

**BRIGHTON & HOVE CITY COUNCIL**

**CABINET**

**4.00PM 10 NOVEMBER 2011**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Randall (Chair), Bowden, Davey, Duncan, Jarrett, Kennedy, J Kitcat, Shanks, Wakefield and West

**Also in attendance:** Councillors G Theobald (Opposition Spokesperson) and Mitchell (Opposition Spokesperson)

**Other Members present:** Councillors Bennett, Fitch, Janio, MacCafferty, A Norman, K Norman, Robins and Wealls

**PART ONE**

**106. PROCEDURAL BUSINESS**

**106a Declarations of Interest**

106a.1 Councillor Fitch declared that he was present as a member of the public as he had a personal and prejudicial interest in Item 122, a report of the Strategic Director, Resources concerning proposals for the construction of two all weather hockey pitches within the grounds of Blatchington Mill School, as he lived in the vicinity of the school. He advised that he would present his petition and then leave the meeting during further discussion of the Item.

**106b Exclusion of Press and Public**

106b.1 In accordance with section 100A of the Local Government Act 1972 ('the Act'), it was considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

106b.2 **RESOLVED** – That the press and public be excluded from the meeting during consideration of Item 124 onwards.

**107. MINUTES OF THE PREVIOUS MEETING**

- 107.1 **RESOLVED** - That the minutes of the meeting held on 13 October 2011 be approved as a correct record.

**108. CHAIR'S COMMUNICATIONS**

- 108.1 The Chair noted that the meeting would be webcast.
- 108.2 The Chair advised that the Democratic Services Officer responsible for the Cabinet meetings would soon be leaving the council. He thanked Mrs Davies for her support on behalf of the Cabinet and wished her well in her new position at Gloucester City Council.
- 108.3 The Chair explained that the report on Falmer Released Land had been deferred to enable further consideration of the available options.
- 108.4 The Chair acknowledged the announcement from Government in relation to Feed-In Tariffs and advised that although it would have a damaging effect on the council's intentions to fit solar photo-voltaic panels on council buildings, work would continue as it was essential to meeting carbon emissions targets.
- 108.5 The Chair reported that he had attended the launch of the Fringe Festival and that the new Chair, Julian Caddy had been very welcoming; he looked forward to a successful Fringe in 2012.
- 108.6 The Chair advised that he had spoken at the Community & Voluntary Sector Forum AGM and that the council was committed to working with the sector to ameliorate the impact of Government cuts on their activities.
- 108.7 The Chair congratulated the council's ICT team on being recognised by Connection Research as the greenest ICT team in Government. He added that consideration was being given to signing up to a green digital charter, which had had been launched by the Eurocities organisation.
- 108.8 The Chair advised that he had attended a meeting of the Shoreham Port Board and that the Port was close to signing a deal with a company to fund a PV and turbine project. The Port had also been offered funding from the HCA for making available sites for the development of housing.
- 108.9 The Chair announced that the first meeting had taken place aimed at developing a new service to help families with complex needs by enabling a joined approach involving all relevant services.

**109. ITEMS RESERVED FOR DISCUSSION**

- 109.1 The Chair advised that he proposed to bring Item 122 forward to the beginning of the substantive agenda to take account of the public and Member interest in the item.
- 109.2 **RESOLVED** – That all the items be reserved for discussion.

**110. PETITIONS****(i) Palace Pier**

110i.1 Councillor Mitchell presented a petition signed by 253 people calling for the council to actively work with any potential owner of the pier to ensure that the currently named 'Brighton Pier' was officially restored to its original name by which it was still affectionately known by local people - 'the Palace Pier'.

110i.1 Councillor Bowden confirmed that the aim of the petition was supported by the council.

110i.3 **RESOLVED** – That the petition be noted.

**(ii) Blatchington Mill School Hockey Pitches**

110ii.1 Councillor Fitch, in his capacity as a member of the public, presented a petition signed by 15 people requesting the Cabinet to reject the proposals and the granting of a lease for the creation of an all-weather surface and installation of fifteen metre floodlighting, on Blatchington Mill School Playing Fields. He advised that residents were very unhappy about the proposed evening use and the disturbance caused by turning the school into a business operating seven days a week. He questioned how the council could afford to loan money to the school and raised concerns about concreting over green spaces and the impact on pupils at the school.

110ii.2 Councillor Fitch left the meeting after presenting his petition and did not return.

110ii.3 Councillor Kitcat reported that more than twice as many letters had been received in support of the project than against it. He made the following comments:

- With only public service bodies and community groups involved, the facility would not be a private business.
- The surface would in fact be made of sand-dressed artificial turf rather than concrete, and sufficient space would remain for a separate rugby pitch.
- During consideration of the planning application by the Planning Committee, the Environmental Health Officer present stated that the light and noise issues would be within the national guidelines.
- The project would involve absolutely no cost to the council; the governors of the school had made the decision to borrow their contribution to the funding and because of the technicalities, the council would borrow the money on the school's behalf, however the school was fully responsible for paying back the loan from their own funds.

He stated that it was a positive project that would result in increased use of the school's facilities, which would improve security for the school and surrounding properties. The financial case was considered to be robust and any shortfalls would be shared primarily with the hockey club. He added that the cross-party decision of the Planning Committee and the wishes of both the school and hockey club should be respected.

110ii.4 **RESOLVED** – That the petition be noted.

**111. PUBLIC QUESTIONS**

111.1 The Chairman reported that two public questions had been received.

111.2 Ms Melanie Roberts asked the following question:

“As you are considering a lease agreement are you aware of the restrictive covenants for this site and the Lawyers letter to the council regarding this development?”

One covenant states the site should not be used in any way that will cause disturbance to the owners of neighbouring properties. At the planning meeting it was agreed by the council’s environmental health officer that this development would cause disturbance to neighbours.

Another covenant says this area should not be used as a sports ground. This will be the designated home for Brighton Hockey Club and therefore, by definition, breaches this restriction.”

111.3 Councillor Kitcat gave the following response:

“Thank you for your question. Yes, the council is aware of the restrictive covenants and I can confirm that we have received the letter from the law firm Bennett Griffin, who are representing some of the residents in the area, and that our lawyers are dealing with it.

There are restrictive covenants referring to nuisance, disturbance and use of the land as a sports ground. However, based on the legal advice that we have received so far, the site in question is already in use as a school sports playing field, and when one looks at the restrictions on nuisance and disturbance, that has to be considered as something over and above normal and reasonable use. The council does not believe that the use of the land by the school and the hockey club would constitute unreasonable nuisance or disturbance. Based on that advice, the council’s view is that the restrictive covenants, which are those originally imposed in favour of the Marquis of Abergavenny are no longer enforceable; I also believe that the Marquis doesn’t have any living descendents. As an additional precaution, we are seeking Counsel’s opinion and the recommendation will be amended to say that the decision we’re taking today will be subject to Counsel’s final opinion, which we are hoping to get next week.

With regard to your statement about Environmental Health, I asked officers to check the webcast of the Planning Committee meeting and the Environmental Health Officer said that, going through the technical recommendation from the Institute of Lighting Engineers and other associated institutes, the figures in relation to lighting and noise would fall within the recommended allowable amounts for such a development, based on national guidelines. Therefore, we are satisfied that we are doing this responsibly and within the legal requirements, but to make absolutely sure we are seeking Counsel’s opinion on the covenants.”

111.4 Ms Roberts asked the following supplementary question:

“Are the council aware that it appears the planning department were deceived by the applicant regarding the lighting? I have documents that were supplied by Phillips lighting and the applicants own consultants that show that the lighting exceeds what was presented to planning by 20%. The applicant had received this information before the planning meeting and withheld it. Is the Cabinet aware that if the lease and loan is granted today the development will never meet planning regulations as set down at the planning meeting jeopardising the schools financial position?”

111.5 Councillor Kitcat gave the following response:

“I can’t comment on the detail of what happened at the Planning Committee and we’re not here to discuss planning regulations, but whatever was approved at the Planning Committee is the development they’ll have to bring forward. I couldn’t comment on any such allegations; it will have to be dealt with through normal Development Control procedures and is not something we can explore here. You can take it up with Development Control if you feel there is cause for concern.”

111.6 Ms Sarah Wilks asked the following question:

“Are you aware that the parents of registered pupils of the school haven’t been consulted by the governors? This is a legal requirement.

I was present at the FAB meeting when the deputy head stated he would organise a meeting with parents and local residents but has not done so. He also stated to all members of FAB that the school were not happy about the lease and would not proceed with a lease agreement with the Hockey club.

Please note that I am the author of the letter in the Argus referred to in 3.8 of this agenda.”

111.7 Councillor Shanks gave the following response:

“There is a legal requirement for the school to consult in the Education Inspections Act 2002. The Department for Education (DfE) received a letter from a parent suggesting that the school hadn’t carried out this consultation and the DfE then wrote to the school asking for their comments on this allegation and the Chair of Governors prepared a response, which we have seen, outlining the consultation that they did.

It was the responsibility of the school to consult, not the council, but we’re happy that the school did consult. The parents make up the largest group on the Governing Body in any case. Parents were sent information via a newsletter asking them for their responses and there was also consultation with students. There were two public consultations at the school where people could go along and look at the plans. The sports partnership that has been set up with the school and neighbouring sports facilities was fully involved in this and they organised it and consulted on it. Then it went to Planning Committee where it was given a really good going over in terms of discussion about the impact.

We are happy that the school did what it should have done in this case.”

111.8 Ms Wilks asked the following supplementary question:

“It appears that the council are viewing this development more in terms of ‘provision of all-weather pitches for the city’ The focus should be on the risk of my children’s school borrowing £350,000.

Parents have not been consulted. Many feel that if substantial money is to be borrowed, they may have suggestions of their own on how to spend this money. They may conclude that 1 unfloodlit pitch would cost far less, be used by the students, and is better use of funds for the school and council.

Therefore my question is should the council be loaning the school £350,000 to be paid back with interest with no guarantee of revenue, to effectively subsidise the activities of outside organisations?”

111.9 Councillor Shanks gave the following response:

“The reason that the school has gone into partnership with the hockey club is because they can raise more money to build the pitches. There has been a history in this area for a long time of looking for all-weather surfaces for children, young people and older sports people. They will be used not just as a hockey club in the evenings, but there will be community use for different projects.

It will be an asset to the school as well; young people will be able to use it when the weather is not so good. In terms of the borrowing, the school’s Governing Body have looked at whether they can afford to do this and have decided that they can, and they are able to take that decision.”

## 112. DEPUTATIONS

112.1 The Chairman reported that one deputation had been received.

112.2 The Cabinet considered a deputation presented by Mr Dave Smart concerning the granting a loan facility to Blatchington Mill School for the development of artificial hockey pitches and a 20 year lease to Brighton & Hove Hockey Club. Mr Smart stated that a finance package should have been developed to enable the school develop its own facilities because the proposed scheme focused on the requirements of the hockey club and was geared towards hockey rather than a range of school uses. He highlighted the restrictive covenants on the land and loss of green space and stated that serious concerns from residents had been ignored, causing them to seek legal advice. He called upon the council to prevent the development from going ahead for the reasons given and in order to avoid a legal challenge from residents.

112.3 Councillor Kitcat advised that the Governing Body were the driving force behind the project and, although the council had some responsibility, it was not a council project and the governors had made the decision to proceed. He made the following comments:

- The Planning Committee had considered the details of the development, including the impact of green space, and had approved the scheme.

- Public funds of the council were not being used; the school had chosen to borrow money, but it would not come from the council's revenue budget.
- The school had advised that it was difficult to deliver the sports curriculum without access to all-weather pitches. The pitches could be used for a number of sports, including football, and there would be space for a separate rugby pitch.
- The facilities would not be used as a commercial enterprise as the hockey club was a community group, and time would be set aside for school use outside of the normal school day.
- The area was not being concreted and the surface used would enable the facility to be used all year round and would include drainage provision.

He stated that as the land was already used as a sports ground, the enforceability of the covenants was questionable; however, Counsel's opinion had been sought in order to confirm the council's position.

112.4 Councillor Bowden reported that many organisations across the city had expressed an interest in using the proposed facilities, particularly as the city had a very limited amount of all-weather surfaces. The school would have considerable access to the pitches after school and many sports could be played on them all year round, including netball, cricket, tennis, touch rugby and football. He stated that the project was a welcome addition to the city's campaign to encourage sport.

112.5 **RESOLVED** – That the deputation be noted.

### **113. LETTERS FROM COUNCILLORS**

113.1 There were none.

### **114. WRITTEN QUESTIONS FROM COUNCILLORS**

114.1 There were none.

### **115. NOTICES OF MOTION**

115.1 There were none.

### **116. TREASURY MANAGEMENT POLICY STATEMENT (INCORPORATING ANNUAL INVESTMENT STRATEGY) 2011/12 - MID YEAR REVIEW**

116.1 The Cabinet considered a report of the Director of Finance concerning action taken during the period April to September 2011 to meet the Treasury Management Policy Statement 2011/12 (TMPS) and the Treasury Management Practices (including the schedules) for the year commencing 1 April 2011 and the Annual Investment Strategy 2010/11.

116.2 Councillor Mitchell congratulated the officers for the continuing positive position with regard to treasury management.

116.3 In response to a question from Councillor Mitchell, the Head of Strategic Finance & Procurement explained that two changes to investment limits had been made as the

credit ratings of the financial institutions in question had been reduced; as a result the council had reduce both the length and amount of investment.

- 116.4 In response to questions from Councillor G Theobald, the Director of Finance advised that it was difficult to predict interest rates; the council used a range of forecasts from institutions and followed the CIPFA guidelines. She confirmed that the Targeted Budget Management reporting schedule for 2011-12 provided for five reports instead of the usual four and that the council only invested in institutions detailed in the Annual Investment Strategy and approved by full Council.
- 116.5 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:
- (1) That Cabinet endorses the action taken during the half-year to meet the Treasury management policy statement and associated treasury management practices and the Annual investment strategy.
  - (2) That Cabinet notes the maximum indicator for risk agreed at 0.05% has not been exceeded.
  - (3) That Cabinet notes the authorised limit and operational boundary set by the Council have not been exceeded.

#### **117. PERMANENT ARRANGEMENTS FOR THE MANAGEMENT OF CONNAUGHT INFANT SCHOOL**

- 117.1 The Cabinet considered a report of the Strategic Director, People concerning the permanent arrangements for management of Connaught Infant School.
- 117.2 Councillor Mitchell advised that while she was pleased the classrooms were operating well and that the school had been popular in the recent admissions process, the decision to create an infant school had been taken without any thought about how the corresponding junior places would be provided.
- 117.3 Councillor Shanks explained that it was difficult to determine the council's approach to provision of new school places because the Government had stipulated that any new school would have to be a free school or an academy, both of which the Administration was opposed to. She reported that the Government had made additional funding available and that options were being considered.
- 117.4 Councillor G Theobald welcomed the decision to make the site a permanent school, but asked what would happen if the governors of West Hove School, who were managing the school on a satellite basis, did not approve the arrangements.
- 117.5 The Strategic Director, People explained that he was able to direct the school to continue the arrangements if necessary, but that opposition was unlikely as the governors had already agreed in principle.

- 117.6 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:
- (1) That Cabinet agrees that West Hove Infant School manage the Connaught Building permanently from September 2012.
- 118. OPTIONS FOR ADDITIONAL RECEPTION CLASSES FOR SEPTEMBER 2012: PROPOSED TEMPORARY EXPANSION OF GOLDSTONE, WESTDENE, QUEENS PARK AND CONNAUGHT**
- 118.1 The Cabinet considered a report of the Strategic Director, People concerning options for creating additional reception classes for September 2012 and specifically the proposed temporary expansion of Goldstone, Westdene, Queens Park and Connaught Schools.
- 118.2 Councillor Janio advised that governors at Goldstone Primary School were against the proposals and had serious concerns about the logistics of admitting extra children, particularly as the school could not host any temporary classrooms; an extra class would put a strain on infrastructure and take resources away from existing pupils. He stated that it was time for the council to consider free schools as a solution to the city's school places problem.
- 118.3 Councillor Shanks stated that free schools were not a solution because they would not necessarily be set up in the areas where places were needed.
- 118.4 The Strategic Commissioner, Planning & Contracts explained that the data had shown a significant increase in children for 2012-13 and that the problem related to the location of those children; the council sought to provide places at local schools rather than directing children across the city where spaces existed. He advised that permanent new accommodation had been built at a number of schools in anticipation of increasing numbers and that it was proposed to use these classrooms to accommodate the bulge in the next academic year. As the new classrooms filled up with their natural intake there would be a need to house the additional classes in temporary classrooms or consider using non-teaching space within the schools.
- 118.5 Councillor A Norman stated that teaching staff would make the best of any situation imposed on them, but advised that the four schools in question had been informed about the bulge late in the day, giving them less time to consider the proposals. She was concerned that highlighting the council's ability to impose arrangements on schools was not a positive way to approach a consultation process.
- 118.6 Councillor Duncan advised that free schools made it more difficult for the council to plan education provision effectively. The Administration did not want to see too much education transfer away from the council's control.
- 118.7 Councillor G Theobald stated that free schools would relieve the effect of the bulge on council-run schools. He echoed concerns about imposing arrangements on schools and the use of temporary classrooms.

- 118.8 The Chair advised that officers would continue to monitor the data and confirmed that consultation would take place; however, places would have to be found somewhere.
- 118.9 Councillor Mitchell acknowledged that the schools had already agreed to expand and were now being asked to accommodate even more children, which would be a challenge logistically. She noted with disappointment the need to use temporary classrooms as the extra class moved through the schools and questioned the potential impact of the creating additional sibling links.
- 118.10 Councillor Shanks advised that there it was difficult to predict the number of places offered on the basis of sibling link, but that there was no intention to remove it from the admissions arrangements. She stated that the council had a responsibility to provide places and aimed to provide them in the areas where they were required. It was not possible to create a new school so the council was seeking to expand existing successful schools and provide resources for the additional children.
- 118.11 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:
- (1) That Cabinet agrees that officers should consult formally with Queens Park Primary School, Goldstone Primary School, Westdene Primary School and West Hove Infant School (Connaught Building) regarding each school taking an additional reception class in September 2012.
  - (2) That Cabinet agrees that officers should consult other schools in the city regarding the proposal in (1).
  - (3) Following the Consultation officers will report back to Cabinet in January 2012
- 119. PROPOSED OPTIONS FOR THE PROVISION OF 3 JUNIOR FORMS IN HOVE AND PORTSLADE**
- 119.1 The Cabinet considered a report of the Strategic Director, People concerning proposed options for the provision of three junior forms in Hove and Portslade.
- 119.2 Councillor Shanks announced that the council intended to set up a consultative group, including schools and all political groups, to consider options for the provision of junior places.
- 119.3 Councillor Robins reported that schools and parents in Portslade were concerned about the lack of urgency displayed by the council in seeking to address the problem. He asked why the availability of the industrial unit next to St Peters Infant School had not been confirmed and advised that proposals to expand St Nicholas VA Junior School were not popular locally. He urged the council to move quickly to find the best solution for children, parents and schools.
- 119.4 The Head of Capital Strategy & Development Planning confirmed that discussions were ongoing in relation to the industrial unit next to St Peters Infant School.

- 119.5 Councillor Mitchell stated that the council had no focused plan for the provision of junior school places and had not proposed any viable options. She advised that she shared concerns about free schools, but warned that it was necessary to create a new school in order to prevent the spread of free schools and transfer of education away from the council; she encouraged consideration of the co-operative trust model.
- 119.6 The Chair stated that the council was considering sites to accommodate the required junior provision, but added that the Administration did not support co-operative trust schools because they were a form of academy.
- 119.7 Councillor Shanks highlighted the importance of working on a cross-party basis with schools and. She stated that any new school created by the council would have to be an academy, which would take funding away from council and serve to privatise education in the city. She confirmed that consultation would begin immediately and that solutions would be determined by January 2012.
- 119.8 Councillor G Theobald urged the Cabinet to put the children first and commit to creating a new school in Hove. If available, he recommended Hove Police Station as the best option and stated that the council should be working with Sussex Police to secure the site.
- 119.9 Councillor Duncan confirmed that the council was at an advanced stage in discussions with Sussex Police about the co-location of services at Hove Town Hall and the move was expected to take place in early 2012.
- 119.10 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:
- (1) That Cabinet approves the undertaking of negotiations for the conversion of St Nicolas VA Junior School into a four form entry junior school and the expansion of St Peter's Infant School into a one form entry Primary School for September 2013.
  - (2) That the results of the negotiations be reported to the Cabinet in January 2012 for consideration.
  - (3) That Cabinet approves the undertaking of further investigations on the options within this report for the provision of a 3 form entry junior element for Hove from September 2014, including exploring management opportunities of the options with primary head teachers in Hove.
  - (4) That a further report be brought to Cabinet in January 2012 when the investigations have been concluded.

## 120. CITY CLIMATE CHANGE STRATEGY

- 117.1 The Cabinet considered a report of the Strategic Director, Place concerning the city Climate Change Strategy, work on which had been led by the City Sustainability Partnership (CSP), on behalf of the Brighton & Hove Strategic Partnership, with the council's strong support.

- 117.2 Councillor Mitchell welcomed the report and commended the officers involved and Susie Howells, Senior Sustainability Consultant, in particular for pulling together a coherent strategy. She supported the inclusion of One Planet Living and highlighted the work the council had undertaken to reduce its own carbon emissions. She noted that no new additional resources had been set aside to take the strategy forward at the current time and acknowledged that decisions would need to be made on the split between mitigation and adaptation actions.
- 117.3 Councillor G Theobald welcomed the citywide support for the strategy, but stated that it lacked concrete actions and ambition. He advised that it was a shame that resources had not be set aside to take the strategy forward and that there was no link between new outcomes and national targets. He welcomed the proposal to organise road works more effectively, but questioned why use of fiscal measures to discourage car use was not mentioned in the strategy.
- 117.4 Councillor West explained that the strategy was a framework document and that an implementation plan containing actions would follow. He urged Members to support the strategy and reiterated that it was a partnership document developed jointly with partner organisations.
- 117.5 The Chair reported that the Public Service Board had welcomed the strategy and highlighted the importance of the partnership approach to tackling climate change. He thanked Susie Howells and Thurstan Crockett, Head of Sustainability & Environmental Policy for their work on the strategy and added that they were working hard to raise funds through the private and Third sectors, as well as Government and European initiatives.
- 117.6 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:
- (1) That Cabinet endorses the City Climate Change Strategy set out at Appendix 1.
  - (2) That Cabinet agrees the proposed citywide governance framework set out in paragraph 3.4;
  - (3) That Cabinet directs service commissioners and heads of delivery to incorporate the aims of the strategy into service compacts and business plans;
  - (4) That Cabinet encourages officers working within the City Sustainability Partnership to bring forward appropriate capital funding proposals for consideration where resources allow.

## 121. WOODINGDEAN LIBRARY AND GP SURGERY DEVELOPMENT

- 121.1 The Cabinet considered a report of the Strategic Director, Communities concerning proposals for the development of a new library and GP surgery in Woodingdean on the site of the current library and marching band hut.

- 121.2 Councillor G Theobald welcomed the report and the opportunity to work in partnership to achieve an outcome that ward councillors had been working towards for some time.
- 121.3 Councillor Mitchell also welcomed the proposals, which she described as imaginative, but noted that it had not been possible to bring the existing community centre into the development.
- 121.4 The Chair thanked Councillor Bowden, the officers involved and the ward councillors for their commitment to the project.
- 121.5 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:
- (1) That Cabinet authorises further public consultation together with the PCT and GPs regarding the proposed development of a new library and GP surgery in Woodingdean.
  - (2) That Cabinet authorises the project to be added to the Capital Programme at a cost of £500,000 in 2012/13.
  - (3) That a waiver of Contract Standing Order 12 be sought once funding has been confirmed.
  - (4) That, subject to the waiver referred to in (3), Cabinet authorises the entering into of appropriate project documentation, including a Development Agreement relating to the land shown on the annexed plan, in a form satisfactory to the Strategic Director, Resources in consultation with the Strategic Director, Communities, Head of Law, the Head of Property and Design, Head of Capital Strategy, and the Cabinet Member for Culture, Recreation & Tourism.

## **122. BLATCHINGTON MILL SCHOOL HOCKEY PITCHES**

- 122.1 The Cabinet considered a report of the Strategic Director, Resources seeking permission for a land transaction to enable the funding for and construction of two all weather hockey pitches within the grounds of Blatchington Mill School for use by the school and leased to Brighton & Hove Hockey Club.
- 122.2 Councillor J Kitcat advised that the recommendations would be amended to make the decision subject to the opinion of Counsel, which had been sought in order to clarify the situation with regard to the restrictive covenants on the land. He advised that residents concerns had been considered and reported that twice as many letters of support for the project had been received from residents than those against it.
- 122.3 Councillor Mitchell raised concerns about the risk to the school of taking out a loan to fund their contribution to the project and that community use of the finished facilities would be squeezed in favour of commercial use in order to pay back the loan. She noted the legal issues raised during Public Questions and asked whether the Cabinet had seen the school's Business Plan and could therefore confirm that there was no risk to the school; the council had a responsibility to ensure the school could afford the

loan. She stated that the Business Plan should have been attached to the report, as a Part Two document, and that she considered the decision to be a matter for call-in.

- 122.4 Councillor J Kitcat confirmed that the council's finance officers had checked the Business Plan and that the Cabinet relied on their advice; release of the Business Plan was a matter for the school and the hockey club. He advised that the council's view was that the decision was legally sound, but was obtaining further legal advice in order to be certain.
- 122.5 The Chair advised that the Cabinet had not seen the Business Plan, but that they satisfied with the school's decision and the advice from council officers; he did not deem it to be a matter for call-in as all aspects had been carefully considered. He advised that Sport England were investing in the project and considered it to be robust.
- 122.6 Councillor Bennett raised concerns that the school would concentrate on commercial use at the expense of community groups, and also about the financial risk to the school, particularly if the build costs were to exceed the budget or struggled to repay the loan. By offering the hockey club a 20 year lease, she felt that the school would be precluded from considering better development opportunities for some time and urged the Cabinet to reject landlord's consent.
- 122.7 Councillor Janio acknowledged that the Business Plan had not been a material planning consideration, but stated that he considered it to be relevant to the decision before the Cabinet because the council would be financially responsible if the school could not pay back the loan. He requested to see the Business Plan and asked whether the Chief Finance Officer (CFO) could confirm whether it had changed following the restrictions placed on the development by the Planning Committee, and therefore whether it was still robust. He was concerned that the proposed development was not the best use of the site and that residents had been ignored throughout the process.
- 122.8 The Director of Finance (CFO) advised that she would provide a written response with regard to any changes to the Business Plan. She explained that schools were unable to borrow money themselves and therefore approached the council when seeking to undertake capital investment, with the council ensuring that the school could afford any loans. The council was not reliant on the school physically repaying the loan as it was able to top-slice the grant pass-ported to the school; consequently the council was confident of getting the money back. The management of school finance was legally the responsibility of school governors, and the approach taken on the development in question was not unusual.
- 122.9 The Chair noted that the project would be a resource for the city and welcomed the investment it would bring. He gave assurances that community groups would have dedicated time set aside to use the facilities.
- 122.10 Councillor Jarrett advised that the respective roles of governing bodies and local authorities were set out by the Government and that the council should not interfere in decisions made by governors.

122.11 Councillor G Theobald urged the Cabinet to take the views of ward councillors and their residents into account and warned that parents and children would lose out if the school was unable to repay the loan.

122.12 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:

- (1) That Cabinet authorises the council to grant a lease to the Hockey Club for 20 years at a peppercorn rent, when the Conditional Funding Agreement conditions detailed at paragraphs 3.3 and 3.4 are met, **subject to Counsel's opinion**.
- (2) That Cabinet agrees that the Council loans Blatchington Mill School £350,000, funded through unsupported borrowing on the repayment terms set out in paragraph 5.1.

Note: This Item was considered immediately after Item 112.

### **123. RE TENDERING HOME CARE CONTRACTS**

123.1 The Cabinet considered a report of the Director of Adult Social Services/Lead Commissioner, People seeking approval to include a home care service in an extra care housing scheme at Patching Lodge, Brighton within the retendering process for home care as agreed at Cabinet on 14 July 2011.

123.2 **RESOLVED** - That, having considered the information and the reasons set out in the report, the following recommendations be accepted:

- (1) That Cabinet notes the previous approval for re-procurement of the current Home Care Framework contract given on 14<sup>th</sup> July 2011.
- (2) That Cabinet approves the inclusion of the home care service at Patching Lodge within the agreed home care re-procurement process.
- (3) That Cabinet grants delegated authority to the Director of Adult Social Services and Lead Commissioner People to include the provision of end of life and continuing health care within the agreed procurement process if considered appropriate following discussions with NHS colleagues.

**PART TWO SUMMARY**

**124. WOODINGDEAN LIBRARY AND GP SURGERY DEVELOPMENT**

- 124.1 The Cabinet considered a Part Two report of the Strategic Director, Communities concerning proposals for the development of a new library and GP surgery in Woodingdean on the site of the current library and marching band hut.
- 124.2 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the recommendations as detailed in the Part Two confidential report.

**125. PART TWO ITEMS**

- 125.1 The Cabinet considered whether or not any of the above items should remain exempt from disclosure to the press and public.
- 125.2 **RESOLVED** – That item 124, contained in Part Two of the agenda, remains exempt from disclosure to the press and public.

The meeting concluded at 6.30pm

Signed

Chair

Dated this      day of