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**Committee:** Extraordinary Council  
**Place:** Council Chamber  
**Date:** Monday 26th November 2012  
**Time:** 7:00pm  
**Co-ordinator:** Mrs J Sharp, Committee Co-ordinator ext 2655

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*Please note this meeting will be subject to a Webcast broadcast live on the Internet.*

**To:**

The Mayor and Members of Brentwood Borough Council

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**Members are respectfully summoned to attend the above meeting to transact the business set out below.**

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Managing Director

## Agenda Part One

Items which, in the opinion of the Managing Director, will be considered with the public present at the meeting. Details of background documents relied upon in the reports before the Committee are attached as an Appendix to the Agenda.

1. Apologies
2. Motion regarding the development of William Hunter Way: Report at [Appendix 1](#).
3. Motion regarding the Parking, Borough Project Liaison and Highways Localism Panel: Report at [Appendix 2](#).
4. Any items which the Mayor of the Borough decides are urgent.

## **PART TWO**

Items which in the opinion of the Managing Director will be considered with the public excluded from the meeting.

To: The Mayor and Members of Brentwood Borough Council

16<sup>th</sup> November 2012  
Town Hall  
Brentwood.

**EXTRAORDINARY COUNCIL**  
**26<sup>TH</sup> NOVEMBER 2012**

**INDEX TO AGENDA ITEMS AND APPENDICES**

<b>Appendix No.</b>	<b>Item No.</b>	<b>Subject</b>
1	2	Motion regarding the development of William Hunter Way
2	3	Motion regarding the Parking, Borough Project Liaison and Highways Localism Panel
3		Background documents

**BRENTWOOD BOROUGH COUNCIL**  
**EXTRAORDINARY COUNCIL – 26TH NOVEMBER 2012**  
**REPORT OF THE MANAGING DIRECTOR**

**ITEM 2 - MOTION REGARDING THE DEVELOPMENT OF WILLIAM HUNTER WAY**

<b>PURPOSE OF REPORT</b>	To update Members on progress and matters outstanding on the proposed development of William Hunter Way.
<b>CORPORATE OBJECTIVES</b>	Maximising local business, economic and employment opportunity through partnership.
<b>IMPLICATIONS</b>	
• <b>Legal</b>	Legal comments are Included in the report
• <b>Finance</b>	Finance comments are Included in the report
• <b>Staff</b>	There are no additional staffing implications
• <b>Risk Management</b>	Both the financial and reputational risk to the Council are contained within the body of the report.
• <b>Asset Management</b>	There are no additional Asset Management implications
• <b>Health &amp; Safety</b>	There are no additional Health and Safety implications
• <b>Equality and Diversity</b>	There are no additional staffing implications
<b>ACTION REQUIRED</b>	To consider the motion

Members will recall that at the Ordinary Council meeting which took place on 24th October 2012 a Notice of Motion was put forward for consideration by Councillor Le-Surf.

The motion read as follows:

*"In light of recent speculation regarding the development of William Hunter Way, on behalf of the residents of the borough and in the name of openness and transparency, this council does urgently debate the current situation regarding the development of the site and explores all options open to the council at this time".*

The Motion was duly seconded and was due to be passed to the next meeting of Parking, Borough Project Liaison and Highways Localism Panel on 6<sup>th</sup> November.

However in accordance with Standing Order number 1.4 a request was made for an extraordinary meeting of the Council to be called to discuss this matter.

## 1. Introduction

The purpose of this report is to update Members on progress and matters outstanding on the proposed development of William Hunter Way. This report was scheduled to the Parking, Borough Project Liaison and Highways Localism Panel on the 6 November 2012. Further to the motion to Full Council in accordance with Standing Order 1.4 on 24th October 2012 (minute 257) the update report is for the consideration of Full Council.

## 2. Background

In order to strengthen Brentwood's town centre retail and visitor offer, the Council has long held an aspiration to achieve the redevelopment of this surface car park for a high quality, mixed use scheme. The intention has been to provide a cinema, further large retail units and a new multi storey car park supported by a strong pedestrian link between the new development and the High Street.

Following extensive negotiations and deliberations involving developer Stockland/Halladale during 2006 and 2007, the final terms for such a development, including a financial package was approved by the Council on 27 June 2007. The chronology leading to approval of the proposal is set out below:

MEETING	RESOLUTION
29 June 2005 (Policy Board)	RESOLVED UNANIMOUSLY that a planning brief be prepared for the development of the William Hunter Way Car Park, to incorporate a mix of uses on the site and an increase in shoppers car parking.
12 October 2005 (Policy Board)	Resolved that the planning brief be approved.
30 November 2005 (Policy Board)	RESOLVED UNANIMOUSLY: 1. That Standing Orders (Contracts) be waived and negotiations commence as recommended by the District Valuer with Halladale Group Plc as a "special purchaser" in respect of the redevelopment of the William Hunter Way Car Park site, such negotiations to include the financial terms of any development. 2. That all negotiations with Halladale Group Plc be based on the broad framework set out in the approved Planning Brief for the site. 3. That the District Valuer and CBRE be appointed to assist the Council in its negotiations with Halladale Plc.
21 June 2006 (Policy Board)	RESOLVED UNANIMOUSLY: 1. That following advice from the Council's advisers and the District Valuer, approval of the Heads of Terms be delegated to the Chief Executive and Town Clerk following consultation with a cross-party

	<p>group of Members comprising the Leader and Deputy Leader of the Council, the Chairmen of the Environment and Community Panels and the Leaders of the two Opposition Groups on the Council.</p> <p>2. That the plan of the proposed development be reported to the next meeting of the Policy Board.</p>
<p>25 September 2006 (Member Panel comprising the Leader Cllr Brandon Lewis and Deputy Leader (Cllr Phil Baker) of the Council, the Chairmen of the Environment (Cllr Tony Sleep) and Community Panels (Cllr Frank Kenny) and the Leaders of the two Opposition Groups on the Council) – Lib Dem Leader (Cllr Charles Myers and Lab Leader (Cllr David Minns).</p>	<p>Unanimous approval of the main financial negotiations for the project at a cross party Member Consultation Panel.</p>
<p>11 October 2006 (Policy Board)</p>	<p>RESOLVED to authorise such Compulsory Purchase action as necessary.</p>
<p>14 March 2007 (Policy Board)</p>	<p>RESOLVED UNANIMOUSLY</p> <p>1. To delegate authority to the Chief Executive &amp; Town Clerk following consultation with the Chairman of the Policy Board, to take all necessary action to acquire the Barclays Bank Car Park site in William Hunter Way, including the provision of alternative car parking if necessary for Barclays. Any financial expenditure incurred by the Council to be first agreed by the District Valuer.</p> <p>2. That following advice from CBRE and the District Valuer, if necessary any amendment to the Heads of Terms and decision on the disposal of the site by way of a long lease to Halladale be delegated to the Chief Executive &amp; Town Clerk following consultation with a cross-party group of Members comprising of the Leader and Deputy Leader of the Council, the Chairmen of the Environment and Community Panels and the Leaders of the two Opposition Groups on the Council.</p> <p>3. To appropriate the whole of the William Hunter Way site for planning purposes under Section 232 of the Town and Country Planning Act 1990.</p>

<p>27 June 2007 (Ordinary Council)</p>	<p>RESOLVED that the Council approves the financial package associated with the development agreement for the proposed redevelopment of William Hunter Way and that the legal documentation be progressed to completion.</p>
<p>26 September 2007 (Ordinary Council)</p>	<p>RESOLVED UNANIMOUSLY that authority is delegated to the Deputy Town Clerk/Director of Legal Services, following consultation with the Chairman of the Policy Board, to agree the way forward in order that the Development Agreement may be completed.</p>
<p>14 September 2011 (Policy , Performance and Resources Board)</p>	<p>The following amendments to the recommendation was MOVED and SECONDED:</p> <ul style="list-style-type: none"> <li>- To agree the contribution that the Town Hall carpark can make, <i>subject to consultation with the Town Hall Delivery Group</i>, to help ease the situation for local businesses.</li> <li>- To discuss with BT the possible use of their car park.</li> </ul> <p>The MOTION was CARRIED.</p> <p>RESOLVED UNANIMOUSLY that the Leader of the Council, in conjunction with the Chairman of the Business, Community and Culture Panel to meet with local traders, business organisations, town centre businesses and local residents to discuss the following proposals:</p> <ol style="list-style-type: none"> <li>1. To agree the contribution that the Town Hall carpark can make, subject to consultation with the Town Hall Delivery Group, to help ease the situation for local businesses.</li> <li>2. To conclude discussions with the developer in securing a minimum of 100 parking spaces at the Brentwood station car park for the duration of the redevelopment of William Hunter Way car park or until the replacement multi storey car park become operational.</li> <li>3. To change the operation of the Westbury Road car park from season ticket holders to pay and display, operating on the same tariff as the Chatham Way car park(or whatever standardised</li> </ol>

	<p>charging structure is agreed through the parking review) and to advise the existing season ticket holders accordingly.</p> <p>4. To advise the existing season ticket holders that currently use the town centre car parks of the new parking facility at the Brentwood Station and of the discount available and to assign 100 of those existing season ticket holders to the Brentwood Station car park.</p> <p>5. To modify the access arrangements to the Westbury Road car park, lighting and CCTV provision in accordance with the Section 106 agreement.</p> <p>6. To discuss with BT the possible use of their car park.</p> <p>Subject to discussions with users and representatives, the Leader of the Council be given delegated powers to authorise officers, to make the necessary changes to the off street parking places order and ensure appropriate signage and advertisement of the changes takes place.</p>
<p>19 October 2011 (Ordinary Council)</p>	<p>RESOLVED that authority is delegated to the Council's Monitoring Officer, in consultation with the Mayor and the Leader to take appropriate decisions with regard to land in relation to the development of William Hunter Way. In addition that authority is given to extend the existing Development Agreement and Agreement for lease of the site as necessary by 12 months to allow for the resolution as necessary of any other matters prior to commencement of the development works.</p>

The Council's advisors (CBRE), in recommending the proposal in September 2007, stated that this was the right scheme for Brentwood, involved minimum risk to the Council and enabled it to retain control. At that stage it was anticipated that the developers would complete the scheme and open for trade by November 2009. The key features of the proposal were that:

- It would deliver a mixed use retail, leisure and residential development including 6 screen cinema, foodstore, retail units and restaurants, 20 flats and 661 spaces in a decked car park
- 66% of the scheme including the cinema and foodstore would be secured through pre-letting agreements before development commenced
- A 150 year lease of the site would be granted by the Council in return for which the Council would receive a share of rents from the new units and the Council



would have an option to take a sub-lease of the new decked car park and thereby take over its management.

### **3. The legal agreement**

A formal "Development Agreement" was signed with the developer on 7 December 2007, fixing the principles of the scheme in a binding legal contract.

The key feature of the 2007 legal agreement was that it was conditional, that is to say, it set out a number of detailed matters beyond these agreed matters of principle that would have to be resolved before any development could commence. This legal framework, containing a checklist of preliminary requirements (known as "conditions precedent") is very common with major development schemes. They are required to give both parties the security of a contractual relationship and a defined process against which to justify the time and expenditure (particularly by the developer) of millions of pounds on taking forward the detailed planning and design work necessary for implementation.

The William Hunter Way agreement contained a total of nine "Conditions Precedent". These have had to be worked through since 2007 and while some, for example the grant of planning permission and the undertaking of all necessary site investigations, have long since been concluded, others had not. The developer estimates that it has spent over £2million so far on reaching this stage.

Given this, the complexity of a number of these issues and the effect of the economic recession on the pace of development activity combined with tenant demand nationally, in October 2011, the Council agreed to vary the Development Agreement so as to provide an additional 12 months for the "Longstop Date" (the cut off date beyond which the whole deal would expire if these conditions could not be met) - until 7 December 2012. However, the Development Agreement provides, if certain conditions precedent continue to be outstanding as at that date, then the Longstop Date is automatically extended for a further year thereafter. Because certain Conditions (see below) will not be satisfied by 6 December 2012, the Longstop Date will now be postponed until 7 December 2013.

The Council is, therefore, bound to the development agreement as it stands until 7 December 2013 and is obliged to carry out its responsibilities under the agreement.

#### 4. Outstanding issues from the 2007 Development Agreement

A brief overview of the remaining Conditions Precedent and their current status is set out below:

CONDITION AND WHAT IS NEEDED TO SATISFY IT	CURRENT STATUS	RESPONSIBILITY
<p><b>THE LETTING CONDITION:</b> The Developer is obliged to have entered into the occupational lease agreements for the cinema, 55,000 sq ft of the retail accommodation and the car park</p>	<p>The cinema and Marks and Spencer have signed agreements for lease. Heads of Terms are being completed with another tenant and are expected to be secured imminently.  The management of the car park remains to be agreed – Section (7).</p>	<p>The Developer</p>
<p><b>LAND TITLES:</b> The Council to become the unencumbered Freehold Registered Proprietor of the entire development site so that it can show good title to the land to be leased.</p>	<p>Completing proper title to the land is close to finalisation.</p>	<p>The Council</p>
<p><b>THE SAINSBURY CONDITION:</b> The Council is required to agree the calculation of a potential “overage” or “top up” payment with Sainsbury’s, since this project proceeding would represent a “disposal” that triggers the calculation under the terms of a covenant imposed by Sainsbury’s when it sold much of the site to the Council in 1990.</p>	<p>Initial calculations confirm that no top up payment will be due under the covenant but a report from the DV will need to be submitted to Sainsbury’s at the time when the scheme proceeds.</p>	<p>The Council</p>

Accordingly the Council and the Developer are broadly on course to satisfy its remaining obligations under the Development Agreement. Once the remaining conditions precedent have been met, the Developer is entitled to move ahead with the project in compliance with the other pre commencement conditions as contained in the Development Agreement and attached to the Section 106 Agreement and planning permission. The developer will need to satisfy all such agreements before any physical start on site can be made. The latter includes finalising proposals satisfactory to the Council for temporary parking to replace the spaces lost at William Hunter Way and making payments to Essex County Council for transport/highway works.

## **5. Update on negotiations.**

Now that the final pre-letting of at least required proportion of the commercial elements of the scheme is in imminent prospect, the Developer has been able to undertake a viability check of the project based upon the Heads of Terms agreed in 2007. From this it is clear that due to the current economic climate, there is a gap between the rental levels and capital values anticipated in 2007 as compared to those available in the current market. Although these reductions appear to have been partly offset by a careful review by the Developer of the construction costs and the expectation of a highly competitive market for construction work when this contract is let, there remains in all likelihood a viability gap. The Developer has raised this with the Council and the parties have been considering the question and discussing various possible solutions. These discussions have yet to be brought to a final conclusion.

The Council's original consultants CBRE are again advising on achieving "best value" and reviewing the extent of changes that may be necessary to achieve viability and enable the project to proceed to completion. Their recommendations, along with the recommendations of the parking consultants on the final terms for any sub-lease of the car park, will need to be considered and decisions reached by the Council through due process as advised by the Section 151 Officer and the Monitoring Officer. It should be noted that contrary to concerns that have been expressed regarding a conflict of interest for CBRE, it has been verified that there is no conflict and a statement from the Company confirming this is set out in APPENDIX 1a.

## **6. Timeline for Scheme Commencement**

Subject to the above and the further matters mentioned below, the developer believes that it may be possible to achieve a start on site by the summer of 2013 with completion of the project in time to achieve Christmas 2014 trading – a vital trading target for the retailers. Any delay to the completion of the outstanding matters could jeopardise this key delivery date and could influence the review of leases with the pre let tenants.

## **7. The Car Park**

The 2007 Development Agreement, linked in with the Letting Condition, contains provisions that are intended to give the Council the right to take over the management of the new multi storey car park as a sub tenant.

This opportunity is being fully explored with the assistance of a specialist consultant to establish what benefits it might offer but also what risks it might entail. The consultants have been exploring these issues in detail with the Developer and their final report and recommendation is expected shortly.

Whether or not the Council takes over the management of the car park will not affect the Council's rental return as a ground landlord for the scheme. Indeed the Developer

has, in accordance with the Development Agreement, also been seeking private sector operators to ensure that whatever the outcome of the Council's consideration of the opportunity, the car park will be pre-let to satisfy the Letting Condition. Longstanding legal advice to the Council has been that the Council could not prevent a private operator running the car park as a commercial proposition.

## **8. Alternative options**

The Developer has proposed an alternative financial package together with some changes to the Development Agreement in order to recast a deal. The Council, therefore, must decide whether it wishes to agree to such a recast deal in order to see the development built. At this stage the Heads of Terms remain unchanged.

Any decision by the Council to change or not change the terms on which it has contracted is a decision, which given the public element of the development, may give rise to the risk of judicial review. It follows, therefore, that any such decision must be made in the light of all the available facts, on the basis of professional opinion and in accordance with due and proper process. It does not follow, however, that the Council is obliged to accept any such recast deal.

It is not open to the Council to terminate the agreement before 7 December 2013 without exposing itself to a significant claim for damages for breach of contract. The same is true if the Council were to deliberately hold up or delay its duties, under the agreement.

It is therefore vital that Members are aware of their responsibility not to expose the Council to such risks and to ensure that any steps taken or proposed changes are fully considered in terms of risk.

## **9. Next Stage**

Major retail developments such as this are complex, protracted and bear legal and financial risk. Problems of one kind or another commonly emerge as the full detail of all the various components of a scheme, be they title, planning, cost estimates or market conditions are developed and tested. Whilst this scheme has been subject to delay it should be emphasised that Brentwood is more fortunate than most other towns and cities around the country which have seen their planned retail schemes having to be scrapped as they are now no longer a viable proposition for the retail market. By contrast, the consented scheme in William Hunter Way remains relevant to Brentwood's needs and is supported by the kind of retailers originally targeted. It is almost ready to proceed.

Over the coming weeks the Council will therefore need to consider two key questions:

- Whether to take the opportunity to accept a sub lease of the new decked car park?
- Whether the any final proposals to vary the original Heads of Terms are acceptable so as to generate investment and create new retail and visitor facilities for the town?

This decision will be informed by professional advice in considering these matters alongside the advice of the Council's statutory officers. This will be essential to address any major risks. With the development, apart from the risk of over estimating the likely income available, the main risks rest with the developer as the Council would receive a rental income. With Council management of the car park, given its operational nature and the rental which the Council will have to pay, the risks will be largely with the Council.

Officers will continue to work with the developers to secure scheme delivery. Any negotiations will be led by the Council's 3 statutory officers; the Managing Director, The Head of Corporate Finance (Section 151 Officer) and the Head of Legal and Governance/the Monitoring Officer, in consultation with the Leader and Chairman of Parking, Borough Project Liaison and Highway Localism, informed through specialist professionals. On the basis of the professional advice on scheme viability, a recommendation will be made on progression of the proposal. In accordance with Section 151 of the Local Government Act 1972, the Head of Corporate Finance has a statutory duty to ensure there are proper arrangements for the administration of the financial affairs of the Council, and to also ensure through their stewardship role that any decision taken by the Council protects the interests of the public. To this end, once the financial terms of the scheme are known these will be fully evaluated and the financial and risk implications identified. The final financial terms may present a variance from those included in the original agreement. Any such revision will be reported, together with the financial implications arising from the new detail, for consideration and approval by Full Council. It will also be important for the Council to fully understand the impact on the medium term financial plan of the Council which the proposals will have, when compared to current budgets. At this time, the full and final details are not available for financial appraisal and the Council remains within the constraints of a legally binding framework. As a result of this, the Council cannot operate beyond these constraints without creating a significant financial and reputational risk to the Council.

## **10. Conclusions**

The Development Agreement that was entered into in 2007 sets out the terms of Agreement on the scheme. Since that time there has been significant change in the economic climate which could impact upon the deliverability of the scheme. Now that the scheme is completing upon the pre let arrangements the rent levels achieved provide the basis for the financial viability to be tested and inform negotiation.

Consideration of any proposed variance to the Heads of Terms will be undertaken through the cross party working group (which was originally established through the meeting of Policy Board , June 2006) to comprise the Leader and Deputy Leader, the Chairman of Parking, Borough Project Liaison and Highway Localism, the Leaders of the two Opposition Groups on the Council, the Managing Director, the S151 officer, the Head of Legal and Governance and other officers deemed necessary to inform the meeting. Following consideration, the cross party working group should refer the matter of recommendation to Full Council.

Jennifer Candler  
Head of Planning  
Brentwood Borough Council  
Town Hall  
Ingrave Road  
Brentwood  
Essex CM15 8AY

29 October 2012

Dear Jennifer

## **WILLIAM HUNTER WAY - CONFLICT OF INTEREST**

I am writing in connection with the enquiry the Council received about a perceived conflict of interest between CBRE and Stockland following its press release dated December 2011.

CBRE is one of the world's largest real estate advisors with over 39,000 employees worldwide. Given CBRE's scale and the breadth of services it offers, it is common for clients to have an interface with CBRE across a range of its service lines.

CBRE takes its professional and ethical obligations to potential conflicts of interest very seriously and has rigorous internal procedures in place to manage situations where clients on both sides of a project are happy for CBRE to continue to act. These procedures form part of CBRE's ISO accredited quality management system.

Specifically in connection with CBRE's advice to Brentwood on William Hunter Way, there is no involvement of the people advising the Council and the team in a different part of the company advising Stockland on its industrial portfolio. Different filing systems are in place and neither team can access the other's digital data over the IT network. Consequently, neither CBRE nor the Council consider there is a conflict of interest.

Yours sincerely



**JERRY FREEMAN**  
**SENIOR DIRECTOR**

**APPENDIX 2**

**BRENTWOOD BOROUGH COUNCIL**  
**EXTRAORDINARY COUNCIL – 26<sup>TH</sup> NOVEMBER 2012**  
**REPORT OF THE MANAGING DIRECTOR**

**ITEM 3 - MOTION REGARDING THE PARKING, BOROUGH PROJECT LIAISON  
AND HIGHWAYS LOCALISM PANEL**

<b>PURPOSE OF REPORT</b>	To bring forward the Motion from Ordinary Council with supporting information to allow for a debate on the continuance of the Panel.
<b>CORPORATE OBJECTIVES</b>	Developing internal systems and processes to deliver better value for residents
<b>IMPLICATIONS</b>	
• <b>Legal</b>	The Panel has been properly set up along with Terms of Reference which provide for it to be responsible for certain functions and the implications of that need to be considered.
• <b>Finance</b>	The financial implications are addressed in this report
• <b>Staff</b>	There are no additional staffing implications.
• <b>Risk Management</b>	There are no risk implications.
• <b>Asset Management</b>	There are no additional asset management implications.
• <b>Health &amp; Safety</b>	There are no additional health & safety implications.
• <b>Equality &amp; Diversity</b>	There are no additional equality & diversity implications.
<b>ACTION REQUIRED</b>	To consider the Motion

Members will recall that at the Ordinary Council meeting which took place on 24<sup>th</sup> October 2012 a Notice of Motion was put forward for consideration by Councillor Kendall.

The motion read as follows:

*"The Members of Brentwood Council call for the Parking, Borough Project Liaison and Highways Localism Panel to be disbanded and all its responsibilities and duties transferred to the Environment Panel with immediate effect".*

The Motion was duly seconded and was due to be passed to the next meeting of Ordinary Council on 19<sup>th</sup> December 2012 for consideration. However in accordance with Standing Order number 1.4 a request was made for an extraordinary meeting of the Council to be called to discuss this matter.

## **Background**

Members will be aware that the appointment of the Parking, Borough Project Liaison and Highways Localism Panel took place at the Annual Council Meeting which took place on 16<sup>th</sup> May 2012. This was a part of the appointment of Committees and Panels to deal with the Council's obligations.

During this year the County Council established a revised highways localism arrangement whereby funding was delegated to a panel involving the 4 County Councillors and this Council was given the opportunity to nominate 4 Borough Councillors. This was agreed and is known as the Brentwood Local Highways Panel. Terms of reference are attached as Appendix 2a.

As a result of the formation of this panel the terms of reference of the Borough panel were reviewed and are set out at Appendix 2b. The Borough Panel has no direct responsibility for highway matters but was set up to influence both the County, the South Essex Parking Partnership and the Local Highways panel, as well as giving opportunities for Borough Councillors and Parish Councils to input into the highways agenda. Apart from this the Borough Panel also has responsibility for management of off- street car parks and projects.

## **Process of the meeting cycle**

The Borough Panel meetings have taken place so far on 19<sup>th</sup> June, 19<sup>th</sup> September and 6<sup>th</sup> November 2012. There is only one more meeting scheduled to occur which is set for 15<sup>th</sup> January 2013.

## **Governance Review**

As stated earlier in this report there is only one more meeting scheduled for the Parking, Borough Project Liaison and Highways Localism Panel which is set for 15<sup>th</sup> January 2013.

Prior to that meeting a report is already due to be submitted to the Ordinary Council meeting on 19<sup>th</sup> December 2012 which will set out the results of the Governance Working Party (a cross party group looking at Governance options across the whole Council), and this will contain some changes to the way the Council will operate.



The Council will consider proposals put forward and these will include consideration of a new governance regime which will impact on a number of Panels including the Parking panel. It is anticipated that any new regime will come into place in the next municipal year and that the remainder of meetings in this cycle will continue. The last meeting of the Parking Panel in the cycle, if new arrangements are agreed, would effectively be to complete its business with final reports on schemes and to prepare for a handover of its work. It would make sense for that final meeting to take place irrespective of this motion for those reasons and to complete its business. This has the sensible benefit of considering governance options as a whole rather than simply looking at one panel now and the remainder as part of the review.

In terms of any potential cost saving given that there is only one remaining meeting in the Committee calendar for this meeting it is estimated that the cost saving would be around £1,600.

### **The operational effects of any changes**

It is recommended that this decision is deferred and considered together with the Governance review at the Ordinary Council meeting on 19<sup>th</sup> December 2012 along with other Governance and issues arising. To take any decision in isolation in advance of that report would be to consider one part of the Council's function without regard to the big picture.

If any decision is taken there are a number of operational issues which must be addressed if any decision is taken to disband or restructure the Panel.

- The Brentwood Local Highways Panel will continue without direct agenda input from a supporting Panel
- The Chairman of that Panel would be presumed to continue to be the current Chairman, at least for the remainder of the current year (After that it is for the panel to appoint a chair)
- All business set to come before the meeting needs to be allocated to the most appropriate other Committee, Panel or Board.
- The Terms of Reference need to be allocated to the most appropriate alternate Committee, Panel or Board. Consideration needs to be given the most appropriate alternate for Parking Charges, Management of off-street Parking, SEPP chairman, Projects. Localism is already included under the Asset Panel. Highways Localism is covered by the Local Highways Panel
- Chairmanship of SEPP would need to be the person who Chairs the relevant Committee, Panel or Board taking the Parking remit from the residual Terms of Reference.
- Operational management of Highway's related enquiries. As the Council has already taken a decision that these will be reported direct to the County Council this is not such an issue except on a transitional basis

DECIDED:

**Brentwood Local Highways Panel**

**Terms of Reference**

The Panel will consist of the four Essex County Councillors (ECC) and four councillors nominated by the Borough Council.

The Local Highways Panel will:

- Prioritise and make recommendations for projects/schemes to the ECC Cabinet Member for Highways and Transportation within their allotted budget. The scope of works that can be prioritised by the Panel will include the following areas of capital spend:-
  - Traffic Management improvements
  - Tackling congestion
  - Safer Roads (including casualty reduction)
  - Public Rights of Way improvements
  - Cycling schemes
  - Passenger Transport improvements
  - Minor improvement schemes
- Have regard to the advice from ECC officers on relevant statutory/duty of care requirements.
- Oversee and set priorities for schemes funded through the localism process and the work of the Highways Ranger Service.
- Monitor the delivery of the agreed programme and raise issues and concerns through agreed procedures.
- Consider any other Highways and Transportation matter referred to the panel from time to time by other council constituted bodies, panels or groups.
- Make recommendations to the ECC Cabinet Member for Highways and Transportation to amend targets or discretionary policies and/or amend budget allocations between programmes if necessary to meet local priorities.
- Take a lead role in liaison with town/parish councils

## **Governance**

- The LHP will elect a Chairman at its first meeting in the annual cycle
- Decision making to be agreed by LHP and clearly minuted to be actioned.
- Meetings will be in public
- ECC Cabinet Member for Highways and Transportation reserves the right to reject any scheme promoted by the LHP that falls outside of ECC policies and standards.
- Meetings to coincide with the Parking, Borough Project Liaison and Highways Localism Panel of the Borough Council and to avoid clashes with County Highway panel meetings.

## **APPENDIX 2B**

### **TERMS OF REFERENCE FOR PARKING, BOROUGH PROJECT LIAISON AND HIGHWAYS LOCALISM PANEL**

#### **Section A – Highways**

1. To influence the County Council in its highway functions including promotion of traffic regulation orders (signage and lineage).
2. To inform the work of the Local Highways Panel.
3. To co-ordinate public consultation and engagement mechanisms to inform priorities and decision making under the Highways Localism Initiative.
4. To contribute towards the development of ECC's annual Highways Capital Budget.
5. Environmental Improvement Schemes.
6. Provision of off-street car parks.

#### **Section B – Charges**

To recommend to the Policy and Resources Board setting of car park charges on an annual basis.

#### **Section C – South Essex Parking Partnership**

The Chairman will be the Council's representative on the South Essex Parking Partnership.

#### **Section D – Projects**

To consider all implications and to oversee and provide support for all large projects within the Borough (such as Crossrail) and any other projects as may be identified by the Leader or through the Policy & Resources Board.

#### **Section E – Localism**

To provide a new way of thinking and working together with our partners.

**EXTRAORDINARY COUNCIL MEETING**  
**26<sup>TH</sup> NOVEMBER 2012**

**LIST OF BACKGROUND PAPERS**  
**LOCAL GOVERNMENT ACT 1972 (AS AMENDED)**

**COMMITTEE: EXTRAORDINARY COUNCIL**

**DATE: MONDAY 26<sup>TH</sup> NOVEMBER 2012**

**AGENDA ITEM & BACKGROUND DOCUMENTS**

1. **Apologies for Absence:** N/A
2. **Motion regarding the development of William Hunter Way:** Minutes of Ordinary Council 24.10.12 MD
3. **Motion regarding the Parking, Borough Project Liaison and Highways Localism Panel:** Minutes of Ordinary Council 24.10.12 MD
4. **Urgent Business:** N/A MD