

**BRIGHTON & HOVE CITY COUNCIL**

**CABINET**

**4.00pm 16 OCTOBER 2008**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Mears (Chairman), Mrs Brown, Caulfield, Fallon-Khan, Kemble, Simson, Smith, G Theobald and Young

**Also in attendance:** Councillor Mitchell (Opposition Spokesperson)

**Other Members present:** Councillor Hawkes

**PART ONE**

**75. PROCEDURAL BUSINESS**

**75a Declarations of Interests**

75a.1 There were none.

**75b Exclusion of Press and Public**

75b.1 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

75b.2 **RESOLVED** - That the press and public be excluded from the meeting during consideration of items 97 onward.

**76. CHAIRMAN'S COMMUNICATIONS**

76.1 The Chairman noted that, following the success of the inaugural web cast of Council the previous week, the Cabinet meeting was also being web cast for the first time.

76.2 The Chairman explained that there would be a report concerning the King Alfred project at the November Cabinet meeting. This would summarise the status of the Karis/ING scheme and describe the process that would need to be adopted by the Council and the types of options available, should the Karis/ING scheme not proceed.

76.3 The Chairman reported that she had opened the Age Concern conference at the Royal Albion Hotel earlier in the week.

**77. MINUTES OF THE PREVIOUS MEETING**

77.1 **RESOLVED** – That the minutes of the meeting held on 18<sup>th</sup> September 2008 be approved as a correct record.

**78. MINUTES OF THE SPECIAL CABINET MEETING**

78 **RESOLVED** – That the minutes of the special meeting held on the 24<sup>th</sup> September 2008 be approved as a correct record.

**79. ITEMS RESERVED FOR DISCUSSION**

79.1 Items 88, 89, 90, and 92 were reserved by Cabinet.

79.2 Item 93 was reserved by Councillor Mitchell.

79.3 **RESOLVED** - That with the exception of the items reserved (and marked with an asterisk), the recommendations and resolutions contained therein be approved and adopted without debate.

**80. PUBLIC QUESTIONS**

80.1 There were none.

**81. WRITTEN QUESTIONS FROM COUNCILLORS**

81.1 There were none.

**82. PETITIONS**

82.1 There were none.

**83. DEPUTATIONS**

83.1 There were none.

**84. LETTERS FROM COUNCILLORS**

84.1 There were none.

**85. NOTICES OF MOTIONS REFERRED FROM COUNCIL**

85.1 There were none.

**86. MATTERS REFERRED FOR RECONSIDERATION**

86.1 There were none.

**87. REPORTS FROM OVERVIEW & SCRUTINY COMMITTEES**

87.1 There were none.

**88. SECRETARY OF STATE'S PROPOSED MODIFICATIONS TO THE DRAFT SOUTH EAST PLAN**

88.1 The Cabinet considered a report of the Director of Environment that informed them of the Secretary of State's (DCLG) proposed changes to the draft South East Plan and recommended the City Council's response to those changes (for copy see minute book).

88.2 The Chairman approved an additional recommendation moved by Councillor Theobald that "Objects to policy T3 which encourages the consideration of road charging in regional hubs, and considers that road charging schemes are neither appropriate nor desirable for Brighton & Hove."

88.3 Cabinet agreed the additional recommendation which became xii of the resolution noted below.

88.4 Councillor Mitchell supported the proposals to provide 520 homes per year; suggested a cross party committee be called to consider development at Shoreham Harbour; requested that waste produced in London be dealt with by London and suggested that the Administration needed to evaluate its plans in respect of reducing traffic.

88.5 Councillor Caulfield supported the move to provide additional housing, noting the demand for family sized homes.

**88.6 RESOLVED -**

(1) That the following response to the South East Plan be approved;

The City Council:-

i) Supports the need to demonstrate and employ best practice in design and construction for waste minimisation and recycling in Growth Points and Strategic Development Areas including Shoreham Harbour (policy W2).

ii) Welcomes the recognition that policy CC8 gives to the importance of green infrastructure, and the biodiversity, recreational, and cultural benefits it can help to deliver.

iii) Objects to policies RE2 and H2 as failing to give local authorities sufficient guidance in the preparation of their Local Development Documents.

iv) Objects to the housing provision figure for the City of 620 dwellings per annum as the Secretary of State has not demonstrated that this can be accommodated in the City without adverse impact on the quality of life, the character of the urban environment and the economy. The high level of residential completions noted by the Secretary of State has been at the height of the housing market. Amongst other things, the City Council is looking to deliver housing that meets local needs, particularly family housing which is likely to reduce the number of units to be completed on relevant sites. The City Council asks the Secretary of

State to take note of the findings Council's Strategic Housing Land Availability Assessment produced in-line with government guidance.

v) Is concerned that the emphasis on delivering housing numbers in the wider Shoreham Harbour Strategic Development Area could prejudice broader and longer term economic development objectives. The City Council believes that 10,000 units in the wider Harbour area is likely to be the absolute maximum achievable and that a more realistic figure is 5,000 to 6,000 dwellings to be able to develop a genuine mixed-use sustainable community. The City Council believes that the potential to deliver a significant number of jobs at the Harbour should be identified as part of the Strategic Development Area.

vi) Informs the Secretary of State that not all of the proposed Shoreham Harbour Strategic Development Area lies in Adur District, West Sussex but is also in Brighton & Hove and to provide the scale of development suggested by the Secretary of State will need to encompass a wider area than the operational port (see comments at point v). above).

vii) Requests that the City's housing provision figure is reduced to reflect that a significant proportion of the Shoreham Harbour Strategic Development Area lies within the City boundaries, as has been done for Adur District Council.

viii) Requests (in view of the points raised at iv to vii above) that the relevant housing provision figures are set at 10,400 (520 pa) for Brighton and Hove and a total of 6000 dwellings for the Shoreham Harbour Strategic Development Area.

ix) Requests that the Secretary of State clarifies that should the Shoreham Harbour Strategic Development Area not deliver the amount of housing ultimately indicated in the South East Plan, that the City Council and its partner authorities will not be required to make up this shortfall elsewhere.

x) Objects to policy W3. The methodology to apportion London's waste still does not adequately recognise the difficulties of providing sufficient landfill space to meet London's need. For Brighton & Hove and East Sussex those difficulties mainly concern the large proportion of Areas of Outstanding Natural Beauty in the Plan area, the distance that waste would have to travel to reach any future landfill and the difficulty of moving that waste. These difficulties are reflected in that there is no historical disposal of London's waste in Brighton & Hove or East Sussex.

xi) Requests that should the Secretary of State not amend W3 in line with the City Council's objection (point ix. above), the City Council re-iterates the need for local testing of the apportionment on London's waste through Waste Development Frameworks to examine the practicalities of the approach.

*xii) Objects to policy T3 which encourages the consideration of road charging in regional hubs, and considers that road charging schemes are neither appropriate nor desirable for Brighton & Hove.*

**89. ASSET MANAGEMENT PLAN & CORPORATE PROPERTY STRATEGY 2008-11**

89.1 The Cabinet considered a report of the Director of Finance & Resources that sought approval of the updated Asset Management Plan & Corporate Property Strategy 2008-11 (for copy see minute book).

89.2 Councillor Fallon-Khan congratulated officers on the compilation of the document, noting its extensive reach and content.

89.3 In response to a query from Councillor Mitchell about the reporting of issues raised by the Overview and Scrutiny Commission in relation to Appendix two of the report, Councillor Fallon-Khan offered a written response.

**89.4 RESOLVED –**

(1) That the Asset Management Plan & Corporate Property Strategy 2008-2011 as set out in Appendix 1 of the report be approved.

(2) That it be noted that the views of the Overview and Scrutiny Commission of the 9th September 2008 have been sought and comments as minuted in Appendix 2 of the report have been covered in the report and included in the Asset Management Plan & Corporate Property Strategy 2008-11.

**90. UPDATE AND OUTCOME OF THE FORMAL CONSULTATION STAGE FOR THE PROPOSED FALMER ACADEMY**

90.1 The Cabinet considered a report of the Director of Children's Services that updated Members on the process of the proposed development of an Academy on the Falmer High School site. The report also informed Members of the outcome of the statutory consultation process and sought approval to determine the closure of the Falmer High School in August 2010 to enable the opening of the Falmer Academy in September 2010 (for copy see minute book).

90.2 Councillor Brown thanked officers for their hard work and noted the extensive consultation undertaken.

90.3 Councillor Caulfield noted that the majority of residents affected in her ward were positive about the proposed changes. The only concerns that had been brought to her attention regarded the catchment area.

90.4 The Chairman noted that Councillor Hawkes had requested to speak on the issue and invited her to address the meeting.

90.5 Councillor Hawkes supported the proposals made and noted the additional opportunities the project gave to children in the area.

**90.6 RESOLVED -**

- (1) That progress since the Cabinet Report of 10th July 2008 be noted.
- (2) That the outcome of the statutory stage of consultation undertaken between 1 September and 13 October 2008 be considered.
- (3) That, taking into account the requirements of the Education and Inspections Act 2006, the statutory guidance contained in the DCSF document entitled 'Closing of a Maintained Mainstream School – A Guide for Local Authorities and Governing Bodies' and the responses to consultation, the conditional approval be given to close Falmer High School on 31st August 2010 to enable the immediate opening of Falmer Academy on 1st September 2010. This approval is conditional upon the making of an agreement under Section 482(1) of the Education Act 1996 for the establishment of an Academy. This condition must be met by 31st January 2009.
- (4) That the Director of Children's Services be delegated authority to submit the Outline Business Case (OBC) to the DCSF to enable the project to move into the Implementation Stage.

**91. CORPORATE ENFORCEMENT POLICY**

\* 91.1 The Cabinet considered a report of the Director of Environment that informed Members of the outcome of consultation with businesses, the public and other stakeholders on the draft Corporate Enforcement Policy. The report sought approval that the amended policy be published and that all enforcement sections in the council be authorised to implement it (for copy see minute book).

91.2 **RESOLVED** - That the revised Corporate Enforcement Policy be approved and its implementation by all enforcement sections in the council be authorised.

**92. SURVEILLANCE POLICY**

92.1 The Cabinet considered a report of the Director of Environment that informed Members of the activities undertaken utilising the Regulation of Investigatory Powers Act 2000 (RIPA). The report confirmed that these activities were authorised in line with the necessity and proportionality rules and the council's priority of fair enforcement of the law. The report also provided an update on the revisions made to the original policy to reflect recommendations made by the Surveillance and Interception Commissioner's and legislative changes (for copy see minute book).

92.2 The Chairman welcomed the report, noting media interest in the issue nationally and reassuring colleagues that the council only used these powers in appropriate circumstances.

92.3 Councillor Theobald welcomed the report and the support of the Chairman.

**92.4 RESOLVED -**

(1) That the continued use of covert surveillance and the accessing of communications data as an enforcement tool be approved; this to prevent and detect all crime and disorder investigated by its officers, providing that necessity and proportionality rules are stringently applied.

(2) That the implementation of an Annual Review relating to the use of RIPA powers be approved.

(3) That the use of the National Anti Fraud Network as the Single Point of Contact for accessing communications data be approved and that the Head of Trading Standards and Head of Operations be identified as the 'Designated persons' as required by legislation.

**93. ACCEPTANCE OF CIVITAS FUNDING AND STAGE ONE RESEARCH**

93.1 The Cabinet considered a report of the Director of Environment that sought formal acceptance of CIVITAS (City-VITALity-Sustainability) funding, following the offer made by the EU in accordance with the approval deadline.

93.2 Councillor Mitchell welcomed the report and the funding that it attracted. She hoped that the feasibility studies would generate projects that would be deliverable.

93.3 The Chairman noted two typographical errors in the report;

a) Reference to 'CMM' at paragraph 1.5 of the report should read '*Cabinet*'.

b) At paragraph 3.7 of the report the following sentence

*'...This report seeks approval to accept this additional grant funding and progress to Stage 1 after approximately 12 months, with the aim of returning to a future Cabinet for an update and further approval to progress to Stage 2.'*

*Should read;*

*'...This report seeks approval to accept this additional grant funding and progress to Stage 2 after approximately 12 months, with the aim of returning to a future Cabinet for an update and further approval to progress to Stage 3.'*

93.4 The Cabinet accepted the minor typographical alterations.

93.5 **RESOLVED** - That the Cabinet accepts the EU funding to initiate Stage 1 of the CIVITAS project, this will involve some research and feasibility design for the projects in the CIVITAS programme (see Appendix I of the report).

**94. PATCHAM COURT FARM – UPDATE ON DISPOSAL**

\*94.1 The Cabinet considered a report of the Director of Finance & Resources that advised Members on the present position regarding the disposal of Patcham Court Farm Site and sought affirmation of the marketing approach in the current property market (for copy see minute book).

94.2 **RESOLVED** - That the re-marketing of the site with a broadened planning brief through the council's agents DTZ by contacting potential interested parties to test the market now and following re-assessment of the market to re-launch the site in Spring 2009 be approved. This course is not to preclude consideration of disposal in the event that an appropriate prior bid emerges in line with the current planning criteria.

**95. AGENCY CONTRACT FOR TEMPORARY STAFFING**

\*95.1 The Cabinet considered a report of the Director of Strategy & Governance that sought approval for Brighton & Hove City Council to let a new contract for the provision of agency staff for recycling, refuse collection and street cleansing services (for copy see minute book).

95.2 **RESOLVED** - (1) That the award of the contract to Plan Personnel, following the outcome of a tender submission and formal presentation, be approved.

(2) That the contract start date be approved as Monday 12th January 2009

**96. WAIVER OF CONTRACT STANDING ORDERS: ANNUAL REPORT**

\*96.1 The Cabinet considered a report of the Director of Strategy & Governance that reported the requirement in Contract Standing Orders (CSOs) that an annual report to be presented to the Cabinet, setting out all waivers authorised under CSO 18.2 & 18.3 covering the previous financial year. The report related to financial year 2007/08 and the associated CSOs (for copy see minute book).

96.2 **RESOLVED** - That the trends and statistics drawn from the information in Appendices A & B of the report be noted.



**PART TWO SUMMARY**

**97. COASTAL PROTECTION SCHEME: LITIGATION**

[Exempt category 3]

\*97.1 The Cabinet considered a report of the Director of Strategy & Governance that sought authority to commence legal proceedings for damages in respect of professional negligence and/or breach of duty and/or breach of contract, with regard to services provided in relation to the reconstruction of the coast defences between Brighton Marina and Ovingdean Gap, completed in 2004 (for copy see minute book).

97.2 **RESOLVED** - (1) That the report be agreed as per the recommendations.

**98. TO CONSIDER WHETHER OR NOT ANY OF THE ABOVE ITEMS AND DECISIONS THEREON SHOULD REMAIN FROM DISCLOSURE TO THE PRESS AND PUBLIC**

98.1 The Cabinet considered whether or not any of the above items should remain exempt from disclosure to the press and public.

98.2 **RESOLVED** – That item 97, contained in Part Two of the agenda and the decisions thereon remain exempt from disclosure to the press and public.

The meeting concluded at 4.50pm

Signed

Chair

Dated this

day of

