

To: COUNCIL
25 NOVEMBER 2015

EXECUTIVE REPORT TO COUNCIL
The Leader

1 PURPOSE OF REPORT

- 1.1 Since the Council meeting on 16 September 2015, the Executive has met three times on 22 September, 20 October and 17 November 2015. This report summarises decisions taken at the first two meetings by reference to the relevant portfolio within which they fall. A supplementary report will cover the decisions on 17 November 2015.
- 1.2 Updated Forward Plans are published every Friday and are available for public inspection at Easthampstead House in the usual way and online at www.bracknell-forest.gov.uk. Full details on the decisions taken by individual portfolio holders can also be accessed online through the Council's website.

2 RECOMMENDATIONS

- 2.1 Council is asked to consider the recommendation set out at paragraph 5.5.6.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The reasons for recommendations are set out in the supporting information and in the reports considered by the Executive.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Alternative options are discussed in the relevant individual reports considered by the Executive

5 SUPPORTING INFORMATION

Council Strategy & Community Cohesion

5.1 The Council Plan 2015-19

- 5.1.1 The Executive is recommending to Council that it approves the Council Plan 2015-19. The Council Plan represents a new framework in which the Council will deliver services by allowing it to adapt, innovate, find new ways of working and, in some cases, reduce what it does.
- 5.1.2 This is the most fundamentally important matter considered by the Executive since July and is the subject of a separate report on this agenda.

5.2 Complaints against Bracknell Forest Council in 2014/15

- 5.2.1 The Executive has considered the annual report on complaints made against the Council in 2014/15 noting the Annual Review letter from the Local Government Ombudsman and information on other complaints against the Council. Arising from the report, it has endorsed the approach taken to dealing with and learning from complaints and noted developments in complaint handling.
- 5.2.2 18 complaints against the Council were received by the Local Government Ombudsman in 2014/15, compared to 28 in 2013/14 and an average of 19 over the previous three years 2010-13. This was lower than any of the other Berkshire authorities where numbers ranged from 31 to 62 and an average for all councils of 50. One complaint was upheld, the details of which were reported to the Executive in February 2015.
- 5.2.3 The Ombudsman has reported that in 2014-15 they upheld 46% of all complaints where they carried out a detailed investigation. There has also been an increase in the number of councils challenging decisions. This Council did this and it resulted in significant changes to draft decisions, including one where the Ombudsman had initially concluded maladministration. However, it is very time consuming and costly challenging incorrect assessments and this Council will only do so on really significant cases.
- 5.2.4 The Ombudsman has also asked that councillors should be encouraged to make use of a workbook they have produced on supporting local people with their complaints. In addition, they have asked councils to review their complaints procedures with reference to a new service standards document they have produced. Both requests are being considered, although the Council has streamlined its Corporate Complaints Procedure during the year, by reducing the number of stages from four to three, speeding up the process for customers, whilst retaining the involvement of officers at a senior level, and the Chief Executive for the final stage. This is now more in line with most other local authorities.
- 5.2.6 The Council's overall complaint statistics for 2014/15, as reported by departments in their Quarterly Service Reports shows a 25% reduction on the 2013/14 figures.

5.3 Corporate Performance Overview Report

- 5.3.1 The Executive received the Chief Executive's latest Corporate Performance Overview Report covering the first quarter of 2015/16 (April – June 2015). At the end of the quarter, 6 actions (2.4% of the total) had been completed; 211 actions (84.1%) were progressing but were not due for completion by the end of quarter 1; 31 actions (12.3%) had either not yet started or where they had started there was a possibility that they may fall behind schedule; no actions were behind schedule; and 3 actions (1.2%) were no longer applicable.
- 5.3.2 Progress against key performance indicators across the Council was also very positive, with 46 (83.6%) green – i.e. on, above or within 5% of target; 1 (1.8%) was amber – i.e. between 5% and 10% of target; and 8 (14.6%) were red – i.e. more than 10% from target. In addition, there were 13 indicators where it was not appropriate to set a target and 2 indicators where the data was not available as it had not yet been released.

Planning & Transport

5.4 Draft Parking Standards Supplementary Planning Document (SPD) – Consultation

- 5.4.1 The Executive has approved a draft Parking Standards Supplementary Planning Document for public consultation and authorised the Executive Member for Planning and Transport to agree any minor changes to the draft and its evidence base prior to the public consultation period. The decision to prepare the new document had been taken as evidence, including research into the parking provision in new residential development and Census 2011 data showed that the existing Parking Standards SPD was becoming increasingly out-of-date and did not cover certain issues such as school pick up. There was therefore a need to review the existing SPD which had been adopted 8 years ago to better reflect the current parking needs of the borough. The new SPD includes a strategy for dealing with existing parking issues..
- 5.4.2 Whilst the current residential standards appear to be consistent with the evidence on car ownership levels, there remains clear dissatisfaction from some residents with what is happening on the ground. The provision of garages within the standards will need to be addressed. There is a need for flexibility in the application of standards especially where there is clear evidence that lower standards of provision would be appropriate such as for affordable housing. Further analysis will be undertaken to assess whether different formats of parking are more or less effective including the proportion of allocated and unallocated spaces, the balance of on-street and off-street parking and the levels of use of parking courts. Consideration of other matters such as electrical charging will also be undertaken as part of the process.
- 5.4.3 The consultation is taking place for a statutory 6 week period from Monday, 19 October until Monday, 30 November 2015 and is seeking views from the public, town and parish councils, developers, agents, businesses and other interested parties.

5.5 LED Lighting

- 5.5.1 The Executive is seeking a supplementary capital approval of £7.3m for the replacement of the borough's streetlights with LED lighting from March 2016. The investment in LED lighting will reap significant financial savings and also significantly improve the Council's carbon footprint. Over the life of the lights, cumulative savings in excess of £8m can be anticipated, with annual savings peaking at £618,000 in Year 25. The financial case for investing in replacement LED streetlights is therefore strong. The installation of LED lights will also significantly reduce the Council's carbon footprint, potentially saving 2,857 tonnes of CO₂ each year, equivalent to the annual emissions from about 285 homes or 570 local residents. The £7.3m is based on column replacement continuing to be funded from the Local Transport Plan capital grant for the duration of the project.
- 5.5.2 There are approximately 14,500 streetlights on the network consuming about £550,000 worth of electricity each year, requiring about £70,000 of routine maintenance involving bulk lamp changes and cleaning each year, and such is the generally poor condition of the stock, they also need about £112,000 of reactive maintenance to replace suspect poles and failed lamp units. Consequently, while this project shows a return on investment and stands in its own right, in reality the Council would be spending this level of resource on replacement columns in any case over the next 10 years as it is an unavoidable cost.

- 5.5.3 The intention is to replace all of the old units with an LED solution within a two or three year window. The sooner this can be done the sooner the Council can benefit from the maximum reduction in energy and maintenance costs. It is also proposed to connect all lights to the existing Central Management System which will allow further efficiencies in operational and maintenance terms.
- 5.5.4 The work will be undertaken by Ringway whose current contract includes a mechanism to procure large scale capital projects without the delay/expense of spot tendering. Ringway has a proven track record in transforming borough-wide street lighting systems elsewhere. Their contract offers the best solution to providing value for money combining as it does a baseline cost which has only recently been market tested together with fully transparent negotiation on the target cost.
- 5.5.5 The report considered by the Executive can be viewed at Annex A and the appendices to the report are restricted and are being circulated separately for Members only.
- 5.5.6 The Executive has accordingly RECOMMENDED that a supplementary capital approval of £7.3m be approved for the replacement of the borough's existing streetlights with LED lights.**

5.6 Local Enforcement Plan

- 5.6.1 The Executive has approved the Local Enforcement Plan (Planning). The National Planning Policy Framework and National Planning Policy Guidance encourage local authorities to adopt a Local Enforcement Plan (Planning). The purpose of the Plan is to set out how the council will approach enforcement of the planning system, particularly how it will prioritise investigations and approach resolving breaches of planning control. The Plan also sets out how the enforcement service can be accessed by members of the public, and the structured process by which investigations will be carried out in a fair and proportionate way. This will be delivered using an eight phase investigation process, which sets out when people reporting breaches can expect to be updated on the progress of an investigation, and when the service will aim to have delivered particular results on an investigation.
- 5.6.2 The adoption of a Plan also provides the authority with access to the Planning Enforcement Fund, which is a central government fund available to assist with legal fees in pursuit of injunctions from the County Court or High Court.
- 5.6.3 The Plan will help formalise a more performance managed approach to enforcement which will be reported back through the Quarterly Service Report.

5.7 Highways Infrastructure Asset Management Plan

- 5.7.1 The Executive has approved the Highways Infrastructure Asset Management Plan for publication on the Council's website. The Director of Environment Culture and Communities has also been authorised in consultation with the Executive Member for Planning & Transport to make any in-year minor amendments having regard to any comments received.
- 5.7.2 The purpose of the plan is to detail the Council's highway maintenance policy and strategy and to reassure members and highway network users that key needs are being met. It has been produced in a format reflecting national recommendations and published standards. The Plan reflects a refocusing of priorities identified by the Department for Transport (DfT).

- 5.7.3 Progress against the Plan will be monitored by officers and quarterly progress reported to Members in the Quarterly Service Report. The Council's performance will also be subject to scrutiny by the DfT and will contribute to the Council's future highway maintenance funding allocations through the DfT Efficiency Assessment process. Failure to deliver could result in reductions in funding allocations.

Transformation & Finance

5.8 Medium Term Financial Strategy

- 5.8.1 The Executive has approved the Commitment Budget for the period 2016/17 to 2020/21 and the proposed budget process and timetable for 2016/17. The decision is intended to allow it to develop its Medium Term Financial Strategy and to start to consider an appropriate budget strategy for 2016/17 and beyond.
- 5.8.2 The Executive's attention was drawn to a number of inherent difficulties in medium-term financial planning, in terms of accurately estimating both available resources and spending needs. The outcome of the Government's Spending Review which is due to be published on 25 November 2015 is expected to contain large reductions in public expenditure, although the impact on this Council is unlikely to be clear until the provisional Local Government Financial Settlement is announced in December. For planning purposes, a 30% reduction in real terms over the next five years has been assumed
- 5.8.3 Based on currently available information, the Council faces an underlying funding gap of around £21m by 2020/21 before considering service pressures and developments. When these are taken into account, the total budget gap over the next five years may be £32m (i.e. approximately 40% of the budget requirement in 2015/16). This may, however, be nearer to £25m when increased business rates and car parking income arising from the redevelopment of the town centre is taken into account.
- 5.8.4 The focus over the coming months will be on the challenge posed by the likely funding gap in 2016/17. With fewer opportunities to deliver efficiency savings and reduce back office costs, given the levels already achieved, there will be a need to take a firm line to limit future year's pressures, as well as utilising available balances, potentially increasing council tax, identifying savings to front line services which may result in service reductions or closures and utilising some of the business rate surplus from previous years to bridge the funding gap,

5.9 Changes in Charges for Garden Waste Collections 2016/17

- 5.9.1 The Executive has agreed that the annual charge for the collection of garden waste should be increased by £10 to £40 with effect from April 2016. In addition, it has agreed to cease the early payment discount although all other existing discounts and options remain as they were. All associated charges for the garden waste service will also be increased pro-rata. The decision to increase the charge was made in response to the substantial budget pressures facing the Council as the current charge does not cover the cost of this discretionary service in effect meaning that all residents are significantly subsidising those that choose to use the collection service. This is very much in line with the new narrative set out in the Council Plan.
- 5.9.2 The Executive noted that charges had first been introduced in 2012 and this was the first increase. Average income from subscriptions in the past two years has been

£417k although the actual cost of the service was £690k. To recover the full cost of the service would require an increase in the charge to around £50. By only increasing the fee to £40, the Council is continuing to subsidise the service to the residents choosing to use it.

- 5.9.3 The discount for early payment was originally offered to manage the initial demand but is no longer considered necessary as the scheme and payment arrangements are now well-established.

5.10 Council Tax Penalties

- 5.10.1 The Executive has agreed that consultation should take place on the implementation of a fixed penalty of £70 to council tax charge payers who intentionally or knowingly fail to notify the Council of any change affecting Council Tax Liability or the Local Council Tax Benefit Scheme without reasonable excuse.

- 5.10.2 The penalty could be applied in any of the following circumstances:

- Failure to notify the Council that Single Person Discount should no longer apply to the Council Tax charge;
- Failure to notify the Council that an exemption on a dwelling should have ended;
- Failure to notify the Council that any other discount applied is no longer applicable;
- Failure to notify the Council of a change of address within 21 days or as soon as practicable. (For Local Council Tax Benefit Scheme 1 calendar month is permissible).
- Failure to notify the Council of a change in liable party;
- Failure to provide information requested to identify liability, by a third party.
- Failure to provide information requested after a liability order had been obtained;
- A false application for Local Council Tax Benefit, or failing to report a change in circumstances which results in the person no longer being entitled to receive the reduction or a reduced amount.

- 5.10.3 Guidelines for the application of penalties and an internal review procedure for dealing with any appeals will be drawn up to ensure consistency between the officers responsible for imposing the penalties for both Council Tax and Local Council Tax Benefit Scheme. When a penalty has already been applied and further requests for the same information are made, additional penalties of up to £280 may be imposed. A charge payer may appeal to the Valuation Tribunal for England if aggrieved by the imposition of a penalty and they are unsatisfied with the council's internal review.

5.11 Reactive Maintenance and Repair Services

- 5.11.1 The Executive has awarded the Measured Term Contract for Building & Engineering Maintenance and Repairs for a four year period commencing on 1 December 2015. The contract is intended to ensure that the Council has an effective and reliable contractor in place to deal with any 'reactive' maintenance issues that may arise. In addition to the Council, a large number of schools could benefit from the services to be delivered.

- 5.11.2 Of four valid tenders, Tenderer B had submitted the lowest rates against a pre-defined set of rates covered within the Invitation to Tender document and scored

second on quality based on the model used for evaluation purposes. They therefore scored highest overall. Their bid was also within the current budget provision.

5.12 Request to Waive Community Infrastructure Levy Liability

5.12.1 The Executive has confirmed that the Borough Treasurer will issue a Community Infrastructure Levy (CIL) Demand Notice in respect of chargeable development in Crowthorne.

5.12.2 The charge had arisen as a result of the owner of the property demolishing the existing property and commencing work on its replacement prior to obtaining planning permission. Under the CIL Regulations, commencing the work prior to securing the necessary consent automatically disqualified any claim for self-build exemption; any credit for the previous dwelling on the site, and the making of deferred payment or payments by instalment under the Council's CIL Instalments Policy. The national legislation gives no room for flexibility or interpretation. The owner was therefore liable for CIL of £83,880.

5.12.3 The Executive accepted that the CIL calculation and Liability Notice were valid. The owner had requested a waiver of the levy given the circumstances of the case but there is no provision in the Regulations for the consideration of individual requests to waive CIL liability in light of the particular personal or other circumstances affecting a case. The only appeal mechanism is for making a challenge to the calculation of the CIL amount and this was not in dispute in this case.

5.12.4 The Executive was advised that it could choose to write-off the debt, but to do so could leave it open to challenge from the auditor for failure to pursue a legitimate liability. In addition, it would set an undesirable precedent which could encourage further such requests and others to commence development without having first secured the necessary consents.

Adult Social Care, Health & Housing

5.13 Proposed Consultation on the Future Provision of Services

5.13.1 The Executive has authorised officers to consult on a proposal to re-commission the services currently provided at Heathlands Residential Care Home and Day Care Centre for people with dementia in the independent sector. The property is a 1970s building and was built at a time when the spatial standards were different. Heathlands does not now meet the current standards for newly built residential care homes contained in the CQC Guidance for Providers. Above all, it will not meet the future needs and expectations of older people that can be found in newly built or modernised care homes without extensive investment or modernisation. The necessary investment required to undertake a major refurbishment/re-development and bring Heathlands up to standard would not be economically viable, and would also mean people would need to be moved for a period of time creating disruption to their lives.

5.13.2 Heathlands has been operating with a number of vacant beds since mid 2014 and, as of 1 June 2015, the home has been operating at less than 50% occupancy. The unit cost of a bed at Heathlands is an estimated £1,116 per week, due in part to the high vacancy rate. This compares with the usual rate for purchasing residential care for a person with dementia of £517.99. Closing the home would lead to a saving of

around £375k. The unit cost of a place in the day centre is an estimated £74 per day. As with the residential home, the high unit cost is due in part to capacity not being fully utilised. Comparable day centre places can be purchased for significantly less than £74 per day, and it is likely that a saving of £125k would be achieved by commissioning the service externally.

5.13.3 The cost of closure is likely to be significant. Although redeployment opportunities will be explored, there is a potential redundancy and pay in lieu of notice cost of approximately £400k. With savings estimated to be at least £500k per year, the pay back period is approximately 10 months.

5.13.4 The Executive therefore concluded that the only viable option would be to consult on closing Heathlands. The consultation will specifically include residents and their carers to ensure that the disruption to people is minimised and the overall quality of their residential care is improved.

5.14 Local Safeguarding Children Board Annual Report 2014/15

5.14.1 The Executive has noted the Local Safeguarding Children Board Annual Report 2014/15 and key messages arising from it. The report reviews the effectiveness of safeguarding and child protection practice in Bracknell Forest and has been prepared in accordance with Working Together to Safeguard Children which provides the statutory framework for the safeguarding responsibilities of those working with children and young people. Working Together requires the LSCB Chair to publish an annual report on the effectiveness of child safeguarding and promoting the welfare of children in the local area. The report summarises the main areas of activity in the last year and identifies the following seven targeted priorities for the new Business Plan for the coming three years:

To support further implementation of the framework for early help, and evaluate its impact on families

To reduce the impact of domestic abuse on children, young people and families

To reduce the impact of substance and alcohol misuse on children, young people and families

To further develop the co-ordination of protection and support to young people at risk of child sexual exploitation

To develop a greater understanding of neglect and reduce the impact this has on children, young people and families

To reduce the impact of parental mental illness on children and young people

To increase the understanding of the harm associated with the misuse of technologies, its links with bullying and the further development of proactive strategies to support children/young people and their families

5.14.2 The report provides a range of important messages which are aimed at those responsible for key partnerships and strategic planning across all organisations working with children, young people and families under the following themes:

- Safer Workforce
- Information Sharing
- Assessment and analysis of risk
- Strengthening Partnerships

- 5.14.3 The organisations, including the Council, are expected to take on board the messages and ensure they are embedded within policy and practice where relevant and appropriate.

Culture, Corporate Services and Public Protection

5.15 Control of Horses Act 2015

- 5.15.1 The Executive has approved a policy arising from the Control of Horses Act 2015 and delegated all functions relating to the new powers to the Director of Environment, Culture & Communities. The Act amends the Animals Act 1971 by providing additional legal powers to address the practice of fly-grazing. Local Authorities may now detain horses which are grazing in a “public place”. Whilst the change provides councils with more effective ways of dealing with such activity in public spaces; it also exposes them to potentially significant costs associated with the removal, treatment, care and subsequent disposal of horses. The majority of local incidents occur on private land and the Council is not responsible for the removal of horses from such land where there is an absent owner or an owner who is not prepared to take action themselves.
- 5.15.2 The previous legislation required the landowner to give notice for the removal of the horses to their owner. Ownership would then transfer after 14 days if by that time the horses had not been claimed and removed. This can now be completed within 96 hours. Previously disposal of horses was only through public auction or market and they could not be gifted to another person. Such restrictions made it difficult to move quickly, sometimes leading to welfare issues for the animals and also provided a lack of incentive for landowners. The new provisions allow for sale, gifting, or destruction. The Council only has responsibility for “public places” which in this borough will include town or parish land, highways and their verges. Horse welfare issues on private land will continue to be the responsibility of the RSPCA.
- 5.15.3 Where the Council takes ownership of horses, in the first instance it will seek to transfer them to a suitable animal organisation that would be responsible for the ongoing welfare of the horses, together with the financial costs to remove them from the location. If no organisation is willing to take ownership then arrangements will be made to have them collected for slaughter and any income received will be used to offset the costs incurred by the Council.

7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 7.1 The Borough Solicitor’s comments on each item referred to in the annex can be found in the reports presented to the Executive.

Borough Treasurer

- 7.2 The Borough Treasurer’s comments on each item referred to in the annex can be found in the reports presented to the Executive.

Equalities Impact Assessment

- 7.3 Equalities issues, where appropriate, have been addressed in the reports to the Executive.

Strategic Risk Management Issues

7.4 Any strategic risks have been identified in the reports to the Executive.

Background Papers

Executive Agenda – 22 September & 20 October 2015

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