

## Cabinet

**Tuesday, 18th June, 2013  
6.00 - 6.30 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Peter Jeffries (Cabinet Member Housing and Safety), Andrew McKinlay (Cabinet Member Built Environment), Jon Walklett (Cabinet Member Corporate Services) and Roger Whyborn (Cabinet Member Sustainability)

## Minutes

**1. APOLOGIES**

Apologies had been received from Councillor Rowena Hay.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES OF THE LAST MEETING**

The minutes of the meeting held on 21 May 2013 were signed and approved as a correct record.

**4. PUBLIC QUESTIONS AND PETITIONS**

There were none.

**5. ANNUAL PERFORMANCE REPORT**

The Cabinet Member Corporate Services introduced the annual performance report and highlighted the following:

- 6 out of 78 milestones would not be achieved within a reasonable timeframe. These related to the Joint Core Strategy and the Community Governance Review and to a large extent were due to events outside of the Council's control
- out of the 32 CBC performance indicators with targets 81 % had been met
- tribute was paid to partnership working with the police relating to domestic burglaries in the town and as a result of which there had been a decrease in the number of burglaries

The Leader added that the annual report would be submitted to Council on 24 June.

**RESOLVED THAT**

**the report on the review of performance in 2012-13 be endorsed.**

**6. CHELTENHAM PLAN - SCOPE CONSULTATION**

The Leader of the Council introduced the report and explained that whilst the Joint Core Strategy set out strategic planning policies and proposals for Cheltenham, Tewkesbury and Gloucester, a local Cheltenham Plan was necessary to take forward these strategic proposals in greater detail and would also address non-strategic planning issues of relevance to the locality. The Leader emphasised that at this stage the consultation focussed on the scope, vision and objectives of the plan. This had been discussed at the Planning and Liaison Scrutiny task group, an internal officer working group and the Cheltenham Partnership. Once the formal consultation had taken place a report would be brought back for approval by full Council.

The Leader added that a local perspective on housing density could potentially form part of the Cheltenham Plan.

The Cabinet Member Built Environment added that this was an important consultation exercise which would contribute to designing the future for planning in Cheltenham. He highlighted the range of policy areas as laid down in paragraph 8.1 of the consultation document which would be included in the plan and emphasised the significant impact this would have on the town.

**RESOLVED THAT**

- 1. the Cheltenham Plan Scope consultation document be approved for public consultation**
- 2. authority be delegated to the Head of Planning to make any minor amendments to the document prior to consultation**

**7. CHELTENHAM PLAN - REVISED STATEMENT OF COMMUNITY INVOLVEMENT**

The Leader of the Council introduced the report and explained that the Council was legally required to prepare and adopt a Statement of Community Involvement (SCI), the purpose of which was to set out the opportunities by which the public and organisations can engage with the planning system. As a result of changes to legislation it was now necessary to revise the existing SCI which had been adopted in 2006.

The Leader highlighted that at this stage the document was not being submitted to Council and therefore he proposed this as an amendment to the second recommendation. Accordingly, references to Council should be deleted from paragraph 4.3 of the report. The Leader also gave details of minor amendments to the SCI as follows :

- Paragraph 11.3-Parish councils now receive electronic copies of documents and it is proposed that the consultation period for Parish Councils is aligned to that for other consultees, i.e. 21 days.
- Paragraph 11.2 significant applications are now defined
- Paragraph 11.27-those people who have written comments on applications no longer receive a letter after the committee meeting
- Changes to names of local groups and some deletion of groups had occurred since the last publication of the SCI, amendments will be made prior to the new version being made available for public consultation

Members supported the recommendations and highlighted the crucial role consultation played in the formation of the Joint Core Strategy and the Cheltenham Plan.

The Head of Legal Services clarified that once consultation had taken place and responses gathered the final recommendations would need to be submitted to Council for approval.

**RESOLVED THAT**

- 1. the updated Statement of Community Involvement be approved for public consultation**
- 2. authority be delegated to the Head of Planning to make any consequential minor amendments to the document**

**8. COMMUNITY INFRASTRUCTURE LEVY - COMMENCEMENT OF PREPARATION OF DRAFT CHARGING SCHEDULE**

The Leader of the Council introduced the report and explained that the Community Infrastructure Levy (CIL) was a new method of funding for infrastructure, needed as a result of permitting development in its area, and administered by the local planning authority. For Cheltenham this would be via the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the Cheltenham plan. The CIL would largely replace section 106 agreements as a means of securing infrastructure provision which for instance over the last five years had raised £3 million in Cheltenham.

The Leader emphasised that all the Gloucestershire local authorities were working together to consider solutions for the delivery of strategic infrastructure priorities.

Cabinet members supported the draft recommendations and said CIL was a crucial way to fund infrastructure to support new development, particularly at a time when public spending remained tight. A common countywide approach was sensible and would avoid duplication for businesses and developers who would be faced with a reasonably common and uniform basis for charging for CIL in Gloucestershire.

The Leader added that the Government had intended that CIL be in place from April 2014 but was currently considering deferring this until April 2015. This would be beneficial since it was unlikely that the Cheltenham Plan/JCS would be in place by the earlier date; however it was important that work progressed on drafting the CIL Charging Schedule for Cheltenham and that collaborative work continued on considering solutions for the delivery of strategic infrastructure priorities.

The Leader also referred to the updated legal advice which had been circulated and which is appended to these minutes for information.

**RESOLVED THAT**

1. **the preparation of a draft CIL Charging Schedule for Cheltenham be authorised having regard to the provisional timetable set out in the report;**
2. **Cabinet agree in principle to investigating options for the delivery of strategic priorities which have implications beyond the administrative boundaries of Cheltenham Borough.**

**9. FOOD SAFETY DELIVERY PLAN**

The Cabinet Member Housing and Community Safety introduced the Food Safety Service Plan which represented the Council's expression of commitment to the delivery of an improving cost effective and efficient regulatory food service. The plan was an annual operational plan which gave details of how Cheltenham was going to execute its statutory food safety functions within the Public Protection service.

The Cabinet Member stated that the council operates a risk based intervention programme. On 31 March 2013, 98 % of food premises in the town in the food hygiene rating scheme were broadly compliant. The Cabinet Member added that the food sampling plan for 2013-14 included soda from dispensers; salad from restaurants and takeaways; imported ready to eat foods; and dishwashers hand washing and the hygiene of recently washed items.

**RESOLVED THAT**

**the Food Safety Delivery plan for 2013-14 be approved**

**10. HEALTH AND SAFETY DELIVERY PLAN**

The Cabinet Member Housing and Community Safety introduced the Health and Safety Service Plan which was the Council's expression of commitment to the delivery of an improving cost effective and efficient regulatory service. The service plan was an annual plan detailing how Cheltenham was going to undertake its statutory health and safety regulatory functions.

The Cabinet Member Housing and Community Safety highlighted that it was a risk based intervention programme. The service participated in the Gloucestershire Health and Safety Group and the priority areas for Gloucestershire in 2013-14 are event safety, legionella, the beauty sector, asbestos and gas safety.

Members welcomed the plan and said it was good that the focus was rotated on different areas of work on an annual basis.

**RESOLVED THAT**

**The Health and Safety Delivery Plan for 2013-14 be approved.**

**11. HOUSING OPTIONS**

The Cabinet Member Housing and Safety introduced the report and referred to the council's review of the Housing Options service which was undertaken to ensure that it was fit for purpose and also to consider how the service may be commissioned in the future. A report was presented to Cabinet in December 2012 setting out two potential commissioning options available; in-house provision or, alternatively, to transfer the service to the Council's Arms Length

Management Organisation (ALMO), Cheltenham Borough Homes (CBH). A systems thinking review followed and then work was undertaken to consider the implications of transferring the service to CBH and to develop a service specification based on the redesigned provision which will deliver the outcomes as set out in the Housing and Homelessness Strategy.

The Cabinet Member highlighted paragraph 2.4 of the report which outlined the rationale for considering transferring the service to CBH. He added that the impact of local authority funding cuts and welfare reform would require resources to lessen the impact and provide support for those affected. The Cabinet Member Housing and Safety commended CBH-it was a nationally recognised three star ALMO, valued by tenants and a housing provider of choice.

The Cabinet Member highlighted that CBC would still remain statutorily responsible and accountable for the discharge of the functions that have been contracted out.

In response to a question regarding the December date for the transfer of the service, the Cabinet Member explained that this was due to the TUPE of staff and the time required for finalising the service specification and contract.

The Cabinet Member Housing and Safety thanked all the CBC and CBH staff who had been involved in the review, and in particular the housing options team.

Cabinet also paid tribute to the hard work undertaken by CBC and CBH officers and believed that the transfer of the service to CBH represented a good and efficient way of providing the housing options service in the future.

#### **RESOLVED THAT**

**1. the Housing Options service (as specified in appendix 2) be transferred to CBH by 1 December 2013 under a contract for services to expire on 31 March 2020.**

**2. Authority be delegated to the Director of Commissioning in consultation with the Cabinet Member for Housing and Safety to finalise the specification and contract for services.**

**3. it be noted that the Council's Housing Options staff whose roles fall within the scope of the list of services outlined in appendix 2 will transfer to CBH on the date the services transfer in accordance with the Transfer of Undertaking (Protection of Employment) Regulations 2006.**

#### **12. APPOINTMENT TO OUTSIDE BODIES - THIRD SECTOR SERVICES**

The Leader of the Council introduced the report and explained that in June 2012 Councillor Barbara Driver was appointed as an observer on the Board of Third Sector Services. She had now been appointed to the Board in her own right so there was a vacancy for an observer. Councillor Regan had put herself forward for the position and all Group Leaders were supportive of her appointment.

**RESOLVED THAT**

**Councillor Anne Regan be appointed as the observer on the Board of Third Sector Services in accordance with the following principles:**

- **all nominations are made on the basis that the nominee/appointee is a representative of Cheltenham Borough Council insofar as that is compatible with any overriding legal duty to the outside body; and**
- **Cabinet reserves the right at any time to withdraw/terminate a nomination/appointment which it has made**

**13. BRIEFING FROM CABINET MEMBERS**

The Cabinet Member Sustainability informed Members that the Council had temporarily had to suspend the receipt of mixed plastic recycling at the Depot as the market had collapsed.

**14. CABINET MEMBER DECISIONS TAKEN SINCE THE LAST MEETING OF CABINET**

In the absence of the Cabinet Member Sport and Culture, the Leader informed Members that she had recently taken a decision relating to awarding Precor the contract for providing new gym equipment at Leisure@.

**Chairman**

Cheltenham Borough Council  
Cabinet – 18 June 2013  
Community Infrastructure Levy

Legal Implications Section – Expansion

*Limited on Pooling of Contributions*

The practice within some local authorities of requiring contributions within s106 agreements/undertakings to be pooled together to mitigate the culminative impacts of developments is being discouraged through the CIL Regulations.

Under the CIL regulations, from 6 April 2014 (or 6 April 2015 if proposed reforms are to be implemented), a planning obligation or undertaking so far as it provides for the funding or provision of an infrastructure project/type that may not be taken into account in determining a planning application if five or more planning obligations entered into on or after 6 April 2010 already provide for the funding or provision of that project or type of infrastructure.

This therefore encourages the adoption of CIL, as it prevents agreements or undertakings from being used to achieve a purpose that the Secretary of State thinks would better achieved through the application of CIL.

*Prevention of Double Dipping*

On the adoption of a Charging Schedule, there is to be no actual or perceived “double dipping” with developers paying twice for the same item of infrastructure.

If a Charging Schedule is adopted, but no list of infrastructure projects or types of infrastructure that the Council intends will be or maybe wholly or partly funded by CIL has been published by the Council, on the Charging Schedule taking effect any obligations within a s106 agreement or undertaking so far as they deals with the funding or provision of infrastructure cannot be taken into account in determining a planning application.

If a list has been published, then on the Charging Schedule taking effect it will be those obligations within a planning agreement or undertaking dealing with the funding or provision of infrastructure projects or types of infrastructure within the list will not be able to be taken into account in determining a planning application.

Secretary of State guidance on the issue of the interaction of CIL and s106 obligations states that:

## Page 8

- i) s106 requirements should be scaled back to those matters that are directly related to a specific site and not set out in the list;
- ii) where the list includes a generic term (such as education or transport), section 106 contributions should not normally be sought on any specific projects in that category;
- iii) when authorities revise the list, they should not remove an item just so that they can fund the item through a new s106 agreement.

Therefore, the production of the list and any items included within it will need careful consideration in light of any items that the Council would still wish to be dealt with by way of s106 obligations.

However, as regards the implications for CIL spending, there is currently no requirement that CIL receipts can only be applied for infrastructure appearing on the list.