

Minutes

Cabinet

8th July 2019



These minutes principally record decisions taken and, where appropriate, the reasons for the decisions. A webcast of the meeting is available at www.braintree.gov.uk.

Present:

Portfolio	Cabinet Member	Present
Leader of the Council	Councillor G Butland	Yes
Deputy Leader of the Council Economic Development and Infrastructure	Councillor T Cunningham	Yes
Communities Culture and Tourism	Councillor F Ricci	Yes
Corporate Transformation	Councillor J McKee	Yes
Environment and Place	Councillor Mrs W Schmitt	Yes
Finance and Performance Management	Councillor D Bebb	Yes
Health and Wellbeing	Councillor P Tattersley	Yes
Homes	Councillor K Bowers	Apologies
Planning	Councillor Mrs G Spray	Yes

Also present as invitees of the Leader:

Councillor Abbott, Leader of the Green and Independent Group
Councillor Mann, Leader of the Labour Group

Councillors Pritchard and Schwier were also in attendance.

1 **MINUTES**

DECISION: That the Minutes of the meeting of the Cabinet held on 11th March 2019 be approved as a correct record and signed by the Chairman.

2 **QUESTION TIME**

INFORMATION: There were no questions asked or statements made.

3 **DECLARATIONS OF INTEREST**

INFORMATION: There following interests were declared:

- Councillor G Butland declared a Non-Pecuniary Interest in Agenda Items 9a and 11a – ‘Disposal of Land at Horizon 120, Great Notley’ as a Member of Great Notley Parish Council.
- Councillor T Cunningham declared a Non-Pecuniary Interest in Agenda Item 6a – ‘Cabinet Response to Overview and Scrutiny Review into the role of the Highway Authority in the Braintree District’ as a his family business conducts work for Essex Highways.
- Councillor T Cunningham also declared a Non-Pecuniary Interest in Agenda Items 9a and 11a – ‘Disposal of Land at Horizon 120, Great Notley’ as a Member of Great Notley Parish Council.
- Councillor F Ricci declared a Non-Pecuniary Interest in Agenda Items 9a and 11a – ‘Disposal of Land at Horizon 120, Great Notley’ as a Vice-Chairman of Great Notley Parish Council.

4 **LEADER’S ANNOUNCEMENTS – FURTHER APPOINTMENTS TO CABINET SUB COMMITTEES**

INFORMATION: Members were advised that further to the Leader’s announcements at the Annual General Meeting held on 23rd May 2019, this report made further announcements in relation to additional appointments to Cabinet Sub Committees.

It was confirmed that Councillor Thorogood would be appointed to the Housing Development Company Project Reference Group as a representative of the Green and Independent Group.

5 **APPOINTMENTS TO OUTSIDE BODIES**

INFORMATION: The Cabinet was asked to make the appointments to those outside bodies where the appointments were made by Cabinet. Full Council at the Annual General Meeting appointed representatives to those outside bodies which were nonexecutive functions.

The Councils representatives on outside bodies were in a position to represent and to support the relevant bodies in line with the Councils corporate priorities and objectives.

It was proposed that the appointments were for the four years of the Councils term unless altered.

Members were advised that there was one amendment to the report in respect of the Superfast Essex Steering Board, which had capacity for two representatives and it was noted that Councillor Hensman would join Councillor T Cunningham as an appointee for this Group.

DECISION: That Cabinet made the appointments detailed in the report, along with the additional amendment, for the four years of the Councils term.

REASON FOR DECISION: To ensure appropriate representation of the Councils views on the relevant outside bodies.

CABINET RESPONSE TO OVERVIEW AND SCRUTINY REVIEW INTO THE ROLE OF THE HIGHWAY AUTHORITY IN THE BRAINTREE DISTRICT

INFORMATION: A report outlining the findings of the Overview and Scrutiny Committee's review into the Role of the Highway Authority in the Braintree District was presented to Full Council on 25th March 2019. In line with the corporate process, Council requested Cabinet to respond to the Committee's recommendations.

A copy of the report was also sent to Essex County Council who, as the Highway Authority, had direct accountability and responsibility for implementing the recommendations. Members were advised that at this stage they had only acknowledged receipt.

The Cabinet Member for Environment and Place had considered and provided a response to each of the recommendations put forward by the Overview and Scrutiny Committee.

The Cabinet Member for Environment and Place reported that Cabinet did not support recommendation 8, in respect of assessments of the effectiveness of speeding deterrents within Parishes, as what worked in one area would not necessarily work in another, and each should be looked at on an individual basis. It did, however, recognise the role that speed control measures played in road safety and it was a matter for the Town and Parish Councils to determine, in conjunction with Essex Highways, the most appropriate deterrent for their area.

It was proposed that Cabinet considered strengthening its response to recommendation 17 in respect to S106 agreements. At present Essex County Council had deemed it not appropriate for District and County Councillors to have an input on S106 agreements from highway schemes. And it was proposed that the Council considered whether District and County Councillors should have at least a consultation role in particular when major developments are taking place in terms of where the money goes on highway schemes.

Cabinet was requested to consider the responses to the recommendations and, if in agreement, request officers to discuss with their counterparts at Essex County Council how these can be taken forward.

DECISION: That Cabinet's response to the recommendations made by the Overview and Scrutiny Committee, as set out in the report was agreed, and to delegate the actions to the Corporate Director/Head of Operations to pursue with Essex Highways.

REASON FOR DECISION: To agree the actions arising from the recommendations made by the Overview and Scrutiny Committee.

CABINET RESPONSE TO RECOMMENDATIONS ARISING FROM THE OVERVIEW AND SCRUTINY TASK AND FINISH GROUP'S REVIEW OF RECYCLING, RE-USE AND REDUCE

INFORMATION: The report outlining the findings of the Task & Finish Group's review of Recycling, Re-use and Reduce was considered by the Overview and Scrutiny Committee on 6th March 2019 and by Full Council on 25th March 2019, and Cabinet were requested to respond to the recommendations put forward.

Members were advised that the report and its recommendations were considered very pertinent and timely given the Government's consultation on its new 25-year Resources and Waste Strategy for England, to which the Council had recently responded. The strategy set out how the country could preserve its stock of material resources by minimising waste, promoting resource efficiency and moving towards a circular economy, as well as minimising the damage to our natural environment by reducing and managing waste safely and tackling waste crime.

The Task and Finish Group's recommendations would enable the Council to build on what had already been achieved and new actions and initiatives that could developed around the waste hierarchy. The ultimate aim would be to help reduce waste at source, encourage re-use where practicable and promote recycling of unavoidable waste, whilst ensuring that the Council met its legislative, financial and operational responsibilities. Where there was clear overlap with the Government's proposals, it was considered prudent to await the outcome of their consultation.

The Cabinet Member for Environment and Place reported that Cabinet did not support recommendation 6, in respect of a more robust enforcement in relation to side waste. It was reported that the Government's Strategy would largely dictate how local authorities move forward. Cabinet's preferred approach was one of education and intervention, followed by enforcement if necessary. Peer pressure and national campaigns led by influential people would be catalysts to changing behaviour, encouraging people to be more socially aware of the impact of their waste on the environment.

In terms of recommendation 11, in relation to the new Waste and Resources Strategy, it was identified that Council should be stronger in supporting the approach that decision making in relation to service delivery should remain at a local level and the Council/taxpayer should not be expected to fund additional costs arising from any legislative changes.

It was echoed that charging for the collection of garden waste would be a highly retrograde step and Members were pleased to see that the Council would not be progressing on this particular action for the time being.

Cabinet was asked to consider the responses and, if in agreement, request officers to take forward the recommendations.

DECISION: That Cabinet approved the responses proposed by the Cabinet Member for Environment and Place and delegated any actions to the Corporate Director/Head of Operations to take forward.

REASON FOR DECISION: To consider and respond to the recommendations made by the Task & Finish Group.

8 **HOUSEHOLD WASTE DUTY OF CARE – NEW POWERS TO CONTROL FLY-TIPPING**

INFORMATION: Members were advised that Section 34 (2A) of the Environmental Protection Act 1990 placed a duty of care on the occupiers of domestic properties in England to take all reasonable measures to ensure that any transfer of waste from their household was to a person/s authorised or licensed to carry waste.

Failure to comply may have rendered a householder liable to prosecution if their waste was subsequently found to have been fly-tipped. However, in 2018 the Government consulted on proposals to introduce new financial penalties for breaches of the household waste duty of care as a quicker and more cost effective alternative to prosecution.

It was believed that if fewer people used unlicensed carriers, there would be less likelihood of waste being fly-tipped. The results of the consultation were unequivocal, with 88% of respondents in favour of the proposals.

The Government was clear that Councils must issue Fixed Penalty Notices (FPNs) in a proportionate manner and deal with each incident on a case-by-case basis, taking account of people who may be vulnerable or who have special circumstances. It was not intended that householders be penalised for minor breaches that have no detrimental impact on the environment. Conversely, FPNs must not be used where prosecution through the courts was the more appropriate course of action e.g. transferring waste to someone knowing full well that it will be fly-tipped.

The current FPN for the offence of fly-tipping (a more serious offence) was £400. It was therefore proposed that Members set the Fixed Penalty Notice for breaches of the household waste duty of care at £300, with a reduction to £180 if paid within 10 days. This reflected the seriousness of the offence and was in line with the penalty issued to businesses who fail in their waste duty of care.

DECISION: Cabinet agreed to:

1. Adopt the new powers available to local authorities to help deal with fly-tipping; and
2. Set the level of penalty to be applied for breaches of the household waste duty of care in the Braintree District at £300 discounted to £180 if paid within 10 days of issue.

REASON FOR DECISION: To enable the Council to implement new powers to control fly-tipping within the District.

9 **PROVISION OF SANITARY ACCOMMODATION IN FOOD PREMISES**

INFORMATION: It was reported that Braintree District Council had been using guidance specifying the number of sanitary facilities to be provided in small cafes and restaurants for a number of years. This guidance was prepared by the Essex Food Liaison Group, a group comprising of one food officer from each Essex Local Authority.

Whilst this guidance had served a purpose it had no legal standing and as such Braintree District Council had been unable to insist that a food premise which opened without adequate customer toilet provision provided additional facilities.

To allow Braintree District Council to be able to enforce minimum toilet provision it was recommended that it agreed a policy on sanitary provision and authorised officers under The Local Government (Miscellaneous Provisions) Act 1976. This legislation permitted officers to require the provision of adequate sanitary provision in relevant places.

DECISION: That Cabinet approved the policy for the provision of sanitary accommodation in food premises.

REASON FOR DECISION: The report sought approval of a policy for the provision of sanitary accommodation in food premises, such as cafes, restaurants and takeaway/retail food premises, offering food and/or drink to members of the public where seating is provided for consumption at the premises. Adoption of this policy will enable the Council to apply reasonable standards in a transparent and consistent manner.

10 **CABINET’S RESPONSE TO THE SCRUTINY REVIEW INTO SOCIAL ISOLATION AND LONELINESS**

INFORMATION: Members were advised that further to the Task and Finish Group report into Social Isolation and Loneliness in the Braintree District submitted to Overview & Scrutiny in March 2019, the recommendations were presented to Full Council on 25th March, 2019. In line with the corporate process, Council requested Cabinet respond to the Committee’s recommendations.

The Cabinet Member for Communities, Culture and Tourism had considered these and had provided a response to each of the recommendations put forward by the Task & Finish Group.

DECISION: That Cabinet approved the response put forward by the Cabinet Member for Communities, Culture and Tourism and delegated any actions to the Corporate Director and/or relevant Head of Service to take forward.

REASON FOR DECISION: To consider and respond to the recommendations made by the Task and Finish Group.

11 **FOURTH QUARTER AND ANNUAL PERFORMANCE MANAGEMENT REPORT 2018-19**

INFORMATION: Members were updated on the performance of the Council at the end of the fourth quarter (January 2019 to March 2019) and for the end of the financial year.

It was reported that as at the end of March 2019, a total of 44 project had been completed and a further 19 were on track and progressing well. Two projects had an amber status and one project was cancelled during the year.

In respect of performance indicators, Members were advised that twelve performance indicators had met or exceeded their target and five performance indicators had missed their target. Of the five performance indicators that had missed their target, two had an amber status and were only marginally missed and three had a red status and had missed target by more than 5%.

It was reported that there was an overall positive variance for the year of £1.545 million (-10.5%) against the budget. Across all services staffing budgets were underspent by £551,000; and after allowing for the corporate efficiency target of £200,000, this had resulted in a net variance of £351,000. Other expenditure was underspent by £219,000 and income was overachieved by £975,000.

DECISION: That Cabinet note and endorsed the Council's performance as at the end of the year.

REASON FOR DECISION: To inform the Cabinet of the performance of the Council.

12

****DISPOSAL OF LAND AT HORIZON 120, GREAT NOTLEY**

Minutes Published: 12th July 2019

Call-in Expires: 22nd July 2019

INFORMATION: Members were reminded that this Item was linked to Item 11a in the Private Session of the Agenda, and that if any Member wished to refer to the private information contained within the report for that Item, it would be necessary for the meeting to be moved into Private Session.

DECISION: That, under Section 100(A)(4) of the Local Government Act 1972 the public and press be excluded from the meeting if it is necessary to discuss Item 11a of the Agenda and the Private Report, on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

Both Agenda Items were taken together to enable consideration of all issues. It was not necessary for the debate to be moved into Private Session.

INFORMATION: In February 2019, Cabinet approved a budget, to deliver services and infrastructure to facilitate the release of an initial 20 developable acres at Horizon 120, the 65 acre (gross) area of employment land, in Great Notley, acquired in December 2018.

This approval was informed by a vision to create an exemplar business and innovation park attractive to a number of sectors including professional services, research and development, digital and advanced manufacturing, particularly linked to Stansted Airport. At that time, it was also assumed that the Council would act as lead developer, selling or leasing plots to individual companies.

Subsequently, significant progress had been made and the proposals were consistent with the agreed vision but required decisions which lay beyond the delegated authorities approved by Cabinet in February 2019.

Cabinet had been asked to consider the heads of terms with Marshgate Developments Limited, an established and reputable commercial developer based in Bishops Stortford, who had offered to purchase up to 20 net developable acres at market value; and Gridserve Limited, a specialist sustainable energy company based in Buckinghamshire, who proposed to develop their site as the UK's first fully electric vehicle charging forecourt.

Cabinet were asked to make specific recommendations, and to seek further delegated authority, in order to expedite effective governance and decision making, whilst minimising delay.

Members were advised that there was an amendment to recommendation 3 to read 'Cabinet approves a recommendation to Council for an increase in the approved capital budget'.

DECISION (PUBLIC REPORT): That Cabinet approved:

1. The Heads of Terms with Horizon (Braintree) Limited;
2. The Heads of Terms with Gridserve Limited;
3. A recommendation to Council for an increase in the approved capital budget;
4. A good faith commitment, to Great Notley Parish Council, to seek a suitable allotment provision in or near Great Notley but not within the Horizon 120 development;
5. The disposal of the freehold interest in land, subject to positive covenants to ensure that the Council is able to effectively manage and maintain the Horizon 120 Business Park in accordance with the standards set out in the Local Development Order, to be approved;
6. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to enter into contract, with Horizon (Braintree) Limited, on terms consistent with the Heads of Terms subject to disposals of land at market value and confirmatory legal advice that there are no reasonable grounds for challenge on State Aid or public sector procurement regulations;
7. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to enter into contact, with Gridserve Limited, on terms consistent with the Heads of Terms;
8. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to dispose of an area, of soft landscaping, to Gridserve, at market value subject to approval of the Gridserve planning application;
9. The Corporate Director (Finance) to extend the current exclusivity agreement, with Horizon (Braintree) Limited for a reasonable and sufficient period beyond 30th September 2019, subject to confirmation that due diligence is proceeding in good faith and without unnecessary delay;
10. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to authorise acceptance of tenders, for capital works, which would exceed the approved budget by up to 10%;
11. The Corporate Director (Finance) to authorise public consultation on the draft Local Development Order;
12. The Corporate Director (Finance) to authorise appointment of Essex County Council as contracts manager for the procurement of infrastructure works utilising the Essex County Council framework of contractors.

REASON FOR DECISION: To enable the Council to conclude negotiations in relation to the disposal of land, on satisfactory terms, at the Horizon 120 employment site in Great Notley and to expedite procurement of infrastructure works and proper consideration of the draft Local Development Order.

DECISION (PRIVATE REPORT): That Cabinet approved:

1. The Heads of Terms with Horizon (Braintree) Limited;
2. The Heads of Terms with Gridserve Limited;
3. A recommendation to Council for an increase in the approved capital budget, as set out in the report;
4. A good faith commitment, to Great Notley Parish Council, to seek a suitable allotment provision in or near Great Notley but not within the Horizon 120 development;
5. The disposal of the freehold interest in land, subject to positive covenants to ensure that the Council is able to effectively manage and maintain the Horizon 120 Business Park in accordance with the standards set out in the Local Development Order, to be approved;
6. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to enter into contract, with Horizon (Braintree) Limited, on terms consistent with the Heads of Terms subject to disposals of land at market value and confirmatory legal advice that there are no reasonable grounds for challenge on State Aid or public sector procurement regulations;
7. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to enter into contact, with Gridserve Limited, on terms consistent with the Heads of Terms;
8. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to dispose of an area, of soft landscaping, to Gridserve, at market value subject to approval of the Gridserve planning application;
9. The Corporate Director (Finance) to extend the current exclusivity agreement, with Horizon (Braintree) Limited for a reasonable and sufficient period beyond 30th September 2019, subject to confirmation that due diligence is proceeding in good faith and without unnecessary delay;
10. The Corporate Director (Finance), in consultation with the Cabinet Member for Corporate Transformation, to authorise acceptance of tenders, for capital works, which would exceed the approved budget by up to 10%;
11. The Corporate Director (Finance) to authorise public consultation on the draft Local Development Order;
12. The Corporate Director (Finance) to authorise appointment of Essex County Council as contracts manager for the procurement of infrastructure works utilising the Essex County Council framework of contractors.

REASON FOR DECISION: To enable the Council to conclude negotiations in relation to the disposal of land, on satisfactory terms, at the Horizon 120 employment site in Great Notley and to expedite procurement of infrastructure works and proper consideration of the draft Local Development Order.

13 **CABINET MEMBER DECISIONS MADE UNDER DELEGATED POWERS**

DECISION: That the delegated decision set out in the report be noted

PURPOSE OF DECISION: The reasons for the decision can be found in the individual delegated decision.

The meeting commenced at 7.15pm and closed at 8:27pm.

COUNCILLOR G BUTLAND
(Leader of the Council)