



Lewes District Council

Cabinet

Minutes of a meeting of the **Cabinet** held in the **Ditchling Room, Southover House, Southover Road, Lewes** on **Monday, 6 July 2015** at 2.30pm

Present:

Councillor R Blackman (Chair)

Councillors P Franklin, T Jones, R Maskell and A Smith

In Attendance:

Councillor M Chartier (Chair of the Audit and Standards Committee)

Ms D Twitchen (Tenants' Representative)

Apologies received:

Councillor E Merry

Councillor P Gardiner (Chair of the Scrutiny Committee)

Councillor S Osborne (Leader of the Liberal Democrat Group)

Minutes

1 Minutes

The Minutes of the meeting held on 19 March 2015 were approved as a correct record and signed by the Chair.

2 Declarations of Interest

Councillor Blackman declared his personal, prejudicial interest in Agenda Item 9.5 (Industrial Estate Management Strategy).

Action

Councillor Franklin declared his non-prejudicial interest in Agenda Item 9.5 (Industrial Estate Management Strategy).

3 Urgent Items

The Chair advised that he had agreed that, in accordance with Section 100B(4)(b) of the Local Government Act 1972, Appendix D to Report No 85/15 entitled "Depot Rationalisation Feasibility Report", which had been circulated to all Members of the Cabinet on 29 June 2015, be considered as a matter of urgency under Agenda Item 9.6 at this meeting in order that decisions thereon could be taken based on the most recent information which was available.

4 Public Question Time

A written question had been submitted to the Cabinet Member for Planning, Councillor Jones, by the Chairman of Ringmer Parish Council's Planning Committee, Councillor Booth, on the following subject, copies of which were circulated to all Councillors at the meeting and made available to the public attending the meeting (a copy of which is contained in the Minute Book). In the absence of Councillor Booth, the question was asked on his behalf by the Chair of Cabinet, Councillor Blackman. An oral reply to the question was given at the meeting by Councillor Jones.

Questioner

Councillor Booth,
Chairman,
Planning Committee,
Ringmer Parish Council

Question Concerning

The site North of Bishops Lane (the Gleeson site) in Ringmer being considered "Strategic" in the Lewes District Local Plan Joint Core Strategy, even though at least the same housing numbers would be delivered at least as quickly using the proposals within the Ringmer Neighbourhood Plan, thus adding to the security of the Lewes District Council's 5 year housing supply.

5 Finance Update

The Cabinet considered Report No 80/15 which provided an update on financial matters that affected the General Fund Revenue Account, the Housing Revenue Account and the approved Capital Programme.

Treasury Management investment activity between 28 February and 31 May 2015 was summarised in Table 1 to the Report for which all activity was consistent with the Council's approved Treasury and Investment Strategies for 2014/2015 and 2015/2016.

In accordance with the Council's approved Treasury Strategy Statement, the Audit and Standards Committee reviewed all treasury activity that took place in order to confirm that it had been undertaken in accordance with the approved

Strategy. In the event that the Committee had any observations thereon, they would be referred to Cabinet.

The Council had adopted the Chartered Institute of Public Finance and Accountancy's Code of Practice on Treasury Management in the Public Services Code and complied with its requirements, one of which was that the Council should receive an Annual Treasury Management Report following the end of each financial year. The Annual Report for 2014/2015 was set out at Appendix 1 to Report No 80/15.

The Council's 2014/2015 Accounts had been closed. The Director of Corporate Services had approved the draft Statement of Accounts on 29 June 2015 and the Accounts had been released to the Council's external auditor BDO and were available to the public for inspection.

The General Fund year end position for 2014/2015 was in line with the budget and remained sufficiently robust to support the Medium Term Financial Strategy. Table 2 to the Report showed the final net expenditure/income for 2014/2015 analysed by statutory service area, as presented in the Council's published budget papers and Table 3 summarised the variations which had led to the overall saving of £75,000 in the cost of Service provision when compared with the budget.

In addition to spending on services, contributions to Reserves had been made in 2014/2015 as shown in Table 4 to the Report. Appendix 2 thereto identified the contributions to each Reserve.

Table 4 showed that £1,314,000 had been used from General Fund Reserves in 2014/2015 to fund revenue expenditure. At 31 March 2015, £10,056,000 was held in those Reserves and was available to support future spending. Appendix 2 showed the movements through each Reserve in 2014/2015 and the balance held at the year end. Such analysis corresponded with the position stated in the Council's draft Statement of Accounts. Cabinet was recommended to adopt the General Fund Reserves as set out in Table 6 of the Report with immediate effect.

The Housing Revenue Account outturn for 2014/2015 had produced a net deficit of £90,000 compared with a surplus of £281,000 which had been projected when the 2015/2016 budget had been set. Table 7 to the Report summarised the main variations compared with that projection.

The balance on the Council Tax Collection Fund at 31 March 2015 was a surplus of £975,000 compared with a surplus of £403,000 which had been estimated at the time that the Council Tax for 2015/2016 had been set. Such variance, at just under 1% of income, was well within the acceptable level of tolerance given that the total annual amount of Council Tax due was £58.9m. The earliest that the Collection Fund balance could be distributed was during 2016/2017 which would be between the Council, East Sussex County Council, East Sussex Fire Authority and the Sussex Police and Crime Commissioner, based on 2015/2016 Council Tax amounts, for which approximately 14% of the surplus would be returned to the Council.

The balance on the Business Rates Collection Fund at 31 March 2015 was a deficit of £614,000, for which the Council's share would be £245,000,

compared with the break-even position which had been anticipated when the 2015/2016 budget had been set. Such variation was the result of an increase in the provision made in respect of business rates appeals.

Paragraph 4.5 of the Report set out details relating to the Capital Programme 2014/2015 and 2015/2016 which was an allocation of resources to projects relating to the major repair, enhancement or purchase of long-term assets which, in many cases, spanned financial years. Table 9 to the Report summarised the final position in respect of the 2014/2015 Capital Programme and Appendix 3 thereto set out a detailed analysis thereon. In some instances, further variations to the allocations previously agreed during 2014/2015 were necessary, further details of which were set out in Table 10 to the Report.

The Capital Programme for 2015/2016 was set out in Appendix 4 to the Report which had been updated to include the amounts brought forward from 2014/2015. The only other recommended variations related to:

- inclusion of a Play Area project at Newick which was to be fully funded from a Developer's Contribution (line 50); and
- minor adjustment to incorporate a final payment required in respect of the replacement boiler at Southover House (line 76).

Resolved:

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| 5.1 | That it be agreed that the Treasury Management activity since the last Report to Cabinet, as referred to in Report No 80/15, has been consistent with the Council's approved Treasury and Investment Strategy; | DCS |
| 5.2 | That the final position on the General Fund, Housing Revenue Account and Collection Fund accounts for 2014/2015, be agreed; | DCS |
| 5.3 | That the allocation of Reserves at 31 March 2015, as shown in Appendix 2 to the Report, be confirmed; | DCS |
| 5.4 | That the Reserves shown in Table 6 of the Report, be adopted; | DCS |
| 5.5 | That the Capital Programme outturn for 2014/2015, as shown in Appendix 3 to the Report, be agreed; | DCS |
| 5.6 | That the updated 2015/2016 Capital Programme, as set out in Appendix 4 to the Report, be approved. | DCS |

It was further

Recommended:

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| 5.7 | That the Annual Treasury Management Report for 2014/2015 be approved. | DCS
(to
note) |
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Reasons for the Decisions:

A Report on funding issues in relation to the Council's General Fund Revenue Account, Housing Revenue Account and Capital Programme is made to each meeting of the Cabinet to ensure that the Council's financial health is kept under continual review. It is essential to ensure that the Council has a sound financial base from which to respond to changing activity levels and demand for statutory services and to ensure that, when appropriate, its finances are adjusted in response to reducing income levels and inflationary pressures on expenditure.

The Council's Treasury Management function deals with very large value transactions on a daily basis. It is essential that the Council is satisfied that appropriate controls are in place and in accordance with the Code of Practice on Treasury Management in the Public Services prepared by the Chartered Institute of Public Finance and Accountancy and adopted by the Council.

6 Portfolio Progress and Performance Report Year End: April 2014 to March 2015

The Cabinet considered Report No 81/15 which related to progress and performance in respect of key projects and targets for the year that had ended on 31 March 2015.

It was important that the Council monitored and assessed its performance on a regular basis to ensure that it continued to deliver excellent services to its communities in line with targets. It was also vital to monitor progress against the Council's strategic projects to ensure that it was delivering what it had set out to do. Paragraphs 11 to 15 and Appendix A to the Report set out details relating to the Council's overall performance framework.

The Report provided a range of performance measures and progress updates which reflected the key projects and service targets which the Council was committed to delivering in the 2014/15 council year. It demonstrated how the Council had performed against the projects and targets which were set out in the 2014/15 Portfolio Holder statements and service plans for the period that had ended on 31 March 2015.

The tables which were set out in Appendix B to the Report provided detailed information and set out where performance and projects were 'on track' and where there were areas of concern. In instances where performance or projects were not achieving targets/deadlines set, an explanation in respect thereof was provided, together with a summary of the management action that was being taken to address the issues. The details in that Appendix followed the seven Cabinet Portfolios which had been in place during 2014/15 and reflected the position at the end of the 4th quarter (ie as at 31 March 2015), and, where relevant, for the year in its entirety.

The Scrutiny Committee had a crucial role in providing input into the policy making process as well as oversight into the performance of the Council. Therefore, it had been asked to make its recommendations in respect of the Report ahead of its consideration by Cabinet. The Committees'

recommendations were set out in paragraph 35 of the Report.

Resolved:

6.1 That progress and performance for the 2014/15 financial year, as set out in Report No 81/15, be considered;

6.2 That the Scrutiny Committee's concern about the percentage of invoices paid on time, be noted;

DBSD

6.3 That the Scrutiny Committee's request for the inclusion, in future performance Reports, of an indicator regarding street cleanliness in the District be noted. However, it be agreed that, as it would be expensive to undertake the survey work that would be required to obtain the necessary data, instead, the Scrutiny Committee be updated, periodically, on progress relating to the work undertaken by the street cleaning service;

DBSD

6.4 That the Scrutiny Committee's request for the inclusion, in future performance Reports, of the Council's performance on the delivery of affordable homes be noted. However, it be agreed that, as a target was currently included within the Council's Core Strategy, no further target setting would be required but that details relating to progress on the provision of affordable housing be reported to the Scrutiny Committee periodically; and

DBSD

6.5 That the Scrutiny Committee's request for the inclusion, in future performance Reports, of a revised measure to provide a broader view on staff satisfaction be agreed and that such revised measure be included in such Reports.

DBSD

Reasons for the Decisions:

To enable the Cabinet to consider the Council's performance for 2014/15 and take into consideration the recommendations made by the Scrutiny Committee.

7 Lewes District Local Plan – Part 1 (Joint Core Strategy): Publication of Main Modifications for Consultation

The Cabinet considered Report No 82/15 which related to a proposal to publish the proposed schedule of Main Modifications to the Lewes District Local Plan Joint Core Strategy (JCS) for a period of eight weeks public consultation. Pursuant to the Examination Hearings and the Planning Inspector's Initial Findings, the Modifications had been drafted in partnership with the South Downs National Park Authority (SDNPA) in order to address the Inspector's recommendations.

The Cabinet Member for Planning, Councillor Jones, reported that the Main Modifications to the JCS would also be considered by the SDNPA at its meeting on 9 July 2015.

Approval was also sought to subsequently submit the Main Modifications,

together with any duly made representations received, to the Examination for consideration by the Inspector during any further Hearings and in his final report.

Report No 82/15 did not seek suggested further modifications that were not within the scope of the Inspector's Initial Findings, or factual updates, as all other parts of the plan were considered by the Inspector to be 'essentially sound'. No other modifications had been invited by the Inspector.

The JCS would be the central planning document for the district. It would set out the long term vision and guide development and change up to 2030. It was being prepared in partnership with the SDNPA and had already been subject to a long process of preparation, public consultation and inspection. It had been extensively consulted upon and amended accordingly.

In April 2014 Cabinet had recommended, and Council had subsequently approved at its Annual Meeting on 7 May 2014, the Focussed Amendments version of the JCS for publication and subsequent submission to the Secretary of State for Examination in public. The JCS was submitted in September 2014 and public Examination hearings had taken place in January 2015.

In February 2015, the Council had received the Inspector's Initial Findings letter which confirmed that the Inspector considered the JCS to meet the statutory requirements, including those arising from the Duty to Cooperate and relating to legal compliance. The Initial Findings also found that the District's level of objectively assessed housing needs had been appropriately identified, and accepted the Council's and SDNPA's position that the level of development could not be accommodated in the District without unacceptable environmental consequences.

However, the Inspector was not convinced that 'no stone had been left unturned' in terms of seeking as many suitable, deliverable and appropriate housing sites as possible. He advised that the evidence of the Examination was that the level of housing growth proposed in the JCS, of 290 homes per year, would not be sufficient to maintain the present levels of employment in the District. Consequently, the Initial Findings letter advised that modifications would be required to the plan in order for it to be capable of being found sound in the final report which included increasing the housing requirement to at least 345 homes per year as set out in paragraph 5 of Report No 82/15.

The Initial Findings letter provided very clear guidance on the changes that the Inspector considered necessary, which had been drafted into schedules of Modifications ready for public consultation. Apart from the suggested modifications relating to housing delivery, the Inspector confirmed that he considered all other elements of the JCS to be essentially sound.

Paragraph 5 of The Report set out details relating to the four schedules of modifications that had been prepared for publication, consultation and subsequent submission to the Examination, namely:

Schedule 1 comprised both Main and Additional modifications which had been identified between the publication of the Focussed Amendments JCS in May 2014 and Submission to the Secretary of State in September

2014.

Schedule 2 comprised both Main and Additional Modifications as proposed to the Examination in the Council's submitted Written Matters Statements in January 2015. It had been considered by the Inspector, including at the public Hearings, but had not yet been subject to formal publication and consultation. Schedule 2 was attached in Appendix 2 to the Report for information and was not subject to Council approval.

Schedule 3 comprised all Main Modifications proposed in response to discussions at the Examination Hearings and in response to the Inspector's Initial Findings, together with any Main Modifications that were previously identified in Schedules 1 and 2. It was only those Main Modifications that the Inspector may consider in his Final Report and which must be subject to public consultation. Details relating to the Main Modifications were set out in Appendix 1 to the Report.

Schedule 4 comprised the Additional Modifications proposed in response to discussions at the Examination Hearings in January 2015 and in response to the Inspector's Initial Findings. Schedule 4 was attached in Appendix 2 to the Report for information and was not subject to Council approval.

The Main Modifications responded to matters that affected the soundness of the JCS. Such changes would be necessary before the plan could be adopted. The Inspector advised at the final Hearing session that, overall, he considered the JCS had been well prepared and well evidenced. However, primarily in light of the shortfall of proposed housing against the level of objectively assessed need for housing, he felt that the balance of sustainable development, as set out in the National Planning Policy Framework namely three elements of environmental, social and economic factors that needed to be appropriately balanced, but which had not yet been struck, as the Inspector considered that too much emphasis had been placed on the environmental element of sustainable development, particularly in terms of new housing provision in the JCS.

Paragraph 5.3 of the Report set out details relating to the key matters that were addressed in the proposed modifications, as indicated in the Inspector's Initial Findings Letter.

It was a statutory requirement that the Main Modifications were published and consulted upon for a minimum period of six weeks which, it was proposed, would commence on 24 July 2015. However, as such time was at the start of the summer holiday period, it was proposed to undertake a longer consultation period of eight weeks which, if implemented, would close on 18 September 2015.

There was no statutory requirement to publish or consult upon the schedules of Additional Modifications.

The anticipated timetable for ongoing work on the JCS to adoption was set out in paragraph 7.1 of the Report which might be influenced by the number and content of representations received and the Inspector's timings with particular

regard to any additional Hearing sessions that he decided to hold.

Recommended:

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| 7.1 | That the schedule of Main Modifications to the Joint Core Strategy, as set out in Appendix 1 to Report No 82/15, be published for an eight week period for public representations to be made; | DBSD
(to
note) |
| 7.2 | That the Director of Business Strategy and Development be authorised to submit the schedule of Main Modifications, together with any duly made representations, to the Examination; and | DBSD
(to
note) |
| 7.3 | That the Director of Business Strategy and Development, in consultation with the Lead Member for Planning and the South Downs National Park Authority, be authorised to agree any further Additional (minor) Modifications to the Joint Core Strategy that may result from the remaining Examination process, as deemed necessary to make the document sound or to aid in its practical application for decision-making. | DBSD
(to
note) |

Reasons for the Decisions:

To ensure that the Joint Core Strategy addresses the Initial Findings of the Planning Inspector in order to result in a sound and National Planning Policy Framework (NPPF) compliant plan.

To ensure that the Joint Core Strategy has addressed the implications of recent changes to national planning policy that have occurred subsequent to its submission for Examination, in order to result in a sound and NPPF compliant plan.

To ensure that the Joint Core Strategy is progressed through the final stages to adoption in a timely manner, in order to provide the Council and National Park Authority with up-to-date development plan policies against which to determine planning applications.

8 Adoption 'Making' of the Newick Neighbourhood Plan

The Cabinet considered Report No 83/15 which related to the proposed adoption of the Newick Neighbourhood Plan ('Newick Now to 2030') as part of the statutory development plan.

The 2011 Localism Act had allowed for local communities to shape their areas by enabling town and parish councils to prepare neighbourhood development plans, an issue which had been enthusiastically taken up by many of the towns and parishes in the District.

Once adopted, such Plans formed part of the statutory development plan and sat alongside the Local Plan which was prepared by the Council. In instances when planning permission was sought in areas covered by an adopted neighbourhood plan, the application needed to be determined in accordance with both the neighbourhood plan and the Local Plan.

There were several legally prescribed stages that needed to be undertaken in the preparation of a neighbourhood plan, further details of which were set out in paragraph 2.3 of the Report.

Paragraphs 3.1 to 3.11 of the Report set out details relating to the progress that had been made in respect of the Newick Neighbourhood Plan upon which, on 26 February 2015, a referendum had been held in Newick Parish that had posed the following question to eligible voters:

“Do you want Lewes District Council to use the Neighbourhood Plan for Newick Parish to help decide planning applications in the neighbourhood area?”

49% of registered electors had recorded their votes, 846 of which were in favour of ‘yes’ compared with 102 in favour of ‘No’. Consequently, it was declared that more than half of those voting had voted in favour of the Plan.

In accordance with the Neighbourhood Planning Regulations, following the outcome of the referendum it was for the Council to ‘make’ the neighbourhood plan so that it formally became part of the development plan for the District.

Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended) set out the requirement for a local planning authority when it came to adopting (or ‘making’) a neighbourhood plan, further details of which were set out in paragraph 3.11 of the Report.

Recommended:

- 8.1** That the Newick Neighbourhood Plan, as referred to in Report No 83/15, be formally adopted as part of the statutory development plan for the district.

DBSD
(to
note)

Reasons for the Decision:

The Newick Neighbourhood Plan has undergone a successful examination and received a majority vote in favour at a referendum.

To comply with the Localism Act which requires local planning authorities to ‘make’ a neighbourhood development plan as soon as reasonably practicable following a successful referendum.

Deputy Leader of the Council, Councillor Smith, in the Chair

9 Industrial Estate Management Strategy

The Cabinet considered Report No 84/15 which related to a proposal to agree the principles for dealing with rent reviews and requests for lease extensions across the Council’s Industrial Estate properties and to noting the potential future investment requirements to maintain and update the assets.

The Council owned the freehold land at 4 Industrial Estates namely: Cradle Hill Industrial Estate, Seaford (CHIE); North Street, Lewes (NSIE); Avis Way,

Newhaven (AWIE); and Drove Road, Newhaven (DRIE). They dated from the late 1960s and made an important contribution to the local and regional economy. The Council had granted a variety of leasehold interests in those sites over a number of years. Report No 84/15 related to the leases granted by the Council rather than any sub-lettings that were entered into by the Council's tenants.

Turnover of property on the estates was low and the Council received on average one to two requests per month for warehouse/industrial space along the coastal strip. Rental income from the Industrial Estates, including North Street, Lewes, totalled £683,500 per annum. However, the NSIE was not considered as part of the Report as it was within the North Street Quarter which was earmarked for redevelopment.

In 2014, the Council had commissioned a report from Stiles Harold Williams in respect of CHIE and DRIE, and from Clifford Dann in respect of AWIE. They had been instructed to:

- Develop an understanding of the existing tenant's aspirations;

- Consider alternative ways of improving the rental income from the asset; and

- Provide advice on estate and common part improvements.

Further details relating to those industrial estates were set out in paragraphs 2.5 to 2.23 of the Report.

Paragraphs 2.24 to 2.27 of the Report set out details relating to the rent reviews for current leases. Most of the leases contained rent review provisions in which there was the potential for rent to be increased at specified points in time. At CHIE there were overdue rent reviews on 15 properties with 4 more due within the next 12 months. The outstanding reviews related mainly to the units with the shortest unexpired leases. There were no outstanding rent reviews at either AWIE or DRIE however the same issues around diminishing leases applied.

The existing leases worked on the basis that the reviewed rent for the entire contractual term shall disregard the value of the buildings on the land. Such arrangement was commercially unusual because of problems around gathering suitable comparison rental evidence for the separate land and buildings elements of the review.

Tenants at CHIE who were interested in lease extensions had been told that the Council would delay implementing their rent reviews pending a decision as to whether the Council was willing, in principle, to grant such extensions.

Paragraph 2.37 of the Report set out details of key issues in respect of CHIE which had been identified in a survey that was undertaken in April 2015 with its tenants. A total of 13 questionnaires had been sent out for which there had been a 100% response rate.

Paragraphs 2.28 to 2.35 of the Report set out details relating to rents for lease re-grants. The main area for negotiation on any surrender and re-grant would

be the rent paid for the new lease.

Section 123 of the Local Government Act 1972 stated that the Council could not dispose of its land for a consideration which was less than the best that could be reasonably obtained in the market, except with the express consent of the Secretary of State. That part of the Act covered the rent paid for leases that exceed seven years.

New leases would also be subject to the Council policy set in July 2008 when Cabinet agreed that a policy of open market rentals be adopted for all Council leaseholders.

There were broadly three options for Cabinet to consider namely:

Option 1 – Do nothing - Officers would conduct rent reviews based on the existing lease terms, which were ground rent only. The tenants would have no right to a surrender and re-grant at that point. However, the current leases were commercially unusual and used an unsatisfactory rent review mechanism;

Option 2 – Agree to new leases based on a surrender and re-grant and move to an open market rent over a period of time on a stepped basis. By staggering the rental payments due incrementally, businesses would have longer to plan for the additional expense and the Council would benefit from an uplift in rents three times in the next 10 years. Option 2 was the recommended option and further that Cabinet approve the principles that were set out in paragraph 2.36(b) of the Report for individual tenant negotiations, on the understanding that some variation might be needed during negotiations to cater for individual circumstances; and

Option 3 – Move to open market rent upon commencement of the new lease. While that was the most commercially advantageous route, there was an issue of affordability for business owners. The Council had a duty to obtain best consideration through its assets, but it could also take into account the impact on the local economy and social wellbeing of an area as part of that consideration.

Resolved:

- 9.1** That it be agreed to conduct rent reviews, lease surrenders, and the grant of new leases for tenants across the Council's industrial estates, in line with the principles outlined in Report No 84/15, including adoption of Option 2, as set out in paragraph 2.36(b) of the Report, namely the surrender and re-grant of leases, moving to an open market rent over a period of time on a stepped basis.

DCS

Reason for the Decision:

Periodically, the Council undertakes rent reviews across the investment property portfolio and there is the opportunity to complete rent negotiations in parallel with negotiating surrender and re-granting of leases where appropriate.

(Note: Councillor Blackman declared his personal, prejudicial interest in this item and, therefore, left the room and took no part in the consideration, discussion and voting thereon.

Councillor Franklin declared his non-prejudicial interest in this item as he was one of the Ward Councillors who had been elected to represent Seaford North Ward on the Council, which was the Ward in which Cradle Hill Industrial Estate was located and, therefore, was able to take part in the consideration, discussion and voting thereon).

Leader of the Council/Chair of the Cabinet, Councillor Blackman, in the Chair

10 Depot Rationalisation Feasibility Report

The Cabinet considered Report No 85/15 which related to a proposal to pursue the development of a new depot in Newhaven, combining the existing depot and recycling facilities at Robinson Road, Newhaven; and North Street, Lewes, onto a new site at Avis Way, Newhaven, following the undertaking of a feasibility study in respect thereof.

In March 2012, Cabinet had approved the principle of agile working and operational property rationalisation which was closely followed by the adoption of the Property Strategy in May 2012 and the new shared services presence in Newhaven that had been approved by Cabinet in July 2012.

Southover House, Lewes, had subsequently been refurbished and operational activity within that town had been centralised into one building and the new shared services building in Newhaven would be delivered in Autumn 2015. Therefore, given the review of how waste and recycling would be delivered in the future, it was appropriate to consider the business case for combining the current depot operations onto one site.

There were two other key strategic priorities to consider. The Recycling Centre in Lewes was located within the North Street Quarter which was subject to a joint development proposal between the Council and Santon. Additionally, the land at Robinson Road where the existing depot was located had been earmarked to deliver a number of affordable homes through the property regeneration project.

Paragraphs 3.4 to 3.9 of the Report set out details relating to the feasibility and site layout of a new depot in Newhaven in respect of which illustrations were attached at Appendices A and B thereto.

The feasibility study had indicated that the land identified at Avis Way would be a suitable site to accommodate a Waste Transfer Station (WTS), vehicle workshop and office & welfare facilities of a size that corresponded with the areas indicated within the Outline Specification provided by the Council.

However, a more detailed brief would need to be developed to clarify the size, function and relationship of all the areas which would be subject to decisions that would need to be made on the type of service the facility would provide as

well as the future refuse and recycling collection policy that would be adopted. Further details relating to the proposal were set out in the Report.

The Report recommended that the suggested route to procurement and construction was to engage with a tier 2 design and build contractor that was procured through East Sussex County Council's (ESCC) Sussex Cluster Contractors Framework (SCCF).

The Council did not have staff with the appropriate skills and experience to manage such project. However, ESCC's specialist Property & Capital Investment Delivery Team had the necessary skills and experience which included a dedicated Project Manager, Cost Consultant, Contract Administrator, as well as Construction Design and Management consultant and access to ESCC's contractor frameworks for procurement.

The Council's Contract Procedure Rules required that Officers invite tenders for contracts costing £30,000 or more for which project management of the construction elements of the new depot scheme would exceed such sum.

The development of the site at Robinson Road was time sensitive in order to be able to capitalise on a possible grant from the Homes and Communities Agency. Consequently, there was pressure to complete the procurement process. It was therefore proposed to appoint ESCC's Property & Capital Investment Delivery Team to project manage the construction elements of the new depot scheme without inviting other contractors to tender, further details of which were set out in the Report. Such proposal required that Contract Procedure Rule 6 be waived by either Cabinet or the Leader of the Council.

There was also an urgent need to appoint planning consultants for Robinson Road and a number of other sites which were identified within the Property Regeneration Portfolio. Lewis & Co Planning Consultants had the required expertise, experience and capacity and it was therefore recommended that they be appointed without inviting other contractors to tender. Such recommendation required that Contract Procedure Rule 6 be waived by either Cabinet or the Leader of the Council.

The Cabinet Member for Finance and Resources, Councillor Smith, drew Cabinet's attention to Officer Recommendation 3 relating to funding for the proposed new combined depot premises, as set out in the Report, and reported that such Recommendation needed to be disregarded as the necessary funding issues in respect of the depot were referred to in Officer Recommendation 2.

In response to a Councillor's question, it was reported that the Council's Materials Recovery Facility that was located in North Street, Lewes, was not a facility that was accessible to the public.

Resolved:

- 10.1** That the Director of Corporate Services and the Director of Service Delivery, in conjunction with the Assistant Director of Corporate Services, be given delegated authority to develop a combined depot premises in Newhaven in accordance with the detail contained within

DCS/
DSD/
ADCS

Report No 85/15;

- | | | |
|-------------|---|----------------------|
| 10.2 | That £3.5m within the Capital Programme be allocated for delivering the Council's new combined depot premises in Newhaven, to be funded from capital receipts and prudential borrowing financed from savings arising from consolidation of assets; | DCS/
DSD |
| 10.3 | That the Director of Corporate Services and the Assistant Director of Corporate Services be authorised to make appropriate arrangements to serve notice on the affected tenants at Avis Way; | DCS/
DSD/
ADCS |
| 10.4 | That the Director of Corporate Services be authorised to appoint East Sussex County Council's Property & Capital Investment Delivery Team to project manage the construction of the combined depot facility; and that Contract Procedure Rule 6 be waived in respect of this contract for the reasons set out in paragraphs 3.15 to 3.17 of the Report; and | DCS/
DSD |
| 10.5 | That the Director of Corporate Services be authorised to appoint Lewis & Co as planning consultants and that Contract Procedure Rule 6 be waived in respect of this contract for the reasons set out in paragraph 3.17 of the Report. | DCS/
DSD |

Reason for the Decisions:

On 19th March 2015, Cabinet approved the recommendation to carry out a feasibility study into the relocation of Robinson Road Depot and North Street Waste & Recycling Centre onto a combined site in Avis Way, Newhaven.

11 Outcomes of the Waste and Recycling Review

The Cabinet considered Report No 86/15 which related to the outcomes of the review of the Waste and Recycling service as conducted by Ricardo and to seeking Cabinet approval in respect of the options for the development of the service.

The Council operated an in-house Waste and Recycling service for which its recycling rate was 24.98% for the year 2013/14 whereas the national average was 44.2%. Consequently, the Council was within the bottom quartile of local authorities in the United Kingdom (UK). However, there was a European Union target for the UK to recycle at least 50% of household waste by 2020. Furthermore, the Council's current waste facilities at North Street, Lewes, and Robinson Road, Newhaven, were due to be closed within the next 18 months as both sites had been identified as locations for the provision of affordable and private housing, which was a strategic priority for the Council.

The current Waste and Recycling service was originally developed in 2000 and 85% of residents had access to the recycling service. However, since that time, attitudes towards refuse and recycling had dramatically changed. A 2014 YouGov poll had found that 94% of people said that it was important to recycle; 60% of respondents said that they already separated out glass and a further 35% indicated they would be happy to do so if offered the option; 55% of respondents separated out organic waste and a further 36% indicated they

would be happy to do so if a collection service was offered; and 38% thought that the current European Union target of 50% of all waste being recycled was too low, with only 8% thinking it was too high. The table set out in paragraph 8 of the Report indicated the amount of kerbside waste and recycling that had been collected by the Council in 2013/14.

The Council used its existing small Materials Recovery Facility (MRF) in Lewes to remove contaminants. The amount of material rejected from the MRF was very low which indicated a high level of material quality.

There were some constraints that limited the capacity of the current service to fulfil the strategic goals that the Council had established. For example, the current service was complex with multiple containers into which residents needed to sort their recycling. There were separate collection days for refuse, recycling and food waste. Furthermore, additional containers could only be provided if requested and it was felt that a low number of people were aware that residents could request more containers or further collection services. The current service was not flexible for residents who lived in flats that restricted recycling to only two streams. The current system placed more emphasis on refuse collection which was weekly, than the recycling service which was fortnightly and there was insufficient capacity at the existing MRF facility to bulk all of the materials that were collected.

The Council had asked Ricardo to produce and assess some options for the development of the Waste and Recycling service which focused on increasing the frequency and capacity of the recycling collections, at the same time as assessing the viability and impact of reducing the frequency of refuse collections following which Ricardo had developed five options, further details of which were summarised in the table in paragraph 13 of the Report.

Paragraphs 14 to 16 of the Report compared the options whilst paragraph 17 set out details of the recycling rates of the highest performing Councils in England in 2013/14.

The Council believed that Option 2 offered the advantages of a largely commingled service which was easier for residents to use, and a partial source-separation system which preserved the quality of the most valuable recyclable material namely, paper and glass. Furthermore, the infrastructure and equipment that was required would be sufficiently adaptable that should legislation or service options change in the future, the Council could move to a source-separated service. Option 2 also provided the advantage that it would allow the Council to process all plastic.

It was proposed to implement the new service concurrently with the relocation of the Waste and Recycling operations to a new depot facility.

The Council had also asked Ricardo to model the business cases for three options in relation to the processing of the materials collected as part of the recycling service. The options that it had considered in detail were:

the Council delivering collected recyclables to a facility owned and operated by a third party; and

the Council operating a basic MRF facility at a new depot.

Ricardo had assessed the potential for constructing a full MRF facility. However, that option had been ruled out as it was not economically viable.

An explanation of the processes that were undertaken at the Council's existing small MRF and the options that were available to it were set out in the Report. A summary of the costs and income associated with each option, in addition to a number of important other factors, was set out in the table in paragraph 33 of the Report.

Options 2 and 3 offered the highest level of positive service development, cost savings and opportunity for income-generation. Option 3 assumed higher levels of sorting by crews, but resulted in a higher quality of material collected and, consequently, a higher income from materials. However it produced the lowest recycling rate of all modelled Options.

In the event that the Council was interested in proceeding with constructing and operating a MRF facility at a new depot, Option 3 would not be suitable as, arguably, the Council would not have sufficient recycling material for sorting to justify its construction.

Paragraphs 37 to 40 of the Report set out details of the proposed implementation process associated with the Council's Waste and Recycling service provision.

The Cabinet Member for Finance and Resources, Councillor Smith, drew Cabinet's attention to Officer Recommendation 4 relating to funding for the start-up costs associated with implementing the changes to the service, as set out in the Report, and reported that the amount of required funding needed to be revised downwards as £1.5m was already in the capital programme for vehicle replacements.

Resolved:

- | | |
|---|------------|
| <p>11.1 That the recommendations included within the Waste and Recycling review conducted by Ricardo and included as Appendix A to Report No 86/15, be considered;</p> | <p>DSD</p> |
| <p>11.2 That the findings of the review be accepted and the Council proceed to develop the Waste and Recycling service in accordance with Option 2, defined in the Report as:</p> <ul style="list-style-type: none">a. Fortnightly refuse collection;b. Weekly recycling collection with glass and paper collected separately from cans, plastics and card;c. Weekly food waste;d. Fortnightly opt-in green waste collection; | <p>DSD</p> |
| <p>11.3 That the existing small Materials Recovery Facility at North Street, Lewes, be relocated to the new depot facility;</p> | <p>DSD</p> |

- 11.4** That £0.7m be allocated from General Fund reserves to fund the start-up costs of the new service as referred to in paragraph 43 of the Report; and DSD
- 11.5** That the Director of Service Delivery, in consultation with the Assistant Director of Corporate Services, be authorised to develop a viability study for the establishment of a company to provide commercial operations, including a business case. This will enable members to take a further decision on the options for commercial operations. DSD/
ADCS

Reasons for the Decisions:

The Council operates an in-house Waste and Recycling service. The Council's recycling rate was 24.98% for the year 2013/14 where the national average was 44.2%. This places the Council within the bottom quartile of local authorities in the United Kingdom (UK). There is a European Union target for the UK to recycle at least 50% of waste generated by households by 2020.

In addition to this the Council's current waste facilities at North Street in Lewes and Robinson Road in Newhaven are due to be closed within the next 18 months as both sites have been identified as locations for the provision of affordable and private housing, a strategic priority for the Council.

The Council recently conducted a consultation on the provision of a green waste service in the District, a service which the Council does not currently provide. The results of the consultation were as follows:

Response	Numbers
Yes – the service is needed;	309
Yes – the service is needed but disagree with proposed charge of £60;	295
Yes – the service is needed but no charge should be made;	203
Total	807
No – the service is not needed	564
Total	564
Total Number of Responses	1371

A trial of the green waste service will be conducted in Seaford in August 2015.

The Council's current Waste and Recycling service was developed in 2000, and attitudes and behaviours towards recycling and refuse have dramatically changed in this period. In 2004, 45% of English householders classed themselves as "committed recyclers" and by 2011 this had risen to 70%. There is also evidence that the public would recycle more if this were supported and encouraged by the services offered by local authorities.

The Council is seeking to provide a service that encourages recycling, is flexible and easy to understand for residents, provides savings as well as potential commercial opportunities, and uses the Council's current and predicted future workforce and facilities in the most efficient manner. The Council asked Ricardo to consider the following factors when developing options for the future service:

The frequency of refuse and recycling collections;

How residents are asked to sort recycling and the containers required;

The material quality of the recycling collected under different options;
and

The staff and vehicle requirements of each option.

12 Compulsory Purchase - Land Adjacent to Robinson Road Waste & Recycling Depot in Newhaven

The Cabinet considered Report No 87/15 which related to a proposal to build a case for the compulsory acquisition of the leasehold interest in land adjacent to Robinson Road Waste & Recycling Depot in Newhaven, as illustrated on the plan that was set out at Appendix B to the Report.

The land had been identified as having potential for an affordable housing scheme which, if implemented, would deliver much needed homes for people within the District. The Council owned the freehold of the area, but part of it was leased. The leasehold land was required as part of the proposed scheme. The Council could not obtain vacant possession of the leased land until the lease came to an end or was acquired. The Council had entered into negotiations to purchase the leasehold interest but to date those negotiations had not been successful. Therefore, it needed to consider the potential for compulsory acquisition of the leasehold interest.

Powers to acquire land compulsorily were set out in various Acts including the Town and Country Planning Act 1990 which provides that a local authority might be authorised by the Secretary of State to acquire compulsorily any land if they thought the acquisition would facilitate the carrying out of development, re-development or improvement provided they thought that was likely to contribute to one or more of the specified objects, one of which was the promotion or improvement of the social well-being of the authority's area.

The Council did not have the power to compulsorily acquire land until the Secretary of State confirmed (ie authorised) a Compulsory Purchase Order (CPO). The Secretary of State needed to be satisfied on a number of issues before the CPO could be confirmed, further details of which were set out in paragraph 2.4 of the Report.

Paragraph 2.5 of the Report set out details relating to the amount of work that was required before a CPO could be made. When that work had been completed there would be sufficient information to ask Cabinet whether it wished to make a formal resolution to authorise the use of compulsory purchase powers. It was anticipated that the Officers would prepare a further Report for consideration by Cabinet in September 2015.

The Assistant Director of Corporate Services reported that, following receipt of an estimate of the fees for the necessary external solicitor to assist with working up the case for compulsory purchase of the land, Cabinet needed to

approve funding of between £2250 to £3750 for such work.

Resolved:

12.1 That the Officers be authorised to:

- (a) gather information and establish the case for compulsory purchase of the land in Robinson Road, Newhaven, as set out in paragraph 2.5 of Report No 87/15 utilising a budget of between £2250 to £3750 from existing budgets to engage such support as necessary to assist with such work; and
- (b) bring a further Report to Cabinet in September 2015 when full information concerning the case for compulsory purchase should be available.

Reason for the Decisions:

To enable a case to be made for the compulsory acquisition of the leasehold interest.

13 Electoral Review: Council Size

The Cabinet considered Report No 88/15 which sought views on the recommendations of the Council's Electoral Review Working Group on Council size, as part of the East Sussex-wide Electoral Review that was being conducted by the Local Government Boundary Commission for England (LGBCE).

The LGBCE was required to undertake an Electoral Review of East Sussex County Council prior to the next County Council elections in May 2017. In addition, reviews were being conducted in Wealden and Hastings as part of the process as, in both authorities, electorate imbalance in wards/divisions had triggered the need for such a review.

Whilst there was no current requirement for such a review in Eastbourne, Lewes or Rother, the LGBCE had asked to review the whole County at the same time and all the relevant authorities had agreed to take part. There were advantages of East Sussex County Council and the District and Borough Councils being reviewed together which included the potential for coterminous boundaries and economies of scale.

Consistency of approach to the Review was being overseen by a joint officer Project team with representatives from all the authorities. However, each Council needed to produce its own review proposals.

Following a presentation to councillors relating to the Review in April 2015, a cross-party Electoral Review Working Group had been formed which looked at the first key issue namely, the number of councillors required to run the Council to ensure appropriate levels of governance, scrutiny and community representation, which would come into effect at the next District Council elections that were scheduled to be held in May 2019. The second issue,

DCS

which was not for consideration as part of Report No 88/15, related to the making of proposals in respect of ward numbers, boundaries and names.

The Council currently had 41 Councillors and 21 wards, and its boundaries were coterminous with the 8 county electoral divisions that covered the District.

The LGBCE had made it clear that council size changes would be considered within specific representational ranges appropriate to the size and demographic of the District. In the case of the Council, the approved range was a council membership of from 27 to 59 therefore, the Council had scope to increase, reduce or maintain its current size.

The Electoral Review Working Group, comprising cross-party representation of all the political Group Leaders, had met on 5 May 2015 to consider and formulate a council size proposal for recommendation to full Council, further details of which were set out in paragraph 4 of the Report. That process had included a review of the results of a survey which had been circulated to all councillors, together with other considerations.

Having regard to the retention of the same statutory democratic structure as had existed in 2000, the advancements in technological tools and the organisational improvements in addressing issues in the community, it was recommended that the Council submit a proposal on its size within the range from 35 to 41 Councillors, with the final preferred number to be agreed by full Council.

Paragraph 5 of the Report set out details relating to the timetable and further work associated with the submission of draft proposals on council size to the LGBCE and for the second key stage of the Review in respect of proposed ward numbers, boundaries and names.

Resolved:

- 13.1** That the proposals of the Electoral Review Working Group on Council size, as set out in Report No 88/15, be noted;
- 13.2** That the scope for the Electoral Review Working Group to consider ward proposals be noted; and
- 13.3** That the timescale of reporting for the submissions on Council size and ward proposals be noted.

It was further

Recommended:

- 13.4** That the recommendation of the Electoral Review Working Group that the proposed Council size of Lewes District Council from 2019 should range between 35 to 41 councillors, be agreed; ADCS (to note)
- 13.5** That the Council decide the final preferred number of councillors from within the proposed range of 35 to 41 councillors for the submission to the Local Government Boundary Commission for England on Council size; ADCS (to note)

13.6 That the scope for the Electoral Review Working Group to consider and produce the subsequent proposals for wards (names, number and boundaries), be confirmed; and

ADCS
(to
note)

13.7 That the timetable of reporting for the submissions on Council size and ward proposals, be noted.

Reasons for the Decisions:

To achieve the outcomes of the Electoral Review and to ensure the Local Government Boundary Commission for England timetable is met.

14 Ward Issues Raised by Councillors at Council

The Cabinet considered Report No 89/15 which related to responses to Ward issues which had been raised by Councillors at the Council Meeting held on 23 April 2015 and at the Annual Meeting of the Council on 20 May 2015.

Resolved:

14.1 That the Officer action in respect of Ward issues raised by Councillors at the Council Meeting held on 23 April 2015 and at the Annual Meeting of the Council on 20 May 2015, as detailed in Report No 89/15, be noted and agreed.

DSD

Reason for the Decision:

To ensure that appropriate follow up action is taken in respect of Ward issues raised by Councillors at Council Meetings.

The meeting ended at 3.35pm.

R Blackman
Chair