

MINUTES OF CABINET

Tuesday, 17 March 2020
(7:00 - 8:08 pm)

Present: Cllr Darren Rodwell (Chair), Cllr Saima Ashraf (Deputy Chair), Cllr Dominic Twomey (Deputy Chair), Cllr Syed Ghani and Cllr Margaret Mullane

Apologies: Cllr Sade Bright, Cllr Evelyn Carpenter, Cllr Cameron Geddes, Cllr Lynda Rice and Cllr Maureen Worby

112. Declaration of Members' Interests

There were no declarations of interest.

113. Minutes (17 February 2020)

The minutes of the meeting held on 17 February 2020 were confirmed as correct.

114. Budget Monitoring 2019/20 - April to January (Month 10)

The Cabinet Member for Finance, Performance and Core Services presented a report on the Council's revenue and capital budget monitoring position for the 2019/20 financial year as at 31 January 2020 (Month 10).

The underlying General Fund position had improved from the previous month, with a projected end of year overspend of £6.743m against the budget of £158.677m which reflected the improvements in Care and Support, Public Realm and Central Expenses as well as a small increase in forecasted income. The Cabinet Member explained that the total overspend could be covered from the Budget Support reserve with no further impact on the unearmarked General Fund reserve.

The Leader placed on record thanks to all staff for their support and efforts in trying to keep the budgets on track despite the difficult financial situation.

Cabinet **resolved** to:

- (i) Note the projected revenue outturn for Council services as set out in sections 2 to 12 and Appendix A to the report; and
- (ii) Note the implications for the reserves position and the need to identify in-year action in relation to General Fund expenditure.

115. Corporate Plan 2018-2022 - Quarter 3, 2019/20 Performance Reporting

The Cabinet Member for Finance, Performance and Core Services introduced the corporate performance monitoring report for the third quarter of 2019/20 financial year, which set out progress against the Council's Key Accountabilities and 47 Key Performance Indicators (KPIs).

The Cabinet Member highlighted specifically the area of improvement relating to

the number of care leavers in employment, education or training as well as an area requiring improvement, namely the weight of fly-tipped material collected which indicated that more enforcement was required, a fact acknowledged by the Cabinet Member for Public Realm.

Cabinet **resolved** to:

- (i) Note progress against the Key Accountabilities as detailed in Appendix 1 to the report; and
- (ii) Note performance against the Key Performance Indicators as detailed in Appendix 2 of the report.

116. Proposed Disposal of Pondfield House Depot, Wantz Road, Dagenham

The Cabinet Member for Finance, Performance and Core Services reported on the proposed disposal of the Pondfield House Depot located in Wantz Road, Dagenham, which had been declared surplus to requirements, by means of a freehold sale to the Department for Education, through its property company 'LocalED', for development as a Special School.

The Cabinet Member stated that the proposed sale would not only help to meet the demand for school places for pupils with severe learning difficulties and autism but also provide the Council with a significant capital receipt, the detail of which was contained in a private and confidential appendix to the report, once terms and contracts had been agreed.

Members fully supported the proposals for the site, citing its central location which would benefit parents taking their children to and from school. The Leader echoed the comments and added that he hoped it would be the catalyst for the upgrading and redevelopment of the wider area, providing benefits and future opportunities for local residents.

Cabinet **resolved** to:

- (i) Approve the disposal of Pondfield House Depot, Wantz Road, Dagenham, as shown edged red in the plan at Appendix 1 to the report, to LocalED Property Limited (the Government-owned property company responsible for acquiring sites for new schools) for the sum set out in Appendix 2 to the report, in order for the site to be developed as a Special School for pupils with Severe Learning Difficulties and Autism underpinning the Council's School Place Planning Strategy;
- (ii) Approve the entering into of a short-term peppercorn lease agreement (without security of tenure) co-terminus with the period that the site became vacant and the disposal was completed with LocalED, which minimised the Council's risk while the site whilst vacant;
- (iii) Delegate authority to the Chief Operating Officer, in consultation with the Director of Law and Governance and the Cabinet Member for Finance, Performance and Core Services, to agree the final terms and contract documentation to fully implement and effect the short-term lease and sale of

the site; and

- (iv) Authorise the Director of Law and Governance, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other documents on behalf of the Council.

117. Appropriation and Acquisition of Land at North Street / London Road, Barking

Further to Minute 33 (18 September 2018), the Cabinet Member for Finance, Performance and Core Services presented a report outlining the background to a residential-led joint development scheme on land owned by the Council and Robyna Ltd at North Street/London Road which had now obtained planning permission.

Following the application, it was identified that interested parties in ownership of adjacent land have the potential for a 'right of lights' claim for which they could bring an injunction to delay or, at worst, prevent the development proceeding and the Cabinet Member referred to the mitigating steps that could be taken by the Council to protect against any such claims.

Cabinet **resolved** to:

- (i) Agree the approach of notifying, engaging with and negotiating with third parties before using powers to address third party rights under Section 203 of the Housing and Planning Act 2016 (HPA) as set out in the report,
- (ii) Approve, subject to the (1) implementation of the approach for engaging and negotiating (as necessary) with third parties; (2) grant of planning permission free from challenge; (3) exercise by the Developer of its option to proceed with the Development; (4) conclusion of the appropriate consultation exercise; and (5) appropriate indemnity (with adequate security) being provided in respect of any claims for compensation or costs arising from the appropriation and exercise of section 203 powers, the use of the Council's statutory powers to:
 - (a) acquire the Developer's land for planning purposes (namely the construction of the Development (defined below)) in accordance with section 227 of the Town and Country Planning Act 1990 (TCPA),
 - (b) appropriate the Council's land for planning purposes in accordance with section 122 of the Local Government Act 1972 (LGA), noting that the land is no longer required for the purpose for which it is currently held, and
 - (c) subsequent use of the Council's powers under sections 203 – 206 of the HPA 2016 in respect of the Land to override third party interests of neighbouring properties infringed by the Development.
- (iii) Subject to the Chief Operating Officer being satisfied that the terms of the recommendation at (i) and (ii) above have been met, to delegate authority to the Chief Operating Officer, in consultation with the Director or Law and Governance and the Cabinet Member for Regeneration and Social Housing, to fully implement and effect the recommendations (ii) (a) – (c) above,

- (iv) Subject to (i) to (iii) above and to the Developer notifying, engaging and negotiating (as necessary) with third parties in accordance with the agreed strategy (and the Chief Operating Officer being satisfied with the Developer's efforts to comply with the same) prior to the exercise of the delegated authority, to authorise the Director of Law and Governance, or an authorised delegate on her behalf, to settle and execute on behalf of the Council all the necessary documents required to implement the recommendations in the report, and
- (v) Delegate authority to the Chief Operating Officer to acquire the Developer's land in accordance with section 227 of the TCPA, appropriate the Council's land pursuant to section 122 of the GLA and use of the Council's powers under sections 203 – 206 of the HPA in respect of the land to override third party interests infringed by the development.

118. Barking Riverside Land Transfers

The Cabinet Member for Finance, Performance and Core Services presented a report on proposals to progress the first element of the Barking Riverside Gateways Housing Zone at 12 Thames Road, Barking, which would involve the development of a co-location scheme including ground floor industrial units and upper floor residential units.

The Cabinet Member explained that whilst the site at 12 Thames Road was owned by the Council, a thin strip of adjacent land that formed part of the planning approval was in the ownership of Barking Riverside Ltd (BRL). Initially, agreement had been reached with BRL for the Council to purchase the strip of land. However further discussions had identified an opportunity for a land swap arrangement that would benefit both parties, with each covering their own legal costs.

Cabinet **resolved** to:

- (i) Agree to the land swap arrangements with Barking Riverside Limited on the terms set out in the report, whereby the Council shall acquire the freehold interest in the land shown edged red in Appendix 1 to the report in exchange for surrendering the Council's leasehold interest in the land shown shaded orange in Appendix 2 to the report; and
- (ii) Authorise the Director of Law and Governance, or an authorised delegate on her behalf, to execute all the legal agreements, contracts and other documents necessary to implement the arrangements on behalf of the Council.

119. Wivenhoe Road Temporary Accommodation Project - Appointment of Contractor

The Cabinet Member for Finance, Performance and Core Services presented a report on a proposed waiver to enable the appointment of a construction contractor for the Wivenhoe Road Temporary Accommodation Project

Cabinet **resolved** to:

- (i) Waive the requirement to tender in accordance with the Council's Contract Rules and agree that the Council proceeds with the direct award of the Pre-Construction Services Agreement (PCSA) and main contract to Jerram Falkus Construction Limited to undertake the construction of 20 new homes at the Wivenhoe Road site for a total contract sum of circa £3m; and
- (ii) Authorise the Director of Inclusive Growth, in consultation with the Cabinet Members for Regeneration and Social Housing and Finance, Performance and Core Services, the Director of Law and Governance and the Chief Operating Officer, to award and enter into the PCSA and main contracts with Jerram Falkus Construction Limited for the described works.

120. Margaret Bondfield Avenue Temporary Accommodation Project - Appointment of Construction Contractor

The Cabinet Member for Finance, Performance and Core Services presented a report on a proposed waiver to enable the appointment of a construction contractor for the Margaret Bondfield Avenue Temporary Accommodation Project.

The Leader explained that as with the previous item, the project involved under-used parcels of vacant land to provide much needed temporary accommodation using pioneering methods of construction, which would be under the Council's management.

Cabinet **resolved** to:

- (i) Waive the requirement to tender in accordance with the Council's Contract Rules and agree that the Council proceeds with the direct award of the Pre-Construction Services Agreement (PCSA) and main contract to Jerram Falkus Construction Limited to undertake the construction of 15 new homes at the Margaret Bondfield Avenue site for a total contract sum of circa £2.6m; and
- (ii) Authorise the Director of Inclusive Growth, in consultation with the Cabinet Members Regeneration and Social Housing and Finance, Performance and Core Services, the Director of Law and Governance and the Chief Operating Officer, to award and enter into the PCSA and main contracts with Jerram Falkus Construction Limited for the described works.

121. Debt Management Performance and Write-Offs 2019/20 (Quarter 3)

The Cabinet Member for Finance, Performance and Core Services introduced the performance report for the third quarter of the 2019/20 financial year in respect of the debt management functions carried out on behalf of the Council by the Revenues and Benefits service within Elevate East London, including the debt write-offs for the quarter.

The Cabinet Member referred to the financial pressures faced by many local residents which had impacted on some collection rates and cited the ongoing negative impact of the Government's Universal Credit scheme which was fast becoming the single biggest issue in the collection of both rents and Council Tax.

It was acknowledged that it was becoming increasingly difficult in the current climate to meet financial targets, albeit Elevate had done so in most areas. The Cabinet Member conveyed his concern that the situation would get worse in the short to medium term given the current world events with people potentially losing jobs and income over the coming months, but stressed that the Council would be sensitive and compassionate to these issues.

Cabinet **resolved** to note the performance of the debt management function carried out by the Revenues and Benefits service operated by Elevate East London, including the performance of enforcement agents.