

MINUTES OF THE MEETING OF THE EXECUTIVE
Wednesday, 12th November 2003 at 7.00 pm

PRESENT: Councillor John (Chair), Councillor Coughlin (Vice-Chair) and Councillors Beswick, Fox, Jones, Kagan, D Long, Lyon and RS Patel.

Councillors R Blackman, Duffin, Mrs Fernandes, BM Patel, HB Patel, HM Patel, Taylor and Van Colle also attended the meeting.

Apologies for absence were given on behalf of Councillor Thomas.

1. Declarations of Interest

None.

2. Minutes of the Previous Meeting

RESOLVED:

that the minutes of the meeting held on 13th October 2003 be approved as an accurate record.

3. Matters Arising

None.

4. Supporting People Contracts

This report asked the Executive to agree that a number of specific Supporting People contracts due to 'good operational and financial reasons' need not be let in accordance with the tendering requirements nor by seeking quotes as ordinarily required by the Council's Contract Standing Orders. The Executive were also asked to agree that delegated authority should be given to the Director of Housing to assess in future that particular contracts meet criteria which meant that there were good financial and/or operational reasons for not tendering Supporting People Contracts and to award the contracts. Martin Cheeseman (Director of Housing) assured that the review process would be thorough.

RESOLVED:-

- (i) that the latest version of procedures, attached at Appendix 4 to the report be used for review of Supporting People contracts, be noted;
- (ii) that it be agreed in accordance with contract standing order 85(a) that the proposed contracts for services with:
 - Jewish Blind and Disabled
 - RNID
 - Middx Association of the Blind
 - Apna Ghar HA

all listed in Appendix 2 need not be tendered nor quotes sought because of 'good operational and financial reasons' set out in Appendix 2 and subject to the conditions set out in the Appendix 2.

- (iii) that it be agreed there are good financial and/or operational reasons for not seeking three written quotes for Supporting People Contracts with a value of less than £150,000 subject to officers ensuring that the Council's best value obligations are met.
- (iv) that for the reasons set out in paragraph 7.7 of the report it be agreed there are good financial and/or operational reasons for not tendering Supporting People Contracts, with a value of less than £1,000,000 over the term of the contract, in accordance with Standing Orders where a contract review has been undertaken in accordance with ODPM Guidance and the review has highlighted that:
 - (a) the Council is receiving a Best Value service from the service provider; or
 - (b) the disruption caused to vulnerable users of housing support services by tendering would outweigh any benefit that might be obtained by tendering; or
 - (c) there is no alternative provider that can provide the particular services required.

and the Executive the Director of Housing be authorised (or in his absence the Assistant Director of Strategy and Regeneration) to assess whether a Supporting People Contract falls within (a) to (c) above. Where the contract does not fall within (a) to (c) above and the Director of Housing considers that there are still good financial and/or operational reasons for not tendering the contract the matter must be referred back to the Executive.

- (v) that it be agreed the Director of Housing (or in his absence the Assistant Director of Strategy and Regeneration), where the Director of Housing has assessed that a contract falls within (a) to (c) in paragraph (iv) above, may award Supporting People contracts with a value of less than £1,000,000 over the term of the contract subject to the following restrictions:
 - (a) The service is strategically relevant, or the provider has agreed to a contract variation which ensures this; and
 - (b) The interim contract compulsory quality standards set by the ODPM relating to Protection from abuse; Fair access, diversity and inclusion, needs assessment and support planning, Health and safety have all been met as stated in Appendix 4.; and
 - (c) Service users and stakeholders have expressed satisfaction with the service; and

- (d) The price of the service is in the mid range for other similar services in London or other local benchmarking areas, or the provider agrees to price changes to achieve this; and
- (e) The provider meets accreditation standards
- (f) The maximum length of the contract is 5 years including any extension; and
- (g) The contract price is within the Supporting People Budget.
- (h) The contract being in writing

5. **Racial Harassment Policy**

This report sought Members' approval for the Housing Directorate's draft policy on racial harassment for service users in all tenures. The Executive welcomed the policy extension.

RESOLVED:-

- (i) that it be agreed the Council's policy on racial harassment in respect of service users in all tenures of housing be that attached at appendix A of the report, subject to minor amendments;
- (ii) that it be noted officers will make available to Members regular reports in respect of the operation of the policy;
- (iii) that it be agreed the Director of Housing Services undertakes a review of the policy after it has been in operation for 2 years, and reports to Members the findings of that review.

6. **Voluntary Sector Support Review – Consultation Results And Next Steps**

In July 2003 the Council issued a consultation paper entitled "From Patronage to Partnership – building a new relationship with the voluntary and community sector". This report summarised the outcomes of the consultation and made recommendations on the next steps. Councillor Lyon proposed an amendment to the recommendations in the report as it related to changes in the funding regime namely that the implementation date be July 2004 instead of 1 October 2004 in order to allow a tapering effect for those groups adversely affected. Other related deadlines would change accordingly.

RESOLVED:-

- (i) that the views of the voluntary sector as expressed in responses to the consultation paper, "From Patronage to Partnership" be noted;

- (ii) that the third option for implementation of changes to the funding regime, as set out in paragraph 3.3 [c] of the report, be agreed, with a revised implementation date of July 2004;
- (iii) that the additional future action recommended for taking forward the review, as set out in paragraph 6.4 of the report be agreed.

7. Library, Museum and Archive Best Value Review

This report summarised the key findings and recommendations of the recent Library, Museum and Archive Best Value Review; and set out an action plan for their implementation. Councillor Lyon added that this had been a thorough review which had given rise to a range of recommendations. The Administration would seek to improve library funding, the fabric of buildings and staff professionalism with additional future funding. Councillor Jones as a member of the Review Panel commended the quality of the paperwork presented and the Executive were pleased to note the growth proposals.

RESOLVED:-

- (i) that the findings of the Best Value Review Panel be noted;
- (ii) that the Action Plan set out in section 5 of Appendix 1, and summarised in paragraph 6.4 of the report be approved.

8. Review and Determination of the Relevant Area for Consultation on School Admissions Arrangements

This report advised Members of the need to formally decide either to continue with the current arrangements or determine a new 'Relevant Area for Consultation on Admissions Arrangements.

RESOLVED:

that it be to agreed to recommend the retention of the current Relevant Area for Consultation on Admission Arrangements as detailed in paragraph 6.8 of the report.

9. Investigation into the Abscondment of Patrick Mullings from an Educational Visit by Hay Lane School

This report sought approval to the recommendations contained in the attached report into the investigation into the abscondment of Patrick Mullings from an educational visit by Hay Lane School which ended in a fatal incident on the railway near Kenton Station. The recommendations were endorsed by the Director of Education Arts and Libraries and the Director of Social Services and will be incorporated into their respective service plans. The Lead Member, Councillor D Long introduced the report and Colin Conboy (Health and Safety Inspector) outlined the circumstances of the case and the main findings of the report emphasising that the aim was to identify areas for improvement. Additional comments received from parties involved, circulated in advance of the meeting, were noted. The School Governing

Body had endorsed the report and the Dept of Education and Skills would be reviewing guidelines. The National Union of Teachers had suggested a need for additional health & safety representatives. The Minister at the Church from Patrick had absconded would write to hirers reminding of risk management procedures and safeguards. The Inspector had the previous day met Patrick Mullings' parents and the Executive expressed condolences at their and the community's loss.

RESOLVED:-

- (i) that the recommendations as set out on pages 36-39 of the report be endorsed.
- (ii) that the Health and Safety Inspector be thanked for his report.

10. Update on Items Selected by Non-Executive Members at Council during 2002/03

This report detailed items selected by non-executive Members since this item was first included in the constitution. Non-executive member items have been raised at Full Council in June, September and November 2002 and April and September 2003 and this report reminded the Executive of the items raised (with the exception of those raised in September 2003) and the original response provided. It also provided an update on each of the items.

RESOLVED:

that the decisions taken at Council in response to the non-executive Member items and to inform Council of the actions since taken as a result be noted.

11. 2003/2004 Revenue Budget

This report updated Members on the latest position of the 2003/2004 Revenue Budget. This is the third in this financial year and is an update on the budget position report to the Executive on 21st July. The report highlighted a number of budget issues and risks which either required a decision at this meeting or would need to be monitored closely. Councillor Coughlin (Lead Member) drew attention to a number of demands on the budget and the Deputy Director of Finance referred in particular Special Educational Needs costs which were increasing and over which the Council had little control. A report would be submitted in the future.

RESOLVED:-

- (i) that the latest budget per Appendix A to the report be noted;
- (ii) that the virements as set out in Appendix B be agreed;
- (iii) that the increase in balances of £109k arising from the improvement in Parking Control be agreed;

- (iv) that one off increases in 2003/04 budgets of £82k and £50k for Education and Housing respectively from their 2002/2003 underspendings, currently held in balances, to meet the savings allocated for agency staff be agreed;
- (v) that the instruction to officers that budgets must be contained within overall Service Area cash limits be reiterated.

12. 2003/2004 Capital Budget Monitoring Report and S106 Update Report

This report reviewed the latest position on the 2003/2004 Capital budget. It also set out the progress on the review of Section 106 balances held. Councillor Coughlin recommended that a £1m surplus in the capital programme be not treated as slippage but kept in contingency. He also pointed out that the Capital Board was carrying out a major review of S106 monies and would be apportioning funds.

RESOLVED:-

- (i) that the latest position be noted and the revised budgets in respect of the 2003/2004 programme per paragraph 5.1 of the report be agreed;
- (ii) that it be agreed to retain the remaining £1m of resources as a contingency budget;
- (iii) that the position on the Section 106 review be noted.

13. Best Value Reviews Progress Report Years 2001/02 and 2000/01

This report outlined progress on the completed Best Value Reviews that have taken place between 2000 – 2003. It was noted that these reports would also be considered in detail by the Performance and Finance Select Committee and other scrutiny panels.

RESOLVED:

that the progress of the reviews be noted.

14. One Stop Shop Annual Performance 2002/2003

This covering report introduced the detailed report, which provided members with information regarding the demand and performance achievements of the One Stop Shop service for April 2002 to March 2003. The number of enquiries had increased as had the number of visits to Shops. The move of the One Stop Shop to Dyne Road was seen to have been a good decision. StreetCare and on-line enquiries had also increased. The Executive asked that their congratulations be conveyed to all One Stop Shop Teams.

RESOLVED:-

- (i) that the report be noted;

- (ii) that the One Stop Shop staff be congratulated on the performance.

15. Citizenship Ceremonies

This report set out the implications for the Council of the Government's decision, contained in the Nationality, Immigration and Asylum Act 2002, to introduce citizenship ceremonies for all applicants for naturalisation or for registration as a British citizen. The results of a pilot had been positive and the Executive noted the plans for the ceremonies to be held locally at the Town Hall.

RESOLVED:-

- (i) that the implications of the provisions for Citizenship Ceremonies contained within the Nationality, Immigration and Asylum Act 2002 be noted;
- (ii) that it be agreed standard Citizenship Ceremonies should be group events during normal office hours in the Council Chamber;
- (iii) that the additional fees and appropriate venues for non-standard ceremonies contained in Annex 1 of the report be agreed;
- (iv) that it be agreed a civic dignitary should be in attendance at each standard ceremony whenever possible.

16. Licensing Act 2003 (The Act) – Preparations for the New Licensing Responsibilities

This report set out the current position in respect of the new Licensing Act 2003 and the ongoing preparations which will enable the Council to take on the new functions and responsibilities on the appointed day in 2004. Councillor Jones indicated that guidance was still awaited from Central Government and extensive consultation would take place on statement of Licensing policy. Councillor John reported on concern expressed at ALG meetings regarding the potential costs information on which should be communicated in full to the Government.

RESOLVED:-

- (i) that the development of a statement of Licensing Policy, and consultation with interested parties, which is required by the new Licensing Act 2003 (paragraph 7.2 of the report refers) be agreed;
- (ii) that the Council's preparations for taking on the new function and responsibilities, including those to be transferred from the courts be noted.

17. **Amendments to Supplementary Planning Guidance 19: ‘Sustainable Design & Construction’**

This report sought consideration of the proposed amendments to SPG19 Sustainable Construction and Pollution. This SPG was approved by Executive Committee in April 2003. The proposed amendments are sought firstly, because Members had stipulated that the document be subject to editorial changes by Plain English Campaign’s (PEC’s) in order to secure their Crystal Mark accreditation, secondly, to incorporate recommendations of the Members Waste Management and Recycling Overview Task Group, and thirdly, due to refinements made to the Sustainability Checklist. Supplementary information was circulated at the meeting regarding suggestions made by the Planning Committee on 29 October 2003 that the Council write to the Office of the Deputy Prime Minister suggesting amendments to Building Regulations which was agreed. The Executive also agreed that Councillor Van Colle as Chair of the Waste Management and Recycling Task Group be involved in the drafting of SPG 17 (New Residential Development) to ensure that recycling requirements are sufficiently explicit.

RESOLVED:-

- (i) that the amended SPG19 on ‘Sustainable Construction and Pollution Control’ as supplementary planning guidance be approved;
- (ii) that the refinements to the Sustainability Checklist be approved, and officers authorised to make further necessary refinements, during the course of its operation.
- (iii) that officers write, to the ODPM requesting that further amendments proposed to Part L of the Building Regulations should include the requirements that a proportion of a new building’s energy demand be generated from an on-site renewable source.
- (iv) that the Chair of the Waste Management Task Group, Councillor Van Colle, be invited to assist in the drafting of SPG 17.

18. **Proposed Article 4 Direction For Queens Park Conservation Area Extension**

Over the last three years officers from the Planning Service have been carrying out a thorough review of the Borough’s Conservation Areas. From this review a series of proposals for the future of the Borough’s historic areas have been developed which include the designation of Article 4 directions in all of the best preserved areas. Queens Park Conservation Area was designated in two phases, the first part in July 1986 and subsequently the designation was extended to cover a wider area in 1995 (please see the attached plan in Appendix One). The Council’s review has established that there has been a more accelerated loss of character in the extension to the Conservation Area which is not protected by an Article 4 Direction.

RESOLVED:-

that a Direction under Article 4 (2) of the Town and Country Planning General Permitted Development Order 1995 as amended, be made to control the types of development in the Queens Park Conservation Area extension as listed in Schedule A to the report.

19. Street Lighting PFI – Core Investment Programme

This report informs Members of the current position with regards to the Core Investment Programme for the Street Lighting PFI and a request from the main contractor – David Webster Limited (DWL) seeking an extension of the Core Investment Programme (CIP) beyond the intended completion date of 30th November, 2003.

Additional information had also been circulated as an appendix to the report, marked not for publication because it contained exempt information as specified in Schedule 12A of the Local Government Act 1972, namely:

Any instructions to counsel and any opinion of counsel (whether or not in connection with any legal proceedings) and any advice received, information obtained or action to be taken in connection with:

- (a) any legal proceedings by or against the authority, or
- (b) the determination of any matter, affecting the authority, (whether in either case, proceedings have been commenced or are in contemplation).

RESOLVED:-

- (i) that the progress to date and the main issues raised in this Report that have affected the completion of the Core Investment Programme (CIP) be noted.
- (ii) that the Director of Environment in consultation with the Borough Solicitor be instructed to negotiate and agree with PFI Lighting Limited to secure an extension to the CIP period, and that this extension period be as short as possible, but no longer than 12 months.

20. Exclusion of Press and Public

RESOLVED:-

that the press and public be now excluded from the meeting as the following items contain categories of exempt information as specified in Schedule 12A, of the Local Government (Access to Information) Act 1972, namely:-

‘Any terms proposed, or to be proposed, by or to the Authority in the course of negotiations for a contract or for the acquisition or disposal of property or supply of goods or services.’

21. Chalkhill: Combined Facilities Building and the Final Stages of the Redevelopment Scheme

This report concerned principally the Combined Facilities Building (CFB) but covered the land disposals which are an essential element of the funding of the CFB and other elements of the scheme and reviews the work still to be completed in the final stages.

RESOLVED:-

- (i) that the successful disposal of land to George Wimpey within the 2002/03 financial year be noted;
- (ii) that the uses to which the disposal receipt can be put, as set out in paragraph 6.11 of the report be noted and in particular the availability of funding for the community centre element of the Combined Facilities Building (CFB) as in paragraph 6.38;
- (iii) that it be agreed not to pursue the option of relocating the Town Hall library in the CFB;
- (iv) that agreement be re-affirmed to fund the construction cost of the community centre and it be agreed to gift that element of the land value, provided the overall cost is met from within the resources available from the disposal receipt and subject to a further detailed report on costs, development mechanism and management of the facility.
- (v) that the determination reached by the District Valuer as to the compensation payable by the Council to Brent Primary Care Trust (PCT) as set out in paragraphs 6.15 to 6.18 of the report be noted and it be agreed to pay that sum to the PCT provided rent is received in respect of that part of the temporary health centre occupied by the GP's;
- (vi) that the Director of Housing be instructed to intervene on behalf of the Council, to improve the level of co-operation and speed of response from both Brent PCT and Asda, in relation to negotiations on the Community Facilities Building;
- (vii) that it be agreed to dispose of the Jenner House site to MHT for the sum set out in the report, less an amount for demolition of the building (see paragraphs 6.32 to 6.36).
- (viii) that delegated authority be given to the Director of Housing to agree the final terms of the disposal of the Jenner House site, in terms of the amount withheld for the cost of demolition and any potential soil contamination.

22. 58 Peel Precinct Kilburn, London NW6 South Kilburn New Deal for Communities

This report sought Executive's approval to the granting of a lease of 58 Peel Precinct Kilburn NW6 to South Kilburn New Deal for Communities on terms as described in this report.

RESOLVED:-

- (i) that it be agreed to the granting of a lease of the above to South Kilburn New Deal for Communities on the proposed heads of terms set out in the Detail, and subject to the terms and conditions as set out in the report;
- (ii) that the Manager, Corporate Property Services be authorised to agree all such other terms as are in the Council's best interest.

23. Units 13/14 & 29-32 The New Bridge Park Complex – Brent Community Transport

This report sought the Executive's approval to the granting of a lease of Units 13/14 & 29-32 New Bridge Park Complex to Brent Community Transport on terms as described in this report.

RESOLVED:-

- (i) That agreement be given to the granting of a lease on the above property to Brent Community Transport on the proposed heads of terms set out in the Detail, and subject to the terms and conditions as set out in the report;
- (ii) that the Manager, Corporate Property Services be authorised to agree all such other terms as are in the Council's best interest.

24. The Kingsbury Pool Site : Update on Proposals to Provide a New Public Swimming Pool

This report provided Members with an update on the Council's negotiations with Next Generation Clubs Limited (Next Generation) for the provision of a public swimming pool within a Tennis and Leisure development to be built on the site of the former Kingsbury outdoor lido. The report sets out the difficulties the parties are having in agreeing terms which provide the Council with a public swimming pool for a long term within a sale or lease framework which complies with the authority's own Standing Orders, the Government's Capital Finance Regulations and the European Union Procurement Regulations. The report also comments on the planning situation and the need for Next Generation or an alternative provider to meet planning requirements. The report also provides Members with a brief update on the legal action Wiggins –v- London Borough of Brent.

Councillor Jones proposed an amendment to the recommendations and the option to be chosen which was agreed.

RESOLVED:-

- (i) that it be noted that:
 - 1. The current status of the negotiations between the Council and Next Generation, as detailed in paragraph 10.
 - 2. The Next Generation bid remains a possible option if it remains a property bid without recourse to a service contribution from the Council *and provided that* the provision of a public swimming pool at affordable prices is safeguarded for the duration of the lease.
 - 3. That in the event Next Generation cannot commit to funding the operation of the swimming pool for the duration of the lease, it will be necessary to invite bids from prospective developers (including Next Generation) and the process must be compliant with the Council's Standing Orders and the European Procurement Regulations.
- (ii) If the Director of Corporate of Services is unable to satisfactorily resolve the current negotiations with Next Generation the Council should proceed on the basis of option 2.2.3 in the report (The Private Sector Solution with some Public Subsidy) The information in Appendix 1 in relation to Contract Standing Orders 89 and 90 and instructs officers to subsequently proceed on that basis.
- (iii) that approval be given to:
 - (a) the pre-tender considerations and the criteria to be used to evaluate as set out in Appendix 1 of the report; and
 - (b) invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in (a) above.
- (iv) In the event that members select one of the above options other than 2.2.3, the Executive instructs officers from Environment and Corporate Property Services to proceed in accordance with the selected option and to report back on progress of delivery or with sufficient information to comply with the Council's standing orders if the option involves remarketing the site within six months.
- (v) If any of the options selected involves the disposal of open space then the disposal be advertised in accordance with Section 123 (2A) of the Local Government Act 1972 and that the Director of Environment be authorised to consider any objections or comments and if they are minor or vexacious to overrule them at his discretion and proceed with the disposal otherwise to report them back to Members for a decision.

- (vi) that the Executive notes the very limited progress that has taken place in determining the legal action Wiggins –v- Brent, as noted in paragraph 12 of this report.

25. **Award of Contract for Payroll and IT Support Services**

This report requested authority to continue finalising the payroll contract with ITNET UK Limited following their revised pricing submission. The report provided an update on the status of the current payroll contract discussions and evaluates the pricing revisions in comparison with those submitted to the Executive on 18 August 2003. Ian Chisnell (Legal Services) outlined the options open available to the Council. The Executive noted that the report had also been considered and agreed at the earlier meeting of the General Purposes Committee where it had been agreed that the Director of Finance write to the contractor expressing members' concern and the expectation that the contract be now concluded as a matter of urgency.

This report was certified as urgent as any further delay in the completion of the contract for 'Payroll and IT Support Services' with ITNET UK Limited could jeopardise the implementation of the new payroll system. The outcome of that could lead to serious financial and staffing implications for the Council.

RESOLVED:-

- (i) that the report be noted;
- (ii) that the revised cost submitted by ITNET UK Limited for operating the Payroll Contract on behalf of the Council be approved;
- (iii) that the Director of Finance be authorised to continue finalising the contract with ITNET UK Limited subject to advice from the Borough Solicitor;
- (iv) that the Director of Finance write to the Managing Director of ITNet UK Limited expressing Members' concern at the revised costs submitted and the delay in finalising the contract. We also expect the contract to be agreed by ITNet immediately.

The meeting ended at 8.25 pm

A JOHN
Chair

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