adopted.**

Background Papers

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

102. 5-21 WEYHILL, HASLEMERE – PLANNING APPEAL DECISION AND COSTS APPLICATION (Agenda Item 18; Appendix M)

WA/2010/1568

Erection of 25 one bedroom apartments, 14 two bedroom apartments (including affordable housing) and 683sqm of B1 (Office) commercial floorspace with associated access, basement parking, cycle stores, amenity space and landscaping.

102.1 The planning application for the above development was determined by the Area Planning Committee (Southern) in December 2010. The Officer recommendation was that permission be granted subject to the receipt of suitable, completed legal agreements relating to the Planning Infrastructure Contribution and Affordable Housing by 11/12/2010 and subject to the consideration of the comments of the Council's financial advisors, the Tree and Landscape Officer and the Housing Strategy and Enabling Manager. The Committee, however, disagreed and resolved to refuse permission for the following reasons:-

1. Reason
The proposal would by virtue of the increase in traffic movements and inadequate servicing arrangements be detrimental to neighbourhood amenity and therefore harmful to the amenities of the area and contrary to Policies D1, D4, M2 and M17 of the Waverley Borough Local Plan 2002.
2. Reason
The proposal would by virtue of its scale, massing, height and form be detrimental to the character of the area and therefore harmful to the amenities of the area and contrary to Policies D1 and D4 of the Waverley Borough Local Plan 2002.
3. Reason
The development does not make adequate provision for affordable housing in accordance with Government Guidance and Policy H5 of the Waverley Borough Local Plan 2002.
4. Reason
No adequate provision is included in the proposals for the satisfactory parking of vehicles clear of the highway and the proposal is therefore contrary to Policy M14 of the Waverley Borough Local Plan 2002.
5. Reason
The applicant has failed to comply with the Waverley Borough Council Infrastructure Contribution SPD (April 2008) and therefore the proposal conflicts with Policies D13 and D14 of the Waverley Borough Council Local Plan 2002.

102.2 The Applicants lodged an appeal against this decision that was heard at a hearing on 17 and 18 May 2011. The Inspector in his decision letter dated 20 July 2011 allowed the appeal and granted planning permission.

102.3 At the hearing a costs application was made by the appellants. The Inspector granted the application limited to those costs incurred in respect of reasons for refusal 1,2 and 4 (except for reason 2 – form).

102.4 The application for costs was made on the basis that:

- a) The Council failed to show reasonable grounds why the professional advice of its officers was rejected.
- b) The Council has failed to provide evidence to show clearly why the development cannot be permitted.
- c) The Council has introduced fresh reasons for refusal at a late stage in the proceedings.
- d) The Appellant has incurred significant costs as a result.

102.5 In amplification, the Appellants argued that the Council did not give proper evidence to justify its position that the development was too big; they argued that there was unreasonable delay and cost in respect of handling the s106 undertaking; further, that sufficient parking spaces were provided with the development.

102.6 In response, the Council accepted the Appellant's traffic and flow data and therefore did not need to provide other data. These data in the Council's view caused harm. The Council maintained that the assessment of visual amenity is qualitative and included in its evidence. The Council also defended its position on relation to a lack of affordable housing and the inclusion of a claw-back clause, should the development become more viable. The Council maintained that it was necessary to include the lack of infrastructure contributions as a reason for refusal, as no completed s106 had been submitted.

102.7 The Council also defended the claim that it had introduced a new reason for refusal. The need to negotiate a claw-back clause on the legal agreement would have taken place outside of the hearing and did not include unnecessary costs. In summary, the Council said it had made a local decision which had taken account of local traffic conditions and the character of the area and was based on the local knowledge of Councillors.

102.8 The Inspector said that the Council had not behaved unreasonably in relation to its decision on affordable housing, or the proposed inclusion of a claw-back mechanism. The Inspector found that the Council failed to provide adequate evidence to assess the extent of any harm if parking space shortfall is diverted to local car parks or to street parking. In addition, the Council did not adequately explain how the building would be unacceptable in terms of size and prominence. The formal decision of the Inspector was:

"In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Waverley Borough Council shall pay to Brettenwood Investment (Holdings) Ltd, the costs of the appeal proceedings limited to those costs incurred in respect of reasons for refusal 1,2 and 4 (except for reason 2 – form), such costs to be assessed in the Supreme Court Costs Office is not agreed."

102.9 The appellants have submitted a claim for costs in the sum of £49,626.44. This figure has now been scrutinised and a reduced figure of £34,750.00 agreed in settlement by the Independent Costs Assessment Service.

102.10 Waverley does not budget for potential award of costs against the Council. It will therefore be necessary for a supplementary estimate to be approved to cover this expenditure. In the past the Council has regarded such expenditure as an appropriate use of balances. However, as shown in the Budget Monitoring Reports, the balance of the Inflation Provision remaining is currently £136,000. It is therefore suggested that in this case the supplementary estimate is covered by an allocation of £35,000 from this provision, pending further savings being identified through the monthly Budget Monitoring reports. This should avoid use of Balances. The Executive accordingly

RECOMMENDS that

31. **a Supplementary Estimate of £35,000 be approved to cover the award of costs against the Council arising from Planning Application WA/2010/1568, with the cost being met initially by an allocation from the Inflation Provision within the 2011/12 Budget; and**
32. **the Chief Executive be authorised to make final settlement of the amount due on behalf of the Council.**

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 these categories.

Part III – Brief Summaries of Other Matters Dealt With

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

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

104. GENERAL FUND BUDGET ISSUES 2012-13 (Agenda Item 7; Appendix B)

RESOLVED that

1. the progress being made in producing the 2012/13 budget be noted;
2. officers be thanked for their contribution to the budget discussions through the Star Chamber process; and

3. the observations from the Overview and Scrutiny Committees be taken into account during the forthcoming budget-setting process.

105. HOUSING REVENUE ACCOUNT (HRA) CAPITAL PROGRAMME 2011-12 UPDATE (Agenda Item 8; Appendix C)

RESOLVED that

1. the likely slippage of £1m on the HRA 2011-12 Capital Programme into 2012-13 be noted and efforts be made to complete the double-glazing programme as swiftly as possible; and
2. the additional resource of £30,000 for the replacement doors/windows at Wyatts Close, Godalming be approved, to be funded from the proceeds of open market sales of HRA properties.

106. SETTING OF COUNCIL TAX BASE 2012-2013 (Agenda Item 9; Appendix D)

RESOLVED that, pursuant to the foregoing report and in accordance with the Local Authorities (Calculation of Tax Base) (Amendment) Regulations 2003, the council tax base for Waverley and for each of the Town/Parish Council areas for the year 2012/2013 shall be as shown in Annexe 1 of the report.

107. EAST STREET DEVELOPMENT, FARNHAM (Agenda Item 11; Appendix F)

RESOLVED that

1. the progress made by CNS in securing anchor commercial tenants and progressing lettings to retailer and restaurant businesses be welcomed;
2. its powers under Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 be exercised for the creation of new rights required for the purpose of carrying out the East Street Development;
3. the statutory notice procedure in Sections 122 and 123 of the Local Government Act 1972 be implemented in respect of the land currently used as open space within the East Street Development site as shown on the plans at Annexe 7 and Annexe 8 to the report and within the Riverside development site; and
4. officers be authorised to commence informal discussions with the Department for Communities and Local Government on the requirements for a Compulsory Purchase Order.

108. CAR PARK REVIEW – WAVERLEY OFF-STREET PARKING ORDER (Agenda Item 13; Appendix H)

The Executive thanked those who made representations on the Car Park Order and, following consideration of the representations made

RESOLVED that

1. the responses to the representations set out at Annexe 2 and updated at the meeting be approved; and
2. officers be instructed to proceed with the implementation timetable for the Waverley Off-Street Parking Order 2012 to come into effect from February 2012.

109. TRANSFER OF CRANLEIGH PUBLIC CONVENIENCES (Agenda Item 14; Appendix I)

RESOLVED that

1. the transfer of the freehold interest in Village Way Public Conveniences be formally authorised on the basis set out in Paragraph 1 (a)-(c) of the report; and
2. the transfer of the Cranleigh Common Public Conveniences be authorised under a long-term lease on the basis set out in Paragraph 1 (a)-(c) of the report.

110. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS (Agenda Item 15; Appendix J)

RESOLVED that

1. the Council re-affirm its commitment to safeguarding children and vulnerable adults;
2. the Portfolio-holder for IT and Children and Young People, Cllr Stephen O'Grady, is the lead councillor for safeguarding; the Chief Executive, Mary Orton, is the Council's named lead officer for safeguarding; and that the Head of Community Services, Kelvin Mills, acts as deputy in this area;
3. the work being undertaken by the Council to help keep children and vulnerable adults safe be endorsed, and colleagues, staff and contractors would be actively supported where they believe there is a need to make a referral to Social Services;
4. the Waverley 'Safeguarding Children and Vulnerable Adults Policy' for the Council be endorsed.

111. UPDATE ON THE LOCAL DEVELOPMENT FRAMEWORK CORE STRATEGY (Agenda Item 16; Appendix K)

RESOLVED that the programme of dates set out in paragraph 10 and the key issues at Annexe 2 of the report be endorsed to take the Core Strategy forward and appropriate briefings be provided for all councillors.

112. UPPER TUESLEY (LAND ADJACENT TO MILFORD HOSPITAL) DEVELOPMENT BRIEF – CONSULTATION (Agenda Item 17; Appendix L)

The Executive noted the addition of Milford, Witley and Hambledon to the list of wards affected on the report.

RESOLVED that the draft Upper Tuesley (Land adjacent to Milford Hospital) Development Brief be approved for the purposes of public consultation, which will be accompanied by an associated Strategic Environmental Assessment.

113. IN-DEPTH REVIEW OF POLICING IN THE BOROUGH (Agenda Item 19; Appendix N)

RESOLVED that

1. as the response from the Surrey Police Authority to the Safer Waverley Partnership Executive Group addressed the key questions in the scope of the review there was no need to proceed with the review at the present time;
2. the Community Safety Training session be repeated on 8 February 2012;
3. should any issues arise from the training session, another meeting of the Sub-Committee be convened; and
4. the Portfolio Holder report back to the Executive with a review of response times for the first quarter of 2012.

114. PERFORMANCE MANAGEMENT EXCEPTION REPORT, QUARTER 2 (JULY - SEPTEMBER) 2011-12 (Agenda Item 20; Appendix O)

RESOLVED that

1. the performance figures for Quarter 2, as set out in Annexe 1 to the report, be noted;
2. the Overview and Scrutiny Committees be thanked for their observations regarding the Quarter 2 performance, as detailed in the report and in Annexe 1; and
3. the recommendation from the Community Overview and Scrutiny Committee on Improved Street and Environmental Cleanliness be endorsed; and
4. officers be asked to provide action plans in future to deal with those areas where performance is below target.

115. EXCLUSION OF PRESS AND PUBLIC (Agenda Item 22)

At 8.09 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 Paragraph 1 of the revised Part I of Schedule 12A to the Act, namely:-

Information relating to any individual.

116. DISABLED AIDS AND ADAPTATIONS (Agenda Item 23;
(Exempt) Appendix P)

RESOLVED that the proposal to adapt the property to meet the needs of the family as detailed in the report be endorsed, with the cost of this work to be met partly from the aids and adaptations capital budget and partly from other appropriate capital budgets.

The meeting commenced at 6.45 p.m. and concluded at 8.10 p.m.

Chairman