

Economic Development Committee

Thursday 19 November 2009 7.30pm

**Council Chamber
Runnymede Civic Centre, Addlestone**

Members of the Committee

Councillors P I Roberts (Chairman), D A Cotty (Vice Chairman), A Alderson, J Broadhead, H A Butterfield, Mrs C E Gant, Mrs G M Kingerley, L C Pouyanne, A S T Ridge-Newman and P Taylor

AGENDA

Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Mr M L White, Committee Section, Administration and Leisure Department, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425623). (Email: malcolm.white@runnymede.gov.uk).**
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on www.runnymede.gov.uk.
- 4) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

LIST OF MATTERS FOR CONSIDERATION

PART I

Matters in respect of which reports have been made available for public inspection

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PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

- a) Exempt Information
13. EGHAM HYTHE PROJECT – PROPOSED HEALTH CENTRE – CURRENT POSITION 21

b) Confidential Information

(No reports to be considered under this heading)

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire and other emergency.

2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

3. MINUTES

To confirm and sign, as a correct record, the Minutes of the Meeting of the Committee held on 17 September 2009.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

6. THE ASSET MANAGEMENT PLAN 2009 (DAL)

1. Purpose of Report

1.1 **To brief Members on the purpose and scope of the Council's Asset Management Plan, and on the process envisaged for its revision.**

2. Background Information

2.1 The Asset Management Plan was last approved in 2003 and updated in 2006. Many events have since taken place that will require the Council to take a more purposive and strategic approach to asset management planning than was previously considered necessary. It is now necessary to start writing the Asset Management Plan 2009/10.

2.2 The Council's property assets are a huge resource, worth hundreds of millions of pounds, and incur running costs second only to staffing costs. These assets must always be subject to two challenges:

- Are they contributing all that they should, and could, to current and future corporate needs and priorities?
- Do they represent best value for money?

In addition, assets have particular characteristics that make their forward strategic planning absolutely essential:

- It takes time to decide what property an organisation needs:
- It takes time to procure and provide it; and
- It needs to be used well and maintained over its whole life to ensure best value for money.

Generally, to change plans for an asset takes a lot longer than changes to financial, human resources or information and communications technology.

2.3 In viewing assets as a corporate resource, the relationship between assets and other resources demands a fundamental understanding of the Council's whole purpose. The

Council's initiatives are focused on individual services (leisure, housing, planning, day centres, drainage, parks, waste, building etc). Service initiatives are implemented by the service department concerned, with support from other disciplines including finance, property, building services, information and communications technology, legal and human resources, as necessary.

- 2.4 Apart from service provision and initiatives, the Council's approach to real property is of fundamental importance:
- Financially; the rental income from the commercial portfolio, the interest on capital receipts, and the capital receipt themselves contribute a major part of such financial flexibility as the Council has and its ability to reshape its services by revenue and capital investment.
 - In forming what it is like to live in Runnymede, with the use of let property, and strategic acquisitions and disposals, contributing significantly to economic activity, the built environment, sustainable communities, and local amenity whether provided publicly or privately.
- 2.5 The successful achievement of the objectives described in 2.3 and 2.4 requires the use of all local authority resources together. This needs an appropriate focus at both Member and Officer level, and corporate buy-in, in consultation with the Council's partners.
- 2.6 This approach should significantly assist the Council in advancing its policies, to:
- deliver exceptional services for citizens, aligned with locally agreed priorities, whilst focusing investment clearly on need;
 - improve the economic well-being of an area;
 - empower communities and stimulate debate;
 - ensure that, once built, assets are correctly maintained;
 - introduce new working practices and trigger cultural organisational changes;
 - reduce carbon emissions and improve environmental sustainability;
 - increase co-location, partnership working and sharing of knowledge;
 - improve the accessibility of services and ensure compliance with DDA 2005 and other legislation;
 - generate efficiency gains, capital receipts, or an income stream; and
 - improve the quality of the public realm.

Getting these outcomes is a corporate responsibility for all Members and Officers.

- 2.7 The Asset Management Plan 2009/10 will shortly suggest how the desired objectives will, or can, be achieved. Today's initial report is, however, limited to the process and practice of strategic asset management, which falls into two main categories. They are:
- the asset management process itself:
 - strategy;
 - plans and programmes;
 - delivery;
 - review; and
 - Improvement
 - the underlying factors that ensure that asset management is practised effectively:
 - leadership;
 - culture;

- customers;
- structure;
- roles and responsibilities;
- resources and capacity;
- governance;
- data; and
- sustainability

2.8 Members will know that earlier decisions on assets have been made without referring to a single plan that governs the future use of all property. The current Asset Management Plan sets out the corporate approach and structures, offers key targets, and refers to the policy aims of property management, but does not itself provide an overarching framework against which property transactions and opportunities can be judged. On 11 June 2009, however, the report to this Committee on Performance of the Commercial Property Portfolio stated its purpose as:

"To pave the way for the new form of Asset Management Plan required by recent Government Directives."

3. Report

3.1 The new form of Asset Management Plan is very much more clearly defined in this summer's publications by the Audit Commission and the Royal Institution of Chartered Surveyors. These bodies have set out the rationale that should underlie an Asset Management Plan in clear and prescriptive terms.

3.2 In August 2009 the Audit Commission published a briefing for elected Members on managing land and buildings. In their "Room for Improvement" briefing they state:

"All Councils need land and buildings to deliver frontline services and back office functions. But few are excellent managers of their property assets, and make the best use of the huge value they represent. Councils must do more to ensure that these important assets provide exceptional value for money for local taxpayers."

The Audit Commission states further that:

- Council property is big business, with a book value in England of £250 billion. Despite the recession, its market value is probably higher.
- Auditors reported in 2008 that only 1 in 14 Councils is an excellent manager of its property assets. The Audit Commission test is now even harder under Comprehensive Area Assessment (CAA).
- The days of big centrally funded capital investment programmes are over. Councils will have to take hard decisions about what property to occupy, and how they make best use of it.
- Many Councils do not have enough data and capacity to take strategic decisions about property assets. This makes it harder for them to respond effectively to tougher economic terms.
- The recession provides opportunities for Councils as well as challenges. While Councils will sell less property – and get less for what they do sell - they can now also plan for the upturn, including possibly buying assets and capacity more cheaply.

Despite some of the above general comments being inapplicable to Runnymede, it is important for Members to appreciate the Audit Commission's overview of standards across the nation. Its practical import is that the Council's Use of Resources assessment will include a focus on the asset management of land and buildings. The Comprehensive Area Assessment will look at whether Councils:

- think strategically about how their property assets help them achieve their objectives;
- hold no more property than is necessary, and use what they do hold differently; and

- work with partners and community groups to ensure property assets are used for the benefit of the local community.
- 3.3 The Council has a wide range of responsibilities, and is often required to promote an integrated local response to problems. It must provide a local leadership role, to orchestrate the response of all local public services, together with the third sector and the private sector, as well as delivering its own services. Pursuing this sense of place will manifest itself in a range of activities, each of which will involve the use of assets, for example:
- urban regeneration;
 - economic and social development;
 - the empowerment of citizens and communities;
 - the provision of transport infrastructure;
 - the organisation and delivery of coordinated accessible public services;
 - the response to the growth agenda;
 - better, and improved choice in housing;
 - improved physical environment;
 - improved public realm;
 - environmental sustainability; and
 - heritage and conservation
- 3.4 The Asset Management Plan 2009/10 must therefore respond to the service features (in 3.3 above) in terms of place shaping and the creation for maintenance of sustainable communities, as follows:
- Appropriately involving wider stakeholders in asset management decisions;
 - Co-location of facilities and services;
 - Dealing with climate change in land and buildings;
 - Land acquisition;
 - Providing land for new housing;
 - Provision of land and buildings for local authority services;
 - Transfer of local authority assets to the local communities;
 - Sustainable locations based on environmentally friendly transport options;
 - Using local authority assets to improve the public realm;
 - Using local authority assets to encourage inward investment;
 - Using local authority assets to assist housing market renewal;
 - Using local authority assets to provide infrastructure for regeneration;
 - Using local authority assets to pump prime new development, redevelopment and urban regeneration;
 - Using local authority assets to improve design, townscape and heritage conservation.
- 3.5 This report would be incomplete without reference to "Building on Strong Foundations – A Framework for Local Authority Asset Management" (CLG 2008). CLG set out the benefits and expectations of local authority asset management in this framework document. This, together with the RICS leaflets (see 3.6 below), forms the current guidance on local authority asset management.
- 3.6 The approach to the 2009/10 revision will be guided by "Local Authority Asset Management Best Practice" (Royal Institution of Chartered Surveyors RICS 2009), whose Senior Decision Maker's Guide poses 16 questions on the Council's current property asset management disciplines (see Appendix 'A). It defines Asset Management as "strategic and portfolio-wide in its application." It is:
- "Involved with aligning business and organisational needs and objectives and property provision strategies and plans;
 - Involved with business planning on a medium and long term basis;
 - Concerned with non-financial as well as financial matters;
 - A corporate activity and not solely the province of property professionals;
 - Concerned with whole life costs and benefits;
 - Systematic and coordinated;

- An activity that sees property as a key strategic resource in an organisation;
- Involved with both operational and non-operational property;
- Reliant on efficient property management.

Asset planning and management will ensure that the business need for property and accommodation is met in the most effective and efficient manner which results in top quality service delivery to customers." The RICS's mission statement is summarised as follows:-

"Ensure suitable asset management processes are in place, including community engagement".

The RIC's guidance is set down in six leaflets under the following headings:-

1. Transfer of assets to community ownership and management.
2. Maxing the right choices.
3. Value for Money.
4. Measuring asset management performance for local authorities.
5. Improving the customer's experience.
6. Tenanted non-residential property.

These guidance notes offer clarity, and will, it is hoped, prove beneficial for the Council's estate and its services.

- 3.7 The hoped-for benefits to this authority from all this recent central guidance cannot be fully gauged at the start of the process. The initial response will be to resolve competing internal claims for the use of land and property in the public sector. These initiatives should also accelerate existing programmes. The Council should also hope to gain improved services and an improved model of working. These results, however, depend on how the new Asset Management Plan is put together. Officers intend reporting back in February, when a broader and deeper scope has been more fully assessed, and it has been possible to consider the consequences across all service areas.
4. Council Policy
 - 4.1 The Asset Management Plan, in terms of its new style and output, is centrally relevant to existing policy. Its function is to fulfil policy initiatives by removing barriers to delivery. The Sustainable Community Strategy becomes its guiding light, and each Committee's Service Plan becomes its delivery requirement.
 - 4.2 The new AMP will also assist in fulfilling directly the Council's forward planning remit. Alignment between the AMP and the Core Strategy is most obviously shown in their common purpose of place shaping. Both the planning and asset management roles require an emphasis on strategic direction in the Borough as a whole, and operate within a context of national and regional policy. However, it is important to distinguish between the Council's regulatory function as planning authority and its responsibility to manage its assets. The asset management role, on the other hand, targets social and financial rewards, and must adopt a more entrepreneurial outlook. This issue is one of a constructive accommodation between the two roles, each recognising and respecting the other.
 - 4.3 The main themes of the Council's proposed asset management plan are summarised at Appendix 'B'.
5. Resource Implications
 - 5.1 A successful AMP will depend upon managing resource carefully, and cutting out waffle. Officers will need to look at:

- Document scope
- Policy, plan or strategy?
- Where does the AMP sit?
- Links to corporate objectives
- Asset Management Vision
- Talking about achievements
- Corporate Landlord
- Use of Resources KLOE
- Performance reporting
- Risk based approach
- Unique selling propositions
- Presentation

5.2 The AMP is essentially an efficiency tool, and will necessarily be good value for money in the long term. It will be prudent to set aside a budget of £20k to 2010 for independent consulting advice, depending upon the rewards identified as the process advances. It will occupy a significant amount of senior staff time for 3 to 6 months. Officers intend reviewing the opportunities with Members in the third month.

OFFICERS' RECOMMENDATION that

- i) Officers be requested to report on detailed proposals for the Asset Management Plan in the first quarter of the New Year; and**
- ii) Corporate Management Committee be asked to agree a supplementary estimate for £20k in the current financial year for consultancy advice in the preparation of the Asset Management Plan.**

(TO RESOLVE)

Background Papers

None

7. LOWER THAMES FLOOD RISK MANAGEMENT STRATEGY – CONSULTATION DOCUMENTS (DTS)

1. Purpose of Report

1.1 The purpose of this report is to receive the views of the Committee on a consultation by the Environment Agency (EA) entitled 'Lower Thames Flood Risk Management Strategy' (LTF). This matter has also been reported to the Planning Committee at their meeting on 11 November.

1.2 Comments are requested by 4 December 2009.

2. Background Information

2.1 The LTF considers the risk that a flood will take place in the Lower Thames from Datchet to Teddington (including the Runnymede stretch of the Thames), examines the consequences of a flood and develops a strategy to manage the flood risk. The consultation indicates that the EA manage flood risk includes:

- maintaining floodplains to store water during floods;
- building and maintaining defences;
- discouraging new developments in areas where there is a risk of flooding;
- provide flood warning mechanisms;
- building flood diversion channels to protect towns and cities from major floods.

2.2 Members will be familiar with flood events in the Lower Thames and the recent floods of 2000, 2003 and 2007. The consequences of these events had a particular impact in

properties in the Chertsey area, whilst the 2007 event was wider-ranging in the Borough and beyond. When the Thames flows through Runnymede, the floodplain is broad and flat.

- 2.3 Some Members may recall that initial work took place in the early 1990s on this study and the current consultation seeks to build on this work. The work now considers a series of options for managing flood risk for the Runnymede stretch of the Thames, referred to as 'Reach 3'. The key focus of the study is the creation of flood diversion channels. Within Reach 3 there are three elements between Datchet and Shepperton. For the Runnymede stretch of Reach 3, the Channel 2 corridor proposes a new diversion channel from just south of Staines, through Thorpe Park and rejoining the Thames south of the M3 motorway at the junction of the Abbey River/Chertsey Weir.
- 2.4 The channel would be as natural as possible, being some 50-60 metres wide within a broad corridor of 100m. The channel would be about 3.5m deep with standing not flowing water (except in times of flood) like the gravel lakes along its course that would be linked by the channel.
- 2.5 The consequence of the channel is that flood risk is reduced for some 5,100 residential properties in Reaches 3 and 4. Apart from reducing flood risk, the channels could improve local landscape character and biodiversity and add recreational activity.
- 2.6 It is also significant in terms of economic development, that flood risk would also be reduced for about 450 commercial properties, besides some public buildings and critical infrastructure within the Lower Thames area.
- 2.7 It is recognised that the new channels would have some short term regional impacts for local people and their environment (including the loss of a limited number of properties). However, this is considered to be compensated by the longer term gain.
- 2.8 The post-consultation process will be slow and if funding is identified for the scheme, works would not commence before 2017. The total project costs are estimated at £300M at today's prices.
- 2.9 Alternatives are considered but not considered to produce the comprehensive approach to the problem of flooding and flood risk.

3. Planning and Technical Considerations

- 3.1 The Local Development Framework (LDF) has given consideration to the impact of flood risk. A Strategic Flood Risk Assessment has been proposed that considers flooding in Runnymede. The approach currently taken in the emerging LDF Core Strategy, in Policy Approach 16, is to support the proposals for strategic flood relief measures including the proposed flood relief Channel 2 through Runnymede. The principle of support for the issues set out in the EA consultation for the Runnymede stretch of the Thames is established. Members may however now wish to review this approach on the basis of the more detailed work contained in the consultation. In general terms your officers would recommend support for the proposal for a flood channel subject to the opportunity to comment on the details as they emerge.

- 3.2 Consideration will need to be given to safeguarding the route of the flood relief channel from development proposals. However, as much of it lies within both the Green Belt and flood plain, then only very limited development would be likely to be either proposed or supported in any event.
- 3.3 There is particular concern that the Environment Agency currently does not lend support to smaller schemes which offer some form of localised flood relief. Examples of this are both the possible works to reduce flooding from the Chertsey Bourne or the property-level flood protection grant scheme. The Environment Agency is concerned that such schemes, if implemented, will reduce the viability of the overall Lower Thames Strategy. However, given the level of funding required for the wider strategy and the fact that this is not likely to be forthcoming in the foreseeable future, this stance similarly precludes these smaller schemes over a similar timescale.

4. Council Policy

- 4.1 The LDF will form part of the Council's Development Plan. The principles in the LTF are supported by the LDF Core Strategy policy approach 16. The Planning Committee's Service Plan has a long-standing aim, "To encourage the Environment Agency to take action to alleviate the potential for flooding on the River Thames."

5. Resource Implications

- 5.1 Whilst there are no resource implications for the Borough Council, the cost of the project at £300M means that there is little prospect either now, or in the immediate future that this will receive support from the Treasury, despite the fact that this area is amongst the highest under threat nationally, from fluvial flooding.

6. Legal Issues

- 6.1 The LDF Core Strategy will be subject to detailed scrutiny at the Examination in Public and the impact of the EA proposals may be an issue that is subject to more examination at that point.

7. Equality Issues

- 7.1 The EA proposals would have an impact on some local residents but the scheme intent is to bring flood relief for the wider community.

8. Consultation

- 8.1 The proposals set out in the LTF would help attenuate the vast impact of potential flooding in the Borough and are therefore to be welcomed. However, there will be short term disruption. Support for the LTF is established in the LDF Core Strategy subject to the details of the scheme being subject to further scrutiny.

OFFICERS' RECOMMENDATION that –

support be given to the proposal in the Lower Thames Flood Risk Management Strategy – Consultation Document as it impacts on the stretch of the Thames in Runnymede.

(TO RESOLVE)

Background Papers

Lower Thames Flood Risk Management Strategy, Consultation Document, Environment Agency, September 2009.

8. CIVIC OFFICES DEMOLITION – FINAL COSTS (DTS)

1 Purpose of Report

- 1.1 **The purpose of this report is to advise the Committee of the costs incurred in demolishing the Civic Offices building in accordance with Standing Order C18.5 and to request a supplementary estimate to cover the overspend on the original budget.**

2. Background Information

- 2.1 The staff move into the new Runnymede Civic Centre was completed in May 2008.
- 2.2 The Council's original intention was to sell the old Civic Offices site with the building intact and for the new owner to carry out the demolition. Due to the slump in the property market the sale of the Civic Offices site did not take place.
- 2.3 After the old Civic Offices had stood empty for several months the Corporate Management Committee decided at its meeting on 27 November 2008 that, subject to the agreement of the Chairmen of the Economic Development and Corporate Management Committees the Director of Technical Services should arrange for the demolition of the Civic Offices in order to prevent further deterioration, to avoid incidental costs of security and maintenance, and also to improve the marketability of the site and to remove the liability for business rates.
- 2.4 At the time of the demolition the rateable value for the old Civic Offices was £385,000 and the weekly liability for the business rates was £3420.58. Therefore, once the decision to demolish had been made it was important to carry out the work quickly to reduce these costs.
- 2.5 The original budget of £95,000 for the cost of the demolition works was vired from the Civic Centre Phase 2 construction budget, which was to pay for the car park, 'avenue' at the side of the building and landscaping
- 2.6 The Council's Building Services team managed the demolition and Surrey Police agreed that the demolition of the adjacent Police Station building would be carried out as part of the same contract on their behalf.

3. Report

- 3.1 It was estimated that the cost of the works would be in excess of £100,000 and would normally require Economic Development Committee approval for the selection of the shortlist of tenderers. To allow the tender process to proceed quickly authority to appoint a contractor and to carry out the works was given under Standing Order 42 on 18 December 2008 and reported to this Committee at its meeting on 15 January 2009.
- 3.2 Following the tender process Southern Demolition Limited was appointed to carry out the demolition of the Civic Offices and former police station to a level one metre below the ground floor level and for the resulting hardcore to be crushed and stored on site.
- 3.3 The Council's Direct Services Organisation cleared the furniture and equipment from the Civic Offices in advance of the demolition as this was cheaper than including it in the demolition contract.
- 3.4 The demolition work began in January 2009 and was completed in May 2009.

4. Resource Implications

- 4.1 The agreed Contract Sum for the demolition of the Civic Offices and former police station was £165,577 plus a £10,000 Provisional Sum which was allowed for removal of asbestos. It was anticipated that there would be a need to remove asbestos from the buildings. Asbestos was generally used as a fire retardant, for insulation or for boxing in pipes. In demolition asbestos has to be removed by trained personnel wearing protective clothing. It is then sealed in bags or containers and taken to a licensed hazardous waste site.
- 4.2 Although a provisional sum of £10,000 was allowed for asbestos disposal in the Contract Sum, the full extent of the asbestos could not be surveyed until the demolition started and wall panels and flooring was removed. A consultant was then employed to carry out

asbestos surveys of each building. These surveys identified that there was very little asbestos in the Civic Offices but that it was used extensively in the police station. As a result RBC had to pay the contractor the additional work which totals £35,310. This was split as follows, £600 RBC and £34,710 Police.

- 4.3 Other additional sums that the Council paid that were not allowed for in the contract were £5,244 for a hoarding and other fencing around the site and £1,357 to purge gas from pipes within the building. The developer would have provided the hoarding if the site was developed as originally planned.
- 4.4 In addition to the payments made to the demolition contractor there were other costs that the Council incurred as a consequence of the demolition. As mentioned before, the DSO cleared the building of furniture, the gas supply had to be disconnected and a Health and Safety Coordinator had to be employed to oversee the demolition under the Construction (Design and Management) Regulations.
- 4.5 In total the Council paid a further £21,256 in costs associated with the demolition on top of its share of the Contract Sum. Table 1 summarises direct demolition costs and additional associated costs.

Table 1 - Direct Demolition and Associated Costs

	RBC+Police(£)	RBC (£)	Police (£)
Contract Sum (including Provisional Sum)	175,577	105,346.	70,231
Actual Cost excluding Prov. Sum	163,479	103,027	60,452
Provisional Sum for Asbestos Works RBC and Police	10,000	300	9,700
Additional Sums relating to contractors variations	42,761	7,201	35,560
Total Cost of Contracted Works	216,240	£110,528	£105,712
Plus Related Costs			
DSO (Civic Offices Clearance)	6,270	6,270	
Skip Hire (Civic Offices Clearance)	4,185	4,185	
Building Maintenance	500	500	
Gas Disconnection	3,234	3,234	
Consultants Fees (H&S Coordinator)	3,000	1,500	1,500
Search Fees	10	10	
Land Registry Fees	18	18	
Miscellaneous	357	357	
Total	233,814	126,602	107,212

Total cost of works for RBC is £126,602. The vired budget was £95,000 therefore there is a shortfall of £31,602 due to additional related costs.

5. Conclusions

- 5.1 Standing Order C18.5 requires that where the total cost of any contract exceeding £100,000 in value exceeds the approved contract sum by more than 5%, this must be reported to the relevant Committee, hence this report.

- 5.2 The originally approved Contract Sum was £175,577 including the Provisional Sum for asbestos removal and the final cost was £233,814.
- 5.3 The final cost of the Borough Council's element of the demolition works, including the related costs in Table 1, was £126,602, an increase of £31,602 over the original vired budget of £95,000.

OFFICERS' RECOMMENDATION that –

the Committee notes the costs incurred by the Council in demolishing the Civic Offices and requests the Corporate Management Committee to approve a supplementary estimate of £31,602 to cover the additional cost of the demolition in excess of the original budget provision.

(TO RESOLVE)

Background Papers

Corporate Management Committee 27 November 2008
Standing Order 42, Proforma 681 on Committee Section SO42 File

9. STREET TRADING – REVIEW OF PROHIBITED STREET - ST PETER'S WAY, CHERTSEY (DAL)

1. Purpose of Report

- 1.1 **To review the prohibition on street trading in St Peter's Way, Chertsey in response to a request for a formal review from two traders.**

2. Background Information

- 2.1 The legislation governing Street Trading was consolidated in the Local Government (Miscellaneous Provisions) Act 1982 which enabled local authorities, by resolution, to take powers to control various activities.

- 2.2 "Street Trading" is defined as the selling or exposing or offering for sale of any article in a street or any part of a street.

- 2.3 "Consent streets" are streets in which street trading is prohibited without the consent of the Council. The Council has designated particular areas within consent streets as broadly suitable for trading. All other streets in the borough are "prohibited streets" where street trading is not allowed. St Peter's Way, Chertsey is a prohibited street.

3. Report

- 3.1 Two traders who wish to trade jointly in a layby by selling refreshments at St Peter's Way have contacted Officers. They are currently without employment and see this as a good business opportunity. They are aware that St Peter's Way is a prohibited street but consider that they should be allowed to trade there as they state that the road has laybys on each side of the road, a constant flow of traffic and easy access for the public to stop. Many motorists and heavy goods vehicles pass by who would like food and drink and there are no other refreshment facilities for over three miles. The traders have asked why trading is prohibited in the street and have been informed of the decision of the Highways and Works Committee set out below in paragraph 3.5. The traders have also been given the details of other consent streets in the borough where they can apply to trade but have not chosen to apply for any of these.

- 3.2 Officers receive regular inquiries from traders seeking to trade in St Peter's Way. When these other traders have been informed that St Peter's Way is a prohibited street they have not pursued the matter further. Some of them have also asked for the reasons why the street is prohibited and have been informed of the decision set out in paragraph 3.5. The two traders referred to above are not prepared to accept the reasons for the prohibition on trading in the street, consider that St Peter's Way should be made a consent street and have requested a formal review. This is why this matter is brought before this Committee for decision.

- 3.3 From time to time, various traders have traded without authority in St Peter's Way and are moved on by Officers, having been informed that the street is prohibited for the purposes of street trading.
- 3.4 The last occasion on which a Council Committee considered the question of street trading in St Peter's Way was at the former Highways and Works Committee in June 1999, as part of a general review of street trading in the borough. That Committee noted that this road, leading from either side of the M25 junction had four long term stopping places, utilised mainly by heavy goods vehicle traffic, and as a resting / stopping place for the public at large. These areas were the only designated heavy goods vehicle stopping places in the Borough. There was, due to the type of traffic using the areas, considerable demand for refreshment facilities at these locations and often unauthorised traders had operated from the stopping places until being warned by the Council's Officers.
- 3.5 The Highways and Works Committee noted that the former Environmental Services Committee, having taken into account the views of the Highways and Works Committee, had considered the question of trading at St. Peter's Way at its meeting on 17 June 1992, when it had been decided on balance not to allow trading at these locations for three reasons. The Highways and Works Committee considered that these reasons remained valid and they are set out below:
- i) The layby at St. Peter's Way is purely intended as a safety parking area for vehicles entering and leaving the motorway system. The layby on the westbound exit is specifically used by the military vehicles that from time to time make their way to Longcross; they telephone from there in respect of their entry on to the normal highway system. It is also needed for other large vehicles. It is an on-carriageway layby with no safety margin and was not designed with trading activity in mind;
 - ii) street trading in food on one side of the road would encourage pedestrian movement from one layby to the other to obtain refreshments which would be seriously detrimental to road safety; and
 - iii) verge areas adjacent to the laybys are unsuitable because of the soft nature of the ground.
- 3.6 As the last time that St Peter's Way was considered by a Council Committee as a possible trading location was over ten years ago, the traders have asked Council Officers for their views on the feasibility of street trading in St Peter's Way now. The traders have been sent a copy of the minute extract of the Highways and Works Committee in June 1999, and have been informed that Officers confirm that the reasons set out in that minute extract and listed above in paragraph 3.5 remain valid, with the exception of the reference to military vehicles, as the DERA site in Longcross is no longer operational.
- 3.7 The traders have also been advised by Officers of five other points in addition to the factors set out above at paragraph 3.5. These are set out in sections 4 to 8 of this report below. The traders have commented on some of these further points, maintaining their view that the laybys are suitable for trading. The response of Officers to the traders' comments is also set out in sections 4 to 8.
4. Point 1 - People Crossing The Carriageway
- 4.1 Concerning the reason set out at paragraph 3.5 ii), the advice which the Council has received from the Police with regard to the use of the St Peter's Way laybys as a trading area is that as there are laybys on both sides of the carriageway, persons stopping in the opposite carriageway would cross on foot to reach the refreshment facility and the presence of the central reserve barrier would not prevent this from occurring.
- 4.2 The traders have responded to this point by stating that there is currently a BT telephone box on only one carriageway and they consider that this is already encouraging people to cross from one carriageway to another to use the telephone. The conclusion they draw is that trading should be allowed, as crossing is already taking place.
- 4.3 The response of Officers to this is that the telephone box is there for occasional use in an emergency. Trading would mean that there would be frequent movements across the carriageway, which would be detrimental to safety.

- 4.4 While Officers recognise that not all potential customers would be reckless in trying to cross the carriageway, it is reasonable to suppose that customers would drive to the roundabout and turn round in order to reach a trading facility on the opposite side of the road. In these cases, the difficulties set out in sections 5, 6 and 8 of this report would still apply.
5. Point 2 - Parking Outside Laybys
- 5.1 Officers have also found that when people have traded in St Peter's Way without authority in the past, public vehicles have parked outside the marked laybys when laybys are full, causing oncoming traffic to swerve, or cross into the outside lane, resulting in a road safety hazard.
- 5.2 In response to this point, the traders have stated that there can't be a problem with "oncoming" traffic as this is a dual carriageway. The traders state that when a motorist wants to stop in a layby, if the layby is full or very busy the motorist will need to reduce speed to look for an available space. If at that time there is another car approaching from behind, this car will move to the outside lane and overtake the motorist, not causing any hazard.
- 5.3 The response of Officers to this is that the traders have interpreted "oncoming" to mean traffic coming from the opposite direction which cannot occur on a dual carriageway, whereas it is traffic which follows on from behind which is travelling in the same direction that is being referred to here. If the circumstances that the traders describe in paragraph 5.2 of some motorists moving to the outside lane to overtake other motorists who are slowing down to look for a layby space had been what had actually happened, then there would not have been a problem. However, what Officers have observed previously when trading has taken place in the laybys without authority, is that vehicles have parked in the road and outside the marked laybys, thereby causing a hazard.
6. Point 3 - Greater Numbers of Traffic Movements
- 6.1 If a trading facility were proposed to be introduced in St Peter's Way, objections would be received from the highway authority because of the introduction of more traffic movements (especially Heavy Goods Vehicles) to and from Junction 11 of the M25, which is already busy.
- 6.2 The traders have not commented on this point.
7. Point 4 - Lack of Toilet Facilities
- 7.1 There are no toilet facilities for traders or the public to use.
- 7.2 The traders have responded to this by stating that they would meet the cost of toilet facilities, having spoken to a number of companies who could provide portable toilets. The companies would empty and clean the toilets each day, and only maintain them when laybys were empty. The traders think there is ample space for toilet facilities in the laybys.
- 7.3 The response of Officers to this is that there may not be adequate space for toilets on the footway at the laybys.
8. Point 5 - Reduction In Parking Facilities
- 8.1 Parking facilities would be reduced by the presence of a trader.
- 8.2 The traders have not commented on this point.
- 8.3 Officers have observed that the laybys are frequently full of vehicles during the day and evening and many of the vehicles are Heavy Goods Vehicles (HGV)s. Catering facilities would take up valuable parking space. The presence of traders would encourage vehicles to stop that would not otherwise do so, resulting in the laybys becoming more crowded, possibly denying the HGV drivers the opportunity to stop for their statutory breaks. Some HGV drivers have parked for their breaks beneath the bridges on the M25, which is illegal and dangerous. If HGV drivers were not able to find a space in the St Peter's Way laybys because of increased traffic from trading, this might encourage them to park by the M25 in the way described.

- 8.4 Surrey Police have commented that they fully support the concerns about the reduction in parking facilities that would occur if trading were to be allowed in St. Peter's Way.
9. Comments from Surrey County Council West Area Transportation Service
- 9.1 Surrey County Council West Area Transportation Service would object to any proposal for trading in the St Peter's Way laybys. They have raised the following concerns:
- 1) **Safety for motorists**

The existing laybys are not up to the latest standard. If the road was being constructed today, the laybys would have a segregation island (to segregate the layby from the running lane) and merge tapers at both ends. Given this departure from current standard, the speed limit (50mph means St Peter's Way is classed as a high-speed road) and the volume of traffic, Surrey County Council would object to any activity in the layby that would result in an increase in vehicle movements in and out of the laybys. Any increase in vehicle movements would result in an increased risk of conflict between motor vehicles proceeding along lanes 1 or 2, and motor vehicles entering and leaving the layby.
 - 2) **Safety for pedestrians**
 - i) Any trading activity in the existing layby would result in increased pedestrian activity within the layby. This is especially problematic as the width of the layby is such that any customers would be too close to the running lanes. There is no space to install safety fencing (crash barriers) to protect the facility and its customers. Moreover any increase in pedestrian movement along the layby increases the risk of conflict between pedestrians and vehicles entering and leaving the layby. Moreover vehicles occasionally park so as to obstruct the footway - therefore any pedestrian passing a parked vehicle on its off-side is at risk of conflict with vehicles in lane 1.
 - ii) Surrey County Council would object to any activity that encouraged pedestrians to cross St Peter's Way. The central reserve safety fence (crash barrier) is unlikely to deter an able-bodied pedestrian, and increases the risk for anyone crossing the road as they may fall over it. If the public telephone box was a new proposal Surrey County Council would object for similar reasons, unless provision was made on both sides of the road.
 - 3) **Increased traffic**

It could become (gradually) known that refreshments were available, and this could encourage drivers to leave the M25, and "hunt" for a parking space to use the facility. This would increase traffic in a location that is already very traffic sensitive.
- 9.2 Regarding lanes 1 and 2 referred to in paragraph 9.1 above, lane 1 is the inside lane which is nearest to the laybys and lane 2 is the outside lane which is furthest away from the laybys.
10. Comments from Surrey Police
- 10.1 Surrey Police have expressed their concern about people crossing the carriageway, which is referred to in Section 4 of this report.
- 10.2 Surrey Police have also commented that they fully support the concerns about the reduction in parking facilities, which is referred to in Section 8 of this report.
11. Comments from the Traders
- 11.1 A copy of this report has been sent to the traders who have been invited to comment if they so wish. Any comments received will be reported to the meeting.

12. Legal Implications and Council Policy
- 12.1 The Council has a general power to designate any street either as a prohibited street or a consent street. As with any public law power its exercise is subject to the usual Wednesbury restraints, (i.e. that the Council must have regard to all relevant matters, disregard irrelevant considerations, act rationally and act for a proper purpose).
- 12.2 In deciding whether a street should be a consent street, the Committee must consider whether the particular highway circumstances at the proposed site allow trading to be conducted without detriment to highway users and public safety. Council policy is to prohibit trading in all streets where it will be detrimental to road safety and where evidence of detriment to public amenity exists.
- 12.3 The Local Government (Miscellaneous Provisions) Act 1982 does not specify any particular grounds on which decisions on the designation of streets may, or may not, be made, but the Committee must decide on the basis of sound and valid reasons and has a duty to act reasonably at all times bearing in mind the consequences to the traders. While traders have no right of appeal under the Act, they are at liberty to take other legal action if the Council is seen to act unfairly or unreasonably or has reached its decision without due consideration of all material facts.
- 12.4 The European Convention on Human Rights secures certain fundamental human rights. The Human Rights Act 1998, which came into force on 2 October 2000, makes it unlawful for a local authority to act in a way which is incompatible with a convention right.
- 12.5 A decision to confirm prohibition of street trading at this location may constitute an interference with the right under Article 1 of the First Protocol to the peaceful enjoyment of possessions. Such action could also interfere with the right under Article 8 of the Convention, to respect for private and family life and the home. Interference is, however, permissible provided that it is in accordance with the law and is necessary in the public interest and in the interests of protecting the rights and freedoms of others in the community.
- 12.6 It must be remembered that local residents, people working in Runnymede or passing through the borough, as well as prospective traders, enjoy Convention Rights. Clearly, when considering whether or not a street should be prohibited, the Council should seek to balance the interests of the persons seeking to trade against those of other people living, working and passing through the area.

13. Conclusion

- 13.1 Over the years, many traders have expressed an interest in trading at St Peter's Way.
- 13.2 There are four laybys in St Peter's Way. If trading were to be allowed in one of the laybys, it would be difficult to justify prohibiting trading in the other three laybys. Trading in all four laybys would increase the problems referred to above.
- 13.3 It is the view of Officers that the safety considerations, as set out in this report, should take precedence over the commercial opportunity which trading in this location would provide.
- 13.4 Officers accordingly recommend that the street remains prohibited for the purposes of street trading.

OFFICERS' RECOMMENDATION that -

St Peter's Way, Chertsey remains a prohibited street for the purposes of street trading for the following reasons:-

- i) the danger/risk to public safety which would be caused by**
- a) persons crossing the carriageway on foot and moving from one layby to another on foot to access trading facilities;**
 - b) persons parking outside laybys to utilise trading facilities;**
 - c) the greater numbers of traffic movements which would result; and**

- d) **lack of safety margins in laybys;**
- ii) **the verge areas adjacent to laybys would be unsuitable because of soft ground; and**
- iii) **parking facilities for motorists would be reduced.**

(TO RESOLVE)

Background Papers

Relevant papers on DAL file 64.26

10. SERVICE PLAN – HALF-YEAR PERFORMANCE 2009/10 (DAL, DTS)

1. Purpose of Report

1.1 **The purpose of this report is to advise the Committee on the half-yearly performance of the 2008/10 Service Plan.**

2. Background Information

2.1 Members will be aware that a new strategy, planning and performance management framework of Sustainable Community Strategy and Corporate Plan has been agreed for the Council and Committee-based Service Plans has been produced. This approach was endorsed at Corporate Management Committee on 30 October 2008, and approved by Council on 18 December 2008.

2.2 The Service Plans have been based on an eighteen month cycle rather than the previous yearly programme to give greater continuity and avoid the need to update what are often ongoing targets.

2.3 At the June meeting of this Committee, a report was brought forward noting the outturn position for the period up to 31 March 2009. This report and appendix now notes the position as at 31 October 2009.

3. Report

3.1 Members are invited to note the half-yearly position on its Service Plan, attached at Appendix 'C' for Members of the Committee only. A colour version of the Plan is included on the Council website. The Service Plan provides a control document for senior managers and the responsible Committees to monitor and review, as well as highlighting where slippage or other difficulties are occurring, and appropriate recovery strategies need to be put in place. Attached to the Service Plan is the Technical Services and Administration and Leisure departmental Equality Action Plans and Members are also invited to scrutinise the contents of these.

OFFICERS' RECOMMENDATION that –

the Service Plan half-yearly report for Economic Development Services for 2009/10 as attached at Appendix 'C' be noted.

(TO RESOLVE)

Background Papers

None

11. FINANCIAL MONITORING STATEMENT (DF)

1. Purpose of Report

- 1.1 **To inform the Committee of the latest financial projections for the 2009/10 financial year for Economic Development services.**
2. Background Information
- 2.1 The Financial Monitoring Statement was introduced to all Committees in September 2006 to inform Members of the current financial position of the services under the remit of each Committee.
- 2.2 Each statement reflects an updated position based upon the 2009/10 original estimates approved by this Committee in January. The statements have now been updated to include changes identified in the Financial Forecast considered at the Corporate Management Committee in October 2009.
3. Report
- 3.1 The statement at Appendix 'D' is split into two parts
- Economic Development services
 - Highway services
- Each statement is split into three distinct parts:
- Projected budget and forecast
 - Savings still to be delivered
 - Current year key budget indicators
- 3.2 The Projected budget and forecast sections show any anticipated variations in the current year's budget. These variations are categorised as approved changes and other potential changes. Implications for the following three years are included for completeness so that the full-year effect of any changes can be seen.
- 3.3 The achievement of the revenue reductions programme approved by the Council is one of the Council's key performance indicators. Savings targets not yet achieved are reported in the second section of each statement. These savings are all incorporated into the projected budget and forecast figures in section one.
- 3.4 The final section sets out the key budget indicators for the significant areas of this Committee's budget. This indicates the actual income received set against the amount expected (the budget) for the period covered by each statement.

(FOR INFORMATION)

Background Papers

None stated.

12. EXCLUSION OF PRESS AND PUBLIC

OFFICERS' RECOMMENDATION that –

the press and public be excluded from the meeting during discussion of the following report under Section 100A(4) of the Local Government Act 1972 on the grounds that the report in question would be likely to involve disclosure of exempt information of the description specified in paragraph 3 of Part I of Schedule 12A of the Act.

(TO RESOLVE)

PART II

