

CABINET (SPECIAL)

MINUTES

6 JUNE 2013

Chairman: * Councillor Thaya Idaikkadar

Councillors: * Nizam Ismail * Asad Omar
* Krishna James * William Stoodley
* Zarina Khalid

**Non Executive
Non Voting
Councillors:** * Susan Hall * Barry Macleod-Cullinane

* Denotes Member present

642. Declarations of Interest

RESOLVED: To note that there were no declarations of interests made by Members.

RESOLVED ITEMS

643. Urgent Petition - Save John Lyon Swimming

Mr Peter Barnes, Secretary of Borough of Harrow Swimming Club, presented a petition signed by over 1,000 people with the following terms of reference:

“We the undersigned petition the Council to stop the closure of the John Lyon Sports Centre for the swim school, external members and users.”

Mr Barnes added that the Borough of Harrow Swimming Club had used the John Lyon Sports facilities for a number of years and that they had recently been notified of the closure. He asked that the Council reconsider the Section 106 Agreement and spoke about the speed of the closure and the impact it would have on a significant number of local children.

RESOLVED: That

- (1) the petition be received and referred to the Corporate Director of Environment and Enterprise and the Portfolio Holder for Planning and Regeneration for consideration;
- (2) in accordance with the Council's Petition Scheme, the petition be referred to the Overview and Scrutiny Committee.

644. Strategic Review of Learning Disability Accommodation - Call-in of Cabinet Decision (14 March 2013)

Cabinet received a reference from the Call-in Sub-Committee meeting following its consideration of the Cabinet decision on the Strategic Review of Learning Disability Accommodation. Whilst the Call-in on the grounds of inadequate consultation, a potential human rights challenge, and insufficient consideration of legal and financial advice had not been upheld, the Call-In Sub-Committee had referred the following concerns to Cabinet:

- the consultation comprised of a limited line of questioning which had not provided for a full exploration of consultees' preferences and alternative options;
- there had been insufficient clarity in the recommendations which lacked detail about future actions in relation to property disposal;
- the measures for mitigation, though mentioned, had been inadequately captured in the report and recommendations considered by Cabinet.

The Portfolio Holder for Adult, Social Care, Health and Wellbeing said that she was pleased to have had the opportunity to participate in the Call-In Sub-Committee, which had considered the matter, including the work it had undertaken and the decision reached. She added that the unanimous conclusion reached to uphold the decision of Cabinet was in recognition that the review and the consultation had been thorough and compliant.

The Portfolio Holder added that on the three points made by the Call-In Sub-Committee, she had the following responses:

- the questions used in the consultation had focused on the changes proposed in order to ensure that people understood the proposals and their potential impact;
- the Call-In Sub-Committee had felt that the wording could have been clearer. It was important to note that a decision to dispose of properties in relation to the matter had not been sought through the report which Cabinet had considered. However, she would ensure that should this course of action be required in the future, it would be made explicit in the report;

- officers would, in the future, be asked to consider how to include mitigations more prominently in reports. It was her opinion that equality duties and mitigations had been considered thoroughly within the body of the report considered by Cabinet and the Equality Impact Assessment (EqIA).

RESOLVED: That the concerns of the Sub-Committee be noted.

Reason for Decision: To consider the comments of the Call-in Sub-Committee.

Alternative Options Considered and Rejected: None.

Conflict of Interest relating to the matter declared by Cabinet Member / Dispensation Granted: None.

645. Commissioning of Libraries and Leisure Management Services: Outcome and Recommendations

Cabinet received a report of the Corporate Director of Community, Health and Wellbeing, which set out the results of the tender process for the provision of library and leisure management services and sought approval for the award of contracts for the commissioning of the services in partnership with Brent Council for leisure and Ealing Council for libraries and leisure.

The Leader of the Council thanked the former Portfolio Holder for Community and Cultural Services and the Divisional Director of Community and Culture for their work on the Commissioning process. The Leader added that whilst the proposal in relation to the Libraries Contract had been included in the Labour Group's Manifesto, the state of the economy and the pressures on local government had meant that other ways of delivering services had to be considered. He was of the view that local residents valued the services provided rather than who was providing them and he considered that service provision would continue to improve. Moreover, Harrow's reputation would be under scrutiny, as the proposals had to be approved by all the participatory Councils; otherwise the proposals could not proceed. The Leader of the Council referred to the investment of £1.7m and how this would work in practice, which he considered to be satisfactory.

The Portfolio Holder for Community and Cultural Services outlined the history of the report since January 2012, resulting in the culmination of the proposals before Cabinet. The Portfolio Holder stressed that the proposals had to be approved by all participating Councils and that Brent and Ealing Councils had already approved the proposals. He added that:

- the start date for the commencement of the contracts was 1 September 2013 and the proposals included the provision of £1.7m capital through a Prudential Borrowing Scheme to be repaid at fixed rates by the contractor to enable major improvements at the Leisure Centre and the sharing of contract across the boroughs with Harrow taking the lead on libraries;

- officers in Harrow, Ealing and Brent Councils had worked across the three boroughs on the tender exercise. Collaborative working across the boroughs had provided the sharing of procurement costs and resources and created a relatively large 'package' of facilities and services to put to the market. This had enabled potential providers to achieve economies of scale and pass the savings back to the Councils taking part in the procurement;
- the quality of delivery of the service and the desire to ensure that each borough retained strategic governance of its library and leisure services had been key considerations for the project from its onset;
- at Member and Officer level, policy and strategic matters would remain with each borough. There was a Change Control mechanism contained within the draft contract and redevelopment break clauses within both the contract and the draft leases for Harrow to allow for the possibility of change to the leisure and library estate or to the delivery of service.

The Portfolio Holder said that the Independent Labour Group had inherited the proposals from the previous administration and he was saddened that the outsourcing of services had to be considered, although leisure services had been managed externally for Harrow for over 12 years. However, he was appreciative that, in the current financial climate, the Council needed to protect the services for its residents by ensuring that they were delivered as cost effectively as possible whilst maintaining the quality and breadth of the service. The award of the contract was seen as a way to protect Harrow's library service and enhance the leisure centre where other local authorities were significantly cutting back.

In commending the report to Cabinet, the Portfolio Holder outlined the following key benefits of the proposal for Harrow:

- comprehensive and cost effective delivery of leisure and library services;
- delivery of significant savings against targets whilst protecting services;
- management and monitoring of the quality of the services provided;
- delivering key community benefits such as increased usage;
- economic sustainability through apprenticeships, work placements and jobs for residents and through the use of local suppliers;
- investment in the leisure centre, including new gym equipment and upgrade to include dry-side changing facilities for the gym area and improved reception area;
- the Council would retain strategic governance and decision-making for services.

The Non Executive Non-Voting Members asked a series of questions to the Leader of the Council and the Portfolio Holder for Community and Cultural Services in relation to the contract. The questions related to the Section 106 Funding gained through the planning consent process for the redevelopment of the Kodak site, in particular the Zoom leisure site and the allocation of the money to the Bannister Outdoor Sports Centre. They

- considered that the money would have been better used for properties that the Council maintained rather than allocate it to those that it had no control over;
- questioned if a 10 year contract for the provision of leisure services was considered to be risky.

In response, the Leader of the Council, the Portfolio Holder for Community and Cultural Services and the Divisional Director of Community and Culture stated that:

- £1m would be allocated for Bannister Outdoor Sports Centre and £950k for Headstone Manor Recreation Ground;
- the Portfolio Holder was keen to explore other opportunities to gain external funding for the Bannister Outdoor Sports Centre which involved a future that Harrow could be proud of. A profitable Centre would bring inward investment thereby increasing its use for the benefit of the community;
- the leisure market was both a mature and confident market and a 10-year contract was prudent, as the contract would be monitored and action taken if required;
- there were no break clauses but that the redevelopment and change control mechanism clauses would ensure that the Council had total control;
- they were satisfied with the outcome of the tendering process.

A Non-Executive Non-Voting Member was disappointed that there was no mechanism that would allow the contract to be scaled-up, which would have allowed other local authorities to outsource their leisure and library services with the same contractors thereby reducing costs per unit even further for Harrow, Ealing and Brent Councils. This aspect should have been considered from the outset and he considered this to be a lost opportunity. He added that a reputation risk clause could have allowed one of the three local authorities to opt out without de-railing the procurement exercise. In response, an officer stated that the opportunity to change and vary the contract would depend on the overall value of the contract coming in.

The Corporate Director of Community, Health and Wellbeing stated that the procurement exercise was conducted on the basis of market tests and the

wide packaging of services whilst ensuring best value for money had been given due consideration. The 10-year contract was likely to result in the best financial deal. If there had been a break clause allowing Councils to pull out, this would have led to a less advantageous proposals for the Councils as the contractors would have worked this aspect into their bids. Basically, an exit clause would have given a less advantageous position to the participating Councils. A Non-Executive Non-Voting Member said that the same argument could be applied in reverse.

The same Non-Executive Non-Voting Member asked question on the impact on the workforce, including TUPE arrangement. He queried if there would be an impact on the Pension Fund due to the proposals resulting in a shortfall in the Fund.

The Director of Finance and Assurance reminded members that the current flattened contribution rate to the pension fund across the Council was 19.35% and that the Council's actuaries had looked at what the contribution rate would be for the circa 100 members of Pension Fund members that would be transferring across and the new contractor would have to pay a contribution rate of around 25%. He explained that this figure was higher than the Council's current rate as the new employer would not be admitting new members of staff to its subset of the Harrow fund and its cohort would be relatively older (i.e no younger members of staff that the Council would benefit from).

The Director of Finance and Assurance explained that a relatively significant fall in the Pension Fund value would lead to a relatively small additional call on Council resources to fund the liabilities relating to the cohort of staff moving to the new contractor.

Following the receipt of the response on the impact on the Pension Fund, the Member was of the view that the information should have been detailed in the report as it would have provided context to this major report.

The Portfolio Holder for Adult Social Care, Health and Wellbeing stated that she was not fully supportive of the proposals, as she was concerned about charges being increased, the tenure of the contract and the impact on staff; question she would have raised at the outset of the proposals. However, she was satisfied with the assurances given by officers that any changes to the charges would have to be agreed by the Council. She was also mindful that the proposals would help to retain Harrow's libraries.

In response to additional questions relating to how the money would be used by contractors, sufficient 'headroom' for the payment and servicing of the debt in addition to making normal profits, whether users would have a 'better experience' in light of the dilapidated state of the Leisure Centre from a Non-Executive Non-Voting Members, the following responses were provided:

- that the 1.7m money was a fixed rate loan for 10 years. Any additional costs incurred would be a cost to the contractor rather than the Council;

- standard background checks had been undertaken on the company, which was considered to be well respected. The capital money was for the provision of new gym equipment and its life cycle replacement. The money would not be released until the Council was satisfied and would be subject to further discussion. The Leader of the Council invited the Leader of the Labour Group and the Non-Executive Non Voting Members to participate on discussions prior to the release of the money;
- the Leisure Centre site was one of the four major sites in the borough that had been earmarked for development. Consideration had been given to redeveloping the Leisure Centre on the same site; or another suitable site in the borough, including any impact of this provision within the contract;
- in terms of the quality of services, various processes would be put in place. Annual user satisfaction surveys would be undertaken, mystery shopping satisfaction would be carried out and stringent client monitoring arrangements would be put in place, as applied to the current contract which had seen significant increase in attendance and user satisfaction figures.

RESOLVED: That

- (1) the award of the contract for delivery of leisure management services to Sports & Leisure Management Ltd, as set out in paragraph 2.8 of the report, in line with the specification and evaluation methodology, as outlined in paragraph 2.4 of the report, be approved and it be noted that the award of contract for leisure management services would require approval by Harrow, Brent, and Ealing Councils;
- (2) the award of the contract for delivery of library management services to John Laing Limited, as set out paragraph 2.8 of the report, in line with the specification and evaluation methodology, as outlined in paragraph 2.4 of the report, be approved and it be noted that the award of contract for libraries management services would require approval by both Harrow and Ealing Councils;
- (3) the Corporate Director Community, Health and Wellbeing, in consultation with the Portfolio Holders for Community and Cultural Services and Property and Major Contracts, be authorised to finalise any contract details and to:
 - conclude and sign the contracts for the provision of services, as outlined in the body of the report;
 - enter into further discussions with the preferred bidder(s) as required to allow for mobilisation and contract start date of 1 September 2013 or other specified date;

- provide capital financing of £1.7million for the delivery of physical improvements and lifecycle replacement of equipment at a fixed cost on terms to be agreed with the Director of Finance and Assurance, as outlined in paragraph 5.6 of the report;
- (4) the shared contract management model, as set out in paragraph 2.6 of the report whereby Harrow would act on behalf of Ealing and Harrow Councils as the client for library services and Ealing Council would act on behalf of Brent and Harrow Councils for leisure services be approved; and the Corporate Director Community, Health and Wellbeing, in consultation with the Portfolio Holders for Community and Cultural Services and Property and Major Contracts, be authorised to:
- agree the terms of and execute an Inter Authority Agreement (Appendix C to the report refers) which reflects the principles outlined in the report;
 - agree the terms of and execute Service Level Agreements for the joint clienting of contracts (appendix D of the report refers) which reflect the principles outlined in the report;
- (5) the grant of leases to the new contractor of such Council premises as the contractor may occupy for the purpose of the performance of the contract be approved; such leases to run concurrently with the contract and to reflect the terms of the contract on terms to be agreed with the Corporate Director of Environment and Enterprise in consultation with the Director of Legal and Governance Services;
- (6) the extension of the existing leisure management contract with Greenwich Leisure Ltd under the terms of the previous contract for a period of four months until 31 August 2013 to allow adequate time for handover and transfer of staff and facilities be noted.

Reason for Decision: To allow the commissioning of resilient and cost effective library and leisure management services at the most economically advantageous cost to the Council. This was a cross-borough joint tendering exercise and the outcome would also be presented to Ealing and Brent Councils for approval.

Alternative Options Considered and Rejected: Continue to provide library services in house and commission leisure services externally as a single borough; Share library services across two or more boroughs and commission leisure services externally jointly.

Conflict of Interest relating to the matter declared by Cabinet Member / Dispensation Granted: None.

646. Revised Calendar of Meetings 2013/14

Cabinet considered a report of the Director of Legal Services, which set out proposals for the revision of the Council's Calendar of Meetings for the Municipal Year 2013/14 and beyond.

The Leader of the Council stated that the Grants Advisory Panel would be reduced from six to three meetings. It was noted that whilst the Local Development Framework Panel had scheduled a meeting for 10 June 2013, it would thereafter meet on an ad hoc basis.

RESOLVED: That changes set out at Appendix 1 to the report be approved.

Reason for Decision: The Calendar of Meetings is approved on an annual basis for the succeeding Municipal Year. The 2013/14 Calendar of Meetings was approved at the Cabinet meeting in January 2013. As a result of the savings earmarked in the budget it has proved necessary to reduce the number of meetings or delete certain bodies from the Calendar.

Alternative Options Considered and Rejected: None.

Conflict of Interest relating to the matter declared by Cabinet Member / Dispensation Granted: None.

(Note: The meeting, having commenced at 6.30 pm, closed at 7.14 pm).

(Signed) COUNCILLOR THAYA IDAIKKADAR
Chairman