

Minutes

Ordinary Council 11.12.2013

Membership/Attendance

- | | |
|--------------------|---------------------|
| * Cllr Aspinell | * Cllr Kerlake |
| * Cllr Baker | * Cllr Le-Surf |
| Cllr Mrs Beeston | * Cllr Lloyd |
| * Cllr Braid | * Cllr McCheyne |
| * Cllr Carter | * Cllr Mrs McKinlay |
| * Cllr Chilvers | * Cllr Morrissey |
| * Cllr G Clark | * Cllr Mrs Murphy |
| * Cllr N Clarke | * Cllr Mynott |
| * Cllr Mrs Coe | * Cllr Dr Naylor |
| Cllr Mrs Cohen | * Cllr Parker |
| * Cllr Mrs Cornell | * Cllr Mrs Pound |
| * Cllr Mrs Davies | * Cllr Quirk |
| * Cllr Ms Golding | * Cllr Reed |
| * Cllr Mrs Henwood | * Cllr Russell |
| * Cllr Hirst | * Cllr Sapwell |
| * Cllr Mrs Hones | * Cllr Sleep |
| * Cllr Hossack | * Cllr Sparling |
| * Cllr Keeble | * Cllr Tee |
| * Cllr Kendall | |

*present

Officers Present

Alison Crowe - Managing Director
Laura Edwards – ECC Legal Services
Chris Gill – Interim Strategic Asset Manager
Jo-Anne Ireland – Director of Strategy and Corporate Services
David Lawson – Monitoring Officer
Philip Ruck – Programme and Project Manager
Jean Sharp – Governance and Member Support Officer
Lee Taylor – Policy and Programme Manager

291. Apologies for Absence

Apologies for absence were received from Cllrs Mrs Beeston and Mrs Cohen.

292. Mayor's Announcements

All present stood for a minute's silence in tribute to former Councillor Geoff Jennings and Nelson Mandela.

The Mayor recounted some of the engagements she had undertaken since October.

293. Minutes of Ordinary Council 23.10.2013

Resolved to approve as a true record the minutes of the Ordinary Council meeting held on 23.10.13

294. Variation in the Order of the Agenda

In view of the public presence, the Mayor MOVED and Cllr Mrs McKinlay SECONDED and it was RESOLVED UNANIMOUSLY that Item 15 – William Hunter Way – be considered as item 4 on the agenda.

295. William Hunter Way

A final supplemental report had been circulated shortly before the meeting which the Mayor agreed to accept as urgent business.

The report provided the current status of the scheme to develop the William Hunter Way site and highlighted events that had occurred since the Ordinary Council meeting 23rd October 2013.

Members received a presentation to update them on the current situation. They were also reminded that the Development Agreement (DA) was still in force. Whilst the revised longstop date for the DA of 7th December 2013 had passed, the agreement remained in force until either party terminated it and discussions were still continuing with the developer.

As at the date of the report, the items that were considered resolved were:

- a) Stockland Halladale (UK) Limited (Stockland), had confirmed that the financial appraisal provided by them in late October 2013, was their final financial appraisal. Since the October 2013 report to Ordinary Council, Stockland had improved the financial return to the Council. This had been achieved by increasing the minimum guaranteed rental on a per annum basis, from £209,000 to £225,000. This was the result of an increase in the Council share of net rents from 10% to 10.77%.
 - b) Of the Nine Conditions Precedent (CPs) the following were resolved
 - I. The Title condition (with the exception of the Barclays Condition and indemnity Insurance - (detailed at 5.7.1 in the report)
 - II. The planning condition (note the S106 was due to be signed the following week)
 - III. The Lettings condition – subject to the Council agreeing to the variation to the Development Agreement relating to the car park.
 - IV. The Highways condition
 - V. The Site Investigation condition
 - c) The Council had received confirmation from the guarantor of the developer that they had approved the transaction and were committed to the deal between Stockland and the Council.
 - d) The Council had received confirmation that the guarantor of the developer had allocated funds, or had an arrangement in place, to meet the requirements to build the scheme to complete by September 2015.
 - e) A detailed project plan to allow BBC to understand the underlying milestones of the construction plan.
- 1.1 As detailed in section 6 of the report, the following four Conditions Precedent (CPs) were considered unresolved):
- I. The waiver from Stockland for the appropriation condition which this would be granted subject to the Barclays condition being resolved (section 6.9). Subject to the Barclays condition being resolved this was not seen as a major issue.
 - II. The waiver from Stockland in relation to the Developers Land condition. This was not seen as a major issue.
 - III. The Barclays condition
 - IV. The Sainsbury's condition

- 1.2 The report also provided a comparison with the original proposal for the scheme agreed by Members in May 2007.
- 1.3 It was clear that any recommendation must reference the risk associated with approving the scheme. A summary of the risks was shown in section 11 but the major risks mainly related to:
 - a) The deliverability of the scheme by the developer.
 - b) The resolution of all Conditions Precedent.
 - c) The lack of clearly defined damages/ penalties within the original development agreement should construction work either not start on time or finish on time.
- 1.4 In order to mitigate these risks and protect the public purse the Council had requested from the Developer that Stockland agree to amendments to the Development Agreement to mitigate risk.
 - a. To reflect the introduction of penalties should building work not commence by September 2014.
 - b. To reflect the introduction of penalties should building work not complete by the end of December 2015.
 - c. The option to terminate the agreement should building work not commence by September 2014.
 - d. A new Heads of Terms be agreed relating to the introduction of the penalties for late starting/finishing and clearer definitions of “start on site”. All terms to be concluded by end of January 2014.
- 1.5 Discussions with the Developer relating to the application of penalties were on-going and despite best efforts on both sides had not concluded.

Cllr Mrs McKinlay MOVED and Cllr Parker SECONDED the recommendations in the supplementary report and officers were thanked for their work in progressing matters in relation to the development and for preparing the report.

After a full discussion, a Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded. Members voted as follows:

FOR: Cllrs Braid, Mrs Coe, Mrs Cornell, Ms Golding, Mrs Henwood, Hirst, Mrs Hones, Hossack, Kerlake, McCheyne, Mrs McKinlay, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell, Sleep, Sparling and Tee (20)

AGAINST: Cllrs Aspinell, Baker, Carter, Chilvers, Clark, Clarke, Mrs Davies, Keeble, Kendall, Le-Surf, Lloyd, Morrissey, Mynott, Quirk and Sapwell (15)
ABSTAIN: (0)

The Motion was CARRIED and it was RESOLVED:

1. That authority is delegated to the Council's Managing Director, in consultation with the Leader of the Council and the Cross Party Working Group to negotiate to conclude the transaction with Stockland and finalise the Development Agreement and Conditions Precedent. This Delegated Authority will cover inter alia:
 - a) Agreement of the penalty clauses and the associated quantum (outlined in 1.7 above)
 - b) Agreement to proposed variations to the Development Agreement (in line with those either being negotiated in (a) above and those already tabled by Stockland).
 - c) Should the proposed share transfer of Stockland proceed, to enter into necessary documentation including a formal deed of release and a new guarantee with the replacement guarantor.
 - d) That these negotiations be concluded by the end of January 2014.
2. As a consequence of a positive outcome of the negotiations outlined in 1. above for the Council, the Development Agreement will not be terminated.
3. Should the negotiations with the Developer referred to in 1. above not be agreed, officers will not proceed with making the DA unconditional and delegated authority is to be given to the Council's Managing Director in consultation with the Leader of the Council and the Cross party Working Group to serve notice in accordance with the terms of the Development Agreement to terminate the Development Agreement.

(Cllr Mynott declared a pecuniary interest under the Council's Code of Conduct by virtue of living adjacent to the proposed development site. However, the Monitoring Officer had granted a dispensation for Cllr Mynott to participate in the discussion regarding William Hunter Way on the grounds that it was in the interests of persons living in the authority's area that he be able to put their views and concerns).

296. Adjournment of meeting

In accordance with Part 4.1, Rule 8.4.3 (General disturbance) of the Council's Constitution, the meeting was adjourned for ten minutes.

297. Public Questions

None had been received.

298. Memorials and Petitions

Cllr Kendall presented a petition requesting that the Council reinstates the maintenance of the communal lawn areas on the Brackenwood Development.

The petition would be referred to the appropriate committee for consideration.

299. Chairs Reports

Chairs' reports were noted.

300. Members' Questions to Committee Chairs

In accordance with Rule 7.4 of Council Procedure Rules, 7 written questions had been received from Members and details of these would be appended to the minutes.

Following the putting of these written questions to Chairs and receiving responses, oral questions were asked of Chairs and responses given.

301. Local Council Tax Support Scheme 2014/15

The 2013/14 Local Council Tax Support (LCTS) scheme was adopted by Ordinary Council on 19th December 2012 and replaced Council Tax Benefit (CTB) from 1st April 2013. The scheme only affected working age claimants as pensioners were protected and continued to be paid in accordance with the CTB regulations.

A report outlining the findings of the first year of operation of the Scheme was reported to the Overview and Scrutiny Committee on 18th September 2013 and proposed amendments to the scheme were considered by a Task and Finish Group.

Consultation with residents regarding the proposals was conducted over a 6 week period from 20th September 2013 to 1st November 2013 but as all of the proposals were favourable to residents, not unexpectedly a low key response was received. Only three residents responded to the consultation but all were in favour of introducing the changes.

The final proposals were then agreed by Overview and Scrutiny Committee at its meeting on the 26th November 2013 before submitting the final scheme to Full Council for adoption.

Cllr Mrs Henwood MOVED and Cllr Hirst SECONDED the recommendations in the report and following a full discussion and a vote on a show of hands it was RESOLVED that:

1. Members note the consultation response and Equality Impact Assessment as set out in the document at Appendix A.
2. The Council adopts the 2013 Local Council Tax Support (LCTS) scheme and includes the following policy amendments:
 - a) Protections for residents acting as a carer.
 - b) An up-rate of up to 1% to the applicable amount for working age claimants in line with DWP rates for Housing Benefit.
 - c) A delay in the assessment of notional income for self employed claimants until their third year of operation and using either the higher of the current rate of minimum wage or the appropriate market rate for the employment market that the claimant or their partner is operating in.
3. The Council endorses the following proposed change to current Council Tax Discounts and Exemptions for 2014/15:
 - a) To reduce the discount on properties that has major repairs or structural alterations to 25% for 12 months.
4. That the Council adopts the proposals to impose penalties on residents who fail to notify the Council of a relevant change in circumstances that affects the amount of Council Tax liability as follows:
 - a) Housing Benefit - £50
 - b) Local Council Tax Support - £70
 - c) Council Tax - £70
5. In order to implement working age up-rating in line with DWP rates for Housing Benefit, delegated powers are awarded to the Section 151 Officer, in consultation with the Leader and Deputy Leader of the Council to make minor technical changes to the Local Council Tax Support Scheme.

302. Revised Calendar of Meetings

Members were asked to consider and review a revised Calendar of Meetings from May 2014 – July 2014 and alterations to the 2013/14 Calendar of Meetings.

Cllr Mrs McKinlay MOVED and Cllr Hirst SECONDED the recommendations in the report and following a discussion it was RESOLVED:

1. To approve the revised Calendar of Meetings May 2014 to July 2014.
2. To approve an additional Licensing Committee on 26.03.2014.
3. To approve the change of Audit Committee from 21.01.2014 to 11.03.2014.

303. Notice of Motion – Part Night Lighting

Cllr Kendall had submitted the following Motion:

"The Members of Brentwood Borough Council call on Cllr Rodney Bass the Cabinet Member for Highways at Essex County Council to delay the proposed introduction of "Part Night Lighting" in Brentwood from February 10th 2014 to a later date.

This action will give councillors, residents and local interest groups sufficient time to properly study the maps showing where the lights are going to remain on in the Borough and make representations to the County Council on other areas that should be included. The County Council have said that the maps showing where the lights are going to remain on won't be available for public viewing until 24th January 2014 which gives very little time for interested parties to engage in the process".

Cllr Aspinell SECONDED the motion.

Following the debate , Cllr Hirst MOVED and Cllr Mrs McKinlay SECONDED that, in accordance with Part 4.1, Rule 8.3.12(i) of the Council's Constitution, the question be now put. A vote was taken on a show of hands and it was RESOLVED that "The question now be put" and the mover and seconder of the substantive motion were invited to speak before the vote was taken.

A Member requisitioned pursuant to Part 4.1 of the Constitution, Rule 9.5, that voting on the Motion be recorded.

Cllrs Mrs Cornell and Hossack left the meeting before this vote was taken.

Members voted as follows:

FOR: Cllrs Aspinell, Baker, Carter, Chilvers, Clark, Clarke, Mrs Davies, Keeble, Kendall, Lloyd, Mynott, Quirk and Sapwell (13)

AGAINST: Cllrs Mrs Coe, Ms Golding, Mrs Henwood, Hirst, Mrs Hones, Kerslake, McCheyne, Mrs McKinlay, Mrs Murphy, Dr Naylor, Parker, Mrs Pound, Reed, Russell, Sleep and Sparling (16)

ABSTAIN: Cllrs Braid, Le-Surf, Morrissey and Tee (4)

The Motion was LOST.

304. Notice of Motion - Pensioners' Bus Passes

Cllr Kendall withdrew his motion having been advised that pensioners' bus passes would continue to be useable from 9.00am.

305. Notice of Motion - Multi Purpose Vehicle

Cllr Aspinell had submitted the following motion:

"That this Council resolves to investigate supporting the purchase of a multi-purpose vehicle for snow clearance and grit spreading through a financial contribution equivalent to the purchase cost of such a vehicle to be presented to the Essex Fire Authority. This vehicle would be permanently based at Brentwood Fire Station for exclusive use within the Brentwood Borough boundary and used to make safer the areas identified by Brentwood Borough Council not covered by ECCs winter programme.

This contribution would constitute a one-off capital expenditure and the Fire Authority would take on the revenue, maintenance and insurance responsibilities and undertake the crewing of the vehicle".

Cllr Clark SECONDED the motion.

A vote was taken on a show of hands and the Motion was CARRIED.

306. Notice of Motion – Webcasting

Cllr Aspinell submitted the following Motion:

"That this Council resolves to implement continual coverage of the Webcast facility for Part 2 Agenda Items.

It is the Council's responsibility to make sure that Part 2 items would not be transmitted for public consumption but stored for record keeping and reference archive material. Also, that all Part 1 and Part 2 Webcast recordings are stored for historical and reference purposes in perpetuity".

Cllr Chilvers SECONDED the Motion.

Cllr Mrs McKinlay proposed an AMENDMENT which was accepted.

A vote was taken on a show of hands and it was RESOLVED UNIMOUSLY:

"That this Council resolves to implement continual recording for Part 2 Agenda Items.

It is the Council's responsibility to make sure that Part 2 items would not be transmitted for public consumption but stored for record keeping and reference archive material.

Also, that the feasibility of storing Part 1 and Part 2 Webcast recordings for historical and reference purposes be explored".

307. Notice of Motion – William Hunter Way Disabled Car Park

Cllr Mynott had submitted the following Motion:

"At Policy in 2007 it was unanimously resolved to delegate authority to officers, following consultation with the Chair 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" [Policy Board, 14th March 2007; minute 524; Pp.348/349].

Thought has therefore been given to the repercussions of this for Barclays. There is no evidence, however, that thought has been given to the possible consequences for Brentwood's disabled residents, nor that it was even apparent to members in 2007 that the William Hunter Way disabled car park might be lost because of their resolution.

As such it is illegitimate to attempt to hang the entire six-year process, subsequent to 2007, on the phrase 'all necessary action'. Without any judgement of Barclays, considering its interests over those of Brentwood's disabled community is not acceptable, and Full Council must vote on whether it is prepared to sell off the disabled car park, and sell out the disabled".

The Monitoring Officer advised Members that the Motion was contrary to the resolution made earlier in the meeting relating to William Hunter Way and therefore the Mayor was unable to accept it.

Written questions and responses at Ordinary Council 11.12.2013

1) County Council Consultations - To The Leader of the Council

Why have the members of Brentwood Borough Council not been given the opportunity to discuss and give their views at a Committee / Panel meeting on a number of public consultations being undertaken by Essex Council which include "Home to School Transport" and "Childrens Centres"?

These two specific consultations and others will have a major impact on the lives of some of our residents but this Council has now missed the opportunity to contribute to both as the closing date for submissions has now passed. Is it now the policy of your administration to not give members collectively an opportunity to take part and give a view on County Council consultations?

Both the above recent consultation exercises were issued from Essex County Council and well publicized. Members, Residents and local businesses were encouraged to respond, providing feedback using an on line facility.

2) Transport - To the Leader of the Council

Does this administration fully appreciate the fact that there are many vulnerable residents in Brentwood who unable to access public transport due to age, illness and geographical isolation? If it does, what specific action is the administration going to take to ensure that Brentwood Community Transport, the transport provider for these residents, is going to be given the ongoing financial support it needs from this Council to continue providing such an important service?

The current Service Level Agreement with Brentwood Community Transport and Essex County Council is due to expire in March 2014. Essex County Council cannot confirm what funding they are allocating to any of the Community Transport schemes until January 2014. In order to provide an interim arrangement consideration is being given in the short term to develop a one year SLA with Brentwood Community Transport so that some level of support will be maintained over the next 12 months. Brentwood Community Transport will also be involved in the face to face meetings that will taking place with those organizations that the Council directly grant fund to look at future funding arrangements beyond that.

3) Localism - To the Leader of the Council

The administration says it wants to optimise opportunities for partnership working with the voluntary sector to provide new/different services. Please could the leader give me some specific examples of where this might work?

As part of the Funding Strategy implementation the Council is looking to develop with the Council for Voluntary Services a Volunteer Centre which will provide one to one support for those wishing to

volunteer. This may involve a number of voluntary organizations supporting the volunteer centre as it is developed. There will also be a number of face to face meeting with those organizations that we currently directly grant aid to look at future funding and to develop the commissioning prospectus that will support the Council's priorities, sub priorities and support the needs of our residents. Organisations will be encouraged to bid for funding to deliver services outlined within the prospectus which is likely to involve new organizations in partnership with the Council and with coalition with other voluntary organisations. To ensure our voluntary sector is sustainable all new ways of working with them are being explored. An example of this includes working in partnership with Brentwood Rugby Club who through leasing our land has enabled them to access £50k to enhance and maintain this sports facility. Similarly working in partnership with the Skatepark Association and the sensory garden has led to them accessing external funding of £80k and £30k respectively. Brentwood Council has a long history of supporting the voluntary sector as it recognizes the valuable contributions they make to our community. Other groups the Council supports include Countryside volunteers, Hutton Community Partnership, Brentwood Community Print, Shenfield and Pilgrims Hatch Environmental Partnership, Citizens Advice Bureau and Neighborhood Watch.

(Question 4 from the original list submitted regarding Part Night Lighting was withdrawn by Cllr Kendall as he has submitted a motion regarding the issue).

4) Brentwood Youth Strategy Group - To the Leader of the Council

As your administration is unwilling to discuss at Committee the savage cuts to Youth Services being proposed by Essex County Council is there any point in you continuing to appoint a member of your group as the Chairman of the Brentwood Youth Strategy Group?

The members of the Youth Strategy Group discussed at length the consultation that had been circulated by Essex County Council regarding the proposed cuts to the budget and agreed that they would send a response on behalf of the Youth Strategy Group to the consultation with any issues or concerns that they had raised in the meeting. The structure of the YSG is the same across Essex with both County Councillors and local councillors represented. The appointment of the chair (Cllr Will Russell) was agreed at the inaugural meeting of the group 9th May 2012 for a period of 2 years.

5) Youth Service Cuts - To the Chairman of Community Services Panel

Do you support the savage cuts proposed to Youth Services by Essex County Council which will mean we have no professional youth workers operating on the ground in Brentwood, see an end to the mobile youth bus travelling around our Borough and local spending on young people cut to the bone?

The consultation on the proposed reduction of budget allocated from £5M to £2M to youth services has just closed and Members of the YSG agreed for officers to submit a response to the consultation which highlighted any concerns that they have regarding the future provision for young people. In summary the response is that:

- With a reduction in budget, Essex County Council will need to ensure that services are targeted so that those young people that most need support, still continue to receive it. No decisions have been made as to the level of service in each area that will be provided by ECC Youth Services as the consultation has just concluded. Essex County Council will need to assess the implications raised in the feedback from the consultation before any final decisions are made.
- There will be an impact to services with the proposed reduction of funding so Essex County Council will need to ensure that if any other organizations are delivering any of these youth services that they have the capacity, training, facilities to be able to deliver it effectively. Essex County Council will also need to ensure that they continue to have an overview of the services that are delivered to ensure that there are no gaps in provision.

6) Licence for Marriage Ceremonies - To the Leader of the Council

Is Brentwood Borough Council going to apply to Essex County Council for a licence to hold marriage ceremonies in the Council Chamber at the Town Hall?

Officers are currently in discussion with Essex CC in relation to both moving registrars from their current location into the Town Hall and also using the Council Chamber to hold marriage ceremonies, as happened for a short period in 2011. This will be built into the Design Brief for the Town Hall project and considered by the Town Hall Delivery Group.

At the moment discussions are at an early stage but both parties are keen, subject to agreeing terms, that this should happen.