



**CHELTENHAM**  
BOROUGH COUNCIL

**CABINET MEETING**

**27 April 2010**

**DRAFT MINUTES**

**Present:**

Leader (Councillor Steve Jordan) - in the Chair  
Cabinet Member Sport and Culture (Councillor Andrew McKinlay)  
Cabinet Member Sustainability (Councillor Roger Whyborn)  
Cabinet Member Corporate Services (Councillor Colin Hay)  
Cabinet Member Housing and Safety (Councillor Bernard Fisher)  
Cabinet Member Finance and Community Development (Councillor John Webster)

**(18.00 hours –18:55 hours)**

<b>Subject</b>	<b>Description</b>
1.	<b>Apologies</b> Cabinet Member Built Environment (Councillor John Morris)
2.	<b>Declaration of Interests</b> None.
3.	<b>Minutes (agenda item 3)</b> The minutes of the meeting held on 29 March were approved by the Cabinet and signed by the Leader as a correct record.
4.	<b>Public Questions, Members Questions and Petitions</b> A written question had been submitted by Geraldine White and a copy of the question and response is attached at Appendix A.  Geraldine White raised the following supplementary question. 1)The internal boundaries have no legal status and therefore do not restrict future more intensive development. 2)Martin Rainscourt advised selling 21 and 27 as a job lot but that is just what the council are doing-why? 3)Mike Redman assures residents that Council wants to see only 3 new builds on the total plot but also says he will include an overage clause-why? 4)The tree officer confirms if a developer asks to remove a fine silver birch in the garden of 27 permission will be given-why if there is to be no building on 27? 5)Is it true that when residents sought the help of their MP a cabinet member warned Martin Horwood against getting involved? More transparency and clarity from the Council was needed.  The Leader of the Council apologised that the Cabinet Member Built Environment was not present at the meeting due to illness and unfortunately no other Cabinet

	<p>Member was in a position to supply Mrs White with an answer. In this case a written answer from the Cabinet Member would be supplied to her as soon as reasonably possible.</p>
<p>5.</p>	<p><b>County Wide Compact Commissioning Standards (agenda item 5)</b>  The Cabinet Member Housing and Safety introduced the report which outlined the Compact commissioning standards for Gloucestershire, developed by the county compact commissioning group established by the Gloucestershire Conference (GSP). They were for both Voluntary and Community Sector organisations and commissioners to aspire to achieve. A consultation exercise had just concluded. The Chief Executive explained that whilst the consultation had been open to all councillors for comment the involvement of overview and scrutiny in the process had not materialised. The Chair of the Social and Community Overview and Scrutiny Committee would welcome the opportunity to examine the commissioning standards and make recommendations back to Cabinet accordingly. Cabinet agreed this approach and it was proposed that Social and Community look at this at their June meeting since the voluntary and community sector were still examining responses received.  Overall Cabinet welcomed the arrangements proposed for the voluntary and community sector to play its fullest part in service delivery. It was acknowledged that more work was necessary on how public sector agencies would work together and pool resources for commissioning.</p> <p><b>RESOLVED THAT :</b></p> <ol style="list-style-type: none"> <li>1. The draft county wide compact commissioning standards be adopted as best practice in local commissioning activity.</li> <li>2. Authority be delegated to the Chief Executive, in consultation with the Cabinet Member for Housing and Safety, to endorse the final document.</li> <li>3. Social and Community O&amp;S Committee be invited to consider the commissioning standards document and make recommendations to Cabinet and/or the Chief Executive as appropriate.</li> </ol> <p><b>Executive Decision 20/2010</b></p>
<p>6.</p>	<p><b>Quarterly Budget Monitoring Report (agenda item 6)</b>  The Head of Financial Services introduced the report which notified members of the anticipated outturn position for 2009/10. He highlighted a number of areas including the delivery of employee cost savings which was exceeded by £29 600, the shortfall in car parking due to the severe winter and the potential loss provisions from Icelandic Banks.</p> <p>Members welcomed the projected underspend and generally the sound financial management of the council.</p> <p><b>RESOLVED THAT:</b></p> <ol style="list-style-type: none"> <li>1. <b>The contents of the report including projected variations from the revised 2009/10 budgets and the projected total budget saving of £224 800 (which equates to less than 0.25 % of the Council's gross expenditure)in this financial year be noted.</b></li> <li>2. <b>The intention to appropriate the anticipated budget saving of £224 800 to general balances in order to mitigate any further potential losses in Icelandic investments be noted.</b></li> </ol> <p><b>Executive Decision 21/2010</b></p>

<p>7.</p>	<p><b>Regulation of Investigatory Powers Act (RIPA)-updated procedural guide (agenda item 7)</b></p> <p>The Cabinet Member Corporate Services introduced the report which provided an update on the new regulation investigatory powers legislation. He was confident that the Council currently used its powers sparingly and for very serious issues such as benefit fraud and severe anti-social behaviour. Taking the report to the Economy and Business Improvement Overview &amp; Scrutiny Committee would enable a wider range of Councillors to see if they viewed the Council's use of its powers as proportionate and reasonable. Cabinet Members agreed that it was a difficult balance to meet but it should be confident that the powers were not used inappropriately.</p> <p>The Chief Executive reported that officers from the Surveillance Commissioner's office had visited the Council that week. It was likely that recommendations would be forthcoming from them on the draft policy.</p> <p><b>RESOLVED THAT :</b></p> <ol style="list-style-type: none"> <li><b>1. The Economy and Business Improvement Overview &amp; Scrutiny Committee be requested to consider the revised procedural guide as set out in Appendix 1 and report back to Cabinet on its adoption</b></li> <li><b>2. The Economy and Business Improvement Overview &amp; Scrutiny Committee undertake a review of the guidance and suggest amendments to Cabinet as necessary every twelve months.</b></li> <li><b>3. It be recommended that when the powers are used then its use is reported at the next appropriate meeting cycle of the Economy and Business Improvement Overview and Scrutiny Committee, so that members can satisfy themselves that it is being used consistently within the council's procedural guide and that the guidance remains fit for purpose.</b></li> </ol> <p><b>Executive Decision 22/2010</b></p>
	<p><b>Briefing Session</b></p> <p>The Cabinet Member Sustainability reported that the Council would be participating in the Gloucestershire Echo's 10:10 campaign. This would expose a wide range of subjects such as waste, energy and housing. The Council would have its own monthly column, commencing next month.</p>
	<p><b>Decisions of Cabinet Members and Officers</b></p> <p>The Cabinet Member Sport and Culture informed Cabinet of a decision he had made that day to approve the award of the contract for the replacement of the Town Hall Box office to INFX. This followed the presentation of the exempt, procurement recommendation report to the Cheltenham Festivals Scrutiny Working group on 21 April 2010.</p> <p>The Leader of the Council informed Cabinet that he had amended the Economic Development Action Plan to reflect the following changes :</p> <ul style="list-style-type: none"> <li>• Authorised grants under the Business Pride Shopfront Improvement and Commercial Rent schemes. In order to fund the maximum amount of successful bids the remaining monies from the West End project had been transferred. He thanked the Panel for their work in considering the applications.</li> </ul>

	<ul style="list-style-type: none"> <li>• £4500 would be allocated from the economic development 2010/11 budget to support the Gloucestershire Echo's 10:10 climate change campaign</li> <li>• Grants approved under the Commercial Rent Relief Scheme (a rent grant of 50% of the first year's basic rent on business premises located within the borough)</li> </ul>
	<p><b>Urgent Items</b></p> <p><b>Contract Rules Waiver-Joint Core Strategy-Strategic Flood Risk Assessment Level 2</b></p> <p>The Leader of the Council introduced the report and explained that the Council was acting as Lead Authority for the Joint Core Strategy consortium in respect of the next stage of commissioning of some consultancy for a Strategic Flood Risk Assessment (SFRA). As the contract was of an aggregate value of over £50 000 it must be subject to a tender process with a minimum of three written tenders being sought. However waivers could be agreed in certain circumstances and under Rule 9.1 i) of the Contract Rules a Waiver must be agreed by Cabinet for contracts over £50 000.</p> <p>The Leader highlighted the importance of the Strategic Flood Risk Assessment which would inform the Joint Core Strategy Options paper due in the Autumn.</p> <p><b>RESOLVED THAT :</b></p> <ol style="list-style-type: none"> <li>1. A Waiver under Rule 9.1 i) of the Contracts Rules in respect of the commissioning of Level 2 of the Strategic Flood Risk Assessment for the Joint Core Strategy be agreed at a contract value of £52,534.96 plus VAT, the cost to be shared equally between the Council, Tewkesbury Borough Council and Gloucester City Council.</li> <li>2. Authority be delegated to the Borough Solicitor and Monitoring Officer to prepare and complete any contract documentation required in connection with the commissioning of the Level 2 SFRA.</li> </ol> <p><b>Executive Decision 23/2010</b></p>
	<p><b>Local Government Act 1972 – Exempt Business</b></p> <p><b>The Cabinet approved the following resolution</b></p> <p>“That in accordance with Section 100 A(4) of the Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 namely:</p> <p>Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p>Paragraph 5 : Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>
8.	<b>Council deposits with Glitnir and Landsbanki Icelandic Banks (agenda item</b>

	<p><b>8)</b> The Chief Finance Officer introduced his exempt report and explained why he was recommending that Cabinet re-affirmed the approach already taken by the Chief Executive to participate in the group claims in respect of the Council's deposits with the Icelandic Banks. He drew attention to the costs of the actions and associated risks as set out in his report. Advice had been received from the LGA and Bevan Brittan Solicitors. The advice was legally privileged.</p> <p>Cabinet members asked questions on the report which were addressed by the Chief Finance Officer and Head of Legal Services. The processes for recovery, including risks, were explained and it was confirmed that further information would be brought back to Members for decision should that be necessary.</p> <p>The risks would be continually monitored and updated as necessary and any fundamental change to the risk assessment would be brought to the attention of Members. The Chief Finance Officer assured Members that the Audit Committee would be briefed on the matter at its next meeting.</p> <p>The Cabinet:-</p> <ol style="list-style-type: none"><li>1. Noted that the Chief Executive, on 9<sup>th</sup> April, under his delegated powers in Part 3H (2.2) of the Council Constitution, made an urgent decision to authorise Bevan Brittan to include the Council in group claims in respect of Glitnir and Landsbanki banks as outlined in paragraph 2.11 of the report.</li><li>2. Agreed that the LGA should continue to act as agent for the Council in this matter and that the Council should continue to participate in the group claims for recovery of its deposits through the Icelandic Courts</li><li>3. Authorised the Chief Finance Officer, in consultation with the Cabinet Member Finance &amp; Community Development, to take all necessary steps to participate in and progress the group claims to maximise the Council's potential for recovery of its deposits including, as appropriate and in consultation with the Borough Solicitor, settlement of the claims on the best terms available for the Council</li><li>4. Acknowledged the legal implications as set out in this report and approved the use of supplementary estimates (financial rule 11.3) to a value of up to £50,000 to fund the potential costs of the actions.</li></ol> <p><b>Executive Decision 24/2010</b></p>
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Councillor Steve Jordan  
Chairman

## APPENDIX A

### CABINET-27 APRIL 2010

#### PUBLIC QUESTION

##### Question received from Geraldine White

In July last Mike Redman reported to the Cabinet that both gardens of 21 and 27 Ledmore Road have development potential.

However, the outline planning application submitted on 25 March 2010 was for only one of these gardens although BOTH plots are to be sold TOGETHER as one unit.

Naturally residents are very anxious that the integrity of the design and layout of the Ledmore Road Estate is protected (see their petition submitted to full council) but the Cabinet's objectives for these two gardens is not clear.

Can Cabinet please clarify their strategy on the development potential of these two gardens and say what factors they took into consideration when choosing this piecemeal approach and why they omitted the building potential of garden 27.

Is it the Cabinet's intention that the two existing houses (21 and 27) be demolished by a developer and the outline planning consent be amended and applied to a much more intensive development? If this is not the intention, can the members say what safeguards they will put in place to prevent this happening.

##### Response from the Cabinet Member Built Environment

Outline planning consent has been obtained to build three detached houses in the garden of no.21 Ledmore Road.

This has been achieved by moving the fence line of no. 27 Ledmore Road in order to reduce it's garden size and to provide a larger garden for no.21.

This frees up the garden of 21 Ledmore Road for development. This approach produces one development plot rather than two smaller plots.

The existing outline planning consent does not propose demolition of either no.s 21 and 27 Lemore Road - these houses are clearly retained.

The Council has a duty to consider all appropriate and various options for disposal of these properties in order to obtain the best price for them, whilst at the same time safeguarding the proceeds of the sale.

If the properties are sold to owner-occupiers, such as CBH the present ruling is that 75% of the receipts will be pooled, ie. 75% of the sale price will go to Central Government.

If however the properties are sold to a private developer, CBC can retain all of the capital receipt which have been earmarked for the provision of much needed affordable housing elsewhere within the Borough.

This is the reasoning behind selling no.s 21 and 27 Ledmore Road as a single plot

with outline planning consent for development.

It is possible that the Government's pooling requirements may change and for this reason the Council has delayed placing the properties on the market.

Unfortunately the Council cannot market the site with restrictions, as it may not then be obtaining 'best consideration' which it is obliged in law to do. Should a developer seek planning permission for a denser form of development than that presently allowed for in the Council's outline planning consent, then this will go through due process of the Council's Planning Committee who will make their independent decision.

However, the Council cannot place any "safeguards" nor "guarantees" on the outcome, but it will be controlled by the normal planning process. Local residents will therefore have the opportunity to support or oppose any subsequent application and to raise objections in the normal way when that planning application is submitted.