

**TUNBRIDGE WELLS BOROUGH COUNCIL**

**RECORD OF DECISIONS**

(in terms of Access to Information Rule 18)

**CABINET**

**Thursday 12 February 2009**

**Present: Councillor Roy Bullock (Chairman)**

**Councillors Paul Barrington-King, James Scholes and Mrs Elizabeth Thomas**

**Officers in Attendance:** William Benson, Director of Change and Business Support; Lee Colyer, Financial Services Manager; Robert Cottrill, Director of Planning and Development; Sean Clark, Head of Finance and Governance; Ian Cumberworth, Head of Internal Audit and Risk Management; Laurence Doig, Overview and Scrutiny Officer; Wendy Newton-May, Senior Committee Administrator; and Sheila Wheeler, Chief Executive.

**APOLOGIES FOR ABSENCE**

CAB184/08 Apologies for absence were received from Councillors Len Horwood and Mrs Catherine Mayhew.

**DECLARATIONS OF PREJUDICIAL INTEREST**

CAB185/08 Councillor Scholes declared a pecuniary interest in decision CAB188/08 relating to Quarter 3 – Treasury and Prudential Indicator Monitoring to 31 December 2008, due to him having holdings in the investments identified in the report. He left the room during consideration of this item.

**NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK**

CAB186/08 In accordance with Cabinet Procedure Rule 5.3 and after giving due notice to the Chairman, Councillor Woodward spoke on decision reference CAB187/08.

**CONSIDERATION OF REPORT FROM SELECT COMMITTEE – LOCAL ECONOMY & HOUSING SELECT COMMITTEE: FRONT GARDENS CONVERTED INTO PARKING SPACES**

CAB187/08 At its meeting on 15 January 2009 the Local Economy and Housing Select Committee considered a report investigating the impact of the conversion of front gardens into parking spaces in the town. The Committee interviewed representatives of the Royal Tunbridge Wells Town Forum, Civic Society, and the Council's Development Control Manager. The Select Committee agreed that the conversion of front gardens into parking spaces was having a detrimental impact on the streetscape and character of the town. They also recognised that in many conversions there were significant safety concerns due to the narrow visibility splay for drivers exiting parking spaces and the lack of depth of some spaces meant that parked cars overhung pavements, restricting access by pedestrians. The Select Committee submitted a report ([090212/CAB001](#)) making a number of recommendations for Cabinet to consider, as follows:

That Cabinet:

- (1) Pursue an Article 4 Direction removing permitted development rights for hard-standings laid in place of front gardens in the borough as a whole. This should initially be pursued in Royal Tunbridge Wells while consultation is undertaken in the rest of the borough to assess the impact of this development;
- (2) Agree that residents should be advised of good practices, as well as be made aware of legal requirements, particularly to ensure public safety;
- (3) Note that the Community Safety Partnership will be informed of the Committee's concerns about kerbs being lowered without permission, parked cars overhanging pavements, and narrow visibility splays in parking spaces and the Partnership be asked to clarify what action was being taken to address these issues; and

That Officers:

- (4) Investigate what factors could be contributing to the increase in residents converting their front gardens into parking spaces and report back to the Select Committee.

Councillor Woodward advised Cabinet that, subsequent to the Cabinet agenda being despatched, a briefing note had been received by the English Historic Towns Forum, who had been commissioned to undertake research into the use of Article 4 Directions by English local planning authorities. This document provided further evidence for Cabinet to consider. Councillor Woodward explained that the Article 4 Directions were most often restricted to developments within specific conservation areas and not boroughs in their entirety and asked Cabinet to consider this additional information when making its decision. He reinforced the need for the Council to act quickly to avoid creating further problems.

Although Cabinet welcomed the initiative, concern was expressed that further consultation, investigation and research was required. The Director of Planning and Development advised Cabinet of the resource implications of setting up an Article 4 Direction and the need to undertake a wide assessment of all the conservation areas within the Borough. It was suggested that a further report was presented to Cabinet detailing the implications of carrying out an assessment and an analysis of the statutory process.

Members also discussed the implications of the displaced vehicles that could no longer park on the sides of roads where kerbs had been lowered to facilitate access to hard-standings laid in place of front gardens. They were advised that a parking review was going forward shortly that would address these issues.

It was noted that it would be more appropriate for a sub-group of the Community Safety Partnership to be informed of the Committee's concerns about kerbs being lowered without permission, parked cars overhanging pavements and narrow visibility splays in parking spaces.

**RESOLVED –**

- (1) That the Select Committee be thanked for their report;
- (2) That a further report be presented to Cabinet on the actions to be taken to pursue an Article 4 Direction on selected conservation areas across the Borough;
- (3) That the residents be advised of good practices, as well as be made aware of legal requirements, particularly to ensure public safety;
- (4) That it be noted that a sub-group of the Community Safety Partnership will be informed of the Select Committee’s concerns about kerbs being lowered without permission, parked cars overhanging pavements, and narrow visibility splays in parking spaces and the sub-group be asked to clarify what action was being taken to address these issues; and
- (5) That the Director of Planning and Development investigate what factors could be contributing to the increase in residents converting their front gardens into parking spaces and report back to the Select Committee with a review of the options from the Parking Team to assist with the parking issues.

**CABINET DECISIONS**

**DECISION NO. CAB188/08**

**NON-EXEMPT**

**PORTFOLIO:**

**CORPORATE SERVICES**

**PORTFOLIO HOLDER:**

**Councillor Len Horwood**

**REPORT TITLE:**

**[Quarterly Governance Update](#)**

**PRIORITIES:**

All

**DISCUSSION:**

The Head of Finance and Governance introduced a range of reports for Cabinet’s attention, detailing the way in which the Council was performing and being governed. The key message arising from this quarter’s reports, particularly those relating to performance, financial management and risks, was the continued impact of the economic downturn on the Council. This was having a profound impact on Council services, a number of key performance indicators, income streams and key strategic risks.

### **Quarter 3 Performance Report 2008/09**

The Head of Community and Corporate Planning submitted a report ([090212/CAB002](#)) advising Members of the Council's performance for quarter 3 of 2008/09 (October to December 2008).

Following Cabinet's wishes, the report now combined updates on the Corporate Improvement Plan 2008-11. Appendix A to the report contained a summary of the Council's overall performance of Corporate Priorities, whilst Appendix B illustrated the full list of performance indicators outlined by portfolio area, alongside their current performance. Appendix C outlined progress against a number of key performance indicators

Members noted that, as was the case as at 30 September 2008, a number of targets were reported as not being met due to the economic downturn. Officers and Members went through each of the Portfolio areas and provided explanations as to why certain performance indicators were not meeting the quarterly target, and the actions planned to address these.

However, Cabinet was pleased to note that, despite these issues, overall performance in priority areas remained relatively strong, with just 15% of all indicators relating to corporate priorities not being met (this figure was 27% as at the end of quarter 2).

Members were advised that there was currently one underperforming key performance indicator, which had been previously reported to the relevant Select Committee for further scrutiny, and they had been satisfied with the action plan proposed.

It was also reported that the economic downturn had impacted on the unemployment level throughout the Borough, with the number of work aged residents increasing from 693 to 911 (1.5% across the Borough). In addition, Cabinet was made aware of the potentially serious affect the economy could have on the delivery of the Local Area Agreement targets.

It was noted that the Kent Partnership were in discussion with the Government Office for the South East (GOSE) on the viability of some of these targets given that they were set in more prosperous times. A response was expected from GOSE early in the new financial year.

Members were pleased to note that the annual performance data from the Audit Commission had shown that the Council was performing strongly in its core services.

Cabinet requested that future performance reports should include details of the last two years' figures, where available.

### **Quarter 3 Capital Management to 31 December 2008**

The Head of Finance and Governance submitted a report ([090212/CAB003](#)) illustrating the actual capital expenditure as at 31 December 2008 and highlighting progress on individual schemes.

He reminded Members that the changes previously agreed by them to the management of the Capital Programme were based on the need to ensure that any approved project was considered against the Council's priorities and, if not committed, were regularly reviewed to ensure that they were still relevant.

Members were informed that, with the reduction in asset valuations and the availability of credit, obtaining reasonable receipts from the disposal of assets was unlikely in the short term and so a disposal programme was not currently recommended. It was noted that this loss of income would impact on the Council's ability to approve a wide-ranging programme adding even more importance to the need for alignment to priorities.

The report advised Members of the actual expenditure to 31 December 2008 and the funding of the 2008/09 programme which totalled £8,771,000.

It was noted that a review of the capital programme was being carried out that would more closely align it to the Council's commitments under its Revised Strategic Plan as well as the second Local Area Agreement and the Sustainable Community Plan.

### **Quarter 3 Revenue Management**

The Head of Finance and Governance submitted a report ([090212/CAB004](#)) advising Members that income streams in a number of areas were experiencing further pressure as a result of the economic climate. It was noted that further downturns were projected in addition to those previously reported, and these were identified in the report for Members' information. The total reduction in income was now projected to be in the region of £1.3 million, however Members were pleased to note that due to the early development of action plans to respond to the downturn, savings identified by Management Team had totalled £1.604 million.

Members were advised that, in accordance with Financial Procedure Rules (FPR) 17.1.1, the Section 151 Officer had written off 35 debts totalling £1,419.75, which were each under £1,000 along with 5 credits, producing a net balance of £0.24. In addition, there were two debts nominated for write off totalling £9,966.65, which were above £1,000 and therefore required the approval of Cabinet as per FPR 17.1; Legal Services had advised that these debts should now be written off.

The Director of Services to the Community mentioned that mobile phone technology for car parking payments was being developed and was expected to be in place by April 2009.

It was noted that a claim for Cultural VAT was submitted in June 2008 and, after successfully providing evidence to HMRC, a refund was received in December 2008. This had enabled £770,000 to be transferred to the Strategic Plan Reserve. Members acknowledged the work of the Accountancy Section in achieving this.

The overall revenue budgetary control position as at 31 December 2008 was detailed for Members' information in the report, along with details of the amendments that had been made to the projected outturn along with the net effect of implementing the Action Plans. In addition to the written statement, the Financial Services Manager informed the Cabinet that the Council had just received an excessively high service charge from Westfield regarding the car park. The Council would be challenging this recharge but it could impact adversely on the Council's stated position.

### **Quarter 3 - Treasury and Prudential Indicator Monitoring to 31 December 2008**

The Head of Finance and Governance presented a report ([090212/CAB005](#)) monitoring the compliance with the Treasury Management Policy and Strategy. He advised Members that none of the targets or indicators had been breached in the period, despite the economic downturn.

Members noted that the Council had 18 investments with 8 institutions totalling £18m where the credit rating of the institution had, since the deposit was made, deteriorated to below the Council's minimum standard.

Members were informed that the investment interest was forecast to be £2.17m – an increase of £350k on the Treasury Management Strategy forecast, although a reduction on the amount forecast at the end of September 2008. The Council's treasury advisor – Sector Treasury Services had noted that “compared to fund manager projections for 2008/09, the Authority would outperform the bulk of fund managers”.

The report also noted that, whilst bank rates were likely to continue to fall, financial institutions had been paying over the base rate to attract funds. Many funds had been invested for periods of 12 months thereby securing this higher rate of interest into the next financial year.

The Head of Finance and Governance suggested that future reports omit the names of the investments listed to prevent certain Members from having to declare interests and leaving the room during the discussion.

### **Risk Management – Strategic Risk Review**

Cabinet was provided with a Risk Management report ([090212/CAB006](#)), which gave an update on the Council's Strategic Risk Register. Members noted that six of the Council's 19 strategic risks were now above the risk tolerance line and the details of these were set out for Members' information in the report.

The report and its appendices set out action plans for managing down the risks either in terms of their likelihood or their impact.

The Members of the Council's Audit Committee had been informed of the movement in the risk profile and they would consider this formally at their next meeting.

### **DECISION MADE:**

In respect of the Quarter 3 Performance Report:

- (1) That the progress of the Council's performance be noted; and
- (2) That the relevant Select Committee be asked to consider the 'red' KPI related to housing, being mindful that when last reported, the Committee was satisfied that appropriate action was being taken to address the underperformance.

In respect of the Quarter 3 Capital Management Report:

- (3) That the actual expenditure to the 31 December 2008 of the Capital Programme be noted.

In respect of the Quarter 3 Revenue Management Report:

- (4) That the amendments to the projected outturn and variances within the report be acknowledged;
- (5) That the action plans set out within Appendix C (I to IV) be approved;
- (6) That the Management Team savings set out within Appendix D to the report be approved; and
- (7) That the write off of debts totalling £9,966.65, which are each in excess of £1,000 be approved.

In respect of Quarter 3 - Treasury and Prudential Indicator Monitoring Report:

- (8) That the third quarter (October to December) position be acknowledged; and

(9) That it be acknowledged that a proportion of the Council's investments no longer meet the Treasury Management Strategy minimum.

In respect of the Strategic Risk Review Report:

(10) That the key strategic risks be agreed as those identified and the proposed management action plans to manage these risks be agreed.

**REASONS FOR DECISION:**

To ensure that the Council is well governed, that the Council's financial position is sound and that key performance indicators are on track and that risks above tolerance are being proactively managed.

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**DECISION NO. CAB189/08**

**NON-EXEMPT**

**PORTFOLIO:**

**THE LEADER**

**PORTFOLIO HOLDER:**

**Councillor Roy Bullock**

**REPORT TITLE:**

**Appointment to Outside Bodies – LGA Rural Commission (090212/CAB007)**

**PRIORITIES:**

A5 – Delivering high quality services to our customers  
A6 – Improving customer service and satisfaction

**DISCUSSION:**

The Head of Finance and Governance presented a report (090212/CAB007) advising Members that one of the current representatives of the LGA Rural Commission, Councillor Waldock, had resigned. All Members had been consulted to find nominations to fill the position and Councillor Weeden had asked to be considered for the vacancy.

Members agreed that Councillor Weeden be appointed as one of the representatives.

**DECISION MADE:**

That Councillor Weeden be appointed as one of the representatives to the Local Government Association – Rural Commission for a period of one year.

**REASONS FOR DECISION:**

To ensure that Tunbridge Wells Borough Council continues to have representations on the organisation.

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