

Minutes



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

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

CABINET 19 MARCH 2018

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

D Andrews, N Bell, P Bibby, J Billing, M D M Muir, C B Woodward

Upon consideration of the agenda for the Cabinet meeting on 19 March 2018 as
circulated, copy annexed, conclusions were reached and are recorded below:

*Note: No conflicts of interest were declared by any member of the Cabinet in relation to the
matters on which decisions were reached at this meeting.*

PART I ('OPEN') BUSINESS

1. MINUTES

- 1.1 The Minutes of the Cabinet meeting held on 19 February 2018 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.

CHAIRMAN'S INITIALS

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3. PUBLIC PETITIONS

- 3.1 There were no public petitions.

4. 15 YEARS: FUTURE DIRECTION & STRATEGIC DIRECTION FOR ADULT SOCIAL CARE IN HERTFORDSHIRE

[Forward Plan Ref: A019/17]

Decision

- 4.1 Cabinet agreed the Fifteen Year Direction for Adult Care Services as outlined in Appendix A, attached to the report.

Reasons for the decision

- 4.2 The Fifteen Year Direction document sets out the ambition for the future, to guide the development and transformation of our services for all the people the Council support. The document sets a future course of travel for adult social care which will increasingly see the service involved in supporting significantly more people than at present, with a role less focussed on direct service provision and more on the infrastructure that supports people to remain well and independent and continue the evolution towards a role of provider of information and advice, commissioner, regulator and emergency safety net.
- 4.3 Cabinet considered the above in reaching its decision, together with the responses to the consultation exercises; the financial implications; the equalities implications; and the recommendations of the Adult Care & Health Cabinet Panel.

Any alternative options considered and rejected

None.

5. AMENDMENT TO CHARGING POLICY FOR COMMUNITY-BASED ADULT SOCIAL CARE

Decision

- 5.1 Cabinet:
- i) agreed to revise the charging policy agreed on 22 January 2018 and remove the requirement to include the Higher Rate of Attendance Allowance and Disability Living Allowance where people receive care to meet night time needs, when determining how much a person can afford to pay towards their cost of care; and

- ii) agreed that the Director of Adult Care Services be authorised to make the amendments necessary to the charging policy to give effect to Cabinet's decision outlined in i) above.

Reasons for the decision

- 5.2 On 19 February 2018, Cabinet considered the Integrated Plan for 2018/19 which included the budgetary implications of the charging policy amendments. Cabinet made a recommendation that the adult care services budget be increased by £310k, equivalent to the amount estimated to be generated by the proposal to include higher rates of Attendance Allowance (AA) and Disability Living Allowance (DLA) in financial assessments for people with night time care and support needs that are being met by the Council.
- 5.3 In the light of its recommendation, Cabinet requested that a report be brought to its meeting in March 2018 to formally consider a proposal to further amend the charging policy for community based adult social care services, removing the requirement to include higher rates of AA and DLA when assessing the financial contribution that people with night time care and support needs can afford to pay.
- 5.4 In reaching its decision, Cabinet considered the above, together with the financial implications; the equalities implications; and the recommendations of the Adult Care & Health Cabinet Panel.

Any alternative options considered and rejected

None.

7. HIGHWAYS INTEGRATED WORKS PROGRAMME & PROCUREMENT ROUTES 2018/2019

[Forward Plan Ref: A089/17]

Decision

- 6.1 Cabinet:
 - (i) adopted the proposed Final Integrated Works Programme as Hertfordshire's highway works programme for 2018/19, as set out in appendices A and B to the report; and
 - (ii) noted the 2019/20 Forward Works Programme, as set out in Appendix C to the report, as the basis for development of the 2019/20 Highways Integrated Works Programme.

Reasons for the decision

- 6.2 The IWP and FWP have been developed over the past year to deliver key targets for the maintenance and improvement of the highway network. They

**CHAIRMAN'S
INITIALS**

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have been developed as part of the annual process and in line with the County Council's Transport Asset Management Plan (TAMP) and the Local Transport Plan (LTP).

- 6.3 In reaching its decision, Cabinet considered the above, together with the financial implications; the equalities implications; and the recommendations of the Highways Cabinet Panel.

Any alternative options considered and rejected

None.

7. PROVISION OF A SUSTAINABLE HOUSEHOLD WASTE RECYCLING SERVICE

[Forward Plan Ref: A010/18]

Decision

- 7.1 Cabinet agreed that all 3 options in Appendix 3 to the report should be considered further and requests that the Chief Executive and Director of Environment brings a paper back to Cabinet Panel and then Cabinet setting out the details of this/these options (including but not limited to how the option(s) would be implemented, the impacts of taking forward the option(s), equality impacts assessments and proposals for public consultation).

Reasons for the decision

- 7.2 Household Waste Recycling Centres (HWRCs) are provided by Hertfordshire County Council as the Waste Disposal Authority (WDA) under Section 51 of the Environmental Protection Act 1990. It is a statutory requirement to provide places within the county for use by residents to dispose of their own household waste.
- 7.3 The HWRC contract with Amey is comparably high performing and low cost, however, increased pressure is being experienced by increased visitor numbers, aging facilities and market conditions that are proving a disincentive to the contractor which represents a risk to the council's budget position and service delivery.
- 7.4 In order to achieve a more sustainable HWRC network for the future, targeted savings and/or income options have been developed to both ease pressure on the Council and provide a basis for the contractor to continue performing at a high level. In developing these options, this report outlines the Council's obligations under current legislation and explores the possibilities for the implementation of future policies that, for example, provide cost recovery in the same way as a district or borough council may seek to recover the costs of their garden waste collection services.
- 7.5 In reaching its decision, Cabinet considered the above, together with the

legislation information provided within the report; the data analysis; the financial implications; the equalities implications; and the recommendations of the Community Safety & Waste Management Cabinet Panel.

Any alternative options considered and rejected

None.

8. CHANGES TO THE COUNTY COUNCIL'S CONSTITUTION

Decision

8.1 Cabinet recommended to County Council that:

- (a) Standing Order 8 (Questions) for Council Meetings of Annex 6 to the Constitution be amended as set out in the Appendix to the Report and incorporated into the County Council's Constitution;
- (b) Subject to Council agreeing the Programme of Meetings September 2018-July 2019 which is being presented to Council at its meeting on 27 March 2018 Standing Order 1(2) of Annex 6 to the Constitution be varied for 2019 by deleting the words 'not during half term';
- (c) the Chief Legal Officer be authorised to make any consequential amendments as may be necessary to the Constitution to give effect to the decisions at (a) and (b) above.

Reasons for the decision

8.2 Amendments are proposed to Standing Order 8 of Annex 6 to the Constitution (Standing Orders for Council Meetings) relating to the time allowed for Questions to Executive Members so that one complete rotation of questions to the Leader of the Council and all members of the Executive can take place prior to the expiry of Executive Member question time. These amendments are being proposed following the meeting of Council in February 2018 where Executive Member question time finished prior to questions being asked to all members of the Executive.

8.3 Attached to the Report is an Appendix setting out revisions to Standing Order 8(1) to (8) of Annex 6 to the Constitution to cover the changes to Executive Member question time mentioned in 2.1. The substantive revisions to the current version of Standing Orders for Council Meetings appear in bold italics.

8.4 Standing Order 1(2) of Annex 6 to the Constitution provides that the February meeting of Council should be on a weekday not during half-term, to be determined by the Council. The Programme of Meetings September 2018-July 2019 which is being presented to Council at its meeting on 27 March 2018 proposes that the meeting of Council in February 2019 should be held on 19

February which is during half term. Council, therefore, will need to vary Standing Order 1(2) to allow for this meeting to be held during half term.

- 8.5 The Constitution provides that changes to standing orders for Council can only be varied or revoked after consideration of a report from Cabinet.
- 8.6 Cabinet considered the above in reaching its decision. Full Council will consider Cabinet's recommendation at its meeting on 27 March 2018.

Any alternative options considered and rejected

None.

**9. HERTFORDSHIRE COUNTY COUNCIL –
APPOINTMENT OF JOINT VENTURE PROPERTY DEVELOPMENT
PARTNER**

[Forward Plan Ref: A014/18]

- 9.1 Prior to the meeting, a revised Appendix 4 had been circulated to Members; and an Addendum to the Report.
- 9.2 Discussion took place on this item in Part I.

**10. PROPOSED ACQUISITION OF LAND TO THE SOUTH OF BYGRAVE
ROAD, BALDOCK**

[Forward Plan Ref: A002/18]

- 10.1 Discussion took place on this item in Part I.

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

- 11.1 Cabinet then decided to move into Part II ('closed' session') and passed the decision at paragraph 11.2 below.
- 11.2 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 maintaining the exemption outweighs the public interest in disclosing the information.
- 11.3 Following discussion on the Part II Reports on the items referred to at 9 and 10 above and Recommendations, Cabinet moved back into Part I (open session) and considered the Part I Recommendations and made the decisions at 12.1 and 13.1 below.

**12. HERTFORDSHIRE COUNTY COUNCIL –
APPOINTMENT OF JOINT VENTURE PROPERTY DEVELOPMENT
PARTNER**

[Forward Plan Ref: A014/18]

Decision

12.1 Cabinet:

- i. authorised the award of contract to DevCo as a wholly owned subsidiary company of the Preferred Bidder subject to a Parent Company Guarantee from the Preferred Bidder, in accordance with the procurement process, that leads to the formalisation of the partnership between Herts Living Limited and the Preferred Bidder, subject to the award of the contract not occurring until full Council has agreed the recommendation referred to in xi below.
- ii. approved the delegation matrix for Herts Living Limited, as set out in Appendix 2, and notes that any changes to the Delegations Matrix will be in accordance with the delegations set out within that document.
- iii. approved the amended Articles of Association for Herts Living Limited, as set out in Appendix 3.
- iv. approved the County Council entering into the Initial Sites Option Agreement between the County Council, Herts Living Limited and the Joint Venture LLP (as detailed in section 12 of the report) the terms of such documents to be agreed by the Director of Resources, in consultation with the Leader of the Council (as responsible for the Resources, Performance & the Economy portfolio).
- v. authorised the Director of Resources, in consultation with the Leader of the Council (as responsible for the Resources, Performance & the Economy portfolio) to finalise all arrangements, to make any other decisions as are necessary and agree other documents (including the Parent Company Guarantee from the Preferred Bidder) necessary for the County Council to conclude the arrangements in the Recommendation 3.1.1.i
- vi. confirmed that the Director of Resources has authority to act as the shareholder representative for the County Council regarding Herts Living Limited, and has authority to authorise the Directors of Herts Living Limited to enter into a contract and create the Joint

Venture partnership with DevCo as a wholly owned subsidiary company of the Preferred Bidder, including all the required legal documents and such other documents required to enable the setting up of the Joint Venture partnership (as detailed in section 12 of the report).

- vii. delegated to the Director of Resources in consultation with the Leader of the Council (as responsible for the Resources, Performance & the Economy portfolio), as representative shareholder for County Council authority to formalise the composition and structure of the HLL Member Advisory Group.
- viii. noted the proposed corporate structure of the Joint Venture Partnership and the routes (set out in section 6 of this report) of how the County Council will transfer land for development to Herts Living Limited or the Joint Venture Partnership, and delegated to the Director of Resources in consultation with the Leader of the Council (as responsible for the Resources, Performance & the Economy portfolio), authority to implement the corporate structure of the Joint Venture Partnership and to utilise the routes for investment and the transfer of land for development to Herts Living Limited or the Joint Venture Partnership, (subject to such land being determined as surplus to requirements in accordance with the County Councils Constitution and identified by the County Council as available to Herts Living Limited or the Joint Venture Partnership).
- ix. noted that the Director of Resources in consultation with the Leader of the Council (as responsible for the Resources, Performance & the Economy portfolio), will develop with the Managing Director of Herts Living Limited the required Business Plan for Herts Living Limited, which will be presented to Cabinet at a later date to agree the terms.
- x. delegated to the Director of Resources in consultation with the Leader of the Council (as responsible for the Resources, Performance & the Economy portfolio), authority to agree and provide a loan to Herts Living Limited in the sum of £325,000, on terms that are acceptable to the Director of Resources in consultation with the Chief Legal Officer with regards the legal documentation required.
- xi. recommended that full Council approve a limit of £50m for non-treasury investments to cover the arrangements required in accordance with the routes for investment and land transfer (set

out in section 6), as required by Ministry of Housing Communities & Local Government statutory guidelines and to be included in a revised Investment or Treasury Management Strategy.

- xii. delegated (subject to full Council agreeing to recommendation xi) authority to the Director of Resources in consultation with the Leader of the Council (as responsible for the Resources, Performance & the Economy portfolio), to agree and provide loans to Herts Living Limited to fund the purchase of equity in the Joint Venture on terms that are acceptable to the Director of Resources in consultation with the Chief Legal Officer with regards to the legal documentation required.
- xiii. having considered the matters set out in the Part 1 & Part 2 reports, authorised the selection of the preferred bidder (as agreed in the Part II business).

Reasons for the decision

- 12.2 Cabinet has previously considered reports relating to this matter, on 13 March 2017, 10 July 2017 and 18 December 2017, and approved the process through which the Council have selected the Preferred Bidder in line with an EU compliant procurement process and also agreed the creation of Herts Living Limited (HLL).
- 12.3 The report summarises the final stage of the Preferred Bidder process to confirm the detail of the offer and contractual terms, specifically the corporate structure of the Joint Venture (JV) partnership between the DevCo, the Preferred Bidder and HLL. It also seeks approval to award the contract to the DevCo as a wholly owned subsidiary company of the Preferred Bidder and agreement for the proposed Articles of Association and Delegations Matrix for HLL.
- 12.4 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.

13. PROPOSED ACQUISITION OF LAND TO THE SOUTH OF BYGRAVE ROAD, BALDOCK

[Forward Plan Ref: A002/18]

Decision

13.1 Cabinet:

- (i) authorised acquisition of the freehold interest in the Land to the south of Bygrave Road, Baldock, as is shown on the Title Plan HD349670 attached at Appendix A to the Report;
- (ii) delegated to the Director of Resources authority to agree the terms of the acquisition, in consultation with the Leader of the Council (as responsible for the Resources, Property and the Economy portfolio); and
- (iii) authorised capital funding for the acquisition and subsequent overage from the Invest to Transform Capital Spend to Achieve reserve.

Reasons for the decision

- 13.2 The County Council owns a large area of land to the North and East of Baldock which is held for the purposes of the Rural Estate and currently the subject of several agricultural tenancies. This land has been subject of a Local Plan allocation for a large urban extension as a result of the Call for Sites from North Herts District Council (NHDC) within their Local Plan (which is currently undergoing Examination in Public).
- 13.3 NHDC will require a level of investment in local infrastructure; this will include works to improve access to the railway station and the town centre. Acquisition of this parcel of land will aid in the delivery of a choice of economically viable access routes adjacent to the railway line.
- 13.4 In reaching its decision, Cabinet considered the above, together with the Part II report, the financial implications; the equalities implications; and the recommendations of the Resources, Property and the Economy Cabinet Panel.

Any alternative options considered and rejected

None.

**KATHRYN PETTITT
CHIEF LEGAL OFFICER**

CHAIRMAN_____

**CHAIRMAN'S
INITIALS**

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