



Leicester

Minutes of the Meeting of the
CABINET

Held: MONDAY, 7 MARCH 2005 at 5.00pm

P R E S E N T :

Councillor Willmott - Chair
Councillor Draycott - Vice-Chair

Councillor Bhatti
Councillor Connelly
Councillor Corral

Councillor Getliffe
Councillor Kitterick
Councillor Waddington

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181. DECLARATIONS OF INTEREST

Members were requested to declare any interests they may have in the business to be discussed and/or indicate that Section 106 of the Local Government Finance Act 1992 applied to them.

Councillors Kitterick and Waddington declared non prejudicial interests in report B1 'Developments of Site of Former Granby Halls Leicester', as they had already expressed public opinions on the development of the site.

182. LEADER'S ANNOUNCEMENTS

The Leader announced that the Cabinet had written to University Hospitals Leicester expressing their views on the consultation over proposals to charge for car parking at the Glenfield and General Hospitals. It was their view that it was acceptable to charge for car parking at the Leicester Royal Infirmary, but that the public transport infrastructure was not good enough to allow sufficient access to sites at Glenfield or Leicester General and charges for car parking at these sites were therefore not supported.

The Leader also welcomed the plans to extend the opening hours of museums as a result of the Council meeting on 23 February.

183. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 14 February 2005, having been circulated to Members be taken as read and signed by the Chair as a correct record.

184. MATTERS REFERRED FROM SCRUTINY COMMITTEES

There were no matters referred.

185. BUILDING SCHOOLS FOR THE FUTURE 2008 -2012: A DEVELOPMENT PROGRAMME FOR SECONDARY TRANSFORMATION

Councillor Waddington submitted a report seeking Member approval to a Department for Education and Skills (DfES) funded programme of transformation in all secondary schools, with the exception of those in the City Academy programme, and some funding for special schools. The minute extract from the Education and Lifelong Learning Scrutiny Committee held on 9 February 2005 had also been circulated.

It was noted that the proposals involved the refurbishment or new building of 15 schools and 1 Pupil Referral Unit, and demonstrated a commitment to improving education in the City. It was noted that revised recommendations were being suggested, to take account of the comments by the Education and Lifelong Learning Scrutiny Committee and the Unions. In particular, the importance of community use of the schools was emphasised and also the need for meaningful consultation with all stakeholders during the development of the programme. It was also recognised that some issues needed further work and reports back to Cabinet.

The Leader congratulated Councillor Waddington and the Officers involved in developing the bid which would amount to the largest investment in schools since Unitary Status.

RESOLVED:

- (1) That the Strategic Business Case (SBC), the key points of which have been included within the Cabinet report, be approved,
- (2) that the phase 1 Outline Business Case (OBC) , the key points of which have been included in the Cabinet report, be approved,
- (3) that, subject to the approval of the OBC by HM Treasury, the Corporate Director for Education and Lifelong Learning, in consultation with the Cabinet Lead Member for Education, be authorised to commence an exercise to procure a Private Sector Partner to participate in the Local Education Partnership (LEP) and to develop the first four schools,

- (4) that Officers be instructed to prepare a draft Strategic Partnering Agreement (SPA) for use in the procurement and management of the LEP, that will clearly establish the remit of each partner, requiring the retention of key strategic objectives, the development and review of the SBC and the identification of new projects retained by the LEA, with the LEP focus on the development and delivery of those new projects, the SPA to clearly establish the accountability of the LEP and the controls and measures available,
- (5) that a further report be brought back to the Cabinet seeking approval to the appointment of the Private Sector Partner and the signing of contracts,
- (6) that the Corporate Director of Education and Lifelong Learning, in consultation with the Cabinet Lead Member for Education and Lifelong Learning and the Project Board, be authorised to negotiate with the DfES to vary the details of the SBC and OBC, as explained in paragraph 82 of the main report,
- (7) that authority be delegated to the Corporate Director of Education and Lifelong Learning in consultation with the Town Clerk, Cabinet Member for Finance and the Project Board, to subscribe for equity in the LEP, subject to available Capital Programme provision, such provision to be based solely on the extent to which investment provides the Council with greater influence in the delivery of the programme,
- (8) that the Council meet 70% of the affordability gap with schools,
- (9) that contract procedure rules 6,7,8,9 and 10 be waived to the extent required so that the EU procurement negotiated procedure and/or framework arrangement procedure is authorised, that the minimum number of parties being invited to submit best and final offers be not less than three and that the standard documentation produced by Partnerships for Schools be authorised as complying with contract procedure rule 10.1 (subject to such amendments as the Head of Legal Services considers necessary to ensure legality and to reflect the agreement between the two parties) and the requirements for contracts to correspond to the Council's standard contract terms and conditions be waived accordingly,
- (10) that the commitment within the SBC and OBC, to develop and design inclusive and accessible environments within

the new/remodelled schools, which will encourage community use and adult education within an expanded school day, be noted,

- (11) that Officers be instructed to engage in ongoing consultations with the key stakeholders, including Unions, during the development of the programme, and
- (12) that Officers be instructed to investigate the following issues and to bring back a further report to Cabinet:
 - (a) Secondment of staff to the Private Sector partner,
 - (b) The impact on the Primary Sector of the outsourcing of ICT within the secondary estate, and
 - (c) The impact on staff within the retained estate as identified in paragraph 11 of the summary report.

186. "CHOOSING HEALTH" THE GOVERNMENT'S PUBLIC HEALTH WHITE PAPER

Councillor Getliffe submitted a report presenting an initial appraisal of the Government's White Paper, 'Choosing Health' and the likely implications for the City Council. Dr Stephen Whitehead, Director of Public Health was in attendance for this item.

RESOLVED:

- (1) That the implications of the White Paper on Public Health for Leicester, the designation of 'Spearhead' status, and the implications for Local Area Agreements be noted,
- (2) that the development of a Healthy Leicester initiative be endorsed and that the Cabinet receive further reports on its scope,
- (3) that the Health Overview and Scrutiny Committee be asked to monitor its development on behalf of the City Council, and
- (4) that the support of the Leicester Partnership for the project as a cross cutting theme in relation to the Community Plan and the Neighbourhood Strategy be sought.

187. LEICESTER LIFT STRATEGIC PARTNERING AGREEMENT

Councillor Getliffe submitted a report which was supplemental to the report to Cabinet on 16 August 2004 which discussed the Council's formal accession to the Leicester Local Improvement Finance Trust (LIFT) Strategic Partnering Agreement with the various Primary Care Trusts and the LIFT Company formed for Leicester. Information relating to the approvals list, the document list

and the transaction lists as referred to in appendix two of the report was circulated to the meeting.

RESOLVED:

- (1) That the Facility Letter be authorised and that the Head of Legal Services be authorised to sign it, and
- (2) that the resolutions as set out in appendix 2 of the report, and attached to these minutes, be approved.

188. DRAFT LOCAL DEVELOPMENT SCHEME

Councillor Willmott submitted a report advising Members of the requirement under the Planning and Compulsory Purchase Act 2004 to prepare a Local Development Scheme, and sought the approval of the Cabinet of the scheme for submission to the Secretary of State. The minute extract of the Strategic Planning and Regeneration Scrutiny Committee held on 20 January 2005 had been circulated.

Councillor Willmott particularly noted and welcomed the emphasis of the new provision on strengthening community and stakeholder involvement.

RESOLVED:

- (1) That the programme for preparation of local development documents as set out in the Draft Local Development Scheme be agreed, and
- (2) that the Local Development Scheme be submitted to the Secretary of State for approval.

189. LEICESTER ENVIRONMENT STRATEGY

Councillor Corrall submitted a report giving details of Leicester's Environment Strategy as developed by the Leicester Environment Partnership on behalf of the Leicester Partnership, and sought the endorsement of the City Council to the strategy and set out where the Council could make a contribution towards its implementation. The minute extract of the Leisure and Environment Scrutiny Committee held on 2 February 2005 had been circulated.

RESOLVED:

- (1) That in principle, the strategy be endorsed, subject to the objectives being considered further,
- (2) that the action plans and monitoring arrangements as set out in the report be prepared.

190. TRANSPORT CAPITAL PROGRAMME 2005/06

Councillor Kitterick submitted a report seeking Cabinet's approval for spending next financial year's transport capital programme, for both Transport and Capital Maintenance. The minute extract of the Leisure and Environment Scrutiny Committee held on 2 March 2005 had been circulated and it was noted that these comments were broadly supportive.

It was noted that there was an error in Appendix C to the report: HRA Carriageway Repairs should have an estimated cost of £270,000, and Upperton Road Viaduct should have an estimated cost of £230,000.

RESOLVED:

- (1) That Council be asked to approve the programme of works for 2005/06, a set out in appendices A and B of the report be approved,
- (2) that the Corporate Director of Regeneration and Culture be authorised to implement the programme, including the signing of contracts, provided that expenditure on the programme does not exceed the budgets available,
- (3) that it be confirmed that the Corporate Director of Regeneration and Culture, in consultation with the Cabinet Member for Highways and Transportation, has delegated authority to vary the programme, including the adoption of a detailed footway maintenance programme, provided that such variations are proposed in order to help achieve the Council's transport policy, and
- (4) that funding of 60% of the expenditure on Upperton Road viaduct next financial year from Prudential Borrowing, be authorised, with the remainder coming from Capital Maintenance.

191. WELFORD ROAD CEMETERY RESTORATION PROJECT

Councillor Connelly submitted a report seeking agreement to the expenditure of £943,000 on the restoration of Welford Road Cemetery. It was noted that the work would be funded by £759,000 of Heritage Lottery Funding with a contribution of £183,500 from the City Council. Councillor Connelly thanked the Officers who had been involved in securing the award from the Heritage Lottery Fund and in particular thanked the friends of the Welford Road Cemetery.

RESOLVED:

- (1) That the Stage 2 Heritage Lottery Funding award of £759,500 be accepted,

- (2) that total capital expenditure of £943,000 on the project be authorised, and
- (3) that the authority be delegated to the Corporate Director of Regeneration and Culture to appoint appropriate contractors and implement the restoration project on site.

192. ON STREET PARKING INCOME AND EXPENDITURE 2005/06

Councillor Kitterick submitted a report asking Cabinet to agree proposals for spending the surplus income generated by the on street parking scheme in order to improve transport in the City.

The minute extract of the Leisure and Environment Scrutiny Committee held on 2 March 2005 had been circulated. Councillor Kitterick noted the concerns of the Leisure and Environment Scrutiny Committee that the surplus income should be spent particularly on residents parking schemes and gave assurances that money was going towards it with a target date of 2006/07.

It was noted that there was an error on page 5 of the report, and that the proposed expenditure on Highways and Transportation staff should read £210,000, not £200,000.

RESOLVED:

- (1) That it be reaffirmed that it is not currently desirable nor necessary to provide further off-street parking,
- (2) that proposals for spending the surplus income set out in the appendix to the report be approved,
- (3) that it be confirmed that the Corporate Director for Regeneration and Culture has the power to vary the amounts spent on the various items referred to in the appendix, subject to funding being available, and
- (4) that the changes in tariffs set out in paragraph 1.3 of the main report be approved.

193. STRENGTHENING COMMUNITY SAFETY

Councillor Corral submitted a report seeking approval for a new post of Community Safety Service Director to strengthen the drive to improve Community Safety and manage relevant services.

RESOLVED:

- (1) That a new post of Service Director be established in accordance with the report and a Members Appointment Panel be convened,

- (2) that the post be filled on a temporary one year basis,
- (3) that relevant services be brought together under the management of the new Service Director as shown in the report as soon as circumstances allow and a review in accordance with Council's staffing protocol has taken place in consultation with the Cabinet Lead Member, and
- (4) that funding for this post be provided as set out in paragraph 4.1 of the report.

194. FINDINGS OF MALADMINISTRATION BY THE LOCAL GOVERNMENT OMBUDSMAN

Councillor Draycott submitted a report setting out the findings made by the Local Government Ombudsman following the investigation into three complaints that the Council failed to protect the interests of existing residents when it agreed planning consent for a new development which had resulted in considerable overlooking of existing properties. It was noted that the Ombudsman had recommended an independent valuation of the complainants properties to establish any loss of value arising from the new properties having been built from 1m to 1.55m higher. This had resulted in valuations of £2,500 for 2 complainants and £2,000 for one complainant. The Ombudsman had also recommended that the Council should pay £250 to each complainant in acknowledgement of the time and trouble to which they had been put. It was noted that safeguards and measures were now in place to ensure that a similar situation did not occur in the future.

RESOLVED:

- (1) That Cabinet recommend that Council accepts the Ombudsman's recommendations, and
- (2) that, subject to the Council's acceptance of its recommendation, the resulting executive action be taken.

195. BACK THE OLYMPIC BID - LONDON 2012

Councillor Connelly submitted a report seeking the support of Cabinet to actively promote the London bid for the 2012 Olympic and Para Olympic Games.

RESOLVED:

- (1) That the London Olympic Bid be supported, and
- (2) that Officers be authorised to undertake a low cost/high profile campaign with partners.

196. CAPITAL PROGRAMME MONITORING 2004/05 - PERIOD 9

Councillor Draycott submitted a report updating the Cabinet on the progress of the capital programme for 2004/05 up to 31 December (period 9). Councillor Draycott also noted that at December only 56% of the programme had been spent and that she would be having discussions with the Chief Finance Officer to try and improve this in the future.

RESOLVED:

- (1) That a revised level of programmed expenditure of £93.121 million be approved,
- (2) that the level of expenditure to 31 December 2004 of £52.42 million be noted,
- (3) that the position relating to capital receipts be noted,
- (4) that the use of the saving relating to the Improved Customer Access scheme of £31,000 for the implementation of the e-forms software be noted,
- (5) that the saving in relation to the Abbey Meadows Depot scheme of £74,400 lower than previously reported be noted,
- (6) that the following increases to the programme be approved:

Education

City of Leicester school (£100,000) with works to be funded by grant

Social Care and Health

Purchase of a holiday caravan for looked after children (£33,000)

Regeneration and Culture

Liveability schemes (£50,000 in 2004/05, £2,880,000 in 2005/06) financed by additional capital grant

- (7) that the forecast capital programme performance of 89% of the approved target compared to a target of 90% be noted, and
- (8) that the latest prudential indicator forecasts for 2004/05 be noted.

197. ANY OTHER URGENT BUSINESS

The Chair agreed to accept two items of urgent business

Proposal to Close Western Park School

The report was considered urgent in order for the project to be kept to timetable.

Eastern Shires Purchasing Organisation (ESPO), Development and Accommodation

The report was considered urgent because of the need to formalise contracts as soon as possible. The report was considered in the private session as it contained exempt information as detailed in paragraph 8 of the Local Government Act.

198. PROPOSAL TO CLOSE WESTERN PARK SCHOOL

Councillor Waddington submitted a report informing the Cabinet of the progress, to date, on the proposal to close Western Park School and sought approval to publish statutory notices to cease to maintain the school.

It was noted that options other than closure had been explored, but that the small numbers on the school roll meant that the school was no longer viable and there was no alternative to closure. The Cabinet expressed their regret that the school would be closed, but stated that work would be done to find places for the pupils and staff at other schools.

RESOLVED:

- (1) That the responses to the consultation be noted, and
- (2) that the publication of formal notices to cease to maintain Western Park School be approved.

199. PRIVATE SESSION

RESOLVED:

that the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because they involve the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act.

Paragraph 9

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Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or

disposal of property or the supply of goods or services.

DEVELOPMENT OF SITE OF FORMER GRANBY HALLS, LEICESTER

Paragraph 8

The amount of any expenditure to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.

EASTERN SHIRES PURCHASING ORGANISATION (ESPO) DEVELOPMENT AND ACCOMMODATION

200. DEVELOPMENT OF FORMER GRANBY HALLS SITE

Councillors Kitterick and Waddington declared non prejudicial interests in the report, as they had already expressed public opinions on the development of the site.

Councillor Willmott presented a report seeking a decision on whether to continue with the freehold disposal of the site to the current developers or, in view of conditions of the sale not being met by the deadline, whether to serve notice to terminate the proposed sale on or after 31 March. The developer had requested a six month extension to the conditional contract of sale. Members explored the implications from the perspectives of landowner and of ensuring the proper and timely development of the site.

RESOLVED:

- (1) That, in the Cabinet's view, and after consideration of all the relevant circumstances, an extension of the conditional contract for disposal of the site was inappropriate because of the need to move towards development of this valuable site and its disposal for a capital receipt, and the changed circumstances since it was agreed, in particular,
 - (a) The reasonable prospect that the necessary conditions still not being met after the extended period requested, given the continuing uncertainties surrounding design and planning consent (without commenting on the merits of the planning application or the strength, as such, of objections)
 - (b) the opportunities which had arisen for disposing the site in other, ways to obtain the best economic outcome overall, and therefore the need to review the basis of any disposal involving this site.
- (2) That the Corporate Director of Resources, Access & Diversity service notice to terminate the conditional contract

at the earliest opportunity on or after 31 March 2005, and make the consequential financial adjustments.

(3) That options for the development of the site be reviewed.

201. EASTERN SHIRES PURCHASING ORGANISATION (ESPO), DEVELOPMENT AND ACCOMMODATION

Councillor Draycott submitted a report requesting that Cabinet consider a proposal that the Eastern Shires Purchasing Organisation (ESPO) vacates its current premises at County Hall for new, purpose built accommodation. It was noted that it was envisaged that this would result in greater dividend income and lower prices for authorities in ESPO, but would require the Authority to underwrite finance for the expansion.

RESOLVED:

That Cabinet support the new development and agree to underwrite the County Council's liabilities, subject to the Head of Legal Services being satisfied with the terms of the Agreement.

202. CLOSE OF MEETING

The meeting closed at 6.11pm.

203. LEICESTER LIFT STRATEGIC PARTNERING AGREEMENT APPENDIX

1 BUSINESS CASE, PROPOSALS AND REPORTS

1.1 The Cabinet noted and approved the contents of the various reports of the Director of Health and Social Care, including the following:

1.1.1 the requirement for the Council to sign the Strategic Partnering Agreement and other documents as noted in paragraph 2.5 of the Report to Cabinet of 16th August 2004 (the "August Report");

5.1.2 [the disposal of the freehold property at the Charnwood Children and Family Centre and St Peter's owned by the Council as noted in paragraph 4.5 and 4.6 of the Report to Cabinet of 22nd September 2003 (the September 2003 Report)];

1.1.3 the conferring of exclusive development rights to LIFTCo (subject to demonstrating continued value to money) over a possible 25 year period but limited, in the case of the Council, to those expressly set out in the SSDP as described in paragraphs 5.9 onwards of the September 2003 Report, and noting that the Council will have effective

veto over any proposals in the SSDP which affect it.

1.1.4 and the Council taking a lease substantially in the form of the Lease Plus Agreement (“**LPA**”), but on terms to be agreed, on the Charnwood scheme as described in paragraphs 6 onwards of the September 2003 Report;

1.2 The Chair noted that negotiations in connection with the accession of the Council to the Strategic Partnering Agreement are nearing completion, the substantive agreement having been signed in August 2004 and the LIFTCo established at that time.

1.3 The following documents were tabled at the meeting or were available as background papers for perusal before the meeting:

1.3.1 a list of the outstanding issues which are to be resolved to the satisfaction of the Corporate Director of Social Care and Health of the Council for the time being (a copy of which is attached to these minutes, initialled by the Chair for the purposes of identification) (the “**Approvals List**”); and

1.3.2 a documents list in relation to the Project headed Documents list for the Council, (a copy of which is attached to these Minutes, initialled by the Chair for purposes of identification) the (“**Documents List**”); and

1.3.3 the latest drafts of those documents referred to in the Documents List as being documents to be initialled by or signed by the Council (including Schedules, Annexures and Appendices) together with such other documents as the Corporate Director of Resources, Access and Diversity for the Council for the time being and/or the Head of Legal Services of the Council shall sign (the “**Transaction Documents**”).

2 POWERS TO ENTER INTO THE PROJECT AND TRANSACTION DOCUMENTS

2.1 The Cabinet noted that:-

2.1.1 the Council has general powers specified in Section 2 of the Local Government Act 2000 to promote the economic, social and environmental well being of the area of Leicester;

2.1.2 the Council may dispose of land held by it in any manner it wishes pursuant to Section 123(1) of the Local Government Act 1972 (as amended);

- 2.1.3** the power in paragraph 6.1.2 is subject to Section 123(2) of the Local Government Act 1972 (as amended) which requires the Council not to dispose of land for a consideration less than the best that can reasonably be obtained unless it obtains the consent of the Office of the Deputy Prime Minister;
- 2.1.4** Regulations 16 and 40 of the Local Authorities (Capital Finance) Regulations 1997 impose restrictions on the Council;
- 2.1.6** the Council's obligation to carry out its functions effectively, efficiently and economically;
- 2.1.7** the Council's obligations to comply with its statutory duties; and

3.2 The Cabinet carefully considered:-

- 3.2.1** The Approvals List;
- 3.2.2** the terms of the Transaction Documents;
- 3.2.3** any limits or restrictions on the Council's powers, in particular:
 - 3.2.3.1** in relation to paragraph 6.1.4, the Cabinet considered the fact that the [LPAs and any other] Transaction Document is considered to be a private finance transaction for the purposes of Regulations 16 and 40 of the Local Authorities (Capital Finance) Regulations 1997 or that the Council has capital cover in place;
 - 6.2.3.2** The Council will not be a shareholder or appointee of a director of LIFTCo.
- 3.2.4** any limits or restrictions on the ability of any of the Members of the Cabinet to exercise any of the Council's powers.

The Cabinet concluded (having considered, inter alia, the type and nature of the Council's own funding arrangements) that it was within the powers and in the best interest of the Council to enter into:

- the proposed Project in the manner described;

- the Transaction Documents (on the terms currently set out in the Transaction Documents produced to the Cabinet; subject to such amendments as may be approved in accordance with paragraph 8 below and subject to satisfaction of the matters in the Approvals List); and
- the Awaited Documents (as to be negotiated and agreed by the Corporate Director of Social Care and Health of the Council for the time being, subject to such amendments as may be approved in accordance with paragraph 8 below and subject to satisfaction of the matters in the Approvals List).

4. RESOLUTIONS

4.1 After due and careful consideration and having so concluded, IT WAS RESOLVED THAT:-

4.1.1 the terms of the transactions contemplated by the Transaction Documents are approved in accordance with the Council's Constitution, ancillary or related documents to which the Council is expressed to be a party are resolved to be approved under paragraph 6.2 in accordance with the Council's Constitution and that all such documents (with such amendments as may be made and agreed and approved by the action of execution in accordance with these resolutions) and all such ancillary or related documents be executed, delivered and performed on behalf of the Council;

4.1.2 authority be given to the Corporate Director of Resources, Access and Diversity of the Council for the time being and/or the Head of Legal Services referred to above at paragraph 6.3:

4.1.2.1 to affix, authenticate and witness the affixing of the common seal of the Council to any of the documents referred to above which require to be executed under seal; and/or

4.1.2.2 to execute any of the documents referred to above requiring to be executed under hand,

and in each case by the act of so doing, to agree and approve any amendments made to such documents subsequent to the holding of this Meeting;

4.1.4 authority to be given to the Corporate Director of Resources, Access and Diversity of the Council for the

time being;

- 4.1.5** authority to be given to the Corporate Director of Resources, Access and Diversity of the Council to approve sign and/or dispatch and/or deliver all other documents and/or notices to be approved, signed and/or dispatched or delivered by the Council under/or in connection with the documents listed above and, by the act of so doing, to agree and approve any amendments made to such document

