

**CABINET MEETING held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN on 7 SEPTEMBER 2017 at 7PM**

Present: Councillor H Rolfe (Leader)
Councillor S Barker (Deputy Leader and Cabinet Member for Environmental Services)
S Howell (Cabinet Member for Finance and Administration)
Councillor V Ranger (Cabinet Member for Communities and Partnerships)
Councillor J Redfern (Cabinet Member for Housing)

Also present: Councillor H Asker, Councillor R Freeman (Residents for Uttlesford Group, substituting for Councillor J Lodge).

Officers in attendance: D French (Chief Executive), R Dobson (Principal Democratic Services Officer), R Harborough (Director of Public Services), A Knight (Assistant Director - Resources), R Millership (Assistant Director – Housing and Environmental Services), S Pugh (Interim Head of Legal Services and Monitoring Officer), J Snares (Housing and Communities Manager) and A Webb (Director of Finance and Corporate Services).

Public Speaking

Mr T J Hockley and Mr R Tongue having registered to speak, the Chairman said the order of business would be altered to enable Mr Hockley to speak after declarations and apologies for absence, and to permit Mr Tongue to speak when the item on De Vigier Avenue was considered.

Mr Hockley made a statement, a summary of which is appended to these minutes.

Councillor Barker said she had visited Mr Hockley at his home, and that when she had been there, the unpleasant odour about which he had complained was not apparent. However, Councillor Ranger had visited earlier and had been aware of the odour. It was possible that the smell was being caused by how the site was run. She had invited Mr Hockley to meet with the Environment Agency and the Council's Environmental Health Officer for a discussion. The cleanliness of the Council's vehicles coming into the site was a possible factor, which she had communicated to the Operations Manager, who would ensure checks were put in place that the vehicles were clean.

Mr Hockley expressed doubt about such measures resolving the problem.

Councillor Rolfe said Mr Hockley and relevant parties should meet on the site to review the position. Whilst the Council did not own the site, the meeting would be a useful step to establishing what mitigation could be put in place.

Councillor Barker said Mr Hockley had referred to the District Council deciding where its waste was taken, but that in fact Essex County Council directed where the District Council had to take the waste.

CA39 **APOLOGIES FOR ABSENCE AND DECLARATION OF INTERESTS**

Councillor S Barker declared a personal interest in Great Dunmow Waste Transfer site, as Essex County Council, of which she was a member, had responsibility for that site.

Apologies for absence were received from Councillors A Dean, J Lodge and H Ryles.

CA40 **MINUTES**

The minutes of the meeting held on 6 July 2017 were received and signed by the Chairman as a correct record.

The minutes of the meeting held on 10 July 2017 were received and signed by the Chairman as a correct record, subject to an amendment as follows: to delete in the third paragraph of Minute CA29, Local Council Tax Support Scheme 2018/19, the wording "When this happened it would no longer be possible to maintain support for those people presently benefitting from LCTS."

CA41 **QUESTIONS OR STATEMENTS FROM NON - EXECUTIVE MEMBERS OF THE COUNCIL**

In the absence of Councillor Dean, a statement he had submitted for consideration at the meeting was read out as follows:

"At the last Full Council Meeting I was appointed to a task group to oversee agreements with the Army at Carver Barracks related to an agreed grant of £500,000 towards the cost of creating a running track at the barracks. It is intended that there will be public access to the running track as there has been to date for the use of existing sport facilities.

I have asked in writing a number of questions about past and current public usage of the facilities, for which some answers have been received. I have also asked questions related to forecasts of planned use by the local public of the running track. No answers have been received from the Army. Moreover, I am concerned that there may be a blockage within this Council preventing the questions being asked of the Army. I will, of course, continue to pursue these matters in the interests of public accountability."

Councillor Rolfe said the Cabinet noted Councillor Dean's comments. Whilst future use of the facility was difficult to predict, it would be in the context of the existing Multi Use Games Area. It was important that all questions were filtered through a central point. A cross-party group, to be chaired by

Councillor Ranger working with Councillors Knight and Artus, would examine the detail of the proposals.

Councillor Ranger indicated he wished to speak.

Councillor Barker said that if the topic of Carver Barracks was to be discussed, she would need to declare a prejudicial interest as this subject came within her portfolio as a member of Essex County Council.

Councillor Ranger said his comments were for clarification only. He said Councillor Dean had been present at the meeting that had refined the member group's heads of terms to be put to the Army, and that revisions from the members, including Councillor Morris, would be incorporated into the terms proposed. Only once all terms were considered satisfactory by members would it be possible to make public the hours during which the facilities could be used.

Councillor Rolfe said Councillor Dean would be kept informed.

CA41 **REFUGEE WORKING GROUP**

Councillor Redfern said the Council would be assisting another Syrian refugee family identified by the Essex Resettlement team, as another property was available in close proximity to a refugee family already housed within the District. The property should be ready in October, and the family were to be brought over in mid to late October. She would report further in November.

Councillor Rolfe asked about the number of refugees helped by Uttlesford District Council, in terms of a proportion of those helped by Essex County Council.

Councillor Redfern said whilst she was not in possession of the precise numbers of refugees assisted across Essex County Council, a factor to bear in mind was that this district did not have some of the support facilities required by the most needy families, such as a major Hospital.

Councillor Rolfe thanked Councillor Redfern for her verbal report.

CA42 **LAND AT DE VIGIER AVENUE**

Councillor Rolfe invited Mr Tongue to make his statement at this point (the statement is appended).

Councillor Howell presented the report. He said at the meeting of Cabinet on 25 May 2017 a resolution to dispose of the land was made. Following the statutory advertisement, three objections had been received, one from Saffron Walden Town Council and two from members of the public. As required, the Cabinet now had to consider the issues before reaching a final decision.

Councillor Howell drew to members' attention the financial implications stated in the report, in that by agreeing to the request of Saffron Walden Town Council to transfer the land to it for a nominal sum, the District Council would forego a significant capital receipt.

Councillor Howell explained the background to the matter. He agreed with the point Mr Tongue had raised, that there had been access to the site over the driveways of numbers 16 and 18, but he said that to all intents and purposes the land had been landlocked as far as vehicular access was concerned. Authority had been granted on 25 May 2017 to the Director of Finance and Corporate Services to dispose of the land. Since then it had been established that the land was subject to a covenant given by the developer to transfer the land to the Council for public open space purposes. The report set out the legal position regarding the covenant, in that it was not a covenant given by the Council.

If the land was no longer required for the purpose for which it was held the Council could appropriate it. The Council was obliged to follow statutory procedures before appropriating the land for disposal.

Councillor Howell referred to the objections which had been received, comprising an objection from Saffron Walden Town Council, Mr Tongue and Mr Storah. Councillor Howell thanked Mr Tongue, for also attending to make representations.

Councillor Howell took members through the objections, set out in full in the report's appendices.

Regarding the objection received from Saffron Walden Town Council, he said the Town Council had objected to the disposal of the land, and had referred to provision under an agreement in 1984 for the transfer of the land for use as public open space. The objection stated that the land was currently used as such, and that it was a discrete wildlife area for flora and fauna. The Town Council asserted that the disposal or sale of the land would have a negative impact on this natural environment.

Councillor Howell said the Town Council had proposed that ownership be transferred to it for a nominal sum with a view to its future retention as public open space.

Regarding the objection received from Mr Tongue, Councillor Howell drew to members' attention to Mr Tongue's written statement that the land was "under covenant which was enforceable without any limit of time to be used as a public open space. A covenant shall be enforceable (without any limit of time) against any person deriving title from the original covenantor, which is yourselves, you have failed in your duty regards this. You have ignored the correct options open to you and instead of enforcing the covenant have decided to profit from this land with your current actions."

Mr Tongue had also in his written objection stated his view that the proposed appropriation and disposal would infringe the rights of residents under the Human Rights Act.

Regarding the objection received from Mr Storah, he had mentioned the planning agreement from 1984 and had put forward the view that this required the Council to keep the land as public open space. Mr Storah had also made a substantive point about the value of the current use of the land, in that he had stated "This land is a discreet, wildlife area for flora and fauna and the disposal/sale of this land would have such a serious adverse impact on this small enclave of natural environment that it would effectively be totally obliterated from the local area."

Councillor Howell said he had spoken to officers and that officer comments on the objections were set out in the report, which considered some misunderstandings around legal and procedural aspects of the objections.

He said the covenant referred to related to a covenant given by the developer to transfer the land to the Council for public open space purposes. The covenant did not prevent the appropriation and disposal of the land, and did not oblige the Council to maintain the land as open space. The Council had separate legal obligations to manage public open space in a manner compatible with its status, and not for other purposes. Provided the statutory procedure was followed and objections were properly considered, appropriation under section 122 of the Local Government Act 1972 or disposal under section 233 of the Town and Country Planning Act 1990 overrode the primary protection given by the Public Open Spaces Act 1910.

Regarding Mr Tongue's citation of the Human Rights Act 1998, Councillor Howell said the Act was not relevant to the proposed appropriation and disposal of the land. The view given in the report by the Interim Head of Legal Services was that whilst the residents might consider the land to be a beneficial amenity, the removal of the amenity by itself would not amount to an infringement of the rights under the Act; nor would Article 1 of the first protocol be relevant, as the residents had no right to possession in respect of the open space.

Councillor Howell referred members to the statutory requirements relevant to making the decision. Members needed to weigh up the pros and cons and give reasons for their decision. The site at Ridgeons would provide housing, including affordable housing, a recreation amenity and open spaces. He had thorough knowledge of the background relating to the land. In the past, the Town Council had been reluctant to take on additional pieces of land. The current proposal seemed a change of policy. The land at De Vigier Avenue had not been a widely used public space for 29 years, the right of way was accessed over the driveways of two of the residents, making it very difficult to access. The Council had agreed to retain the treeline. The wildlife survey which had been undertaken indicated there were no wildlife species which were rare, and that the most common type of wildlife on the land were rats. There were merits in appropriation of the land for planning purposes in that it would allow it to be incorporated into the adjoining Ridgeons site, as without taking this opportunity of creating access to the land, it would remain landlocked. There were significant benefits in doing so for enabling development for additional housing. Furthermore, there was potential for

generating a significant capital receipt for the Council. Councillor Howell recommended the proposal, which was seconded by Councillor Ranger.

Councillor R Freeman said the land at De Vigier Avenue was in his ward, and that Councillor Asker was also in attendance as the other ward member. He intended to speak on behalf of the Town Council. The land was in the gift of the District Council, and they had chosen to leave it in the state it was in now. He found it hard to believe the wildlife survey had not revealed evidence of a diversity of wildlife, because in Little Walden Road there was a piece of land with eight species of bats, one of which was rare.

Councillor R Freeman referred to the deed dated 1984, containing a section 106 agreement. The agreement referred to green land, so if anyone was to benefit, it should be the residents of De Vigier Avenue. The land was made over to the then council for their benefit, but this council had "let it go" for 29 years. Any pecuniary benefit should go to the residents, or the land should be tidied up and made into more of an open space. The Town Council would be willing to do this.

Regarding Councillor Howell's statement that the Council used to be unenthusiastic about taking on public open spaces, councils were not bound by earlier ones. The land should remain for the benefit of the residents, and the Town Council was the obvious instrument to manage it, either as it was, or for more productive use; or if it was to be turned to building, the beneficiaries should be the residents who had bought their properties in De Vigier Avenue. There was no full audit trail of title, and he questioned whether the District Council had good title to enable it to pass the land to a developer. If the land were made over to Saffron Walden Town Council, it would create a wildlife corridor.

Councillor Ranger said open space had been provided on the Ridgeon's site, which was very near, so there would not be a lack of open space in the area. Councillor Freeman had suggested ownership by De Vigier Avenue residents, but any change of ownership since the site had been bought would make any division difficult. Councillor Howell had accurately summarised the position.

Councillor Howell said there was no evidence to suggest the original transfer was to any party other than the District Council. When he had been a councillor at Saffron Walden Town Council, there had never been any suggestion of a question over ownership. The land was clearly owned by Uttlesford. He was delighted the Town Council was taking on more of the smaller green spaces, and he recommended they look more widely across the town.

Councillor Ranger said he would not speculate as to bats. The presence of rare species was not borne out by surveys. This land was not an island, it was in an area of fields and trees, and was on the edge of town. He supported the proposal.

Councillor Rolfe said as part of the negotiations he would like there to be some pedestrian safety measures installed on Ashdon Road, near the Homebase junction.

RESOLVED

- a) that the land at De Vigier Avenue is no longer required for its current purpose as public open space;
- b) to approve the appropriation of this piece of land for planning purposes under S122 Local Government Act 1972;
- c) approve the disposal of the land for planning purposes under S233 Town and Country Planning Act 1990; and instruct the Director of Finance and Corporate Services to agree the terms of the sale and complete the disposal process.

CA43

BUDGET MONITORING REPORT: QUARTER 1 2017/18

Councillor Howell presented a report detailing financial performance relating to the General Fund, Housing Revenue Account (“HRA”), Capital Programme and Treasury Management. The General Fund was forecast a £1,160,000 underspend; the HRA was forecast an overall underspend of £2,994,000; the Capital Programme was forecast an underspend by £2,656,000; and Treasury Management activity now included external borrowing, relating to the Council’s purchase of the 50% share of Chesterford Research Park by Aspire Ltd.

Councillor Howell said the purchase of Chesterford Research Park was a significant initial piece of income, which was very welcome. He referred to the efficiencies target which had been included in the 2017/18 budget, of £200,000, relating to the four year funding deal signed in October 2016. This Council was well within the target, as there was a net positive variance within services of £528,895 after adjusting for movements to/from reserves, giving a net efficiency saving of £235,835. Full details of variances were set out in the report.

Councillor Howell referred members to the items outside the Council’s control. These were: a reduction in current caseload in Housing Benefits; in relation to Business Rates Retention, a successful appeal by one of the area’s largest businesses which had reduced the collection fund balance; and a £207,000 overspend in relation to the Pension Fund Deficit, which was the updated cost of the three year upfront payment, as there was a saving achieved by paying in advance.

Councillor Howell referred members to the reserves shown in detail in the report, and drew attention to the 2016/17 underspend of £691,000 which had been allocated from the Strategic Initiatives Fund to the Planning Reserve. Following the transfer the updated balance was £764,000 on the Planning Reserve, with £2,767,000 remaining in the SIF.

Regarding the HRA, Councillor Howell drew attention to the forecast underspend on net operating costs, which was made up of interest return on the loan to Aspire (CRP) Ltd as set out in the Treasury Management section

of the report; and a reduction in the funding requirement for capital projects by £2,506,000 in the current year.

Regarding the capital programme, Councillor Howell asked members to note the adjustment of the current budget to reflect the approved slippage from 2016/17, the total cost of the capital programme being £20,132,000. He referred to the forecasted capital expenditure being £2,656,000 below the current budget, which was due to slippage in relation mainly to the redevelopment of sheltered schemes at Reynolds Court, Hatherley Court and Walden Place.

Regarding Treasury Management, Councillor Howell said this item was being reported in more detail than for a while, due to reporting borrowing. The Council had lent Aspire (CRP) Ltd £47,250,000 in May 2017, to purchase the 50% share in Chesterford Research Park. The loan had initially been funded by using the Council's available cash balances and short term borrowing from other local authorities.

Councillor Howell said the recommendation was to note the outturn forecast position, and to approve the reserve transfers as detailed in the report.

Councillor Rolfe thanked Councillor Howell for a clear and comprehensive report. He said the Council was spending the SIF fund, which was earmarked for broadband and sporting facilities, as well as other areas.

Councillor Redfern spoke about the HRA slippage. She said Reynolds Court was progressing well, as residents had moved from one half into a new building. There had been some issues in appointing contractors for the work at Hatherley Court. Development at Walden Place would not take place this year, because much work was required to take into account its listed building status before progressing.

Councillor Barker asked why the Council was borrowing money when on some days it was making deposits.

Councillor Howell said in order to fund the acquisition by Aspire (CRP) Ltd of the 50% share of Chesterford Research Park, it had been necessary to use the cash balance and borrowing from other authorities, and to use borrowing to bridge the gap.

Councillor Barker asked why it was not then possible to keep borrowing at these lower rates. Councillor Howell said the lower rates were available on a short-term basis only.

Councillor Howell proposed the recommendation in the report. Councillor Redfern seconded the proposal.

RESOLVED to:

- 1 note and approve the outturn forecast position
- 2 approve the reserve transfers as follows:

- The 2016/17 underspend of £691,000 has been allocated from the SIF to the Planning Reserve; the planning reserve balance at 1 April 2017 was £73,000. Following the transfer the updated balance is £764,000 on the planning reserve and £2,767,000 remains in the SIF.
- A drawdown from the planning reserve to cover the cost of the additional resource at £260,000 leaves a balance of £504,000.
- The reserve in year drawdown to support specific areas or projects has increased by a net £177,000. This is made up of the following items:
 - I. £260,000 to fund the increase in planning resources plus £15,000 for Neighbourhood plans
 - II. £63,000 funding for the current Economic Development Strategy to support the Viability and Vitality of Town Centres, plus £10,000 for a joint initiative project.
 - III. £58,000 funding for the continued rollout of the new HR and Payroll system
 - IV. £135,000 has been transferred to the reserves relating to unused management consultancy and the PFI.
 - V. £118,000 adjustment to the working balance (unusable reserve), this reserve is a statutory requirement and is based on a specific formula.

CA44

CORPORATE PLAN DELIVERY PLAN PROGRESS UPDATE

Councillor Rolfe presented a report setting out progress against the Corporate Plan Delivery Plan between April and June (Quarter 1), and including more recent updates where significant progress had been made since the end of June.

Councillor Rolfe outlined the main points of the report to which he wished to draw attention. He said the Public Engagement Working Group had been established, which was important progress in relation to the aim to engage with communities. In relation to the aim to work with partners to tackle loneliness and isolation, he had met Essex partners during the first week of September, with other groups, to focus on priorities so that the Council could play their part. Regarding the promotion of pride in Uttlesford, Councillor Rolfe said on his return from outside the district the appearance of roads and verges was disappointing. This aim should be a significant objective. Regarding opposition to a second runway at Stansted Airport, the Council was committed to this position. MAG would be submitting an application to increase passenger numbers, which would also be a significant issue, and would be dealt with by the Planning Committee.

Councillor Redfern asked Councillor Barker to feedback to Essex County Council the unsatisfactory appearance of the roundabouts near the northwest boundary of the district, which were its responsibility. The roundabouts were in need of maintenance and weeding.

Councillor Barker said all litter-picking in Uttlesford was delegated to the District Council, but if maintenance was the issue she would investigate.

Councillor Ranger said he had similar concerns at Dunmow.

Councillor Barker said she and the Director of Public Services had tried to engage the County Council regarding sponsorship of roundabouts, for a long time. She would be happy to re-open the discussion.

The Director of Public Services said protracted discussions had taken place with Essex County Council officers regarding the transfer of responsibility from Highways to this council. ECC did not have up to date records of sponsored roundabouts, and it seemed those arrangements had lapsed.

Councillor Rolfe asked that officers take further steps to establish responsibility for the condition of roundabouts.

Cabinet noted the report.

CA45

EXCLUSION OF PUBLIC AND PRESS

RESOLVED to exclude the public and press from the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in section 100 I and paragraph 3 of Schedule 12A of the Local Government Act 1972.

CA46

CONSIDERATION OF EXEMPT ITEM – USE OF RIGHT TO BUY RECEIPTS

Cabinet considered an exempt from publication report on use of right to buy receipts.

RESOLVED to approve the recommendations of the report.

The meeting ended at 8.20pm.

Public Speaking

Statement of Mr Hockley

I am here to make a statement about Great Dunmow waste transfer site. Our street is used as a screen for this dump. Since the start, foul smells from the site pour over us, which has affected us in different ways. My wife and I decided to keep working so that we could stay away from the house, even though we would like to retire. I will leave it to my neighbours to say how it has affected them. Trade waste is taken away, at extra cost to the ratepayer, to Braintree. The result was that when trade waste was taken away, the odour was reduced. This has still not been addressed. I have complained to ECC, Councillor S Barker, Uttlesford District Council and the Environment Agency with no result. On the side of the dustcarts you have to take responsibility for your rubbish. Your problem is that you have decided to take it to a place causing environmental damage to us. We can't use our homes as we would like. You are no different to a fly tipper. The effect is the same. Are you happy that your rubbish is going in a location that affects someone else? I've seen nothing from Uttlesford to say it is up to ECC to sort this out. If we must live with it, please get on and tell us. I have asked ECC if they will buy our homes.

Statement of Mr Tongue

A decision is to be made tonight as to whether the public interest is served by keeping the land at De Vigier Avenue as public open space. Development of the site for housing is said to justify appropriating the land for planning purposes. The report to this meeting refers to the main considerations in making a decision, but the report author is misinformed in stating the land "has been fenced off from the public for 29 years", as there was an entry point and a lot of trees were planted by residents. It is not correct to say it doesn't perform an open space function. The concern of residents is also that the flora and fauna are protected. Also there is an option from Saffron Walden Town Council that they would take on the land as public open space.