

Minutes



To: All Members of the Cabinet,
Chief Executive, Chief Officers

From: Legal, Democratic & Statutory Services
Ask for: Deborah Jeffery
Ext: 25563

CABINET 18 DECEMBER 2017

ATTENDANCE

MEMBERS OF THE CABINET

D A Ashley, T L F Douris, T C Heritage, T W Hone, R M Roberts, R Sangster, J D Williams
(Leader of the Council), C B Wyatt-Lowe

Other Members in Attendance

T Hutchings, R Thake

Upon consideration of the agenda for the Cabinet meeting on 18 December 2017 as circulated, copy annexed, conclusions were reached and are recorded below:

Note: Interests declared by Members of the Cabinet in relation to the matters on which conclusions were reached at this meeting are recorded at item 5 below.

PART I ('OPEN') BUSINESS

1. MINUTES

1.1 The Minutes of the Cabinet meeting held on 13 November 2017 were confirmed as a correct record and signed by the Chairman.

2. QUESTIONS FROM MEMBERS OF THE COUNCIL TO EXECUTIVE MEMBERS

2.1 There were no questions from Members of the Council to Executive Members.

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3. PUBLIC PETITIONS

3.1 There were no public petitions.

4. ADULT CARE SERVICES ESTABLISHMENT OF A LOCAL AUTHORITY TRADING COMPANY TO PROVIDE ADULT SOCIAL CARE SERVICES

[Forward Plan Ref: A058/17]

Decision

4.1 Cabinet:

- i. approved the business case for, and the establishment of, the wholly owned trading company as referred to in the report;
- ii. delegated to the Director of Adult Care Services in consultation with the Executive Member for Adult Care & Health, the Executive Member for Resources, Property & the Economy, the Director of Resources and the Chief Legal Officer, the authority to agree such documents and arrangements and to take such other actions as are appropriate to establish the company;
- iii. authorised the Chief Legal Officer, in consultation with the Director of Adult Care Services, to appoint officers as directors of the company;
- iv. agreed to provide indemnities (or equivalent insurance) under the Local Authorities (Indemnities for Members and Officers) Order 2004 to employees of the Council who are appointed as Directors of the company and delegates to the Chief Legal Officer the power to finalise and issue the indemnities;
- v. delegated authority to the Director of Resources to exercise the rights of the Council as shareholder including attending and voting at meetings, and requesting the Directors to take or refrain from taking action.

Reasons for the decision

4.2 Adult Care Services in Hertfordshire are facing unprecedented challenges while the demand for care is rising. At the same time there have been a number of cases of providers withdrawing from the market, and occasions in the home care, supported living, and residential care sectors that have required the Council to intervene to source alternative provision or take to on the services. This has highlighted the need to look at innovative solutions when the Council is required to intervene to stabilise services and ensure continuity of care.

4.3 Where alternative providers cannot be sourced, or urgency means it is not feasible to re-procure a service in time, the only option at present is for the Council to take on the direct management of a service. While this can work well, the increasing number of interventions is placing a considerable strain on

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resources and new ways of addressing the problems in the local care market need to be explored. Officers have undertaken preparatory work assessing various options including the option of creating a Council-owned Local Authority Trading Company.

- 4.4 In reaching its decision, Cabinet considered its statutory responsibilities; the business case attached at Appendix 1 to the Report, the financial implications; the positive results of the equality impact assessment carried out; and the recommendations of the Adult Care & Health Cabinet Panel.

Any alternative options considered and rejected

None.

5. REVIEW OF CURRENT FINANCIAL ARRANGEMENTS WITH GROUNDWORK EAST AND THE HERTS AND MIDDLESEX WILDLIFE TRUST

[Forward Plan Ref: A077/17]

- 5.1 **D A Ashley** declared a Declarable Interest in this item due to being a Board Member of Groundwork East. **R Sangster** declared a Declarable Interest in this item due to being a Board Member of Groundwork East. Both members remained in the room and participated in the debate and vote.

Decision

- 5.2 Cabinet agreed:-

- (i) a phased withdrawal of financial support from Herts and Middlesex Wildlife Trust and Groundwork East with effect from 1 April 2018 as follows:-
 - (a) Herts and Middlesex Wildlife Trust – a £5,000 reduction in 2018/19 and a further £5,000 reduction in 2019/20; and
 - (b) Groundwork East – a £10,000 reduction in 2018/19, a further £15,000 reduction in 2019/20 and a final reduction of £16,000 in 2020/21
- (ii) that the Chief Executive and Director of Environment be authorised to give notice to Herts and Middlesex Wildlife Trust and Groundwork East of the decision to withdraw funding, as set out in (i)(a) and (b) above.

Reasons for the decision

- 5.2 Both Groundwork East (GE) and Herts and Middlesex Wildlife Trust (HMWT) have been provided with annual grant aid and project funding support from the

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Council for over 3 decades. Over the years this financial support has diminished but both still receive annual contributions; GE £41,000 per annum; and HMWT £10,000 per annum. The Council ceased all other direct financial support to other Hertfordshire based environmental trusts/charities over a decade ago (although continued annual financial support is provided to the Chilterns Area of Outstanding Natural Beauty).

5.3 While a reduction in funding or withdrawal of funding would be a cause of concern to both organisations, it is unlikely to represent a serious financial dilemma for either. There would be no direct impacts to any Council services or activities and any external funding leveraged in through this funding does not contribute directly to Council activities or budgets.

5.4 In reaching its decision, Cabinet considered the above, together with the financial implications that a reduction in funding would effectively deliver an efficiency saving to the Council as there would be no impacts on any of the services; the legal implications; and the recommendations of the Environment, Planning and Transport Cabinet Panel.

6. WINTER SERVICE CRITERIA

[Forward Plan Ref: A051/17]

Decision

6.1 Cabinet agreed the winter service criteria as set out in paragraph 4 of the report for implementation in 2018/19.

Reasons for the decision

6.2 In October 2016, Well Maintained Highways was revised and introduced as “Well-Managed Highway Infrastructure – A code of Practice”. The new code of practice changes what highway authorities should consider when designing their maintenance services, including winter services. The document requires more significant changes to Hertfordshire’s winter service including a review of which roads are treated. A review of the criteria and the routes to be treated will take place and come into effect for the start of the 2018/19 winter season.

6.3 In reaching its decision, Cabinet considered its statutory responsibilities, the financial implications that it is not expected that the proposed criteria will have an impact on the overall winter service budget; the equalities impact assessment, including the action plan to mitigate any potential impact on those with protected characteristics and the recommendations of the Highways Cabinet Panel.

Any alternative options considered and rejected

None.

7. HIGHWAYS DRAINAGE GULLY EMPTYING AND CLEANING SERVICE
[Forward Plan Ref: A075/17]

Decision

7.1 Cabinet approved:

- i. the proposed revisions to the gully emptying and cleaning service as set out in the report; and
- ii. the proposed changes to the highway fault reporting system as set out in the report.

Reasons for the decision

7.2 The Council has stabilised the gully emptying and cleaning service through the implementation of a number of interventions. The gully emptying and cleaning service has been in the performing zone for the last two years and gully dig outs have reduced blocked gullies to less than 2% of the total number of gullies in each Member division. Revisions to the gully emptying and cleaning service include risk based assessments of gully cleaning and reorganising. Cleaning on a regular basis to ensure gullies are not filling with silt.

7.3 A change to the fault reporting system is in development that will more fully automate the reporting of a blocked gully and improve the customer journey. The fault will automatically be transferred into the Cat 5 defect pool and then is closed by the system. Customers will be informed that the fault has been transferred. This change makes it clearer to the customer that the required gully dig out has been logged as a fault

7.4 In reaching its decision, Cabinet considered the above, together with the financial implications; the equality impact assessment; and the recommendations of the Highways Cabinet Panel.

Any alternative options considered and rejected

None.

8. HERTFORDSHIRE COUNTY COUNCIL FINANCE REPORT – QUARTER 2, 2017/18
[Forward Plan Ref: A052/17]

Decision

8.1 Cabinet approved the following:

- capital budgets of £63.866m, be reprogrammed to 2018/19 or future years; and

- capital budgets of £1.279m, be reprogrammed from 2018/19 to 2017/18, to meet spend in that year as set out in the report.

[The reprogramming from 2018/19 to 2017/18 includes £0.785m Highways Maintenance budget. This is being brought forward to cover a net forecast overspend in 2017/18, in order to avoid the need to reduce spend on other 2017/18 schemes. The service are taking steps to contain the overspend, and it is proposed that any reprogramming not required in 2017/18 be transferred back to the 2018/19 budget at year end, subject to Member approval.]

Reasons for the decision

8.2 As set out above.

Any alternative options considered and rejected

None.

9. SALE OF THE AUTHORITY'S SHARE OF HERTFORDSHIRE SCHOOLS BUILDING PARTNERSHIP

[Forward Plan Ref: A057/17]

Decision

9.1 Cabinet:

- i. agreed and authorised the sale of the County Council's minority interest of 20 shares in Hertfordshire Schools Building Partnership Limited and 180 shares in Hertfordshire Schools Building Partnership Phase 1 Holdings Limited for the total sum of £1.745m to Building Schools for the Future Investments LLP; and
- ii delegated to the Director of Resources, in consultation with the Chief Legal Officer, authority to finalise the terms of the sale of the shares of the companies, and to agree the Sale and Purchase Agreement, and all other required legal documents and for the Chief Legal Officer to execute the required legal documents relating to the sale.

Reasons for the decision

9.2 At the time of investment in the companies it was anticipated that it would be used to deliver significant construction through the Hertfordshire Building Schools for the Future programme. With the ending of the programme by the Government in 2010, only those schemes which had reached financial close went ahead. The companies have been used to deliver 15 projects but a shareholding in the companies is not fundamental to the ongoing operation of the County Council, and does not have a strategic fit with other developments.

Also, given the overarching need to review the structure for County Council's company holdings, this is a helpful simplification of those holdings.

9.3 In reaching its decision, Cabinet considered the above, together with the legal implications; the financial implications; and the recommendations of the Resources, Property & the Economy Cabinet Panel.

10. JOINT PROMOTION OF LAND OWNED BY HERTFORDSHIRE COUNTY COUNCIL AND BOROUGH OF BROXBOURNE AT BROOKFIELD RIVERSIDE

[Forward Plan Ref: A076/17]

10.1 Discussion took place on this item in Part I.

11. PROCUREMENT OF THE PROPERTY DEVELOPMENT PARTNER

[Forward Plan Ref: A040/17]

Discussion took place on this item in Part I.

12. HIGHWAY SERVICE REVIEW:

(i) POTENTIAL EXTENSION OF HIGHWAYS SERVICE TERM (RINGWAY) CONTRACT AND

(ii) POTENTIAL EXTENSION TO THE CLIENT SUPPORT TERM (OPUS-ARUP) CONTRACT

[Forward Plan Ref: A072/17]

12.1 Discussion took place on this item in Part I.

13. SCHOOL TO SERVE HIGH LEIGH HOUSING DEVELOPMENT AND POTENTIAL RELOCATION OF WESTFIELD COMMUNITY PRIMARY SCHOOL, HODDESDON

[Forward Plan Ref: A083/17]

13.1 Discussion took place on this item in Part I.

**14. PART II ('CLOSED') AGENDA
EXCLUSION OF PRESS AND PUBLIC**

14.1 Cabinet then decided to move into Part II ('closed' session') and passed the decision at paragraph 14.2 below.

14.2 That under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the said Act and the public interest in

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maintaining the exemption outweighs the public interest in disclosing the information.

14.3 Following discussion on the Part II Reports on the items referred to at 10, 11, 12 and 13 above and Recommendations, Cabinet took a decision in Part 2 on Item 11 and then moved back into Part I (open session) and considered the Part I Recommendations and made the decisions at 15.1, 16.1, 17.1 and 18.1 below.

15. JOINT PROMOTION OF LAND OWNED BY HERTFORDSHIRE COUNTY COUNCIL AND BOROUGH OF BROXBOURNE AT BROOKFIELD RIVERSIDE

[Forward Plan Ref: A076/17]

Decision

15.1 Cabinet:

- (a) agreed that a joint marketing and procurement exercise between the County Council and Broxbourne Council be carried out as soon as possible, in accordance with the Public Contract Regulations 2015 using the Official Journal of the European Union in order to identify a suitable development partner for both councils' land holdings at Brookfield, Riverside, Cheshunt;
- (b) delegated to the Director of Resources in consultation with the Leader of the Council (as responsible for Resources, Property and the Economy portfolio) working with appropriate representatives from Broxbourne Council, authority to carry out the procurement process to determine which Development Partner is selected, including the necessary detailed negotiations;
- (c) delegated to the Director of Resources in consultation with the Leader of the Council (as responsible for Resources, Property and the Economy portfolio) and the Chief Legal Officer, authority to agree the terms of any agreements required between the County Council and Broxbourne Council and/or the identified Development Partner and/or any third parties;
- (d) noted the intention to make a planning application for Garden Village;
- (e) delegated to the Director of Resources in consultation with the Executive Member for Resources, Property and the Economy, to produce the necessary business case with regards the relocation of the County Council's household waste recycling centre (HWRC) and traveller's site at Halfhide Lane, Cheshunt, with consideration being given on the necessary County Council budget to support this scheme, all in accordance with the agreed

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masterplan for the Garden Village.

- (f) approved the marketing of the HWRC and travellers site, and delegated to the Director of Resources in consultation with the Leader of the Council (as responsible for Resources, Property and the Economy portfolio) and the Chief Legal Officer authority to agree the terms of this disposal (including the required legal documentation) ensuring compliance with section 123 under the Local Government Act 1972 (best consideration), as well as to consider the displacement of the services carrying out the required consultation process applicable, subject to (g) below;
- (g) noted a further report will be presented to Cabinet for approval to appoint the preferred Development Partner and terms of the agreed disposals as set out in these recommendations, including and other relevant recommendations/approvals to enable the Greater Brookfield development opportunity to be awarded and proceed.

Reasons for the decision

- 15.2 It has been a long standing policy ambition of Broxbourne Council to continue the development of the existing Brookfield Retail Park, a large, established retail area close to the A10 at Cheshunt. In 2014, Broxbourne Council and the County Council purchased land in equal shares at Cheshunt Park Farm to the north/north east of Brookfield. More recently this land has been promoted for a Garden Village development through Broxbourne’s emerging Local Plan.
- 15.3 The position has now been reached where the councils are ready to formally seek the procurement and appointment of a development partner for Brookfield Riverside and property advisor Cushman & Wakefield have been instructed by Broxbourne Council to prepare the necessary documentation.
- 15.4 Even though there is a financial cost (estimated at £60k to the County Council) and a significant resourcing impact with the County Council project participation, the overall feeling is the market will respond more positively with all land owning partners participating in the promotion. By being involved in the promotion, the County Council will also have better clarity on the delivery of key infrastructure that is needed to access the urban extension. The delivery of the infrastructure needed for the urban extension means receipts can begin to flow from that project.
- 15.5 In reaching its decision, Cabinet considered the above, together with the information from the Part II report; alternative options at items 4 of the report, the financial, legal and risk management implications and the recommendations of the Resources, Property & the Economy Cabinet Panel.

Any alternative options considered and rejected

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As per item 4 of the report.

16. **PROCUREMENT OF THE PROPERTY DEVELOPMENT PARTNER**

[Forward Plan Ref: A040/17]

Decision

16.1 Cabinet:

- i. having considered the matters set out in Part 1 & Part 2 reports, authorised the selection of the Preferred Bidder (as agreed in the Part II business).
- ii. authorised the Director of Resources, in consultation with the Leader of the Council (as responsible for the Resources, Performance & Economy portfolio), to enter into discussions with the Preferred Bidder with a view to clarifying, specifying and optimising aspects of the Preferred Bidder's final tender (including but not limited to project governance, sites to be developed, phasing, financial profile and communications) and to confirm commitments contained in the final tender.
- iii. agreed that a further report relating to the award of contract to the Preferred Bidder and approval of the final documentation to support the establishment of the JV, arrangements and the agreement of the relevant business plans is brought to Cabinet, following further refinement at closure of the preferred bidder stage.
- iv. noted that the detail of the governance arrangements, including the delegation matrix, will be reported to Cabinet following further refinement at the preferred bidder stage.
- v. delegated to the Director of Resources in consultation with the Leader of the Council (as responsible for the Resources, Performance & Economy portfolio) to work with the Managing Director of Herts Living Limited to create and agree a robust business case for the future objectives of Herts Living Limited, incorporating the objectives of the County Council.
- vi. approved the request for £0.5m allocated for capital spend to be made available for revenue spend, as set out in paragraph 11.3 of the report.

Cabinet noted that the following actions were completed as delegated per the Cabinet decision of 10 July 2017:

- i the creation of the company, Herts Living Limited ("the Company") which was incorporated on 5 September 2017

(Company number 10947722), wholly owned by the County Council to work, in due course (subject to a decision to this effect being made by the County Council), with the joint venture partner and explore other opportunities to develop land and building assets for the benefit of County Council. The model articles and memorandum of association were adopted in accordance with the Companies Act 2006. The County Council is the sole shareholder, with a holding of 1,750 ordinary shares with an aggregate nominal value of £175,000.

- ii the recruitment and appointment of a Managing Director (MD) of Herts Living Ltd, with an anticipated start date of 1 February 2018. All terms and conditions of the employment have been agreed.
- iii the appointment of the following employees of County Council as Directors of the Company: Simon Aries, Mike Evans and John Oakley, with the appropriate indemnities in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004.”

Reasons for the decision

- 16.2 In March 2017, Cabinet gave approval to carry out the procurement process to identify a Joint Venture development partner to assist the County Council, through a wholly owned subsidiary (now established as Herts Living Ltd), in the development of 12 initial sites. The OJEU process proceeded through autumn/summer 2017. Officers have completed the evaluation of final tenders submitted as part of the procurement process and recommended a Preferred Bidder, as agreed in the Part II business.
- 16.3 Cabinet considered the above, together with the Part II Report, the legal structure, the financial implications set out in the Part II Report, the risks referred to in both the Part I & II Reports and the recommendations of the Resources, Property and the Economy Cabinet Panel in reaching its decisions.

Any alternative options considered and rejected

None.

17. **HIGHWAY SERVICE REVIEW:**
(i) **POTENTIAL EXTENSION OF HIGHWAYS SERVICE TERM (RINGWAY) CONTRACT AND**
(ii) **POTENTIAL EXTENSION TO THE CLIENT SUPPORT TERM (OPUS-ARUP) CONTRACT**
[Forward Plan Ref: A072/17]

Decision

17.1 Cabinet agreed that:

- (i) the Client Support Term contract with Opus International Consultants (UK) Limited and Ove Arup and Partners Limited be extended in accordance with the contract for a period of up to 5 years;
- (ii) the Highways Service Term Contract with Ringway Infrastructure Services Limited be extended in accordance with the contract for a period of up to 5 years;
- (iii) the decision to agree the final terms of the above extensions, including the contractual documentation and any necessary notices or other documents required, is delegated to the Deputy Director of Environment in consultation with the Executive Member for Highways and the Chief Legal Officer; and
- (iv) that a report be presented to the Cabinet Panel at a later date on the final contractual arrangements for the extension of the contracts as mentioned in (i) and (ii) above.

Reasons for the decision

17.2 Given the current level of service performance, the stable platform and improved relationships within the service, combined with market uncertainty and general inflationary pressures, Cabinet considered that both contracts be extended in accordance with the contract terms. Cabinet also considered the information within the Part II Report; the independent review; the financial implications and the recommendations of the Highways Cabinet Panel when reaching its decision.

18. **SCHOOL TO SERVE HIGH LEIGH HOUSING DEVELOPMENT AND POTENTIAL RELOCATION OF WESTFIELD COMMUNITY PRIMARY SCHOOL, HODDESDON**
[Forward Plan Ref: A083/17]

Decision

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18.1 Cabinet:

- i. agreed the proposal to pursue the option to deliver a 2 f.e. school to meet demand from the High Leigh housing development, Hoddesdon through the relocation and enlargement of Westfield Community Primary School, subject to the outcome of a statutory consultation;
- ii. gave approval, with final terms to be agreed by the Director of Resources in consultation with the Leader of the Council (as responsible for the Resources, Property and the Economy portfolio) and the Executive Member for Education, Libraries and Localism, for:
 - the acquisition of additional land at High Leigh, Hoddesdon
 - the application of indexed s106 funds as detailed in the formal s106 agreement relating to the High Leigh housing development, Hoddesdon
 - the use of County Council funding equivalent to the value of the eventual disposal receipt to part-fund the acquisition of additional land at High Leigh, Hoddesdon and additional building costs
 - the use of schools Repairs and Maintenance budget and Basic Need funding to bridge the funding gap
 - the submission of a planning application for housing on the Westfield School site and completion of any planning agreement
 - the submission of a planning application for the proposed new school
 - the procurement of the new school premises, and
 - the subsequent disposal of the Westfield School site;
- iii. agreed that the Director of Children's Services is authorised to proceed with a statutory consultation, commencing in January 2018, on the proposed enlargement of Westfield Community Primary School and non-statutory consultation on its relocation to High Leigh, Hoddesdon (in line with the developer's programme, when available, and related s106 agreement stages); and
- iv. to receive an update on the financial viability of the proposal when it receives the outcome of the public consultation on the relocation and expansion of the school in April 2018.

Reasons for the decision

- 18.2 Planning permission for up to 523 dwellings at High Leigh, Hoddesdon was granted on 2 April 2015. A s106 agreement was also completed on 2 April 2015. Pupil yield from the development is anticipated to be approximately 1f.e. The s106 agreement provides for the transfer of a 1f.e. school site to the County Council and the funding to build the school at that size, however, the Council prefers schools of at least 2 f.e. due to them being more financially and educationally more viable in the longer term. Larger schools can also offer a broad curriculum and manage fluctuations in pupil numbers more easily than a smaller school.
- 18.3 The proposed development lies less than half a mile from the existing 1f.e. Westfield Community Primary School, an option for the County Council to acquire additional land sufficient to accommodate a 2f.e. school (in order to facilitate the relocation of Westfield) was secured within the s106 agreement. Relocation of the school from an older school building to modern, energy efficient accommodation would also have a positive impact on the school's running costs and the Council's ongoing repairs and maintenance responsibilities. The Governing Body of Westfield Primary is supportive of the proposal to relocate as a 2 f.e. School.
- 18.4 Cabinet considered the above together with the Council's statutory responsibility for ensuring that there are sufficient school places available in the County to meet demand, the forecast demand from the new development; the financial implications of the proposal set out in the Part I and Part II reports, and the recommendations of the Children's Services and the Resources and Performance Cabinet Panels.
- 18.5 Cabinet also expressed concern that section 106 planning obligations should be sufficient to cover all requisite infrastructure (e.g. cost of school places) and this was not always achieved.

PART II ('CLOSED') AGENDA

- 1. JOINT PROMOTION OF LAND OWNED BY HERTFORDSHIRE COUNTY COUNCIL AND BOROUGH OF BROXBOURNE AT BROOKFIELD RIVERSIDE**
[Forward Plan Ref: A076/17]

Decision

- 1.1 The Part I decision reached on this item of business is recorded at item 15 above.

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2. PROCUREMENT OF THE PROPERTY DEVELOPMENT PARTNER

[Forward Plan Ref: A040/17]

- 2.1 The Part I decision reached on this item of business is recorded at item 16 above. The Part II decision reached on this item of business is recorded in the separate Part II Minutes.

3. HIGHWAY SERVICE REVIEW:

(i) POTENTIAL EXTENSION OF HIGHWAYS SERVICE TERM (RINGWAY) CONTRACT AND

(ii) POTENTIAL EXTENSION TO THE CLIENT SUPPORT TERM (OPUS-ARUP) CONTRACT

[Forward Plan Ref: A072/17]

- 3.1 The Part I decision reached on this item of business is recorded at item 17 above.

4. SCHOOL TO SERVE HIGH LEIGH HOUSING DEVELOPMENT AND POTENTIAL RELOCATION OF WESTFIELD COMMUNITY PRIMARY SCHOOL, HODDESDON

[Forward Plan Ref: A083/17]

The Part I decision reached on this item of business is recorded at item 18 above.

**KATHRYN PETTITT
CHIEF LEGAL OFFICER**

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