

KENT COUNTY COUNCIL

CABINET

MINUTES of A meeting of the Cabinet held in the Darent Room, Sessions House, County Hall, Maidstone on Monday, 4 August 2008.

PRESENT: Mr P B Carter (Chairman), Mr N J D Chard, Mr M C Dance, Mr K A Ferrin, MBE, Mr G K Gibbens, Mr R W Gough, Mr A J King, MBE, Mr K G Lynes and Mr C T Wells

ALSO PRESENT: Mrs E M Tweed

IN ATTENDANCE: Mr Gilroy (Chief Executive), Miss M Goldsmith (Directorate Finance Manager), Ms A Honey (Managing Director Communities), Mr M Lemon (Head of Policy KPHD), Ms L McMullan (Director of Finance), Mr G Mee (Director - Kent Highway Services) and Mr G Ward (Director Resources)

UNRESTRICTED ITEMS

1. Minutes of the Meeting held on 14 July 2008
(Item. 2)

The Minutes of the meeting held on 14 July 2008 were agreed and signed as a correct record.

2. Impact of the current economic situation on the Council
(Item. 3)

1) The Leader stated that he had agreed to consider this matter as an urgent item for the following reason:

“In light of the accelerating inflationary pressures and the “credit crunch” affecting both the wider economy and KCC, it is considered urgent business to ensure that the Cabinet takes decisive action for 2008/09 by allocating the revenue contingency for the current economic situation (set aside from the roll forward from 2007/08) and also have due regard to the continuing impact on the medium term plan 2009/12. Further, to recommend to Council that innovative action is taken to support the ongoing capital programme by the establishment of a second Property Enterprise Fund.”

(2) Mr Carter stated that the combined impact of increased fuel and energy prices, together with a downturn in the property market, would have a significant impact on both the revenue and capital budgets in terms of increased costs and reduced capital receipts. With regard to the capital programme, Mr Carter stated that the Council required capital receipts of between £160m and £180m to fund its ambitious capital programme over the next 3 years, which the Council would not realistically achieve in the current economic climate. Accordingly, the establishment of a second Property Enterprise Fund would go a long way to achieving certainty for Directorates in terms the provision of a temporary borrowing facility and a guaranteed valuation of assets assumed in the MTP. He added, however, that

additional work was still required to undertake a complete review of the Capital Programme, which might entail a re-phasing or curtailing of certain projects. It was anticipated that the Council would be in a position to re-publish a revised Capital Programme by the end of September.

(3) Mr Chard stated that he was pleased the Council was acting quickly and decisively in the current economic climate, adding that the Council's sound financial management in previous years had meant that the Council was in a fortunate position of being able to provide this additional support to its revenue budget, without needing to use reserves. He referred to the exempt appendix to the report, which had been prepared to provide further detail of where the additional revenue resources were most required. He also stated that the proposed establishment of the second Property Enterprise Fund was an elegant way of maintaining capital investment during the current economic conditions and avoided unnecessary fluctuations in the Council's capital programme activity. It was noted that the intention of the Property Enterprise Fund was that it would neither be in surplus nor deficit at the end of the period. Mr Chard expressed his concern that the Consumer Price Index (CPI) would exceed the Retail Price Index (RPI) at some stage in the coming year, which would be bad news for people on fixed incomes, creating an even larger pressure on their available resources. Ms McMullan added that requests from Directorates for additional resources had not been accepted at face value and without challenge, but would continue to be monitored to ensure that they were realistic. Finally, Mr Chard offered his sincere thanks to all officers and Cabinet colleagues during the preparation of this important report.

(4) Cabinet agreed to:-

- (a) Note the forecast impact of the current economic situation on the revenue position for 2008/09 and the medium term as shown in the report;
- (b) Agree the allocation of the £5.111m contingency for the current economic climate as detailed in paragraph 2.6 of the report;
- (c) Note the estimated impact on the services funded by the Dedicated Schools Grant as highlighted in paragraph 2.4.4 of the report;
- (d) Agree the establishment of a second Property Enterprise Fund in order to defer disposing of the assets until prices improve, subject to approval by County Council in September, with a temporary borrowing facility capped at £85m, as detailed in Appendix 2 of the report; and
- (e) Support the inflationary impact on highways, as detailed in paragraph 4.2 of the report, be built into the revised capital programme for 2008-12, with a compensatory reduction elsewhere within the overall capital programme (which will be incorporated into the "Revenue and Capital Budget" report to be determined by Cabinet in September).

3. Response to consultation on Water Company Draft Water Resource Management Plans (Item. 4)

(1) The Leader stated that he had agreed to consider this matter as an urgent item for the following reason:

“The five Water Companies that supply Kent are currently consulting on their draft Water Resource Management Plans (WRMP) for the next 25 years and the deadline for our response is such that today is the only opportunity for KCC’s position on these plans to be discussed at Cabinet.”

(2) Mr Carter introduced the report, stating that there was significant concern about the management of water demand in future years, particularly given the proposed expansion in the number of new homes that were due to be built in Kent. He added that the five water companies did not appear to be acting together in relation to medium and long term planning and that, subject to legal advice, there was a strong case for a public inquiry into the Water Resource Management Plans for Kent. Mr Carter stressed that residents of the County should not have to pay extra for the investment in infrastructure needed to meet the demand for water in future years. Mr Carter then introduced Councillor John Horne of Maidstone Borough Council, to address Cabinet.

(3) Councillor Horne stated that Maidstone Borough Council had already made an 18 page submission to the Secretary of State on the draft Water Resource Management Plans for Kent and that copies of the submission and reference documents had been made available to the Cabinet. Councillor Horne stated that there was a distinct lack of coordination and strategic planning between the five water companies that serve Kent, especially between supply and disposal strategies and he echoed the comments of Mr Carter in relation to the enormous demand in the South East for new housing. He commented that a sole company solution to the demand for water in Kent was unlikely to be successful and he supported the recommendation being made to the Cabinet for a full public inquiry.

(4) Mr Ferrin stated that the five water companies were appearing to work to the disadvantage of the people of Kent, particularly in relation to a number of apparently un-coordinated plans for capital investment in new facilities, some of which involved 2 companies proposing to pump water in completely opposite directions. He stated that the companies appeared to be adopting a ruthlessly commercial attitude, the only effect of which would be higher charges for Kent residents. He supported the request for a public inquiry.

(5) In adding his support for the public inquiry, Mr Gough highlighted paragraph 37 of the report in relation to the water supply and disposal infrastructure needed to meet the projected housing growth and, specifically, the need to control the environmental impact of any agreed solutions.

(6) Mr Chard referred to the significant environmental damage to chalk streams in Kent as a result of previous underground extraction to supply water to London.

(7) Councillor Horne expressed his support for the recommendation to Cabinet to call for a public inquiry. He added that current EU Directives would further curtail the use of river water to top up reservoirs in times of drought, which would appear to conflict directly with the plans of the water companies for addressing water demand within Kent.

(8) Cabinet agreed:-

- (a) The KCC responses to the Water Resource Management Plan consultations should include:
 - (i) strong support for the emphasis on demand management and the implementation of universal compulsory metering providing that there are appropriate tariffs in place to ensure that vulnerable families in Kent are not subjected to higher bills;
 - (ii) strong response to DEFRA that existing customers should not be made to pay higher water charges to pay for the water infrastructure needed to accommodate housing growth;
 - (iii) detailed questioning of the basis for the water companies' proposals for balancing water demand; and
 - (iv) pointing out the unacceptable lack of strategic cooperation between companies regarding their medium and long term infrastructure proposals and rejecting some of these proposals
- (b) KCC should seek legal advice with a view to requesting the Secretary of State to call a public inquiry into the Draft Water Resource Management Plans of South East Water, Southern Water Services and Folkestone and Dover Water Services;
- (c) KCC should use its influence on Local Development Frameworks by:
 - (i) demanding high standards of water efficiency in new homes
 - (ii) calling for a strategic tariff on new developments that would be partly used to offset the residual water demands of new homes by investing in improvements to the water efficiency of the existing local housing stock
 - (iii) ensuring land is identified and safeguarded for future infrastructure that may be required in the long term
- (d) KCC should continue to play a leadership role in promoting the sustainable management of water demand and should encourage local water demand targets within the District Chapters of the Kent Agreement 2.

4. Ashford's Future: Proposed Entry into the Partnership Agreement *(Item. 5)*

(1) The Leader stated that he had agreed to consider this matter as an urgent item for the following reason:

“The signing of the Partnership Agreement by Kent County Council is considered urgent because of the need to demonstrate to other partners the Council’s commitment to the Ashford’s Future scheme at a crucial stage in its development.

The pre-conditions reported to Cabinet at its June meeting will eventually be satisfied.”

(2) Mr Gough introduced the report, stating that the Partnership Agreement could not be signed at present without amendment to the resolutions of the Cabinet at its meeting on 16 June 2008, because of the pre-conditions set out in those resolutions. He added that the Partnership Agreement was not a legally binding document, but it was important that it was signed by KCC as soon as possible, in order to demonstrate the Council’s commitment to the Ashford Future project. He added that, whilst the pre-conditions were not required to be satisfied insofar as the signing of the Partnership Agreement was concerned, they were relevant to the Council’s participation in the Special Purpose Vehicle (SPV) and would, therefore, be dealt with in due course in consultation with and subject to the agreement of the Director of Finance and the Director of Law and Governance.

(3) Cabinet agreed to revoke its resolution of 16 June 2008 and replace with the following revised resolutions:-

1. That Cabinet authorises the Director of Law and Governance or his representative to immediately sign the Partnership Agreement on behalf of the County Council;

2. That the Cabinet Member for Regeneration and Supporting Independence be authorised to attend meetings of the AFPB and exercise the voting rights of the County Council at such meetings.

3. That subject to:-

(a) a full risk assessment being approved by the Chief Executive and the Director of Finance on the consequences of decisions made by the AFPB and the SPV;

(b) the Director of Law & Governance approving the proposed reporting regime of the SPV to the AFPB and being satisfied this facilitates robust scrutiny by the AFPB’s programme management function; and

(c) approval of entry into the SPV and the Members Agreement by EP, SEEDA and the Department for Business Enterprise and Regulatory Reform (DBERR) (if such approval is required in respect of EP and SEEDA) and the Department of Communities and Local Government (DCLG) in respect of the proposed SPV arrangements and in particular in respect of DCLG’s funding of such arrangements

Cabinet makes the following resolutions:

(i) the County Council become a member of Ashford’s Future SPV;

(ii) the County Council is authorised to enter the Members’ Agreement as outlined in the report to Cabinet dated 16 June 2008;

(iii) that the Cabinet Member for Regeneration and Supporting Independence is appointed to attend general meetings of the SPV and exercise the County Council’s voting rights as a member of the SPV on behalf of the County Council;

(iv) to delegate sufficient authority to the Cabinet Member for Regeneration and Supporting Independence to enable him fully to exercise the rights and

discharge his duties relating to such appointment, acting as necessary of such in consultation with the Director of Law and Governance and Director of Finance;

(v) to nominate a director on the SPV Board to manage the company on behalf of the company members on such terms as the Director of Law and Governance shall approve;

(vi) to delegate authority to the Managing Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration and Supporting Independence and the Director of Law and Governance to approve the final versions of the following document on behalf of the County Council:-

- the SPV Memorandum and Articles Association;

- the Members agreement;

and to authorise the Director of Law and Governance to execute those documents on behalf of the County Council.

(vii) to request all County Council Managing Directors to consider the implications of the proposed Ashford's Future SPV and programme for development on their service areas; and

(viii) to note that a further report will be submitted, seeking approval of the terms of the Ashford's Future Programme for Development for SPV Business Plan.

5. Other items which the Chairman decides are relevant or urgent

(Item. 6)

6. Impact of the current economic situation on the Council

(Item. 7)

(1) The Leader stated that this supplementary paper gave the detail behind the inflationary figures set out in the main report on the public side of the agenda

(2) Cabinet agreed to note the schedule

7. Kent Building Schools for the Future Programme

(Item. 8)

(1) The Leader stated that he had agreed to consider this matter as an urgent item for the following reason:

“Discussions are progressing with Land Securities Trillium who were appointed by the County Council in December 2007 as our Preferred Bidder for the first of our Building Schools for the Future contracts and both parties have now fully committed to a financial close of the deal as being no later than 23 September 2008. The scheduled Cabinet meeting in September is too late to allow the necessary approvals etc. to be actioned.

In order to provide Cabinet with a full and comprehensive report, it was decided that it would be better to allow for the meetings with LST in the week ending 26 July to have taken place and the position reached to be reflected.”

(2) Mr Carter referred to the complimentary legal report from Nabarro, which concluded that KCC had achieved a strong commercial position through the competitive dialogue process and that the procurement process carried out by the Council had been thorough and in compliance with relevant legislation and published guidance.

(3) Mr Dance expressed his thanks to Mr Ward and the team for progressing the BSF programme, which would deliver much needed improvements to a number of schools.

(4) Mr Ward gave further detail about the revenue support arrangements, adding that the proposals had been approved by the Schools Funding Forum. He explained the implications of missing the “drop dead” date of 23 September and the work that had to be undertaken prior to this date.

(5) Mr Chard stated that, whilst he was grateful for the resources provided by central Government under the BSF programme, there was still a budget gap that KCC had to meet. He also stated that the BSF programme wasn't just about updating school accommodation; it was about transforming the education and life chances of young people and improving links with the vocational programme. He added his thanks to the team.

(6) Mr Carter referred to a regional LSC meeting he attended the previous week and stressed the importance of the continued partnership working between KCC, the LSC and the HEFCE in relation to improving the link between formal education, vocational and other training for the post 16 group and also adult education.

(7) Mr Gilroy stated the BSF programme represented a massive opportunity to improve the links between schools and industry and added his personal thanks to the team.

(8) In response to a question, Mr Ward confirmed that the words “resolution that resolution” in recommendation (iv) were superfluous and should be deleted from the recommendation.

(9) Cabinet agreed to:

- (i) Submit the Final Business Case for Wave 3 to PfS and DCSF for final departmental approval by PfS, DCSF and Treasury;
- (ii) Authorise, following recommendation from the Director, Resources CFE, the Cabinet Member for Operations, Resources and Skills in consultation with the Leader to agree final contractual terms, provided the affordability gap to KCC (both the schools DSG and the CFE capital programme) did not exceed that detailed in the Cabinet report. In the event the affordability were to be more then they would agree with the Finance Director if it can be funded from elsewhere within the CFE capital programme;
- (iii) Authorise the Director, Resources CFE in consultation with the Director of Law and Governance to enter into the necessary contracts on behalf of the County Council, following approval to final contractual terms as set out in (ii) above;

- (iv) Authorise, following point (i), (ii), and (iii) above the establishment of a joint venture company – called Kent BSF LEP1 to deliver the BSF projects for that area and our investment in the LEP. For Waves 4 and 6 this is subject to further approvals by both PfS/DCSF and KCC; and
- (v) Record its thanks to Mr Ward and all staff involved in getting the BSF programme to this stage