

CABINET

<u>Present:</u>	Councillor	P Davies (Chair)	Leader of the Council Finance
	Councillors	P Hackett AER Jones B Kenny AR McLachlan C Meaden H Smith T Smith	Regeneration and Planning Strategy Corporate Resources Environment Improvement and Governance Culture, Tourism and Leisure Streetscene and Transport Services Children's Services and Lifelong Learning
<u>Apologies</u>	Councillor	G Davies A McArdle	Housing and Community Safety Adult Social Care and Public Health

84 LEADER'S ANNOUNCEMENTS

Councillor Phil Davies reported on the following matters:

September Storms

Following heavy down pours Wirral's rivers, roads and residents had struggled to cope as flooding swept through parts of the Borough during the week. This had caused major disruption and Councillor Davies thanked all the Council Officers who had been involved in helping Wirral residents to mitigate the damage caused. Councillor Davies also thanked all those members of the public who had helped in rescue operations providing support and assistance during this time.

Pension Scheme of the Year Awards 2012

Councillor Davies announced that The Merseyside Pension Fund had won the DB Communications (public) Award. He thanked the Officer Team for its hard work and passed on his and the Cabinet's congratulations on this excellent achievement.

Children's Laureate, Julia Donaldson

The acclaimed children's author Julia Donaldson had visited Bromborough library the previous day, where she had given a performance based on her work and spoke about the importance of libraries to British children.

To celebrate ten years of 'Get into Reading' there would be an event in the Civic Hall that evening. Councillor Davies congratulated Jane Davies and her Team on the work they had put into this fantastic initiative.

85 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

No declarations of interest were received.

86 MINUTES

RESOLVED:

That the Minutes of the meetings of the Cabinet held on 6 and 18 September 2012 be confirmed as a correct record.

87 CHILD AND FAMILY POVERTY BUDGET OPTION

Further to Minute No. 382 of the Cabinet meeting held on 12 April 2012, a report by the Acting Director of Children's Services set out recommendations on the allocation of the £400,000 identified for tackling intergenerational poverty in the Council's budget for 2012-13.

Councillor Tony Cox told the Cabinet that he was delighted with the approach whereby the funding had been set aside for the business plan.

Councillor Phil Davies informed the Cabinet that he was pleased that the project had been publicised in the Guardian Newspaper. The project was innovative and Councillor Davies looked forward to it coming to fruition. He thanked everyone who was involved with it

RESOLVED: That the Cabinet

- (1) recognises the contribution of the Working Group and notes the views expressed in relation to the proposed Foundation Years Trust "Springboard" initiative at Appendix 1 to the report;**
- (2) agrees to release an initial sum of £50,000 of the Child Poverty budget allocation to the Foundation Years Trust to develop a comprehensive business case for the 'Springboard' project and that at the same time a pre-pilot phase of work be undertaken which will involve engaging thirty families with volunteers to begin to test out and develop the model. The Foundation Years Trust shall be under an obligation to develop value for money in expending the initial sum for the purposes permitted;**
- (3) agrees to consider the business case at a future Cabinet meeting, and, subject to being satisfied that the business case is**

satisfactory, robust, clear about the expected outcomes of the Trust's work, that the activity represents value for money and that the monitoring and performance management arrangements will accurately measure the outcomes, take a further decision as to the release of a further £250,000 to support the "Springboard" project; and

- (4) agrees that the Wirral Child and Family Group considers priorities for the remaining £100,000 of the budget allocation and makes recommendations to the Children's Trust in order for this to be commissioned in line with the process established through the Trust in respect of Early Intervention Grant funding.**

88 HIGHWAY AND ENGINEERING SERVICES CONTRACT - VALUE FOR MONEY AND ANNUAL REVIEW

As requested by the Audit and Risk Management Committee on 28 September 2011 (Minute No. 244 refers), a report was presented to the Cabinet by the Interim Director of Technical Services that provided an overview of the Highway and Engineering Services Contract which commenced in April 2009 and included evidence to confirm that the proposed benefits to be realised from the new contract, including value for money, were being achieved.

In addition, the report provided an update regarding the contract at the end of its third year of operation and reported the financial changes that had taken place to the contract as required by with Contract Procedure Rule 16A.

The maintenance of all aspects of the highway infrastructure carried out through this contract were statutory duties imposed on the Council as the Highway Authority.

Part of the report related to financial aspects of the contract and comparison with other authorities' contracts which was exempt from public disclosure in accordance with paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. This information was separately contained in Appendices 4 and 5 to the report and considered in the absence of the press and public (Minute No. 97 refers).

The report also noted that the current contractor had now formally advised that it did not wish to extend the contract past its current end date of 31 March 2014 on the present terms.

Councillors Harry Smith and Phil Davies welcomed the report on the performance of the contract and that it was in the public domain. They were pleased that the recommendations in the District Auditor's Public Interest

Report on the Highway and Engineering Services Procurement Exercise were being addressed.

RESOLVED: That the Cabinet

- (1) notes the progress of the contract during the past year, including the concerns recorded by the Sustainable Communities Overview and Scrutiny Committee regarding the performance of the contract, and invites that Committee to seek such assurance from officers and the contractor that their concerns were being suitably addressed;**
- (2) notes that the current contractor has formally notified the Council that it does not wish to extend the contract beyond its current end date of 31 March 2014 on the present terms;**
- (3) requests that the Interim Director of Technical Services prepares a report appraising future options for the delivery of the Highway and Engineering Services from 1 April 2014, at the earliest opportunity;**
- (4) notes that the Sustainable Communities Overview and Scrutiny Committee has asked the Director of Technical Services to report on progress on preparation and delivery of a comprehensive exit and handover strategy relating to the satisfactory completion of the current contract, and effective and efficient transition to the new service delivery arrangements, in his future annual reports on the contract;**
- (5) notes that Officers will be undertaking actions, in response to the External Auditor's Report in the Public Interest; especially in relation to the management of the highway and engineering services contract, and that progress in delivering those actions will be monitored through the Corporate Improvement Board.**

89 HIGHWAY AND ENGINEERING SERVICES CONTRACT - 2014 AND BEYOND

A report by the Interim Director of Technical Services asked the Cabinet to consider the recommendation of the Sustainable Communities Overview and Scrutiny Committee made at its meeting on 26 June 2012 (Minute No. 5 refers) that it should receive, from the Director of Technical Services, a report setting out options for the future delivery of Highway and Engineering Services beyond the end of the current contract with Colas Ltd on 31 March 2014.

The Interim Director's report sought approval to proposals to deliver the required options appraisal together with the timetable for that appraisal and subsequent activity required to secure a replacement means of service delivery for Highway and Engineering Services from 1 April 2014.

The maintenance of all aspects of the highway infrastructure, including the removal of ice and snow, carried out through the contract, were statutory duties imposed on the Council as the Highway Authority.

Appendix 1 to the report described commercial risks relating to and future procurement exercise for the Highway and Engineering Services. Appendix 2 to the report detailed information on the tender document for the appointment of consultants to assist with the options appraisal. These Appendices were exempt from public disclosure in accordance with paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and were considered in the absence of the press and public, (Minute No. 98 refers)

Councillor Harry Smith informed that the procurement process to be undertaken had been driven by Colas' decision not to want to extend the contract past its current end date of 31 March 2014 on the present terms. He was pleased that consultants would help with the options appraisal.

Councillor Phil Davies told the Cabinet that he was pleased that a range of options on how the new contract would be delivered would be considered including a range of different models and best practice from other local authorities would be looked at that may be replicated

RESOLVED: That the Cabinet

- (1) notes the content of the report and agrees the principle of using independent consultants to help bring both wider experience and renewed public confidence for the contract recruitment process;**
- (2) endorses the activities and timescales required to secure a new service delivery arrangement and approves the proposals for appointment of a consultant to support the Interim Director of Technical Services in the preparation of the options appraisal for the future delivery of the Highways and Engineering Services; and**
- (3) requests that the Interim Director of Technical Services reports to the Cabinet on the options appraisal at its meeting on 7 February 2013, so that a decision can be taken with regard to the preferred options.**

THE FLOOD AND WATER ACT 2010 - ORDINARY WATERCOURSE CONSENTING AND ENFORCEMENT

A report by the Interim Director of Technical Services informed that the Flood and Water Management Act 2010 (“the Act”) and the Flood Risk Regulations 2009 established the Council as a Lead Local Flood Authority (“LLFA”). LFFAs were required to lead the strategic management of local flood risk arising from surface water, ground water and ordinary watercourses.

The Interim Director informed that the statutory responsibilities attached to the LLFA role, placed substantial new duties on the Council in managing flood risk and from 6 April 2012 this had included Ordinary Watercourse Consenting and Enforcement which had been formerly and Environment Agency (“EA”) function.

The report covered the transfer of these regulatory powers of consenting and enforcement from the EA to the LLFA. Together, ordinary watercourse consenting and enforcement were referred to as “regulation”. The Cabinet was informed that the purpose of ordinary watercourse regulation was to control certain activities that might have an adverse flooding effect.

In order to manage this new duty efficiently, the Cabinet was informed that it would be necessary to establish administration processes and ensure appropriate and necessary delegated authority had been granted to relevant Council Officers.

Councillor Harry Smith informed that appropriate training for enforcement would be provided internally following some external liaison.

RESOLVED: That the Cabinet:

- (1) notes the content of the report;**
- (2) authorises the Director of Technical Services to establish and implement the necessary auditable process to ensure compliance with the legislative framework and other requirements detailed within the report; and**
- (3) recommends to Council that the Scheme of Delegation to Officers be amended to include as follows:**
 - (a) the Director of Technical Services to undertake all requisite and necessary consent and enforcement measures/action under the Flood & Water Management Act 2010, Land Drainage Act 1991 and associated secondary legislation as deemed necessary to ensure the Council (as Lead Local**

Flood Authority) discharged its enforcement/regulation obligations, duties and responsibilities and.

- (b) the Director of Law, HR and Asset Management (in consultation with the Director of Technical Services as necessary) to undertake any necessary formal litigation action in connection with the Council's (as Lead Local Flood Authority) enforcement/regulation obligation, duties and responsibilities under the Flood & Water Management Act 2010, Land Drainage Act 1991 and associated secondary legislation.**

91 WEST KIRBY MARINE LAKE REFURBISHMENT, CONSULTANT APPOINTMENT - CONTRACT PRICE INCREASE

A report by the Interim Director of Technical Services informed the Cabinet, in accordance with Contract Procedure Rule 16.1.2, that the contract awarded under the approved framework for consultancy services associated with West Kirby Marine Lake Refurbishment had been varied for contractual and technical reasons to ensure the successful delivery of the contract.

The Cabinet noted that the Interim Director's report had been produced pursuant to recommendation R11 for Flood and Coastal Erosion Management contained within the Audit Commission Report into the Certification of Claims and Returns 2010/11.

Councillor Ann McLachlan informed that work had been progressed and was included in the Council's Improvement Plan on procurement and contract management which would ensure that procedures were in place to avoid similar experiences in the future.

RESOLVED:

That the Cabinet notes the content of the report in accordance with Contract Procedure Rule 16.1.2 and pursuant to Recommendation R11 for Flood and Coastal Erosion Management contained within the Audit Commission Report into the Certification of Claims and Returns 2010/11.

92 LOCAL DEVELOPMENT FRAMEWORK - CORE STRATEGY - PUBLICATION OF PROPOSED SUBMISSION DRAFT

A report by the Director of Regeneration, Housing and Planning sought approval for a Draft Core Strategy to be published for public comment. The Cabinet was informed that the comments received would be reported back to it before the Core Strategy was submitted to the Secretary of State for public examination by an Independent Planning Inspector. The Cabinet noted that

the Council's Constitution required both the publication and submission of the Draft Core Strategy to be approved by the Council.

The Director informed that the Core Strategy would assist in the delivery of corporate priorities related to Your Neighbourhood and Your Economy. The Cabinet noted that once adopted, the Core Strategy would replace the strategic policies contained within the Unitary Development Plan that had been adopted in February 2000.

Councillor Pat Hackett raised concerns that planning policy was being revoked which could have implications on greenbelt land. He asked Officers to take all necessary steps to try to ensure that the greenbelt was not eroded.

The Cabinet turned its attention to the proposed Wirral Waters development noting that, ideally, it would be helpful for Peel Holdings to begin work on the residential development within the next five years. Members agreed to encourage and support Peel with this in anyway that it could.

The Cabinet noted, in particular, that the Council's Housing Strategy Team had advised that the relaxation of restrictions on development outside regeneration priority areas could have a detrimental affect on the attractiveness of existing, cleared sites within Wirral's former HMRI boundary where the market for new housing was already weak. This would represent a major risk to the delivery of Wirral's new-build housing programme with Lovell and Keepmoat, with implications for the funding agreement with the Homes and Communities Agency (HCA) which was based on pre-agreed outputs for new-build starts and completions.

Councillor Phil Davies asked how Members could ensure that HMRI sites could be regenerated in the future and if they could put any measures in place.

The Head of Regeneration and Planning who had presented the Director's report informed that regeneration had been focused on HMRI areas and this would continue through the Council's ongoing work. Finance was the problem in terms of building houses and providing mortgages. If the Council was able to put financial support mechanisms in place it would be helpful. The Council wanted to see appropriate sites developed to create the right environment to assist the provision of housing on those sites. The Council was in challenging circumstances at present and wanted to see the east of the borough and Wirral as a whole prosper.

The Cabinet noted from the Director's report that the 2011 Census, had shown the first recorded growth in Wirral's population since 1971. In Wirral's case, this had meant that there were 13,100 additional people and 5,000 additional households within the Borough than were previously projected for mid-2011. Given this unexpected increase in population and households,

there was currently no reliable alternative basis for projecting future household needs until revised national projections were published during 2013.

Councillor Tony Cox queried whether the Head of Regulation and Planning was aware of where the additional people had come from. The Head of Regeneration and Planning agreed to provide him with the detail at a later date but commented that it was an encouraging sign and that he would break down the figures and ascertain the demographics.

Councillor Phil Davies told the Cabinet that he hoped that the growth in Wirral's population would have a positive impact as Central Government's funding was based on the size of the population.

RESOLVED: That the Cabinet

- (1) notes the Director's comments on strategic choices;**
- (2) recommends to the Council that the Proposed Submission Draft Core Strategy and its supporting documents contained within the Document Library be approved for publication and as a material consideration for the purposes of development control;**
- (3) recommends to the Council that the following documents contained within the Document Library be approved as factual evidence for the Core Strategy and be adopted as material considerations for the purposes of development control:**
 - Wirral Employment Land and Premises Study Update (BE Group, 2012)**
 - Wirral Strategic Housing Land Availability Assessment Update 2012 (Wirral Council and A.P.Sheehan 2012)**
 - Wirral Retail Strategy Update 2012 (GVA, March 2012)**
 - Wirral Open Space Assessment (Wirral Council and Strategic Leisure, 2012)**
 - Assessment of Wirral Core Strategy Transport Impacts (Mott McDonald, July 2012)**
- (4) recommends to the Council that the Interim Planning Policy be revoked, to allow decisions to be determined in accordance with the Unitary Development Plan, the Regional Spatial Strategy (until it is revoked) and the National Planning Policy Framework and to allow sites within the previously restricted areas to contribute towards the ongoing housing land supply;**
- (5) recommends to the Council that the Director of Regeneration, Housing and Planning be given delegated authority to prepare and**

amend the supporting documents necessary to accompany the publication of the Proposed Submission Draft and the supporting documents, provided that they do not materially alter the policy direction set out in the Proposed Submission Draft;

- (6) the Portfolio Holder for Regeneration and Planning Strategy be given authority to approve the final content of the Proposed Submission Draft Habitats Regulations Assessment Report and the Statement of Consultation referred to in paragraph 2.6 of the report, so that they can also be formally approved for publication by the Council at its meeting on 15 October 2012;
- (7) the comments received on the Proposed Submission Draft and its supporting documents be reported back to the Cabinet before the Core Strategy is submitted to the Secretary of State for public examination.
- (8) the review of the Council's Strategic Housing Needs Assessment; assessment of accommodation needs for Gypsies and Travellers; future standards for open space and recreation; Core Strategy viability assessment; and work to identify a solution to the future provision of appropriate wastewater treatment capacity in Birkenhead; are undertaken as soon as practicable, before the Core Strategy is submitted to the Secretary of State; and
- (9) Cheshire West and Chester Council be advised that it is not possible for Wirral to accommodate additional housing to make up any short-term shortage of deliverable supply in Cheshire West and Chester.

93 **IMPLEMENTATION OF LOCAL AUTHORITY MORTGAGE SCHEME IN WIRRAL**

A report by the Director of Housing, Planning and Regeneration provided the Cabinet with an update on the current situation regarding housing market support, the availability of mortgages and analysed how these issues were affecting Wirral. The Director's report also set out an overview of the Local Authority Mortgage Scheme and how this could be implemented in Wirral.

RESOLVED: That the Cabinet

- (1) notes the contribution of the range of programmes/packages to assist home buyers including first time buyers, the Affordable Homes Programme Framework to support home ownership in Wirral;

- (2) supports the move forward with the implementation of a Local Authority Mortgage Scheme in Wirral on the basis of a non-cash backed indemnity following advice from Wirral's Treasury Management Advisors;**
- (3) approves an initial scheme to provide financial guarantees up to the value of £2m and funding of up to £38,000 be earmarked from the fee income to cover any estimated potential defaults which may occur;**
- (4) gives delegated authority to the Acting Monitoring Officer to enter into any appropriate deeds with a lender or lenders on behalf of the Council for the purposes of implementing a Local Authority Mortgage Scheme and indemnify him personally in respect of such letters of opinion and other legal documents as he might be required to provide to participating lenders;**
- (5) approves the eligibility criteria set out in Appendix A of the report as the basis of supporting the wider objectives of increasing availability of affordable homes to first-time buyers and supporting home ownership; and**
- (6) gives delegated authority to the Cabinet Portfolio Holder for Housing and the Director of Regeneration, Housing and Planning for any amendments to be undertaken to the policy, as necessary, due to changing circumstances i.e. average house prices, changes to lenders criteria.**

94 **RECOMMENDATIONS FROM THE IMPROVEMENT BOARD**

Councillor Ann McLachlan asked the Cabinet to note the Key Messages from the meeting of the Improvement Board held on 20 July 2012 which had been included with the agenda. Issues discussed at the meeting included the following:

- the welcome appointment of Graham Burgess, the changing role, size and governance of the Council in the light of significantly streamlined budgets;
- the need for the Council to deliver on its core purpose of assuring the improvement process, endorsing those issues which related to corporate governance, leadership and improvement process but being clear that the decision making role rested with the Council For the next six months, the Board will monitor

achievements in terms of improvement,
ensure that Wirral has support and commentary on progress,
and that,

it has delivered changes following appropriate consultation

- Councillors and Officers sharing ownership of the Improvement Plan
- findings of the Peer Review work with the Adult Social Care Directorate

Councillor McLachlan also reported that there had been a further meeting of the Improvement Board on 21 September 2012. The view of the Improvement Board now was that the Council should take ownership and control of its Improvement Plan that had been agreed by the Cabinet at its meeting on 6 September 2012 (Minute No. 77refers). The Council was now at the implementation stage with its projects.

Councillor McLachlan informed that the Improvement Board had welcomed the positive comments from the District Auditor in respect of the Highway and Engineering Services Contract Management and Award - Action Plan.

RESOLVED:

That Councillor Ann McLachlan's oral report be received and the Key Communication Messages from the Meeting of the Improvement Board held on 20 July 2012 be agreed.

95

URGENT BUSINESS APPROVED BY THE CHAIR - ARRANGEMENTS RE REPORTS CONTAINING EXEMPT INFORMATION UNDER THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

The Acting Director of Law, HR and Asset Management informed of the implications of making Executive and/or key decisions under the new Regulations when exempt reports would be considered in the absence of the press and public. He informed that the intention to make an Executive and/or key decision, in private session required 28 clear days notice. In some cases this may sometimes be impracticable and the Director advised on the way forward in such circumstances.

RESOLVED:

That the Cabinet authorises the Council's Chief Officers to seek all requisite consents and/or agreement on its behalf from relevant persons as required by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 where an item to be considered by the Cabinet includes exempt information and it is not possible to provide at least 28 clear days notice of that item.

96 **EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED:

That, under section 100 (A) (4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by paragraph 3 of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

97 **EXEMPT APPENDICES - AGENDA ITEM 4**

The Cabinet noted the detail of the exempt appendix to Item No. 4 on the agenda – Highway and Engineering Services Contract – Value for Money and Annual Review (Minute No. 88 refers).

98 **EXEMPT APPENDICES - AGENDA ITEM 5**

The Cabinet noted the detail of the exempt appendix to Item No. 5 on the agenda – Highway and Engineering Services Contract – 2014 and Beyond (Minute No. 89 refers).