

**MINUTES OF THE CABINET
HELD ON**

9 July 2020

7.30 - 9.00 pm

PRESENT

Committee Members

Councillor Mark Ingall, Leader of the Council
Councillor Eugenie Harvey, Deputy Leader and Portfolio Holder for Resilience and Recovery
Councillor Mike Danvers, Portfolio Holder for Resources
Councillor Tony Durcan, Portfolio Holder for Growth and Prosperity
Councillor Frances Mason, Portfolio Holder for Governance, Equality and Diversity
Councillor Danny Purton, Portfolio Holder for Environment
Councillor Chris Vince, Portfolio Holder for Community and Wellbeing
Councillor Mark Wilkinson, Portfolio Holder for Housing

Other Councillors

Councillor David Carter
Councillor Simon Carter
Councillor Joel Charles
Councillor Tony Edwards
Councillor Michael Hardware
Councillor Andrew Johnson
Councillor Russell Perrin

Officers

Brian Keane, Chief Executive
Andrew Bramidge, Head of Environment and Planning
Emma Crouch, Corporate Support Officer
Simon Freeman, Head of Finance and Deputy to the Chief Executive
Jane Greer, Head of Community Wellbeing
Simon Hill, Head of Governance
Andrew Murray, Head of Housing
Adam Rees, Governance Support Officer

1. **APOLOGIES FOR ABSENCE**

None.

2. **DECLARATIONS OF INTEREST**

None.

3. **MINUTES**

RESOLVED that the minutes of the meeting held on 27 February 2020 are agreed as a correct record and signed by the Leader.

4. **MATTERS ARISING**

None.

5. **WRITTEN QUESTIONS FROM THE PUBLIC**

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

6. **WRITTEN QUESTIONS FROM COUNCILLORS**

None.

7. **PETITIONS**

None.

8. **FORWARD PLAN**

RESOLVED that the Forward Plan is noted.

9. **RECENT RELEVANT DECISIONS TAKEN BY THE LEADER, DEPUTY OR PORTFOLIO HOLDER(S)**

None.

10. **COVID-19 RECOVERY – PROGRESS AND WORKING GROUP TERMS OF REFERENCE**

Cabinet received a report which set out the impact of Covid-19 on the Council's services and finances and established a Working Group for the recovery process.

Proposed by Councillor Eugenie Harvey (seconded by Councillor Mark Ingall) it was:

RESOLVED that Cabinet noted:

- A** The initial response to the pandemic and recovery Workstreams.
- B** The appointments due to be made to the Covid-19 Working Group.
- C** The current financial position.
- D** The Terms of Reference for the Working Group, which will be confirmed at its first meeting.

11. **YEAR END 2019/20 PERFORMANCE REPORT**

Cabinet received a report which set out the Council's operational performance for 2019/20.

Proposed by Councillor Mark Ingall (seconded by Councillor Mike Danvers) it was:

RESOLVED that Cabinet recognised the End of Year operational performance and risk management that has been achieved in 2019/20 across all Council services.

12. **ENERGY PROCUREMENT FRAMEWORK REVIEW**

Cabinet received a report on the review of the current energy procurement framework.

Proposed by Councillor Mike Danvers (seconded by Councillor Mark Ingall) it was:

RESOLVED that Cabinet agreed:

A To extend the current framework arrangement with Energy and Carbon Management for the supply of gas and electricity to March 2023.

B To the procurement of 100 per cent renewable electricity up to March 2023.

13. **FLAT BLOCK REFURBISHMENT OF 97-126 THE HIDES**

Cabinet received a report to award a contract for the refurbishment of 97-126 The Hides.

Proposed by Councillor Mark Wilkinson (seconded by Councillor Tony Durcan) it was:

RESOLVED that the most advantageous tender in consideration of price and quality combined as submitted by Contractor A be accepted in the sum of £1,319,516.00 for the delivery of this external refurbishment works programme subject to contract and Leaseholder consultation.

14. **PROCUREMENT STRATEGY UPDATE**

Cabinet received a report which sought approval for an updated Procurement Strategy.

Proposed by Councillor Frances Mason (seconded by Councillor Mike Danvers) it was:

RESOLVED that:

- A** The Procurement Strategy (attached as Appendix A to the report) be approved as the framework for achieving the Council's objectives and aspirations in the procurement of goods, works and services.
- B** The Head of Governance, in consultation with the Portfolio Holder for Governance, Equality and Diversity be delegated authority to make minor and inconsequential amendments which reflect changes in the law.

15. **PORTFOLIO HOLDER DELEGATIONS**

RESOLVED that the Leader's Scheme of Delegation to Portfolio Holder's for 2020/21, as set out in the document submitted, is noted.

16. **APPOINTMENT OF CABINET OVERVIEW WORKING GROUP, PANELS AND PARTNERSHIP BODIES 2020/21**

RESOLVED that the appointments to Cabinet Overview Working Group, Panels and Partnership Bodies 2020/21 be approved.

17. **COMMUNICATIONS FROM COMMITTEES/WORKING GROUPS/PARTIES AND PANELS**

- a) Referral from Scrutiny Committee - Review of Overview and Scrutiny

Cabinet received a report following a review of the Council's overview and scrutiny functions.

Proposed by Councillor Frances Mason (seconded by Councillor Chris Vince) it was:

RESOLVED that:

- A** Subject to recommendation by the Scrutiny Committee, Cabinet endorsed the Cabinet-Scrutiny Protocol (attached as Appendix A to the report), the revised Scrutiny Procedure Rules (attached as Appendix B to the report) and the revised Scrutiny Committee Terms of Reference (attached as Appendix C to the report) for adoption by Full Council.
- B** Subject to recommendation by the Scrutiny Committee, Cabinet agreed that the Cabinet Overview Working Group is renamed the Cabinet Policy Development Group

and the terms of reference are amended as set out in Appendix D to the report.

18. **MINUTES OF PANELS/WORKING GROUPS**

RESOLVED that the minutes of the following meetings are noted.

- a) Minutes of meeting Thursday, 23 January 2020 of Safety Committee
- b) Minutes of meeting Thursday, 12 March 2020 of Cabinet Overview Working Group

19. **MATTERS OF URGENT BUSINESS**

None.

LEADER OF THE COUNCIL

Cabinet – 9 July 2020

Questions from the Public

1 Mr Steve Dean to Councillor Mark Ingall, Leader of the Council

In the report to Cabinet entitled 'Town wide HMO Article 4 Direction' dated 27 February 2020, Paragraph 8 states 'from April 2020 there will be additional resource available to assess new applications for covenant release and also to review the position of existing HMOs that may be in breach of covenant restrictions'.

In reviewing the position of existing HMOs that may be in breach of covenant restrictions, how does the Council propose to identify those HMOs that may be in breach and what criteria would be used to ensure consistency in deciding whether or not to cancel an HMO ?

Reply from Councillor Mark Ingall (Leader of the Council):

At present, in relation to covenant restrictions, the Council is focussing on new applications for HMOs or existing HMOs that are going through a change of ownership. Following this we may then start to look at existing HMOs where there may be a breach of covenant. The legal situation of each will be assessed individually. The factors that will be used to assess whether or not to agree to a variation of covenant will focus on:

- The location of the property and whether or not it is in an area with a large number of existing HMOs
- The views of the surrounding neighbours
- The willingness of the owner to enter into an agreement to restrict occupancy to people with a local connection to Harlow e.g. family or employment
- The suitability of the accommodation being provided.

2 Mr Steve Dean to Councillor Mark Ingall, Leader of the Council

In the same report, Paragraph 9 states 'In the last year the Planning and Legal teams in the Council have developed a checklist to assess whether or not covenants should be release or varied – on a case by case basis. This has now been verified through external legal advice and will now be utilised on all future covenant applications. The release or variation of covenants is entirely at the Councils discretion, acting reasonably, and this will provide some measure of control for the Council to exercise. It is proposed however that no covenant should be permanently removed but, if it is felt to be appropriate, a covenant could be temporarily lifted, e.g. for the period of an HMO licence'.

Those current owners of property with a covenant in place have purchased their property in good faith and would reasonably expect Harlow Council not to allow covenant breach in adjacent property with the same covenant. Why is the Council not supporting such property owners and is proposing to use valuable resources to decide on covenant release when a covenant is clearly in place and an HMO would breach it?

Reply from Councillor Mark Ingall (Leader of the Council):

Each individual case will be looked at on its merits, and legal advice taken, since the nature of covenants vary and it is not possible to provide a single answer for all properties. As was set out in the February 2020 Cabinet report, the Council needs to balance the undoubted need for HMO accommodation in Harlow with a need to prevent the loss of a large amount of family housing. It is unlikely that the Council will seek to close large numbers of HMOs as this would create a significant homelessness problem. Instead, we will take a balanced approach utilising the criteria set out in the answer to the first question. This will ensure there is a clear rationale for each decision taken.

3 Mr Nicholas Taylor to Councillor Mark Ingall, Leader of the Council

If covenant release is to be implemented, in view of the statement that the release or variation of covenants is entirely at the councils discretion, how does the council plan to ensure consistency in whether or not a covenant is lifted to allow an HMO application to be granted?

Reply from Councillor Mark Ingall (Leader of the Council):

I would refer Mr Taylor to the answer to the first question. Consistency will be achieved by focussing on:

- The location of the property and whether or not it is in an area with a large number of existing HMOs
- The views of the surrounding neighbours
- The willingness of the owner to enter into an agreement to restrict occupancy to people with a local connection to Harlow e.g. family or employment
- The suitability of the accommodation being provided.

Further details on the criteria used can be found on the Council's website.

4 Mr James Humphreys to Councillor Mark Wilkinson (Portfolio Holder for Housing)

Harlow has a very large number of homes converted from offices. Can you provide a list of Authorities who:

- a) Have used this accommodation? And
- b) How often they have used homes that have been converted from offices, to house homeless or other families in Harlow in the last five years?

Reply from Councillor Mark Wilkinson (Portfolio Holder for Housing):

Whilst there is a requirement for placing authorities to notify host authorities (through Section 208 notices) when placing families within their boundaries, a number of authorities had not been doing this. The Council therefore does not have a complete list of authorities who have used homes converted from offices under Permitted Development Rights, or how often they have been used.

The Council has been clear that any placing authority should comply with their legal obligation to notify the Council when people are placed within Harlow and has been lobbying to achieve this.

5 Mr James Humphreys to Councillor Mark Wilkinson (Portfolio Holder for Housing)

It is clear from a Freedom of Information Request of Harlow Council in 2018 by the Harlow Alliance Party that many Authorities were not informing Harlow Council that they were using office conversions in the town to provide temporary accommodation.

How satisfied are you that other Councils are now informing Harlow Council when they use former offices, or indeed any other accommodation in Harlow to provide temporary homes?

Reply from Councillor Mark Wilkinson (Portfolio Holder for Housing):

Whilst the Council is not satisfied that all councils are providing notice when residents are placed within Harlow, there has been progress within this area. Firstly, a number of London Boroughs have agreed that they will no longer move their residents to Harlow. Secondly, the Council has been in dialogue with London Boroughs to agree that:

- a) Accommodation will be inspected, to meet minimum standards;
- b) Vulnerable households will not be placed 'out of area' into Essex;
- c) Essex authorities will be included in the London Inter-borough Accommodation Agreement, which sets and monitors rules for Boroughs placing out of area within London;

- d) Placing authorities will pay no more for accommodation than the host authority;
- e) Placing authorities will notify the host authority (as already required under legislation);
- f) London and Essex authorities will jointly lobby the Government to reduce the causes of homelessness; and
- g) Standards for accommodation will be met.

6 Mr Roy Court to Councillor Mark Ingall (Leader of the Council)

In response to a questions put to you at February's Cabinet meeting you mentioned that Harlow Council, in respect of new homes built, have a target of 30% for "affordable" homes.

Can you tell me what the actual figures are for the following:

- a) Those being built on the former site of the rugby club;
- b) The former Motorsales site;
- c) The former Pearsons carpark;
- d) The Wych Elm development;
- e) To date, those given Planning Permission in the town centre;
- f) The homes on the site previously occupied by the Churchgate Hotel;
- g) Those estates which have been completed in Newhall.

Reply from Councillor Mark Ingall (Leader of the Council):

- a) Those being built on the former site of the rugby club;

The Kier development for 125 dwellings (reference HWPL\14\00361) included 40 units of affordable housing (32% of the total).

- b) The former Motorsales site (Burnt Mill);

Motor sales site aka Burnt Mill- HW/FUL/17/00563 - 8.5% affordable housing which equated to 16 units (7 affordable rent and 9 shared ownership)

c) The former Pearsons carpark;

Development of 361 dwellings (reference HW/FUL/18/00144) included 12.2% affordable housing equating to 44 units (26 affordable rent and 18 shared ownership).

d) The Wych Elm development;

Development of 122 dwellings (reference HW/FUL/19/00241) included 12% affordable housing equating to 15 units (all shared ownership).

e) To date, those given Planning Permission in the town centre;

The (original) Strawberry Star application for blocks A, B C and D (reference HW/FUL/17/00097) was demonstrated to be unviable. No affordable housing was secured but the legal agreement allows for a claw back mechanism should values alter in the future.

A second application for part of the scheme was then agreed in 2020 under reference HW/FUL/19/00291. This also includes no affordable housing due to viability but continues to include a claw back mechanism should values alter in the future.

Discussions are ongoing between the Council and the developer for the provision of 10% affordable housing on the not yet submitted second phase of the development.

The Development Management Committee resolved in July 2020 to grant planning permission for 33 units at Market House (reference HW/FUL/19/00431). This will include 30% affordable housing (shared ownership).

f) The homes on the site previously occupied by the Churchgate Hotel;

The original planning permission (reference HW/FUL/15/00504) included 9 affordable units which was 35%. However, subsequently this was altered to an off-site financial contribution of £1,350,000 in lieu of on-site affordable units under reference HW/S106/17/00369. Harlow Council intends using this funding to contribute towards the building of new Council housing.

g) Those estates which have been completed in Newhall.

The original outline consent for 2,300 houses at Phase 2 Newhall (reference HW/PL\04\00302) included within the associated Section 106 legal agreement a process for a viability assessment to be applied to calculate affordable housing rates for each tranche of the development. This obligation fixes that no individual tranche of development can come forward with less than 15% affordable housing or more

than 40% affordable housing. The target is that when all the tranches are complete the level of affordable housing provision will not exceed 33%.

The most recent reserved matters approvals at Newhall for:

- 117 units within Phase 2 of the overall development (CP2B) (HW/REM/19/00494) included 15% affordable
- 49 units within Phase 2 of the overall development (HW/REM/19/00323) included 16% affordable housing.

With other developments where finances allow, we are aiming to provide 100% affordable housing. Overall we are still aiming to hit the 30% affordable housing target.

7 Mr Roy Court to Councillor Mark Ingall (Leader of the Council)

At the Cabinet meeting in February you were asked if you or the Council had a preferred option as to where the new hospital should be built. As an elected representative and Leader of Harlow Council. I would have expected you to do so, but didn't.

The Hospital Board were due to commence a public engagement exercise about the services to be provided in May but at the time of writing this does not appear to have started. Do you think they should have consulted patients about where the new hospital was to be built before making a final decision?

Reply from Councillor Mark Ingall (Leader of the Council):

The decision for the siting of the new hospital is one for the Hospital Trust to take. The Council's role has been to consistently focus on supporting the Hospital trust to secure a new hospital.

I am sure you will be relieved to know the Hospital Trust intend to carry out a full public engagement on the proposed new site shortly. I will be voicing my opinions in that engagement exercise and I would encourage you and all Harlow residents to do the same.