

MINUTES

CABINET

10 SEPTEMBER 2019

Councillors: Williams (Leader)
Griffiths (Deputy
Leader)
Elliot
G Sutton
Anderson
Banks

Also in attendance: Councillors Birnie,
Tindall and Douris

Officers:	Mark Brookes	Assistant Director - Corporate and Contracted Services
	Farida Hussain	Group Manager (Legal & Corporate Services)
	Lorna Buckland	Human Resources Lead Officer
	James Deane	Corporate Director - Finance and Operations
	James Doe	Assistant Director - Planning, Development and Regeneration
	Mark Gaynor	Corporate Director - Housing & Regeneration
	Nigel Howcutt	Assistant Director - Finance and Resources
	Sally Marshall	Chief Executive
	Katie Mogan	Corporate and Democratic Support Lead Officer
	Layna Warden	Group Manager - Tenants and Leaseholders
	Fiona Williamson	Assistant Director - Housing

The meeting began at 7.30 pm

CA/77/19 MINUTES

The minutes of the meeting held on 30 July 2019 were agreed by Members present and signed by the Chair.

CA/78/19 APOLOGIES FOR ABSENCE

There were no apologies of absence.

CA/79/19 DECLARATIONS OF INTEREST

There were no declarations of interest.

CA/80/19 PUBLIC PARTICIPATION

There was no public participation

CA/81/19 REFERRALS TO CABINET

There were no referrals to Cabinet

CA/82/19 CABINET FORWARD PLAN

The forward plan was noted with the following changes:

- Move item 7 (Brownfield Land Register) to November

CA/83/19 TREASURY MANAGEMENT OUTTURN REPORT FOR 2018/19

Decision

RESOLVED TO RECOMMEND that:

The report on Treasury Management performance in 2018/19 and the Prudential Indicators for 2018/19 be accepted.

Corporate objectives

Optimising investment income for General Fund and Housing Revenue budgets whilst managing investment risk is fundamental to achieving the corporate objective of delivering an efficient and modern council.

Monitoring Officer

No comments to add to the report.

Section 151 officer

This is a S151 Officer report.

Advice

Councillor Elliot introduced the report which was an annual regulatory requirement. One key point is the council have earned an average rate of return of 0.69% compared with the budget assumption of average investment balances of £80.0m at 0.68% investment return.

Councillor Birnie asked for clarification around the issue of borrowing against slippage. He understood that this would have been in the budget.

J Deane said there is no borrowing for slippage.

Councillor Birnie asked if we invest what is not spent.

J Deane said yes, we invest all the time. All projects in the capital programme will be delivered but that sometimes delivery of a project is delayed. When that happens, the Council has more funds available to invest and therefore, all things being equal, the investment returns are higher than forecast.

Councillor Birnie referred to paragraph 5.3 and asked if there was any plans to borrow money to fund the development company.

N Howcutt said the development company has projected short and long term borrowing. There will be a holding pattern until we know what plans have been approved and at what cost.

Councillor Birnie asked if this would come under the general fund when social housing is built.

N Howcutt said it would be done under the General Fund because the Housing Revenue Account does not have the ability to lend to other companies.

Recommendations agreed.

CA/84/19 Q1 BUDGET MONITORING REPORT

Decision

1. Consider the budget monitoring position for each of the above accounts;

RESOLVED TO RECOMMEND that:

2. **The approval of the revised capital programme to move £1.5m slippage identified at Quarter 1 into financial year 2020/21 as detailed in Appendix C;**
3. **The approval of supplementary revenue budgets funded by grant income. This grant income has already been received by the Council and is ring-fenced for use in specific services. Details are set out below:**
 - **Supplementary budget funded by grant of £70k in the Benefits Administration service.**
 - **Supplementary budget funded by grant of £100k in the Strategic Planning service.**
 - **Supplementary budget of £62k in the Homelessness service, funded from the homelessness prevention grant currently held in reserves.**

- **Supplementary budget of £21k in the Partnerships service, and £18k in the Homelessness service, funded from Dacorum Partnership Reserve. This expenditure has been approved by the Dacorum Strategic Network.**
- 4. The approval of supplementary capital budgets required to deliver several service changes as set out below:**
- **A capital budget of £112k to fund arena seating at Hemel Sports Centre.**
 - **A capital budget of £36k for land transferred to the Council in lieu of a Community Infrastructure Levy contribution.**
- 5. £130k is drawn down from the Litigation Reserve to fund the legal costs and the fine associated with the recent HAVs case.**

Corporate objectives

Delivering an efficient and modern council

Monitoring Officer

No comments to add to the report.

Deputy Section 151 Officer

Comments included within the body of this report.

Advice

Councillor Elliot introduced the item and advised Cabinet that an additional recommendation had been added for consideration. The recommendation asks for Council approval for £130k to be drawn down from the Litigation Reserve to fund the legal costs and the fine associated with the recent HAVs case.

Councillor Tindall asked if the council had lost this case.

Councillor Williams said the council reported themselves and plead guilty.

Councillor Birnie asked if the judge imposed the minimum fine.

Councillor Williams said that was correct.

J Deane said that in mitigation it's worth remembering that the HSE only became involved in this issue because, despite the ongoing funding reductions, the Council proactively increased its investment in H&S, restructuring its teams and appointing more qualified professionals. The work that this new team did to bring the Council's processes up to the required standard highlighted historical shortfalls that we were

obliged to report to the HSE, which is what prompted their investigation. Effectively, it was impossible for us to move from the historical situation where our processes were below par to a situation where they were satisfactory without triggering the HSE investigation. This was reflected in the judge's comments, when he noted that this was a discrete case and that DBC was a concerned employer.

Recommendations agreed.

CA/85/19 ANTI-SOCIAL BEHAVIOUR POLICY

Decision

That the Anti-social Behaviour Policy as set out in the report be approved

Corporate objectives

- Working in partnership to create a borough that enables Dacorum's communities to thrive and prosper
- A clean, safe and enjoyable environment
- Building strong and vibrant communities

Monitoring Officer

No comments to add to the report

Deputy Section 151 Officer

Comments included within the body of this report.

Advice

Councillor Banks introduced the report and said it was the council's responsibility to effectively deal with anti-social behaviour. There are three elements of the council's responsibilities: as a social landlord, from a community safety angle and environmental protection. The policy ensures the council are complying with legislation and best practice.

L Warden added that the introduction of one policy means a more consistent approach and reduces the risk of legal action. The new policy sets out five commitments. The legal team, anti-social behaviour team and housing have been involved in the development of new policy as well as police and fire teams.

Recommendations agreed.

CA/86/19 BUILDING CONTROL SERVICE

Decision

RESOLVED TO RECOMMEND that:

- 1. The Borough Council's Building Control service is transferred to Broste Rivers Limited, holding company of Hertfordshire Building Control Limited and The Building Control (Hertfordshire) Company Ltd. on the terms set out in the Cabinet report.**
- 2. Authority be delegated to the Chief Executive as Head of Paid Service to agree any final and outstanding technical, financial and operational matters to be concluded in effecting the proposed transfer of the Building Control service and to authorise the completion of the respective Services Agreement, Inter-Authority Agreement , Shareholder's Agreement and Articles of Association with Hertfordshire Building Control Ltd., together with any other legal agreements and documents which are required to give effect to the transfer.**
- 3. An increase in the Building Control revenue budget for 2020/21 of £40k p.a.**
- 4. The draw down of £187k from reserves to fund the one off initial membership purchase, £152k and subsequent £35k set up costs of transferring the service to HBC Ltd.**
- 5. The following Officers are confirmed to serve in regard to Broste Rivers Limited as follows: The Chief Executive (as representative of Dacorum Borough Council as shareholder; The Corporate Director (Housing & Regeneration) as Director of Broste Rivers Limited and subsidiary companies; and the Group Manager – Development Management and Planning to the Commissioning Group.**
- 6. To pass a resolution to delegate statutory Building Control functions to one of the Building Control authorities ("LA1").**

Corporate objectives

The report supports the corporate objectives of:

A clean, safe and enjoyable environment – a sustainable and well-functioning Building Control service in the long term will continue to ensure that new buildings are constructed to safe standards in compliance with the national Building Regulations, and that an effective service to deal with the public safety issues of dangerous structures as they arise can continue to be provided and delivered effectively

Delivering an efficient and modern Council – The proposals aim to provide a resilient Building Control service in the public interest and offer the best available value for money to the local tax payer.

Monitoring Officer

Pursuant to section 101 of the Local Government Act 1972, any function of a local authority may be delegated to another local authority. Building control is a statutory function within which certain functions cannot be delegated to any external body (other than another local authority) even if the body itself is wholly owned by other local authorities.

Further to the above, where a local authority operates under executive arrangements, such delegations can only be made under Regulation 5(2)(a) of The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Agreement to Recommendation 4 above would fulfil the necessary requirements with regards to delegation.

Hertfordshire Building Control Ltd has been set up as a “Teckal” company under regulation 12 of the Public Contract Regulations 2015, which means that it can benefit from contracts for works, services or supply from its controlling Contracting Authority (or Authorities) without having to go through a competitive tender process,

In order to qualify as a Teckal company the following circumstances must exist:

- The Contracting Authority/ies must exercise a control which is similar to that which it exercises over its/their own departments – this means it/they must exercise a decisive influence over both strategic objectives and significant decisions of the controlled company either itself or through another subsidiary; and
- More than 80% of the activities of the company must be carried out in the performance of tasks entrusted to it by the controlling Contracting Authority/ies.

Therefore as long as the above circumstances continue to exist then the Council can lawfully join the company and agree a service contract with the partnering authorities.

There are various agreements which the Council will need to agree as noted in the report and these are currently being reviewed by the Planning and Legal Teams. Authority is delegated to the Chief Executive to approve these documents once the Council are satisfied with their content.

Deputy S.151 Officer

The DBC Building control service has not delivered a balanced budget for the last 3 years with an average overspend of £150k p.a. and is currently projecting an in year pressure of circa £68K.

All options explored for the future of Dacorum building control required growth and the proposed option is the most cost effective ongoing revenue solution evaluated,

and would represent a cash saving on the existing projected revenue expenditure and that of the last 3 years.

The membership of HBC is expected to bring resilience and deliver economies of scale to the building control service, whilst also providing security as a wider Hertfordshire building control function.

Advice

Councillor G Sutton introduced the report and said a previous report came before Cabinet in June which received a lot of support. The background to this report is that the in-house service has had a number of issues including a lack of resilience, a dependence on agency staff and trouble recruiting full time staff. This report is a result of looking at alternative services and the preferred option was the Hertfordshire Building Service. J Doe and his team have put together the financial, staff and admin details and this thorough report show it is a credible option. This will go to Council next week and go live from 1st October.

The discussion moved into part 2.

Recommendations agreed.

CA/87/19 EXCLUSION OF THE PUBLIC

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1 as amended by the Local Government (Access to Information) (Variation) Order 2006 the public be excluded during the items in Part 2 of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that, if members of the public were present during those items, there would be disclosure to them of exempt information relating to the financial and business affairs of the Council and third party companies/organisations.

Local Government Act 1972, Schedule 12A, Part 1, paragraph 3

CA/88/19 BUILDING CONTROL SERVICE

Full details in the Part 2 minutes

The Meeting ended at 7.53 pm