

REPORT OF CABINET

(Meetings held on 2 June and 5 July 2010)

1. NEW MILTON LOCAL DISTINCTIVENESS SUPPLEMENTARY PLANNING DOCUMENT (REPORT A – 2 JUNE 2010) (MINUTE NO. 6)

The Cabinet has agreed that a New Milton Local Distinctiveness Supplementary Planning Document (as set out in Appendix B and Appendix C of Report A to them on 2 June 2010) be adopted as part of the Local Development Framework for New Forest District (outside the National Park).

The importance of protecting and enhancing local character and distinctiveness, in the face of pressures for change, has become an increasingly important issue to Members and the wider public. The publication of Planning Policy Statement 3 early in 2007 allowed the Council discretion to take a far more robust approach to resisting inappropriate development.

The production of a series of Local Distinctiveness Supplementary Planning Documents (SPD) is included in the Local Development Scheme, and will form part of the Local Development Framework for New Forest District (outside the National Park). They will provide additional guidance on the implementation of policies within the adopted Core Strategy, and in particular Policies CS2 (Design quality) and Policy CS3 (Protecting and enhancing our special environment).

The objective of the Local Distinctiveness work is to produce SPDs that will carry substantial weight in reaching decisions on planning applications and which will be supported by Inspectors at appeal. The New Milton Local Distinctiveness Supplementary Planning Document is the first to be considered and will be a material consideration in considering development proposals within the built-up area of New Milton and Barton on Sea.

The SPD was well received at the public consultation stage with only some limited amendments being made. The document was fully supported by New Milton Town Council, Hampshire County Council and the New Milton Town Partnership.

2. HAMPSHIRE LOCAL PUBLIC SERVICE AGREEMENT (LPSA2) (REPORT B – 2 JUNE 2010) (MINUTE NO. 7)

As part of the countywide LPSA2 agreement the Council has received notification of its share of the reward grant totalling over £900,000 and now needs to determine how this will be utilised.

In September 2005 the Council became involved in a number of targets being established across Hampshire as part of LPSA2. The basis of the commitment was on the understanding that the Government would fund some pump priming of the work on the targets. This amounted to a total of £2m across Hampshire. The reward money was payable based on performance and level of involvement and the Agreement related to a 3 year period 1 April 2006 to 31 March 2009.

The targets developed across Hampshire and with the Government provided a focus on what was seen as priority issues. Many of the targets linked well with the Council's priorities and those contained within the District's Community Strategy.

A principle of the LPSA2 arrangement is that a proportion of the Reward Grant will be reinvested in services that contributed towards the overall achievement and maintenance of the performance levels attained. Based upon this the Cabinet are supporting a number of specific proposals, as set out in Appendix B of Report B to them, for use of approximately £362,000 of the Reward Grant to enable projects which have contributed to the improvement in performance to continue.

(At the special Council meeting on 14 June 2010 the Leader indicated that this recommendation would need to be reviewed in the light of the Government announcement that LPSA 2 monies would not be paid in full)

RECOMMENDED:

That the use of the LPSA2 Reward Grant as set out in Appendix B of Report B to the Cabinet (2 June 2010) be agreed with the balance of grant being allocated to support the Medium Term Financial Plan.

3. FINANCIAL REPORT – PROVISIONAL 2009 – 2010 OUTTURN POSITION (REPORT C – 2 JUNE 2010) (MINUTE NO. 8)

The Cabinet has given early consideration to the 2009/10 projected outturn positions for the General Fund; Housing Revenue Account and Capital Programme. They have approved the reduced transfer of £500,000 to the savings and efficiency reserve. They have also agreed that the balance of the final actual General Fund underspend be transferred to the Capital Programme Reserve.

In line with the Council's financial strategy, work has continued to identify further savings and efficiencies. The provisional outturn now shows that the Council's net expenditure will be £20.244 million. This represents a further saving of £1.446 million for the year and supports the Council's Medium Term Financial plan.

The main contributions towards the overall savings are approximately £500,000 from income improvements in Building Control; Land Charges; Health and Leisure Centres and Interest earnings. In addition, the Health and Leisure Services review has brought forward savings of over £300,000 in 2009/10, earlier than originally anticipated. The control on vacancies which was instigated has delivered savings across all service areas in excess of £200,000.

Whilst the new Government's budget due shortly would give a better understanding of the position, the Council, due to the excellent results from the savings and efficiency programme, is in a good position to move forward.

4. ELING WHARF AND FORESHORE – CONTAMINATED LAND (REPORT A – 5 JULY 2010) (MINUTE NO. 17)

The Cabinet has agreed arrangements for addressing the contamination of land at Eling Wharf and foreshore to comply with the Council's statutory duties.

Eling Wharf covers an area of approximately 15 hectares and currently provides a range of industrial and warehouse units as well as open storage for containers. The site is accessed from the High Street, Totton and is bounded to the west by housing along Eling Lane and to the south by The Anchor Public House and an area of foreshore giving access to the Eling Channel to the east.

The main industrial site is owned by Burt Boulton Holdings Ltd (BBH) with the units leased to individual companies. BBH also own the land above the high water mark (HWM) on the foreshore which is currently leased to the Totton and Eling Totton Council. The land below HWM is owned by Crown Estates.

In late 2005, following a complaint by a member of the public, samples of material from the foreshore were analysed by the Environment Agency (EA) and found to contain very high levels of arsenic, lead, mercury, hydrocarbons and polycyclic aromatic hydrocarbons.

Following discussions with the Health Protection Agency, the contaminants were considered to pose a risk to human health and in early 2006 the decision was taken to erect fencing to prevent public access to the foreshore and the site has remained cordoned off ever since. The Environmental Protection Act 1990 Part 2A came into force in England in 2000. Its main aim is to help address the problem of historical contamination of land and provide an improved system for the identification and remediation of land where contamination is causing unacceptable risks to people's health or the wider environment.

The local authority is the regulator for the purposes of the Act and is under a legal duty to inspect and identify contaminated land in its area and decide whether any such land is to be designated as a special site when enforcement responsibilities pass from the Council to the Environment Agency.

Since late 2005 there has been ongoing dialogue between the Council; BBH; Defra and Crown Estates and each party's legal representatives and environmental consultants. The position is extremely complex and the detailed history of the work to date is described in Report A to the Cabinet.

Whilst BBH has agreed in principle since 2007 to undertake voluntary remediation of the foreshore, until recently they were only prepared to do so to the extent of land in their ownership above the high water mark. Since November 2009, their stance has changed and their current remediation strategy indicates their willingness to undertake voluntary remediation of the whole of the foreshore, including that in the ownership of the Crown Estates below the high water mark, but still on the basis that there is no ongoing contamination migrating from the main site.

Given the complexities of the situation and the voluntary remediation proposals currently being advanced by BBH, advice has been obtained from specialist Counsel on the Council's legal responsibilities under Part 2A of the Environmental Protection Act, 1990. In particular, the advice has focussed on whether the Council is under a statutory duty to determine the land as contaminated once it is has been so identified (as in this case) or whether it has a discretion not to do so.

Leading Counsel's advice has confirmed that there is an implied statutory duty on the Council to determine land as contaminated now it has been identified. However, all the information presented by BBH in recent weeks has been carefully considered in conjunction with Counsel and, given that an agreed scheme of remedial works for the foreshore is due to commence on the 5 July 2010 and that notification has now been received that remediation has already commenced on the main site, it is considered that it would not be appropriate to proceed to formal determination of the land as contaminated, at this stage.

Whilst these moves by BBH are seen as a positive indication of their willingness and commitment to work with this Council and the Environment Agency to secure the voluntary remediation of the foreshore and the main site, it is imperative that the matter be kept under strict review to ensure remediation is commenced and continues expeditiously and to a compliant standard. If in due course significant progress is not being made, in respect of either the remediation of the foreshore or the main site, then consideration will be given to formally determining the land as contaminated under Part 2A of the Environmental Protection Act, 1990.

5. HOUSING REVENUE ACCOUNT REFORM (REPORT B – 5 JULY 2010) (MINUTE NO. 18)

The Cabinet has agreed a response, as set out in Report B to them, to a Government consultation document entitled "Council Housing : A Real Future".

The current housing finance system stems from a requirement of the Housing Act 1935 which requires local authorities to keep a separate Housing Revenue Account (HRA). The HRA is a separate record of revenue expenditure and income relating to an Authority's own housing stock.

The HRA is a ring-fenced account within the general fund and is operated within government guidance and professional accountancy protocols. One purpose of introducing the HRA ring fence policy in 1989 was to create a more coherent "landlord account". It ensures that rent levels cannot be subsidised by increases in council tax and that rents cannot be increased to keep council tax levels down.

In July 2009 the Government issued a long awaited paper on the reform of council housing finance and the Council responded to the consultation in October 2009. The Government then issued a Prospectus titled "Council Housing: A Real Future" in March 2010 setting out their proposals to bring council house funding up to date.

The Housing Review Panel considered the matter at their meeting on 16 June 2010 and whilst being happy with the proposed consultation responses, drew attention to some specific concerns in relation to the debt that the Council would have to take on to offset debt accrued by authorities in the north of the country.

In principle the proposal would give full control of the HRA to councils and gain independence from the housing subsidy system. On the positive side this would mean that Councils no longer need to pay annual negative subsidies to the Government. For this Council the subsidy will be £8.9m in 2010/11 rising by approximately £500,000 per annum until rent restructuring has been achieved and then the rate would slow. The Council will also retain the full right to buy receipts rather than, as currently, hand over 75% of any receipts to the Government.

On the negative side the Council will be required to accept an additional loan in the region of £132m.

A key test of the impact of the new system compared to the current system is a comparison of the cash effect of the proposed change as against the assumed subsidy situation for 2011/2012.

Based on recent trends the assumed negative subsidy for New Forest for 2011/12 is likely to be in the region of £9.4m to £9.5m. In contrast the cost of taking on £132m of new debt will be interest charges of approximately £8.6m (at 6.5%). The Chartered Institute of Housing (CIH) is pointing out that the real cost is potentially lower as it should be possible to negotiate deals at below 6.5% in the current economic climate.

Given this situation the CIH is of the view that the proposed deal is 'better than could have been expected and gives substantial extra spending power in a self financing HRA that would not be available in a continued national system'.

However the proposal is based on financial models which make assumptions and once an Authority has gained full independence for the HRA it will have to take on the risks that those assumptions will change over time with potentially either a beneficial or negative impact on the HRA.

In its response to the consultation the Cabinet has particularly drawn attention to its concerns in relation to :-

- (a) the complexities of how the Government has calculated the debt this Council would have to incur and the fact that these calculations do not come with any guarantees or safeguards from the Government regarding the long term stability of the Council's finances;
- (b) the frustration at being penalised by having to take on a significant debt when the Council has proved itself to be a debt free responsible landlord; and
- (c) the unfairness of the system that requires authorities in the south of the country to take on significant debts despite being debt free, to off set debts accrued by northern authorities.

6. MARSH LANE DEPOT FORECOURT SEPARATOR – SUPPLEMENTARY CAPITAL BUDGET REQUEST (REPORT C – 5 JULY 2010) (MINUTE NO. 19)

The Cabinet has agreed a supplementary capital budget of £40,000 to cover the cost of a Class 1 Forecourt Separator at the Marsh Lane Depot.

Facilities such as Marsh Lane Depot where commercial vehicles operate are required under the Environment Agency Pollution Prevention Guidelines to manage water run off from the site to ensure that it is cleaned of harmful particulates before entering the drainage system. This is achieved through a series of drainage channels within the yard that capture surface water run off and channel this to a separator / silt trap that then collects the harmful particles.

Following an annual inspection where faults were found, arrangements are already in hand for the replacement of the existing silt trap and separator and one of the chambers. During further survey work undertaken as part of the implementation of this scheme, it has been identified that the drains running from the forecourt / fuel pump area are discharging directly into the existing separator which is now in breach of current regulations. These regulations have changed since the initial installation of the fuel pumps many years ago.

Installation of a Class 1 Forecourt Separator and associated drainage works discharging to the foul sewage drainage will address the identified risks of pollutants entering the surface water drainage system and adjacent watercourses. The works will minimise the potential risk to the environment.

7. PERFORMANCE MATTERS – ANNUAL REPORT LOOKING BACK AT 2009/10 (REPORT D – 5 JULY 2010) (MINUTE NO. 20)

The Cabinet has agreed the content and format of the Council's Performance Matters – Annual Report Looking Back 2009/10 and arrangements for publication.

The Annual Report – Looking Back at 2009/10 summarises the Council's performance for the previous year and enables a review of what the Council has done to improve the outcomes for New Forest Communities. It summarises how well the Council is achieving each of its stated aims, reflects key achievements for the year and highlights areas for improvement. The Annual Report also contains a summary of the full Statement of Accounts providing a brief overview of the Council's finances for the year ended 31 March 2010.

The annual review of performance is a key element within the annual performance cycle. It provides an opportunity to consider performance in line with the Council's stated aims, reinforcing the commitment to the delivery of the Corporate Plan, and provides a focus for informing future improvements in performance outcomes given the challenges facing local government.

The Annual Report 2009/10 is a summary document of the eight separate Portfolio Plans which bring together financial and employee resource information with performance against the corporate aims as set out in the Corporate Plan. This enables the Council to establish where it is delivering value for money and where greater opportunities for improvement may be available.

The Portfolio Plans, which will be used by Review Panels in September 2010 to identify any performance issues in need of review, are primarily intended for internal use in the management, scrutiny and decision making of each portfolio. The Annual Report is intended to be an external, public facing document providing transparent summary information to all of the Council's stakeholders, enabling them to better understand and scrutinise performance against the Council's commitments.

Approximately 70 hard copies of the Annual Report will be produced in booklet style for distribution to specific Members (portfolio holders, review panel chairs and opposition leads) and senior Officers. The Council's partners, including town and parish councils will be provided with a link to view the Annual Report on the Council's website.

8. SCHEME OF DELEGATIONS – ENVIRONMENTAL HEALTH (5 JULY 2010) (MINUTE NO. 21)

Following a review, the Cabinet has agreed, in so far as they are empowered to do so, changes to update the Officers' Scheme of Delegations on environmental health matters. The final change to complete the update is a matter that is reserved to the Council to agree.

RECOMMENDED:

That the reference to Appointment of Proper Officer under the Public Health (Control of Disease) Act 1984 be deleted in existing scheme of delegation and replaced with the following:-

<i>Source</i>	<i>Power Delegated</i>	<i>Delegated To</i>
<i>The Health Protection (Notification) Regulations 2010</i>	<i>The receipt and disclosure of notifiable suspected disease, infection or contamination in patients and dead persons.</i>	<i>Director of the Hampshire and Isle of Wight Health Protection Unit of the Health Protection Agency to act as Proper Officer for these purposes.</i>

**Cllr B Rickman
CHAIRMAN**

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