

# Minutes

## Cabinet

10<sup>th</sup> July 2023



These Minutes principally record decisions taken and, where appropriate, the reasons for the decisions. A recording of the meeting is available at <http://www.braintree.gov.uk/youtube>

### Present:

<b>Portfolio</b>	<b>Cabinet Member</b>	<b>Present</b>
<b>Overall Strategy</b>	Councillor G Butland (Leader of the Council)	Yes
Deputy Cabinet Member to the Leader	Councillor B Taylor	Yes
Deputy Cabinet Member to the Leader	Councillor R van Dulken	Yes
<b>Transformation, Performance and Delivery</b>		
Resources and Performance	Councillor K Bowers	Yes
Transformation, the Environment and Customer Services	Councillor T Cunningham (Deputy Leader)	Yes
Deputy Cabinet Member	Councillor P Schwier	Yes
<b>Connecting People, Places and Prosperity</b>		
Economic Growth and Inward Investment	Councillor F Ricci	Yes
Planning and Infrastructure	Councillor G Spray	Yes
Deputy Cabinet Member	Councillor J Coleridge	Yes
<b>Supporting Communities</b>		
Housing, Health and Wellbeing	Councillor L Bowers-Flint	Yes
Health and Wellbeing	Councillor M Cunningham	Yes
Deputy Cabinet Member	Councillor C Dervish	Yes

### **Present as Invitees of the Leader:**

Councillor L Jefferis, Leader of the Labour Group and Councillor D Garrod, former Chairman of the Community Development Scrutiny Committee.

Those minutes identified by the prefix \*\* may be the subject of the "call-in" provisions of the Constitution within 5 working days of the publication of these minutes. Any decisions made and not "called in" by this date and time will become effective. For further information regarding these minutes please contact the Governance and Members Team, on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

## 1. **DECLARATIONS OF INTEREST**

**INFORMATION:** The following interests were declared:-

Councillor G Butland declared a non-pecuniary interest as an Elected Member of Essex County Council (ECC) as ECC was referred to in various items throughout the Agenda.

Councillor L Bowers-Flint declared a non-pecuniary interest as an Elected Member of Essex County Council (ECC) as ECC was referred to in various items throughout the Agenda.

Councillor T Cunningham declared a non-pecuniary interest as an Elected Member of Essex County Council (ECC) as ECC was referred to in various items throughout the Agenda.

Councillor P Schwier declared a non-pecuniary interest as an Elected Member of Essex County Council (ECC) as ECC was referred to in various items throughout the Agenda.

In accordance with the Code of Conduct, Councillors remained in the meeting, unless stated otherwise, and took part in the discussion when the Items were considered.

## 2. **MINUTES**

**DECISION:** That the Minutes of the meetings of Cabinet held on 13<sup>th</sup> March 2023 were approved as a correct record and signed by the Chairman.

## 3. **QUESTION TIME**

**INFORMATION:** There were no questions asked, or statements made.

## 4. **\*\*TO AGREE SUPPLEMENTAL MATTERS RELATING TO THE GRANT OF AN EASEMENT AT SPRINGWOOD DRIVE, BRAINTREE**

Minutes Published: 13 <sup>th</sup> July 2023 Call-in Expires: 20 <sup>th</sup> July 2023
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**INFORMATION:** Members were asked to consider the report which sought approval to supplemental issues relative to the decision of Cabinet on 6<sup>th</sup> December 2022 to grant an easement over Braintree District Council's land at Springwood Drive, Braintree, Essex.

Members were reminded that Cabinet approved the grant of an easement over Springwood Drive car park in favour of Charterhouse Property Group on 6<sup>th</sup> December 2022. On the basis of the Cabinet approval, both party's solicitors had engaged in the due process of documenting the agreement. During this process, some practical changes had come to light, as the developer's plans had further evolved. This had resulted in the need to accommodate a number of changes to the terms originally agreed.

**DECISION:** That Cabinet agreed:

1. To clarify and approve that the developer would have the ability to trigger the easement until 1st November 2027 and if the developer wishes to extend that period for a further five years, they would be required to make a payment to the Council. The amount of the payment (“The payment”) was set out in the confidential appendix to the report.
2. That the easement would not automatically be entered into on receipt of planning consent but that the developer had sole discretion whether to trigger the easement.
3. That the developer would be responsible for the ongoing upkeep and repair of the accessway, subject to the Council paying a fair and reasonable contribution.
4. Contrary to the scheme presented to Cabinet on 6th December 2022, there would not be a transfer of land to the Council, as the re-configuration and additional spaces would be contained wholly on Council owned land, as demonstrated on plan at Appendix 2 of the report. The previously proposed layout plan was referenced at Appendix 3 of the report.
5. **\*\*TO AGREE THE LEASES AT 3,16,16A (LAND NORTH OF 16) AND 18 FREEBOURNES ROAD, WITHAM**

Minutes Published: 13 <sup>th</sup> July 2023 Call-in Expires: 20 <sup>th</sup> July 2023
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**INFORMATION:** Members were asked to consider the report which sought approval of the lessee’s, Stockplace Limited, application to Braintree District Council to surrender the unexpired terms of their ground lease in exchange for new 125-year leases in respect of industrial premises at Freebournes Road, Witham, and to approve the agreed Heads of Terms for a lease surrender and re-grant.

Members were advised that the Council currently had in place four separate leases relating to 3, 16 and 18 Freebournes Road, Witham, Essex. These properties were owned by the Council and the lease was with Stockplace Limited

The original landlord in each case was the Council’s predecessor, The Urban District Council of Witham. Each of the leases had been assigned subsequent to the original tenant parties entering into them. Most recently, the Council had granted a Licence to Assign on 15<sup>th</sup> June 2022 from Newell Properties Limited to Stockplace Investments Limited (Stockplace).

Stockplace were embarking on a substantial refurbishment and upgrade of the industrial accommodation on the subject sites, involving significant capital investment. It was added that Landlord’s consent had been granted under a separate Licence to Alter. With the existing leases, Stockplace were faced with a diminishing asset, commanding between 46 and 74 years unexpired. Particularly in the case of the shorter unexpired terms, funding became very difficult as lenders took into account the exponentially diminishing value in the lease. Even in the case of 74 years, the capital

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expenditure involved was jeopardised by the prospect of running into the same problem in the coming years.

Members were informed that Stockplace had therefore approached the Council with a request to trade in their existing leases in favour of new 125-year term. Upon receipt of this request, the Council instructed an independent valuation report from Whybrow Chartered Surveyors in respect of each lease and following extensive negotiations with the leaseholder, terms had been agreed with Stockplace, details of which can be found in the main report.

**DECISION:** That Cabinet approved the agreed Heads of Terms in Appendix 1 of the report, for a surrender of the unexpired terms of the existing leases and regrant of new 125-year ground leases in respect of industrial premises at 3,16 & 18 Freebournes Road, Witham.

6. **\*\*OPTIONS FOR THE FUTURE OF THE GARDEN WASTE COLLECTION SERVICE**

Minutes Published: 13 <sup>th</sup> July 2023 Call-in Expires: 20 <sup>th</sup> July 2023
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**INFORMATION:** Members were asked to consider the report which looked at the options for the future of Braintree District Council Garden Waste Collection Service.

Members were advised that the collection of garden waste was a discretionary service for which the Council may make a reasonable charge under the Controlled Waste Regulations 2012. For many years, the Council had provided a nonchargeable garden waste service. The Environment Act 2021, which incorporated the Government's proposals for Consistency in Household Waste Collections, contained reference to six core recyclable streams to be collected from households including garden waste. Defra originally consulted on these proposals in 2021 and, 18 months on, a response was still awaited and there was no indication when this would be received. Consequently, it was proposed that the Council took a pragmatic view to avoid delaying plans any further and considered proposals based on current legislation and local decision-making.

It was reported that the operating budget for garden waste in 2023/24 was £683,000 and this level of expenditure was no longer sustainable or affordable. In common with other local authorities, the Council was having to think more commercially and be more self-sufficient financially and the introduction of a subscription-based service would make a significant contribution to reducing the overall costs of the service and enable the Council to continue to provide a valued service to those customers who chose to opt-in.

It was added that some 232 of 326 Councils nationwide - over 70% - currently charged for garden waste collections as a non-essential, opt-in service.

The existing service was disproportionate as it was funded by Council taxpayers irrespective of whether or not they used the service. Introducing a charge would mean that only those who used the service would pay for it and this would be seen as a fairer way of providing the service. Those who did not opt-in to the service had the

option of home-composting or taking their garden waste to their local Household Waste and Recycling Centre. Others may choose to vary the frequency they cut their grass and leave some areas to rewild.

Following the presentation, Members were given the opportunity to speak on the proposals and the following observations were made:

- Councillor Bowers, Cabinet Member for Resources and Performance provided Members with an outline of the Council's current financial position. He added that the current financial position, as referenced throughout the budget process for 2023/24, was possibly the most challenging this authority had ever experienced. There was currently an overall budget gap of £2million estimated over the life of the Medium Term Financial Strategy, which had been impacted by inflation, BREXIT, the pandemic and the war in Ukraine. There was currently a gap of £644,000, for the coming financial year, 2023/24, which could not continue to be addressed via balances.
- Members highlighted the environmental benefits of home composting as a potential option for residents, which also supported the Council's Climate Change objectives.
- Councillor Jefferis added that whilst she understood the need for savings, it was felt that the proposals contradicted the Council's corporate objectives and that the timing of the proposal were unfortunate due to the current cost of living crisis. She added that during her engagement with residents the proposals for a green waste charge was among the top three main concerns for residents in the District.
- It was recognised that if the Council was unable to close the funding gap that resulted from not charging for a Green Waste Collection, a cost of over £600,000, it was entirely possible that funding for the Planning Enforcement team could be withdrawn as enforcement was not a statutory service.
- It was noted that there was significant evidence from other authorities to suggest that they had not seen an increase in fly tipping as a result of implementing a charge for green waste collection.
- It was added that the communities support and wellbeing budget protected residents from across the District, in particular those who were vulnerable. A wide range of people throughout the District relied heavily on the support that ultimately came from the Community budget and therefore any cuts to this budget would be detrimental to many residents, some of the services that would be affected included: community transport, community grants, arts and heritage, supporting the voluntary sector, community safety, supporting investment in sports and a variety of community facilities.

The full details of the implications and options considered, can be found in the main report. Members also raised a number of queries which can be viewed in the full debate here <https://www.youtube.com/watch?v=0gIHPOQW9i4>

**DECISION:** That Cabinet:

- a) Approved the introduction of a subscription-based Garden Waste Collection Service (Option 2) as outlined in the report;
- b) Agreed an annual subscription charge of £55 for this service based on the financial models shown at paragraph 7 in the report, with a 50% discount for any additional bins requested by customers.
- c) Agreed an early bird discount of 50% on the subscription fee in year 1 for sign-up by 30<sup>th</sup> November 2023 to incentivise take-up and help with forward planning of resources;
- d) Agreed an initial subscription period of 13 months from 4<sup>th</sup> March 2024 to 28<sup>th</sup> March 2025 and thereafter a period of 12 months renewable on 1<sup>st</sup> April each year;
- e) Approved expenditure against the £200,000 agreed by Council on 20<sup>th</sup> February 2023 to cover the set-up costs of the new service in 2023/24;
- f) Offered a garden waste collection service using only bio-degradable sacks sold by the Council at a cost of £8 per roll of 20 (i.e. 40p per sack including collection) to households who were not on wheeled bin collections; and
- g) Delegated authority to the Cabinet Member for Transformation, the Environment and Customer Services, in consultation with the Corporate Director, Operational, to agree the terms and conditions to be applied to the new service.

7. **\*\*TO AGREE THE PROCESS FOR ALLOCATING RURAL ENGLAND PROSPERITY FUNDING**

Minutes Published: 13 <sup>th</sup> July 2023 Call-in Expires: 20 <sup>th</sup> July 2023
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**INFORMATION:** It was reported that In September 2022, the Government announced that Rural England Prosperity Funding (REPF) would be an additional fund to Shared Prosperity Funding (SPF) for those authorities in rural areas. In common with the SPF, a set of interventions, objectives, outcomes and outputs had been set nationally which the Council had to design its scheme around. A Cabinet report, agreed on 28<sup>th</sup> November 2022, set out the details of the scheme which was then submitted as part of its submission to government.

The first scheme was available to small and medium sized businesses to grow and develop including to undertake innovation, adopting new to the firm tech or processes, enhancing local services or leisure facilities for visitors and residents and creating or safeguarding jobs. Capital grants of between £10,000 and £50,000 would be available, although match funding from the businesses of at least 20% would be required.

The second scheme was available to Parish Councils, legally constituted community groups, or charities, to refurbish local natural, cultural or heritage assets or to set up

community led repair cafes or mend workshops. Capital grants of between £10,000 and £50,000 would also be available but match funding would not be required.

Members were advised that the Council was awarded £589,191 of Rural England Prosperity Funding to spend on rural areas between April 2023 and March 2025. The Cabinet was asked to consider the recommendations which set out the mechanism and governance procedures for how the money would be awarded.

**DECISION:** That Cabinet agreed:

1. To approve the decision-making process for the capital grant funding REPF scheme as set out in the report.
2. To delegate to the Cabinet Member for Economic Growth and Inward Investment in consultation with the Cabinet member for Stronger Communities to approve the criteria against which the applications would be determined.
3. That the Head of Planning and Economic Growth, in consultation with Head of Housing and Communities, approved individual grant funding applications based on the criteria agreed by the Cabinet Member, and enter into the respective grant agreements.

8. **\*\*POTENTIAL OPEN SPACE IMPROVEMENTS REPORT 2023**

Minutes Published: 13 <sup>th</sup> July 2023 Call-in Expires: 20 <sup>th</sup> July 2023
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**INFORMATION:** Members were asked to consider the report which outlined proposals for the provision of open spaces within the District, either to enhance existing open spaces or to provide new ones.

Members were advised that the report demonstrated where open spaces were most needed and enabled the Council to secure financial contributions from developers. These contributions were sought under the Open Spaces Supplementary Planning Document which was adopted in 2009. This gave guidance to developers on the Council's approach to seeking planning obligations on open space provision arising from new developments.

It was added that there was no ranking of the proposals as the likelihood of any schemes being implemented depended on the availability of finance and because these improvements were reliant on grants and Section 106 receipts, which could be sought from nearby developments, no timescales were given for the completion of schemes.

In order to update the Potential Open Spaces Improvements, a consultation had taken place between 3<sup>rd</sup> November 2022 and 27<sup>th</sup> January 2023. Responses were received from 44 Town and Parish Councils. These were considered by Officers and, if suitable, amendments and updates were added to the 2023 document.

Members were advised that the recommendations set out in this report will help the Council to deliver the Corporate Objective relating to a sustainable environment and a great place to live, work and play.

**DECISION:** That Cabinet agreed to approve Potential Open Space Improvements 2023, as set out in Appendix 1 of the report.

9. **\*\*HOMES FOR UKRAINE SUPPORT FUND**

Minutes Published: 13 <sup>th</sup> July 2023 Call-in Expires: 20 <sup>th</sup> July 2023
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**INFORMATION:** Members were informed that the purpose of the report was to note that Braintree District Council was able to claim UK-wide funding for the financial year 2023 to 2024 to be spent within the Council's delegated decision framework. The Homes for Ukraine Local Authority Tariff Grant had been allocated to local authorities and devolved governments to provide wrap around support to individuals and families to rebuild their lives and fully integrate into communities, including assisting Ukrainian guests move into their own homes and reduce the risk of homelessness. Braintree District Council would use this fund to spend on the Homes for Ukraine Resettlement Support.

**DECISION:** That Cabinet agreed to:

- a) Note the Homes for Ukraine Support Fund;
- b) Approve that the Council would allocate the Homes for Ukraine Support Fund in accordance with the criteria set out within the report; and
- c) Note that financial assistance would be provided and agreed in accordance with the Scheme of Delegation, expenditure thresholds as set out in the Council Constitution.

10 **APPOINTMENTS TO OUTSIDE BODIES**

**INFORMATION:** It was reported that the Leader could establish sub-committees of Cabinet to consider issues within the terms of reference set by the Leader. These committees were not subject to the rules regarding political balance, and the Leader could appoint any Member to the committees from any Political Group.

Members were advised that Cabinet already has in place the Local Plan Sub-Committee, together with two working groups, namely the Developing Democracy Group and the Member Development Group. This Committee and Working Groups would remain in place. As part of the membership considerations, the Leader sought nominations from each of the respective political groups, where seats were to be allocated accordingly.

With regards to the Local Plan Sub-Committee, it was necessary as part of the annual review, that the terms of reference for the committee were amended, in order to



ensure that the Committee was fit for purpose. Accordingly, the new Terms of Reference were set out in Appendix B of the report.

It was added that Cabinet would continue to have in place the Investment and Development Programme Board and the Capital Programme Board. The appointments to these two boards were set out in Appendix B of the report.

Members were advised that under Article 5, the Council were permitted to make appointments to outside bodies unless the appointment was an executive function, in which case those appointments fell to Cabinet to determine.

Members were advised of an amendment to Appendix C of the report in respect of the appointment to the Braintree Village Consultative Group which should be updated to replace Councillors Wrench and T Cunningham with Councillors Ricci and Bowers.

**DECISION:** That Cabinet:

- a) Approved the Membership of the Cabinet Committees as set out in Appendix A of the report;
- b) Approved the Terms of Reference for the Local Plan Sub-Committee as set out in Appendix B of the report; and
- c) Approved the appointments to the identified outside bodies and Joint Committees as set out in Appendix C of the report, and that these appointments were for a 12 month period.

## 11 **JOINT NEIGHBOURHOOD AREA APPLICATION FINCHINGFIELD AND WETHERSFIELD**

**INFORMATION:** Members were informed that Braintree District Council had received an application for a joint Neighbourhood Plan (NP) Area from Finchingfield Parish Council and Wethersfield Parish Council on 6<sup>th</sup> April 2023.

It was reported that due to the pre-election period the consultation on the application was delayed until after 4<sup>th</sup> May 2023. Neighbourhood Plan Area Applications which covered a single Parish area and were required to be accepted by the local authority, were not normally reported in this way, however, given that this was a multi- Parish application, public consultation was required and a decision by Cabinet was sought.

It was added that comments were invited by both statutory consultees and those who lived, worked and carried out business in the area between 10<sup>th</sup> May and 30<sup>th</sup> June 2023. Notices were also displayed in the villages, placed in the Braintree and Witham Times and on the Council's website.

A number of responses had been received, all of which were supportive of the proposed Neighbourhood Plan with no objections made. Officers had considered the proposal and the consultation responses and declared that the legislative requirements were met and provided an appropriate basis for the NP to proceed.

**DECISION:** In accordance with Regulation 7 of the Neighbourhood Planning Regulations, Braintree District Council designated the administrative parishes of Finchingfield and Wethersfield Parish Council as a neighbourhood plan area.

## 12 **COST OF LIVING UPDATE**

**INFORMATION:** The Combined Scrutiny Committee, comprising of all Members of the Community Development and Partnership Development Scrutiny Committees, undertook a review into the Council's response to the Cost of Living and presented it to Full Council on 10<sup>th</sup> October 2022. In line with the Council's Constitution the Cabinet were required to report their response to the recommendations set out in the Scrutiny Review.

This report provided Cabinet's response to the 22 recommendations from the Combined Scrutiny Committee report. Full details of the Cabinet's responses can be found in the report.

**DECISION:** That Cabinet noted the update and future plans for spending the £1million Cost of Living Fund.

## 13 **FOURTH QUARTER AND ANNUAL PERFORMANCE MANAGEMENT REPORT 2022-23**

**INFORMATION:** Members were asked to note the report which summarised the performance of the Council at the end of the fourth quarter, January 2023 to March 2023, and as at the end of the financial year 2022/23.

It was reported that the Council had performed well during the period of the Bouncing Back Together plan with 54 projects completed and a further eight on track and progressing well. Two projects had an amber status as they had experienced delays or increased costs. Two projects had been cancelled due to the projects not being financially viable at the time. Targets were not set for all performance indicators due to the disproportionate impact of the pandemic. Targets would be reviewed and re-introduced in 2023/24. For the targets that remained, ten performance indicators had met or exceed target, one performance indicator had missed target by less than 5% and two performance indicators had missed target by more than 5%. The areas of underperformance were in relation to response times to stage one complaints (<5%), recycling rates (>5%) and the average waiting time for disabled facility grants (>5%).

It was noted that it has been a challenging year due to the cost-of-living crisis, budget pressures and increasing demand for services. Some of the more ambitious projects would be continuing into next year and as the Council entered into the last year of its Corporate Strategy, the Council were committed to providing residents with support when they need it, encouraging and assisting businesses to thrive and working to protect and enhance the areas residents lived in.

In respect of the Council's financial position for the year there was a positive variance of £728,000 after allowing for service carry forwards. The provisional outturn was being reviewed to ensure on-going variances had either been reflected in the 2023/24 budget or were taken into account when preparing for the 2024/25 budget and

updating of the Medium-Term Financial Strategy. The net change in the General Fund unallocated balance because of the budget variance was an increase of £268,000. Earmarked reserves identified as no longer required and a planned repayment of a prior year pension fund contribution also added to the level of unallocated balances; and spend on capital projects for the year totalled £8.7million with the majority of the spend incurred on the completion of the Manor Street development and the Horizon 120 enterprise centre ('The Plaza').

**DECISION:** That Cabinet noted the performance of the Council for the fourth quarter (January 2023 to March 2023) and as at the end of the financial year for 2022/23.

14 **CABINET'S RESPONSE TO THE SCRUTINY REVIEW INTO LITTER MANAGEMENT ACROSS THE DISTRICT**

**INFORMATION:** This report was to consider Cabinet's response to the Partnership Development Scrutiny Committee's Review into Litter Management within the Braintree District.

The Committee considered litter management at their meetings between May 2022 and January 2023. The Committee received evidence from a variety of officers involved in litter management within the District, including those from Operations, Marketing and Communications and also Parish Councils and local schools. Officers provided presentations and answered questions from the Committee.

On 13<sup>th</sup> March 2023, the Cabinet received a report from the Committee following the conclusion of their review. This report set out the Cabinet Response to the nine recommendations made by that review.

**DECISION:** That the responses of Cabinet as set out in section 3 of this report were approved.

15 **CABINET RESPONSE TO THE SCRUTINY REVIEW INTO MARKETS AND ASSOCIATED EVENTS**

**INFORMATION:** This report was to consider the Cabinet's response to the Community Development Scrutiny Committee's (the Committee) review into Markets and Associated Events within the Braintree District.

During 2022/23, the Committee conducted a review into markets and associated events within the Braintree District and received evidence from a variety of officers involved in the delivery of markets and associated events including those from Operations, Economic Development and Communications. Officers provided presentations and answered questions from the Committee. The Committee was also attended by Councillor Tom Cunningham and one of the regular traders on the street market who were able to answer questions and provided the benefit of their experience.

On 13<sup>th</sup> March 2023, the Cabinet received a report from the Community Development Scrutiny Committee following the conclusion of their review into Markets and

Associated Events within the Braintree District 2022/23. This report set out the Cabinet Response to the ten recommendations made by that review.

**DECISION:** That the responses of Cabinet as set out in section 3 of this report were approved.

The meeting commenced at 7.15pm and closed at 8.33pm.

COUNCILLOR G BUTLAND  
(Leader of the Council)