

CABINET MEETING

THE CABINET WILL MEET AT THE COUNCIL CHAMBER, CAUSEWAY HOUSE, BOCKING END, BRAINTREE, CM7 9HB ON WEDNESDAY 1ST FEBRUARY 2012 AT 7:15PM

Membership

Councillor G Butland (Chairman) - Leader of the Council
Councillor Mrs J Beavis – Communities
Councillor Lady Newton - Enterprise, Housing and Development
Councillor Mrs W Schmitt – Environment
Councillor C Siddall - Efficiency and Resources

Invitees

Deputy Cabinet Portfolio Members:-

Councillor D L Bebb - Leader's Portfolios
Councillor J T McKee - Enterprise, Housing and Development
Councillor R G S Mitchell – Environment
Councillor J O'Reilly-Cicconi - Efficiency and Resources
Councillor P Tattersley - Communities

Other invitees:- Group Leaders, the Chairman of the Overview and Scrutiny Committee, Chairman of the Audit Committee and David Eagles of PKF.

For enquiries on this agenda please contact:

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This agenda is available on

www.braintree.gov.uk/Braintree/councildemocracy

PUBLIC INFORMATION

Question Time

Immediately after the Minutes of the previous meeting have been approved there will be a period of up to 30 minutes when members of the public can speak about Council business or other matters of local concern. During this period, Councillors who have declared a personal and prejudicial interest in any item of business on the agenda may also speak as permitted by the Council's Code of Conduct for Members. Whilst members of the public can remain to observe the whole of the public part of the meeting, Councillors with a personal and prejudicial interest must withdraw whilst the item of business in question is being considered. Members of the public wishing to speak should contact the Member Services Officer on (01376) 552525 or email alastair.peace@braintree.gov.uk prior to the meeting. The Council's "Question Time" leaflet explains the procedure and copies of this may be obtained at the Council's offices.

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Webcast

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INFORMATION FOR MEMBERS

Declarations of Interests:-

- To declare the existence and nature of any 'personal' or 'personal and prejudicial' interests relating to items on the agenda having regard to paragraphs 8 to 12 [inclusive] of the Code of Conduct for Members in Part 5 of the Constitution and having taken appropriate advice where necessary before the meeting.
- Any member with a 'personal and prejudicial' interest to indicate whether he/she intends to make representations in accordance with paragraph 12 (2) of the Code of Conduct as part of Question Time. *Note: A member with a personal and prejudicial interest must withdraw from the room or chamber whilst the item of business the subject of such prejudicial interest is being considered*

AGENDA

1. APOLOGIES FOR ABSENCE			
2. DECLARATIONS OF INTEREST			
3. PUBLIC QUESTION TIME			
4. MINUTES OF LAST MEETING			
(i) To approve as a correct record the minutes of the meeting held on 5 th December 2011 (Copy previously circulated).			
No	Title & Purpose of Report	Executive Summary	Additional Papers
5. OVERALL CORPORATE STRATEGY AND DIRECTION			
5a	Leader Update – The Leader of the Council to give a brief update on Key issues and activities.	-----	-----
5b	Corporate Priorities 2012 to 2016 Presented by: Cllr G Butland Officer Contact: Nicola Beach	Page 1	Pages 1 to 9
6. WE DELIVER EXCELLENT, COST EFFECTIVE AND VALUED SERVICES			
6a	Council Budget and Council Tax 2012/13 and Medium-Term Financial Strategy 2012/13 to 2015/16 Presented by: Cllr C Siddall Officer Contact: Trevor Wilson	See separate bundle	
6b	Annual Audit Letter 2010/11 Presented by: Cllr C Siddall and David Eagles of PKF Officer Contact: Trevor Wilson	Page 4	Pages 10 to 16
6c	Workforce Planning - Retirement Policy Review Presented by: Cllr C Siddall Officer Contact: Lisa Hepi	Page 6	-----
6d	Vehicle Procurement & Maintenance Contract Presented by: Cllr C Siddall Officer Contact: Paul Partridge	Page 11	-----

7. HOUSING AND TRANSPORT MEET LOCAL NEEDS			
7a	Motts Lane Foot/Cycle Bridge - Transfer of Council Land Presented by: Cllr Lady Newton Officer Contact: Juliet Kirkaldy	Page 18	Pages 17 to 18
8. CABINET MEMBERS' UPDATES - to receive Cabinet Members' verbal reports on key issues within their portfolio			
9. REFERENCES FROM COUNCIL/COMMITTEES/GROUPS			
9a	To receive recommendations from the Audit Committee - 12 th January 2012 1) Report from the Council's External Auditors, Annual Audit Letter 2010/11. 2) Treasury Management Strategy 2012/13	Page 23	-----
10. REPORTS/ DELEGATED DECISIONS/MINUTES TO BE NOTED			
10a	<u>Minutes from Cabinet Sub Groups</u> - There are none.	-----	-----
10b	<u>Delegated Decisions</u> – to note recently made delegated decisions.	Page 25	-----
11. URGENT BUSINESS AUTHORISED BY THE CHAIRMAN			
12. EXCLUSION OF PUBLIC AND PRESS TO CONSIDER REPORTS IN PRIVATE SESSION – for reasons set out in Paragraph 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972			
13. PRIVATE SESSION - URGENT BUSINESS AUTHORISED BY THE CHAIRMAN			

At the time of publication there are no items for private session.

The last page of the public agenda is numbered 26.

Corporate Priorities 2012 to 2016		Agenda No: 5b
Corporate Priority: Corporate Strategy Portfolio Area: Overall vision and strategic direction Report presented by: Councillor G Butland Report prepared by: Nicola Beach, Corporate Director		
Background Papers: Presentation to Cabinet on 5 th December 2011 on High Level Results of Public Consultation Research Report on the Public Consultation on the Draft Corporate Priorities 2012-16, December 2011.		Public Report
Options: For Cabinet to endorse or not endorse the Corporate Priorities 2012 to 2016.		Key Decision: Yes
Executive Summary: This report sets out the priorities for the Council for the next four years. The details of this are shown in pages 1 to 9 of the Appendices. A public consultation on the Corporate Priorities was carried out in October 2011 through a public survey and focus groups and with business focus groups in November 2011. The high level results were presented to Cabinet on 5 th December 2011 and the presentation is available on the Council's website. These results have also been shared with key partners through the Local Strategic Partnership and Business Council. A research report presenting the detailed results of the public consultation is also published on the Council's website. The consultation results have informed the Corporate Priorities for the next four years and in turn the Council's budget (revenue and capital programme) reflects these priorities. Achievements against the Corporate Strategy in previous years will also be added later, to identify progress made in each area. The Annual Plan 2012/13 which is currently being drafted will reflect these Corporate Priorities. The draft Annual Plan will be presented to Cabinet in March 2012.		

Decision:

Members are asked to endorse:

- The Corporate Priorities for 2012 to 2016.

Purpose of Decision:

To agree the Council's priorities for the next four years.

Any Corporate implications in relation to the following should be explained in detail

Financial:	Agreement of the priorities document will not have any financial impact. Each project to deliver the corporate priorities will have a business case which will detail financial implications.
Legal:	Agreement of the priorities document itself does not have any legal impact although the Council is subject to a legal duty to have set and published equality objectives by April 2012 and then at least every 4 years thereafter. These objectives could be incorporated within the priorities document or could be published separately. Each Business Case will detail legal implications.
Equalities/Diversity	<p>An assessment has been carried out on the demographic profile of the participants to the survey and the focus groups; the view is that the participants are representative of the district as a whole. The focus groups included respondents from rural and urban areas, different age groups and people with disabilities.</p> <p>An equalities impact assessment will be completed for each project.</p>
Customer Impact:	Customer Impact Assessments will be conducted as part of each project.
Environment and Climate Change:	Agreement of the priorities document will not have any environmental impact. Each Business Case will detail environmental and climate change implications.
Consultation/Community Engagement:	Public consultation has been carried out on the Corporate Priorities for 2012 to 2016. There were 1001 responses to the survey (11% response rate) with a 95% confidence level. Over 50 people participated in six focus groups covering rural and urban areas. There has also been consultation with all Members, the Business Council and the Local Strategic Partnership.

Risks:	If the Corporate Priorities are not endorsed, then there will be no basis for the Annual Plan 2012/13 or a work programme for the Council.
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Annual Audit Letter 2010/11		Agenda No: 6b
Corporate Priority: We deliver excellent, cost effective and valued services Portfolio Area: Efficiency and Resources Report presented by: Councillor Chris Siddall/ David Eagles of PKF Report prepared by: Trevor Wilson, Head of Finance		
Background Papers: Annual Audit Letter 2010/11 received 15 th December 2011. Minute 34 of Audit Committee 12 th January 2012		Public Report
Options: To receive the Annual Audit Letter for 2010/11 from the External Auditors, PKF.		Key Decision: No
Executive Summary: The purpose of the Annual Audit Letter is to summarise the key issues arising from the work carried out by PKF, the Council's external auditors, during the financial year 2010/11. A copy of the Letter is attached as an Appendix to this paper. The Audit Committee received and considered the Letter on 12 th January 2012 and has recommended to the Cabinet that it be accepted. The key areas covered within the Letter are: <ul style="list-style-type: none"> Financial Statements – an unqualified opinion was issued on the 2010/11 financial statements. The report states that ‘the Council's arrangements for preparing a set of financial statements free from material error were again effective, and preparation for, and support during, the audit were again both of notably high quality. We concluded that the Council had made good arrangements for dealing with the transition to IFRS, and the end result was a high quality document’; Value for Money conclusion – an unqualified value for money conclusion was issued as the auditor was satisfied that adequate arrangements are in place to secure value for money; and Causeway House Accommodation project – the options appraisals, including financial and risk assessments, were reviewed and concluded that the processes undergone appeared robust. The Letter is positive with no significant issues to be raised with members, key stakeholders or members of the public.		

Decision:

To receive the Annual Audit Letter for 2010/11.

Purpose of Decision:

To receive and agree a response, if required, to the External Auditor's Annual Audit Letter as required under Section 4 of Part 3 of the Council's Constitution.

Any Corporate implications in relation to the following should be explained in detail

Financial:	Not applicable
Legal:	Not applicable
Equalities/Diversity	Not applicable
Customer Impact:	Not applicable
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Not applicable
Risks:	Not applicable
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Workforce Planning - Retirement Policy Review		Agenda No: 6c
Corporate Priority: We deliver excellent, cost effective and valued services Portfolio Area: Efficiency and Resources Report presented by: Councillor C Siddall Report prepared by: Lisa Hepi, HR Advisor		
Background Papers:		Public Report
Retirement Policy		
Options:		Key Decision: No
To approve, amend or not approve the changes to the retirement policy		
Executive Summary: Dealing with retirement is an integral part of the Council's approach to workforce planning. Retirements can reduce the risk of compulsory redundancy, and create opportunities for efficiencies. Following the removal of the default retirement age, the Council needs to review the current retirement policy. Opportunity has been taken to specify the options around flexible retirement, which is permitted under the Local Government Pension Scheme. The removal of the contractual default retirement age of 65 years creates further opportunities to promote a flexible workforce, enabling employees to work in a different way, and benefits the Council in retaining skills, knowledge and experience, coupled with reduced recruitment and training costs.		
Decision: Members are requested to approve the changes to the retirement policy.		
Purpose of Decision: To enable the revised retirement policy to be published and communicated to managers and employees.		

Any Corporate implications in relation to the following should be explained in detail

Financial:	No financial implications.
Legal:	The recommendations are compliant with age legislation and the Local Government Pension Scheme.
Equalities/Diversity	An Equality Impact Assessment has been completed to show the recommendations ensure the Council treats employees consistently and fairly.
Customer Impact:	None
Environment and Climate Change:	None
Consultation/Community Engagement:	Other local government organisations, including Essex County Council, have been researched in producing this policy. The recommendations are consistent with other Councils adopting a flexible retirement policy, and removal of default retirement. Consultation with Trades Unions has also taken place.
Risks:	None
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Background

The removal of the default retirement age in October 2011, had prompted the review of the Council's retirement policy.

Dealing with retirement is an integral part of workforce planning and organisational development. The review has also provided the opportunity to consider adding flexible retirement to our people management strategy.

The proposed changes are detailed below.

Proposed changes:

1. Compliance with the removal of the default retirement age

The policy addresses legislative requirements effective from 6 October 2011 which abolish the use of a compulsory default retirement age, except in limited cases, where it would need to be objectively justified. The Advisory, Conciliation and Arbitration Service (ACAS) is calling this the Employer Justified Retirement Age (EJRA).

Under the new legislation, employers may use a fixed retirement age only in limited circumstances, where it would be a proportionate measure to achieve a legitimate business aim. ACAS guidance recommends the following would need to be demonstrated:

- Why is a default retirement age required (e.g. why 65 years and not any other age), and can the reasons be explained clearly?
- Is there concrete evidence (rather than assumptions) to support those reasons?
- Is there a less discriminatory way of achieving the same result?

Employment law advice suggests this will be difficult to evidence.

The move away from a mandatory retirement age supports the wider issues of dealing with an ageing national workforce, increased life expectancy and an increase in the state pension age which may all lead to economic hardship if employees are forced to retire at 65. The effect of the economic situation on employers will not remain unchanged over time, therefore to continue with an EJRA will mean that objective justification will need to be continually proven, and it will be necessary to produce evidence with respect to each retirement if challenged.

The changes to legislation do not mean that an individual can no longer retire at 65, but that the decision is a matter of choice for the individual, rather than being the employer's decision.

The concept of retirement will become outdated and disappear over time, it will become a resignation to do other things, and BDC will be out of kilter with other Councils if it maintains an EJRA.

Retirement has been removed as one of the potentially fair reasons for dismissal currently set out in s.98 of the Employment Rights Act 1996. As with all employees, for the dismissal of an employee who is 65 years or older to be fair, it will need to fall within one of the pre-existing potentially fair reasons (i.e. conduct, capability, redundancy, statutory ban, or some other substantial reason).

The onus will be on managers to understand the career goals, including plans for retirement, of their staff at all ages. This should be a fundamental part of their business and workforce planning. Emphasis is on an early and open dialogue with employees, and this will assist with performance management and succession planning. Workforce planning will be enhanced through the promotion of a flexible workforce, employees will be able to retire when they wish to, whilst people management issues are dealt with effectively.

If issues are identified, measures can be put in place through performance management, training, consideration of flexible working, reduced hours, or health screening arranged through Occupational Health. Ultimately, a dismissal can take place at any age on capability grounds due to ill health or performance, or redundancy, and can still be fair as long as the correct processes are followed.

Proposal

To remove the contractual default retirement age of 65 years.

2. Introduction of flexible retirement

The Local Government Pension Scheme allows for flexible retirement with the early release of pension benefits (where agreed by the Council) for employees aged 55 years or over, where the employee continues to work in a post with a permanent reduction in hours (of at least 25%) and / or grade. This can be useful in assisting employees with the adjustment to retirement compared to working full time, and can also assist the Council in promoting a flexible workforce with different ways of resourcing.

If an employee takes flexible retirement before 65 years, the age where pension benefits are normally payable within the Scheme, the benefits received will be actuarially reduced to take account of being paid for longer. How much the benefits are reduced by depends on how early the pension is drawn.

This policy enables employees to take flexible retirement, where there is a business case for the financial strain on the pension fund and other associated costs to be repaid within a three year period, and is therefore self funding. Costs must be balanced with the financial and business benefits for the Council over the long term.

If an individual's request for flexible retirement is rejected due to it not being possible for the costs to be met by the Council, the Council may still agree to the employee reducing their hours and / or grade in order to meet the needs of the service.

Proposal

To allow flexible retirement for employees aged 55 years or older, where the upfront costs are covered by savings within a 3 year period.

3. Flexible retirement – reimbursement of costs

A decision to agree a request for flexible retirement would be based on the organisations need to retain the skills, knowledge and experience of an individual acquired over time. In the event the employee leaves, it is highly likely that the post would need to be replaced at additional hours compared to the flexible retirement arrangement, in order for a new employee to replace the skills knowledge and

experience at the required level.

Therefore it is recommended in the event that a request for flexible retirement is granted, and the employee then decides to leave the Council's employment within a three year period, they will be required to reimburse the Council for the financial strain that has been paid to allow them to take their pension early. The amount payable will be calculated on a pro rata basis depending on the number of years and months service the employee has completed since they took flexible retirement.

The rationale for requiring the reimbursement is based on the likelihood that the Council would incur increased costs if replacing the post within the first 3 years of the flexible retirement arrangement, i.e. during the period before which the business case becomes self funding.

Proposal

To require employees to reimburse the Council's costs if, having taken flexible retirement, they then leave within the 3 year period.

4. Early retirement in the interests of efficiency of the service

The current policy allows for early retirement in the interests of efficiency of the service, with qualifying service of 15 years Braintree District Council service at age 55. It is proposed that qualifying service is removed to enable increased flexibility for efficiency retirements for employees aged 55 years or over. There must be a business case that is cost neutral to the Council, with financial strain and other associated costs being met within a 3 year period. If the employee chose to draw their pension early, any actuarial reduction would be met by the employee and not the Council.

Proposal

To allow early retirement for employees aged 55 years or over where the upfront costs are covered by savings within a 3 year period.

Vehicle Procurement & Maintenance Contract		Agenda No: 6d
<p>Corporate Priority: We deliver excellent, cost effective and valued services The Environment is Clean & Green Business is encouraged and the local economy prospers</p> <p>Portfolio Area: Efficiency & Resources</p> <p>Report presented by: Councillor Chris Siddall</p> <p>Report prepared by: Paul Partridge, Head of Operations</p>		
<p>Background Papers:</p> <p>Report to Cabinet on Shared Service Delivery – 28 March 2011</p>		Public Report
<p>Options:</p> <p>To award preferred bidder status on this contract or not.</p>		Key Decision: Yes
<p>Executive Summary:</p> <p>One of the key outcomes from the Waste Management Shared Service Delivery work undertaken by Braintree & Uttlesford Districts in 2011 was to explore how the two authorities could work better together on joint vehicle procurement and maintenance. The scope includes all operational vehicles such as refuse and recycling vehicles and community transport mini buses.</p> <p>For Braintree District Council (BDC) to jointly participate in a vehicle procurement and maintenance exercise was seen as a good opportunity to test its current outsourced maintenance arrangements as well as achieving greater service resilience and business continuity. Under our collaborative working approach it was decided to invite Colchester Borough Council to participate in the process, as they were also looking to review their own arrangements.</p> <p>All three Councils agreed to undertake an OJEU Competitive Dialogue process which would enable them to fully appraise and evaluate a series of options proposed by bidders to determine which one offered the most practical and cost effective solution. White Young Green (WYG) (waste management and transport consultancy) was engaged to support the process having successfully completed a similar exercise for Basildon District Council in 2011. The process commenced in June 2011 and concluded with the submission of tenders from the three short-listed bidders on Friday, 9 December 2011.</p> <p>Within the procurement, there were a number of service options for Braintree as follows:-</p>		

1. Supply & Maintenance of Municipal Vehicles for BDC without driver damage;
2. Supply & Maintenance of Municipal Vehicles for BDC including driver damage;
3. Maintenance of Municipal Vehicles only for BDC, without driver damage, Councils to fund vehicles/plant;
4. Maintenance of Municipal Vehicles only for BDC, including driver damage;
5. Supply & Maintenance of Municipal Vehicles for UDC/BDC/CBC without driver damage;
6. Supply & Maintenance of Municipal Vehicles for UDB/BDC/CBC with driver damage.

The recommendations contained within this report are based on the results of the tender evaluation (costs and quality methodology) carried out by officers from all three Councils and WYG. The outcome of the evaluation was that Riverside Truck Rentals is the preferred bidder for Braintree, subject to contract details being finalised in accordance with s.18 of the Council's Contract Procedure Rules. The preferred option is Option 2 (see above). The contract commences 1st April 2012 and will run for a 7 year period, with the option to extend for a further 7 year period on expiry.

An initial assessment of the tender price and quality shows that a saving on existing costs in excess of £100k to £150k p.a. could be achieved if all vehicles were to be replaced by the contractor and maintained on day one of the contract. However, due to existing contractual commitments for some of the Council's vehicles, the vehicle replacement (and thus savings) will be incremental as and when existing contract hire agreements/leases terminate and therefore the full saving will be achieved over the lifetime of the contract. It is estimated that a saving of £50k can be achieved in year 1 (2012/13).

If one supplier is awarded the work for all three Councils, the Councils may elect to have a single contract for all three authorities or alternatively stand alone arrangements. At this stage, Colchester and Uttlesford Councils are still considering their options, but should complete their governance processes by 16th February 2012. If applicable, the benefits and risks of a joint contract arrangement to BDC (based on Option 6) will be explored during the preferred bidder stage, prior to finalising the award of the contract.

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) applies to the contract and directly affects two members of BDC staff. However, one member of staff has recently secured alternative employment with BDC and the other has expressed an interest in a vacancy within Waste Management and may be offered that post, in which case, neither of the two members of staff would transfer across to the new service provider.

A 10-day standstill period (Alcatel) applies to the Council's decision to award preferred bidder status and enter into a formal contract, which provides for the submission of any challenges by suppliers who participated in the OJEU process. This is a statutory requirement that applies to all European contracts let under the OJEU process and, for this contract, will take effect from 17 February 2012.

The outcome of this process demonstrates the benefits and added value that can be achieved by working in partnership with other local authorities. It also presents further opportunities to work more closely with them on other initiatives in the future.

Decision:	
Cabinet is RECOMMENDED to:-	
Award preferred bidder status to Riverside Truck Rentals on the basis of exploring either Option 2 or Option 6.	
Purpose of Decision:	
To put in place the most cost-effective solution for the procurement and maintenance of the Council's commercial vehicles from 1 April 2012 for 7 years with the option to extend for a further 7 years up to and including 31 March 2026.	

Any Corporate implications in relation to the following should be explained in detail	
Financial:	<p>Estimated saving of £50k in year 1 (2012/13) with additional financial savings in years 2 to 7.</p> <p>The total value of the contract is in excess of £9m over the 7 year term; this can be met from current revenue budgets.</p> <p>Release of £400k capital set aside for vehicle replacement.</p>
Legal:	<p>Public Contract Regulations 2006 apply and the Council's procurement procedures have been followed.</p> <p>The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) applies to the contract. Should it be awarded, two members of our transport staff would ordinarily transfer to the successful tenderer, but one has already secured alternative employment with BDC and the other is considering this. The staff involved and their union representatives have been kept fully informed throughout the process.</p> <p>The Council will still hold the Operators Licence for the staff and vehicle services; the transfer of staff will not affect this.</p>
Equalities/Diversity	There are no equalities implications in the report.
Customer Impact:	No impact on service delivery.
Environment and Climate Change:	The use of modern, more fuel efficient and 'greener' vehicle technologies will be explored during the life on the contract.
Consultation/Community Engagement:	Cabinet Member for Environment and staff and unions have been briefed. Staff in other departments who operate commercial vehicles have also been consulted.

Risks:	<p>Possible challenge by an unsuccessful bidder during the Alcatel period could lead to delay in contract award and costs to the Council.</p> <p>Issues arise during the preferred bidder stage that lead to higher cost (and therefore less savings) for BDC than originally calculated.</p> <p>If a joint contract with Colchester Council and/or Uttlesford Council is preferred, the risks of one party withdrawing from the arrangement need to be understood and managed. BDC has the option of a stand alone contract.</p>
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BACKGROUND

For a number of years, Braintree has operated an arrangement whereby it procures vehicles either through contract hire (with maintenance) or financial lease arrangement, whichever is the most financially advantageous. Maintenance of leased vehicles is carried out through a service level agreement with a local supplier.

Collaborative working with Uttlesford District and Colchester Borough Councils has provided an opportunity to market test our existing arrangements and potentially benefit from economies of scale in procuring these services jointly and strengthening resilience and continuity, particularly in relation to the maintenance element of the operation.

In considering this issue, it was decided at an early stage to undertake an OJEU Competitive Dialogue procedure that would enable each Council to fully appraise and evaluate a series of options to determine which one offered the most practical and cost effective solution. White Young Green (WYG) was engaged to support the process having successfully completed a similar exercise for Basildon District Council earlier in the year.

This report sets out the outcome of this exercise.

SCOPE OF THE CONTRACT

The contract covers the *commercial* fleet of vehicles for all departments of the Council, with the exception of the grounds maintenance plant and equipment which will continue to be dealt with in-house.

THE TENDERING PROCESS

This process commenced in June 2011 with the Council advertising the contract in the Official Journal of the European Union (OJEU), in accordance with Finance and Procurement Procedures. The Contract is for a seven year period commencing 1 April 2012, with the option to extend for a further seven years.

As the contract was considered complex (with numerous potential 'lots'), a Competitive Dialogue procedure was followed to ensure that bidders fully understood the Councils' requirements. Initially, fifteen suppliers expressed an interest in the contract and, through the Competitive Dialogue process, this was short-listed to three suppliers who were invited to tender for the following 'lots':-

1. Supply & Maintenance of Municipal Vehicles without driver damage
2. Supply & Maintenance of Municipal Vehicles including driver damage
3. Maintenance of Municipal Vehicles only, without driver damage, Councils to fund vehicles/plant
4. Maintenance of Municipal Vehicles only, including driver damage
5. Supply & Maintenance of Municipal Vehicles for UDC/BDC/CBC without driver damage
6. Supply & Maintenance of Municipal Vehicles for UDB/BDC/CBC with driver damage.

The deadline for return of tenders was 9 December 2011.

EVALUATION OF RETURNED TENDERS

The tender evaluation followed the method of 40% for quality and 60% for price. The overall score is a combination of quality and price. The evaluation of the tender returns and comparison with the current service arrangements has identified that the most economically advantageous option for the Council is to award preferred bidder status to Riverside Truck Rentals who, following the tender evaluation process, had the highest overall score. This evaluation takes into account service delivery proposals, value for money, added value, costs and quality of the dialogue with bidders.

ALTERNATIVE OPTIONS

The Council has considered whether there is any benefit in not awarding the preferred bidder status to Riverside Truck Rentals, but no alternative options have been identified taking into account the following:-

- We cannot continue the current arrangements with our existing supplier as this does not conform to the Council's Standing Orders and, as a 'maintenance only' arrangement, it does not offer best value for money. There are also risks around the resilience of this arrangement;
- Appointing an organisation other than the highest-scoring bidder would be in contravention of the Public Contracts Regulations 2006 (as amended);
- Starting the OJEU tendering process again would result in a significant delay and increased costs to the Council, as well as increased costs to the market;
- Failure to award the contract is likely to prompt a challenge.

Option 6 above provides for the Council to enter into a joint arrangement with Colchester Council and Uttlesford Council with the same supplier, which would deliver a further saving on the contract price. Individual contracts would still apply for each Authority, but additional savings would be achieved through economies of scale. However, this is subject to the other authorities confirming their wish to enter into such an arrangement and, if applicable, the benefits and risks will be explored during preferred bidder discussions, prior to finalising the award of the contract.

OTHER INFORMATION

The Invitation to Tender (ITT) and relevant legislation provides the unsuccessful bidders with a period of at least ten days in which to challenge the decision before the contract can be awarded. This period is from 17 – 26 February 2012.

The Council must provide unsuccessful bidders with an award decision notice, including a full debrief of the reasons for the decision, why the bidder was unsuccessful, the characteristics and relative advantages of the winning bidder and the scores. WYG will be dealing with this process. During this time, the unsuccessful bidder may challenge the procurement process, including imposing a mandatory injunction preventing the Council from entering into the contract.

FINANCIAL IMPLICATIONS

An initial assessment of the tender price and quality shows a saving on existing costs against the current annual budget. If all vehicles were to be replaced by the contractor and maintained on day one of the contract, it is anticipated that in excess of £100k to £150k p.a. could be achieved. However, due to existing contractual commitments for some of the Council's vehicles, the vehicle replacement (and thus

savings) will be incremental as and when existing contract hire agreements/leases terminate and therefore the full saving will be achieved over the lifetime of the contract.

Riverside Truck Rentals has agreed to operate the contract on Open Book Accounting and will share any vehicle prices which are to be incurred by the Council, which will ensure full transparency of financial data in relation to all costs applicable to this contract.

Motts Lane Foot/Cycle Bridge – Transfer of Council Land		Agenda No: 7a
Corporate Priority: Housing and transport meet local needs Environment is clean and green Portfolio Area: Enterprising, Housing and Development Report presented by: Councillor Lady Newton Report prepared by: Juliet Kirkaldy – Planning Policy		
Background Papers: LDF Panel Report and Minutes – 4 th August 2010 Council Report and Minutes – 27 th September 2010.		Public Report
Options: To approve or not approve the transfer of Council land at nil cost to Network Rail to enable the proposed foot/cycle bridge at Motts Lane to be constructed.		Key Decision: No
Executive Summary: <p>The proposed cycle/footbridge at Motts Lane will replace the existing level crossing over the main railway line which has been identified as ‘high risk’ by Network Rail. The provision of the foot/cycle bridge at Motts Lane will provide a safer route for cyclists and pedestrians to the industrial estates from the nearby residential developments.</p> <p>On the 27th September 2010, Full Council agreed a contribution of £500,000 Growth Area Funding towards the bridge. The expenditure of Growth Area Funding (including the Motts Lane foot/cycle bridge contribution) was further approved by Cabinet on 5th December 2011 and Council on 12th December 2011. Network Rail is contributing £1.8 million.</p> <p>The detailed design of the cycle/footbridge is still in early stages but it has been identified that a small parcel of Braintree District Council open space land will be required to enable the bridge to be constructed.</p> <p>The transfer of the freehold of land to Network Rail will be at nil cost subject to a covenant to erect a foot/cycle bridge and ancillary access to an adoptable standard on the land to be transferred which is thereafter to be used only as a foot/cycle way available to the public.</p>		

Decision:

It is RECOMMENDED that Cabinet approve:

The transfer of the Council land for nil cost to Network Rail to enable the proposed foot/cycle bridge at Motts Lane to be constructed, the transfer to be subject to a covenant:-

1. to create a foot/cycle bridge and ancillary access on the land which is thereafter to be used only as a foot/cycle way available to the public.
2. to delegate authority to the Director of Sustainable Development to negotiate the detailed terms of the transfer.

Purpose of Decision:

To facilitate the construction of the proposed foot/cycle bridge at Motts Lane through the freehold transfer of land owned by Braintree District Council to Network Rail.

Any Corporate implications in relation to the following should be explained in detail**Financial:**

Network Rail is contributing £1.8 million towards the scheme.

Council agreed on the 27th September 2010 in principle a financial contribution towards the Motts Lane foot/cycle bridge. The expenditure of Growth Area Funding (including the Motts Lane foot/cycle bridge contribution) was further approved by Cabinet on 5th December 2011 and Council on 12th December 2011. The Growth Area Funding (GAF) which is to be used for the construction of the bridge is capital funding which has been received by BDC to enable employment growth and investment in sustainable infrastructure in the District.

The proposed scheme is estimated to cost £2.3 million. The transfer of this land for the foot/cycle bridge is proposed at nil cost.

The commitment of the land will allow Network Rail to construct the foot/cycle bridge.

Legal:

The land outlined in **Appendix A** (page 17 of the Appendices) has a nominal value, but if the Council had to acquire the land from a third party for the construction of the footbridge it is estimated that the cost would be in the region of £15,000. In order to release this land for the proposed bridge, members must consider Section 123 of the Local Government Act 1972 which requires Councils to obtain best value when transferring land. However, there is a General Consent which alleviates the Section 123 requirements where the difference in value is less than two million pounds and the transaction is for the economic, social or environmental well being of the area. As the difference in value is less than two million pounds the

	<p>proposed transfer will be within the General Consent if members consider that the proposed transfer is for the economic, social or environmental well being of the area.</p> <p>The proposed transfer will contain covenants by Network Rail to erect a foot/cycle bridge and ancillary access to an adoptable standard on the land to be transferred which is thereafter to be used only as a foot/cycle way available to the public. As the land proposed to be transferred is presently Public Open Space, it will be necessary to advertise a notice of such change in the press prior to transfer, and consider any objections from the public pursuant to Section 127 of the Local Government Act 1972.</p>
Equalities/Diversity	N/A
Customer Impact:	The provision of the foot/cycle bridge at Motts Lane will provide a safer route for cyclists and pedestrians to the industrial estates from the nearby residential developments. It will replace the level crossing which has been identified by Network Rail as 'high risk'.
Environment and Climate Change:	Providing an improved and safer bridge crossing may encourage people to travel to work by cycling/walking as opposed to the car.
Consultation/Community Engagement:	<p>The Open Spaces Manager has been consulted on the transfer of the land required for the foot/cycle bridge and raises no objection.</p> <p>Asset Management have confirmed that as the land is public open space, this small piece would have a nominal value and could be transferred at nil cost.</p> <p>The Members of Witham North Ward have also been consulted and they have raised concern about the footprint and scale of the proposed foot/cycle bridge.</p>
Risks:	<p>If BDC do not provide the land for this project then the foot/cycle bridge will not be constructed.</p> <p>Transferring the freehold of the Council land to Network Rail removes the maintenance and liability risk to the Council.</p>
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1. Background

1.1. Motts Lane is located to the north east of Witham providing a link between the residential areas of Forest Road/Templars estate and the Eastways/Freebournes industrial estate.

1.2. Motts Lane which crosses the main London to Norwich railway line where trains speeds exceed 100 mph is currently designated as a bridleway, although as there are no recorded usage by horses, Essex County Council are currently in the process of downgrading Motts Lane to a Public Footpath with cycleway rights.

1.3. Currently, the lane crosses the railway line at a level crossing equipped with a warning light to signal the approach of trains. Unfortunately, this level crossing was the site of two fatalities a few years ago. Network Rail has identified the level crossing as 'high risk'.

1.4. On the 27th September 2010 Council agreed in principle to allocate Growth Area Funding towards the proposed cycle/footbridge proposed to replace the level crossing. The expenditure of Growth Area Funding (including Motts Lane foot/cycle bridge contribution) was further approved by Cabinet on 5th December 2011 and Council on 12th December 2011. Network Rail has allocated £1.8 million towards the scheme. The scheme is estimated to cost in the region of £2.3 million.

1.5. The proposed cycle/footbridge is identified in the adopted Core Strategy as key infrastructure.

1.6. The preferred option for the bridge is a *'pedestrian and cycle footbridge, with stairs and ramps at each approach, spanning the existing two track railway and allowing for a future passenger loop line on the Down side (total 3 No. tracks)'*. The bridge is proposed to have a 125 year life span.

2. Transferring of Council Land

2.1. Detailed design of the cycle/footbridge is still in the early stages but it has been identified that a small parcel of Braintree District Council open space land will be required to enable the bridge to be constructed (please see map – **Appendix A** and **Appendix B** – pages 17 and 18 of the Appendices). Network Rail is keen to get all of the land required for the bridge within their ownership.

2.2. Although the land is currently identified as 'amenity green space', the Open Spaces Manager raises no objection to the disposing of this small parcel of land to allow for the bridge to be constructed. The open spaces audit identifies a surplus of 'amenity green space' in urban Witham.

2.3. The ward Members for Witham North have been consulted and they have raised concern about the footprint required and the scale of the proposed bridge. Network Rail has stated that the detailed design of the bridge is still in early stages and it maybe possible to reduce the footprint of the bridge by providing steeper gradients on the ramps.

2.4. Asset Management have confirmed that as the land is public open space this small piece would have a nominal value, being land-locked open space but if the Council had to acquire the land from a third party for the construction of the footbridge it is estimated that the cost would be in the region of £15,000. In order to release this land for the proposed bridge, members must consider Section 123 of the

Local Government Act 1972 which requires Councils to obtain best value when transferring land. However, there is a General Consent which alleviates the Section 123 requirements where the difference in value is less than two million pounds and the transaction is for the economic, social or environmental well being of the area. As the difference in value is less than two million pounds the proposed transfer will be within the General Consent if members consider that the proposed transfer is for the economic, social or environmental well being of the area.

2.5 Members are asked to approve the transfer of the land on the basis that this transaction will be for the economic, social or environmental well being of the District and to delegate authority to the Director of Sustainable Development to negotiate the detailed terms of this transfer.

2.6 The proposed Transfer will contain covenants for Network Rail to erect a foot/cycle bridge and ancillary access to an adoptable standard on the land to be transferred which is thereafter to be used only as a foot/cycle way available to the public.

2.7 As the land proposed to be transferred is presently Public Open Space, it will be necessary to advertise a notice of such change in the press prior to transfer, and consider any objections from the public pursuant to Section 127 of the Local Government Act 1972.

References from Council/Committees/Groups - Recommendations from Audit Committee 12th January 2012		Agenda No: 9a
1) Report from the Council's External Auditors, Annual Audit Letter 2010/11. 2) Treasury Management Strategy 2012/13		
Portfolio Area: Councillor Siddall, Cabinet Member for Efficiency and Resources		
Committee Chairman: Councillor Lager, Chairman of Audit Committee		
Background Papers: External Auditors Annual Audit Letter.		Public Report
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Minute Extract:	
34	<p><u>REPORT FROM THE COUNCIL'S EXTERNAL AUDITORS PKF - ANNUAL AUDIT LETTER 2010/11</u></p> <p>DECISION: That it be <u>recommended to Cabinet</u> that the Annual Audit Letter for 2010/11 be accepted.</p> <p>REASON FOR DECISION: To receive and evaluate the Annual Audit Letter from the Council's External Auditor and make recommendations as appropriate to the Cabinet in accordance with the Council's Constitution.</p>
36	<p><u>TREASURY MANAGEMENT STRATEGY 2012/13</u></p> <p>INFORMATION: In considering the Treasury Management Strategy report from the Financial Services Manager, members though the Council could consider being more flexible with the use of derivative instruments to manage risks in certain situations. The Head of Finance and the Financial Services Manager agreed to discuss the matter with the Cabinet Member for Efficiency and Resources and Arlingclose, the Council's investment advisers.</p> <p>DECISION: That Cabinet be informed that the Committee has reviewed and supports the draft Treasury Management Strategy for 2012/13 and its associated policies.</p>

REASON FOR DECISION: To demonstrate that appropriate scrutiny is applied by the Council to the Treasury Management Strategy prior to its adoption by Full Council.

Cabinet Member Decisions made under Delegated Powers	Agenda No: 10b
Portfolio Area:	
Report presented by: Not applicable – For noting only	
Report prepared by: Sharon Lowe, Assistant Chief Executive	
Background Papers:	Public Report
Cabinet Decisions made by individual Cabinet Members under delegated powers (signed copies retained by Member Services)	
Options:	Key Decision: No
For noting only	
Executive Summary:	
<p>All delegated decision taken by individual Cabinet Members are required to be published and listed for information on next Cabinet Agenda following the decision.</p> <p>Since the last Cabinet meeting the following Cabinet Members have taken delegated decisions:-</p> <p>Cllr Mrs Wendy Schmitt – Environment Decision taken on 7th November 2011</p> <p>To agree and approve a charge of 10p parking after 3pm to close, Monday to Saturday and 10p all day on a Sunday at the following pay and display car parks (excludes permit Areas) from 21st November 2011 to 31st March 2012.</p> <p>Saturday and Sundays only: Causeway House and Mayland Road, Witham</p> <p>Monday to Sunday: George Yard Multi Storey Car park, Manor Street, Braintree, Victoria Street, Braintree, Station Approach, Braintree, Mill Lane, Witham and Newland Street, Witham</p> <p>Cabinet Decisions made by individual Cabinet Members under delegated decisions can be viewed on Access to Information page on the Council's website. www.braintree.gov.uk</p>	
Decision:	
For Members to note the delegated decisions	

Purpose of Decision:	
The reasons for each decision can be found in the individual Delegated Decisions	
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