

**MINUTES OF THE COUNCIL
HELD ON**

4 April 2019

7.30 - 8.50 pm

PRESENT

COUNCILLORS

Maggie Hulcoop (Chair)

David Carter	Eddie Johnson
Simon Carter	Shona Johnson
Joel Charles	Sue Livings
Jean Clark	Frances Mason
Mike Danvers	Stefan Mullard
Jodi Dunne	Danny Purton
Bob Davis	Lanie Shears
Tony Edwards	John Strachan
Michael Garnett	Edna Stevens
Tony Hall	Emma Toal
Michael Hardware	Chris Vince
Mark Ingall	Mark Wilkinson
Andrew Johnson	

OFFICERS

Brian Keane, Managing
Director
Simon Hill, Head of
Governance
Adam Rees, Governance
Support Officer

84. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Nick Churchill, Tony Durcan, Eugenie Harvey, Shannon Jezzard, Russell Perrin, Clive Souter and Phil Waite.

85. **DECLARATIONS OF INTEREST**

Councillors Mike Garnett, Michael Hardware, Eddie Johnson and Clive Souter all declared a non-pecuniary interest in Item 8b, Libraries, as Essex County Councillors.

86. **MINUTES**

RESOLVED that the minutes of the meetings held on 7 February and 28 February 2019 are agreed as a correct record and signed by the Chairman.

87. **COMMUNICATIONS FROM THE CHAIR**

The Chair outlined the various events she had attended. She had attended the High Sheriff's Awards, where Rainbow Services had won an award. She

had also attended Crucial Crew which had been held at the Latton Bush Centre.

On 22 March she held her Dinner Dance and had also helped to launch the Great British Spring Clean in Harlow. Both of these had been highly successful.

Lastly, she said that the Livewire Trust had been nominated for the People's Projects Award. She hoped that all Councillors would vote for them.

88. **PETITIONS FROM THE PUBLIC**

None.

89. **QUESTIONS FROM THE PUBLIC**

The questions, together with the answers, are appended to the minutes.

90. **QUESTIONS FROM COUNCILLORS**

The questions, together with the answers, are appended to the minutes.

91. **MOTIONS FROM COUNCILLORS**

a) Affordable Housing

Proposed by Councillor Mark Ingall (seconded by Councillor Danny Purton):

"This Council notes that Harlow's emerging Local Plan was predicated on the assessment that 30% of all developments should be available for affordable housing and that this proportion is needed to meet Harlow's Housing demand.

Some recent development proposals have made no provision, or a ludicrously low provision, of affordable housing. These proposals are often supported by independently sourced viability assessments paid for by the developer. These viability assessments usually show that affordable housing is not viable at the 30% level in Harlow.

All development schemes must be assessed against defined criteria, but this Council notes that if planning is granted to schemes with less than 30% affordable housing our Local Plan will fail and our housing need will not be met.

This Council also notes the high rate of refusals that are overturned at appeal, taking little notice of the affordable housing need, with the result that the schemes go ahead and expose the Council to possible punitive costs and risk of special measures.

The Council urges the Leader of the Council to write to the Secretary of State alerting him of the problems this is causing and urging him to include affordable housing need as a priority factor in planning appeal cases.”

Councillor Andrew Johnson proposed that the final sentence was amended to read as follows:

“The Council urges the Leader of the Council, and the Leader of the Opposition, to write to the Secretary of State alerting him of the problems this is causing and urging him to include affordable housing need as a priority factor in planning appeal cases.”

The amendment was agreed by the consent of the meeting and became part of the substantive motion.

RESOLVED that the substantive motion was carried.

b) Libraries

Proposed by Councillor Tony Edwards (seconded by Councillor Jodi Dunne):

“This Council notes that:

- i) Essex County Council (ECC) have not responded to the letter of concern about library closures sent by the Leader of Harlow District Council and co-signed by the Leader of the opposition on 7 January 2019.
- ii) At the meeting of ECC on 12 March 2019, that council had concluded that as the libraries consultation had only just closed, it was too early to put forward a decision to their Cabinet on the matter and therefore a final closure decision has yet to be taken; and

This Council urges:

- i) the Leader to write again to the Portfolio Holder responsible for the consultation around library closures asking for ECC to reconsider particularly in light of the (disproportionate) effect the proposed closures in this and immediately surrounding areas; and
- ii) Members to support the motion and this council’s position, both at district level and ECC members when the matter comes before them for decision.”

Councillors Edwards, as the motion’s proposer, proposed an amendment to the motion so that the word “adequately” was inserted into the first paragraph so that it read.

- i) Essex County Council (ECC) have not responded adequately to the letter of concern about library closures sent by the Leader of Harlow District Council and co-signed by the Leader of the opposition on 7 January 2019.

The amendment was agreed by the consent of the meeting and became part of the substantive motion.

RESOLVED that the motion, as amended, was carried.

92. **REFERENCES FROM CABINET AND COMMITTEES**

- a) Referral from Licensing Committee - Private Hire Operator Application Procedure Update

Full Council received a referral from the Licensing Committee to update the Private Hire Operator application procedure.

Councillor Garnett raised concerns that a restriction of no more than two Private Hire Vehicles being parked outside of a residential address had been removed when there was no legal requirement to remove it.

Councillors agreed that the matter be referred back to the Licensing Committee so the legal implications of the decision could be fully considered.

Proposed by Councillor Mark Ingall (seconded by Councillor Mark Wilkinson) it was:

RESOLVED that the matter be referred back to the Licensing Committee so that the legal implications could be fully considered.

93. **REPORTS FROM OFFICERS**

None.

94. **ANNUAL REPORTS FROM COUNCILLORS APPOINTED TO OUTSIDE BODIES**

Full Council received the annual reports.

RESOLVED that the annual reports from Council representatives on outside bodies are noted.

95. **MINUTES OF CABINET AND COMMITTEE MEETINGS**

- a) Minutes of meeting Wednesday, 13 February 2019 of Scrutiny Committee

- b) Minutes of meeting Wednesday, 27 February 2019 of Development Management Committee
- c) Minutes of meeting Thursday, 28 February 2019 of Cabinet
- d) Minutes of meeting Tuesday, 12 March 2019 of Licensing Committee
- e) Minutes of meeting Wednesday, 13 March 2019 of Audit and Standards Committee
- f) Minutes of meeting Tuesday, 19 March 2019 of Scrutiny Committee
- g) Minutes of meeting Wednesday, 20 March 2019 of Development Management Committee
- h) Minutes of meeting Thursday, 28 March 2019 of Cabinet

96. **MATTERS OF URGENT BUSINESS**

The Chair said that Councillor Stevens was standing down as a Councillor. To thank Councillor Stevens for her service, the Chair presented her with flowers and a bottle of champagne.

CHAIR OF THE COUNCIL

Agenda item 6 refers

1. Mrs Nicola Purse to Councillor Mike Danvers, Portfolio Holder for Resources

On 28 March I submitted a question to Cabinet in reference to the resources funds which were left by the developers of Church Langley. You replied with full details of the funds which amounts to a total of £425,000 and the areas which they were planned to be used for. There was an additional £70,000 which was put aside for a community fund which will need a business plan. When do you plan to release the £425,000 for the well overdue works that are needed in Church Langley?

Response from Councillor Mike Danvers, Portfolio Holder for Resources

As set out in my response to your question at Cabinet, Officers have been working with Church Langley Ward Councillors to identify an updated programme of works. This is being finalised and it is hoped that some works will commence by the end of June this year. As set out in my previous answer the scope for annual expenditure is £13,300, which is derived from annual income from the capital sum, (with variations dependent upon interest rate and inflationary movements), meaning the Fund will support works for 50 years. Spending is calculated to ensure that the funds endure in this way to comply with the legal agreements made between the Council and the developers.

Supplementary Question by Mrs Nicola Purse to Councillor Mike Danvers, Portfolio Holder for Resources

Why have the funds been held onto for so long?

Supplementary Response from Councillor Mike Danvers, Portfolio Holder for Resources

The £70,000 was allocated for leisure schemes and the Council had assisted with developing a business plan. If you would like to get in direct contact with me I will help.

Agenda item 7 refers

1. Councillor David Carter to Councillor Mark Ingall, Leader of the Council

During the Cabinet Overview Working Group meeting on 14 March, it was said that although Harlow had inherited covenants stating that homes can only be used for one family, we cannot use these regarding Houses of Multiple Occupation as the legal advice is that we would not be able to uphold the. Are these covenants now not enforceable for any use?

Response from Councillor Mark Ingall, Leader of the Council

Thank you for the question, I was present at the recent Cabinet Overview Working Group when the matter of HMO's was discussed and I was able to answer member's questions on the matter.

That Working Group has asked for further work by Officers to look at further planning regulation over HMO's within areas which will take some time to bring back to Cabinet for a view.

The Housing Act 1985 introduced the statutory scheme for Right to Buy, section 609 of that Act enables the Council to enforce restrict covenants even if we no longer have an interest in the land.

The covenant in question formed part of the transfer from the Corporation to the Council and pre-dates the Right To Buy (RTB) legislation (HA 1985), it also predates the statutory regulation of HMOs. The covenant would have formed part of the transfers under the first statutory RTB scheme in 1980. The covenant is in Schedule 3 to the Transfer and is worded as follows:

“(a)(iv) not to use any dwelling erected on the property hereby transferred for the purposes other than that of a single private dwelling house in one occupation only....”

Applications can be made to vary or modify the covenant. In these cases the Council has discretion whether or not to enforce or administer covenants. Each application to modify, vary or enforce a covenant will need to be decided on a case by case basis. The Council could not, for instance, have a blanket policy to refuse all applications.

Any enforcement via the Courts or Tribunal would need to be looked at on the merits in each case. This includes the cost of the action to be taken, the chance of success and public interest.

The legal advice given consistently has been that a decision to enforce a covenant would need to take into account all the evidence, the HMO's compliance with the regulatory framework and the cost to the public purse if the landowner successfully appealed the matter. Decisions on the enforceability would need to be on a case by case basis. I am happy that the covenant enforcement issue is added to the review by Officers.

Supplementary Question by Councillor David Carter to Councillor Mark Ingall, Leader of the Council

What is the legal status of the other covenants?

Supplementary Response from Councillor Mark Ingall, Leader of the Council

I will arrange for a written response to be provided to you.

2. Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

How many of the 100+ homes completed to date at Atelier, the joint venture between Harlow Council, Home and Countryside, are affordable and in which categories: social rent, affordable rent and shared ownership?

Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

As at 31 March 2019, a total of 137 homes have been completed and handed over by Countryside. This covers properties in Phase 1 and Phase 2. The split is as follows:

- a) Private sale – 69
- b) Social rent – 17
- c) Affordable rent – 27
- d) Shared ownership – 24

The total scheme will deliver 343 properties over three phases. The split for these will be:

- a) Private sale – 143
- b) Social rent – 92

- c) Affordable rent – 73
- d) Shared ownership - 35

Supplementary Question by Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

How many of the houses provided on the site will be for existing residents of Harlow?

Supplementary Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

I will arrange for a written response to be provided to you.

3. Councillor Michael Hardware to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

Is the Council aware of the issue of service charges on the Atelier development? They have increased many fold only months after residents have moved in – residents appear to have been given misleading information when they were considering the properties. As a partner, what is the Council doing about it?

Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

The Council is aware of the issue that Home Group is having with its service charges on the Atelier estate over the last few months and, as soon as the Council became aware, contacted Home Group about this in order to express its concerns. The Council has been informed that the high increases in service charges have affected the Home Group's service charges for leaseholds and affects approximately 70 households.

Home Group have undertaken their own internal investigation to establish what has happened and why, and are looking at how they will resolve the issue. The issue has been escalated up to their Chief Executive level and they are communicating directly with the householders affected. The Council will continue to liaise with Home Group on this matter to ensure it is resolved.

Supplementary Question by Councillor Michael Hardware to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

Have the marketing materials been amended to reflect this?

Supplementary Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

I share your concerns about the increase in service charges. Unfortunately, as the development is privately owned the Council does not have any direct control over the charges.

4. Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

The Council has planning consent to build a block of flats on the former Lister House site. What percentage of these will be social rent, affordable rent and shared ownership, and so how many will be sold on the open market?

Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

As set out in the planning application the scheme is currently due to provide:

- a) Thirty-two open market homes, comprising 15, one bedroom apartments and 17, two bedroom apartments. These equate to 69.5 per cent of the development.
- b) Fourteen social rented homes, comprising seven, one bedroom apartments and seven, two bedroom apartments. These equate to 30.5 per cent of the development.

As part of the viability process, the Council is looking at how it can provide additional affordable housing on the site.

Supplementary Question by Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

Given that the Council currently holds £14 million in reserves, will you guarantee that there will more affordable housing on the site?

Supplementary Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing

The Administration's policy is to always look to provide as much affordable housing as possible on all of its developments, including on the Lister House site.

5. Councillor Michael Hardware to Councillor Mark Ingall, Leader of the Council

Why did you refuse the offer from Essex County Council last year to match fund highways improvements when last week you announced some small scale parking schemes for Harlow. Do you not agree that the town has missed out on some vital additional cash, in effect doubling what you are going to spend, just because of your political dogma?

Response from Councillor Mark Ingall, Leader of the Council

The offer from Essex Highways arose from the Government disbursing additional funds to county councils specifically to address potholes. It was given to Essex County Council without strings attached. The decision to only give it to those councils who could match fund it was made on a whim from Councillor Kevin Bentley and this offer was made without consultation and after budgets had been settled.

My response was more measured than your question suggests. I wrote to Councillor Bentley urging him to meet with me to discuss the matter and to seek a way forward. Councillor Bentley declined to discuss the matter further. Harlow Council was not the only Council to feel that adding strings to a Government grant was unreasonable and that requesting a further £100,000 from Harlow Council for Essex County Council to honour its legal requirements to fix our roads was unfair. Other Councils also declined to participate in what could colourfully be described as an Essex Highways Robbery. These councils were Basildon (Conservative) Braintree (Conservative) and Maldon (Conservative).

In conclusion, your question is based on so many false premises, it is difficult to answer, but I'll try. I did not refuse the money on behalf of the Council, in fact I urged Councillor Bentley to give it to us, but without strings as the Government had intended. The County Council never had any intention to double the money Harlow Council intends to spend, they wanted us to double the money they had been given by the Government to spend. My decision was not due to political dogma, as shown by the three other Conservative Leaders who reached the same conclusion that I did.

Supplementary Question from Councillor Michael Hardware to Councillor Mark Ingall, Leader of the Council

There was an additional offer on a separate budget for the match funding. How many times has this offer been accepted previously?

Supplementary Response from Councillor Mark Ingall, Leader of the Council

Essex County Council currently receives 85 per cent of all Council Tax collected in Harlow, but keeps asking Harlow Council to pay for services the County Council should be providing. These includes street lighting and providing PCSOs.