

EXECUTIVE

Minutes of the meeting held on 2 September 2016 starting at 8.30 am

Present:

Councillor Stephen Carr (Chairman)
Councillors Graham Arthur, Robert Evans, Peter Fortune,
Peter Morgan and Colin Smith

Also Present:

Councillor Eric Bosshard, Councillor Kim Botting FRSA
and Councillor Angela Wilkins

66 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Lymer.

67 DECLARATIONS OF INTEREST

There were no additional declarations of interest.

68 LAND ACQUISITION - CORNWALL DRIVE, ST. PAUL'S CRAY Report ES16041

The Executive considered a report seeking approval to acquire land at the end of Cornwall Drive, St Paul's Cray. The land had previously been used as a waste transfer station and currently had significant quantities of illegally deposited waste. Funds had been provided through the Environment Agency (EA) to purchase and clear the site, which could then be used for the benefit of the local community.

The land at the end of Cornwall Drive had been used as a waste transfer station for approximately 15 years. It was originally given planning permission following an appeal despite objections from Bromley Council and the land being designated as green belt. The site had been operated as a well-run licensed waste operation after permission was granted, with a minimal impact on local residents and few complaints being received. However, in 2011 a lease was granted to Sitec Limited (subsequently assigned to Waste 4 Fuel Ltd) to manage the waste on the site. The permitted tonnage was quickly exceeded and approximately 20,000 tonnes of waste was deposited on the site. The EA as the regulatory body attempted to take formal action, including at the High Court, but with no success. Sitec Ltd was wound up and Waste 4

Fuel Limited ceased trading. It was likely that Waste 4 Fuel Ltd would be struck off the register in the near future. The waste remained on the site, having a significant impact on the local area, including smell, dust, rats and periodic fires, in addition to the obvious visual impact. The EA removed 2,000 tonnes in order to manage the fires meaning the total current tonnage in situ was approximately 18,000 tonnes.

In the circumstances the landowner agreed to sell the land and associated access road to the Council for £120,000 following an independent valuation of the land based on retaining the green belt status. The land could provide an ideal access for the adjoining lake complex. The land would be transferred with the liability of the deposited waste which would need to be removed. The total cost of land acquisition and land clearance was therefore up to £2.709m. The Council currently had £1.8m deposited in accounts through a transfer from the EA and the EA had given written confirmation that a further £609,000 would also be released so a total of £2.409m was available to meet 89% of the total costs. There was an expectation that the Council make a contribution of £300,000. The costs were based on 18,000 tonnes and the absence of any hazardous waste, and should only be exceeded if the waste composition or tonnage was not as expected. Officers were negotiating with Veolia to reduce the cost of clearance and any savings would be shared proportionately with the EA. Equally any unforeseen costs would also be shared on the same basis.

Introducing the report, the Portfolio Holder for the Environment briefly outlined the background to the proposals before Members, complementing the Chief Executive and Executive Director of Environmental and Community Services for their efforts in getting the Council to the point where Members could consider the proposals before them. The report before the Executive represented the outcome of a funding agreement between the EA and the London Borough of Bromley (LBB). LBB had been clear throughout that removal of the illegal waste on the site was the responsibility of the EA following the failure of that agency to adequately monitor the situation. The Portfolio Holder reported that once the waste had been removed the site would be returned to a field with the property forming part of the Council's property portfolio. The Portfolio Holder for the Environment reported that in the longer term he hoped that the site could be developed into a community facility with a park and learning resource centre for local residents. The Portfolio Holder noted that local residents had been "remarkable", standing by the Council through what had undoubtedly been a difficult period of time for local residents. In response to a question, the Portfolio Holder for the Environment reported that the local Resident's Associations were thrilled with the proposals that were being put forward, although some residents were apprehensive that there could be further delays in the process. The Portfolio Holder commended the Chairman of the local Resident's Association who had provided valuable support throughout the process.

Members of the Executive thanked the Portfolio Holder for the Environment, the Chief Executive and the Executive Director for Environmental and Community Services for their great efforts in securing a viable resolution for

the site. Members sought assurances that any further costs that may be incurred would be shared with the EA. The Chief Executive confirmed that he had been given assurance by the Deputy Chief Executive of the EA that costs would be shared on a pro-rata basis. The Chief Executive confirmed that the EA had done a number of investigations and were confident that the figures that had been provided were accurate and it was unlikely that there would be any unforeseen costs. However, in the unlikely event that such costs were incurred they would be shared on a pro-rata basis. Equally, the EA had been clear that they expected to receive a share of any underspend on a pro-rata basis. The Portfolio Holder for the Environment confirmed that his understanding was that, during investigations that had already taken place, nothing had been found to indicate that the Council was likely to face further costs. The Portfolio Holder confirmed that he believed that in pure financial terms risks had been strictly contained. The Executive Director for Environmental and Community Services confirmed that a level of contingency had been built into the price that the owner of the site had given the Council.

Members noted that if the proposals were approved by the Executive, the Council would be acquiring an asset which could facilitate the development of a community facility.

Members further noted whilst Cornwall Drive was an unadopted road, the houses situated along the road had rights of way with no requirement to contribute to any maintenance costs. If the proposals were agreed by Members, as the owner of the land, the Council would be responsible for maintenance in the future.

The Chairman noted that he was happy to support the proposals before the Executive but suggested that Members should formally record that the Council reserved the right to terminate any agreement should any significant unforeseen costs arise.

In relation to the request to waiver Contract Procedure Rules, the Director of Corporate Services confirmed that the 2015 Regulations provided the Council with the flexibility to wave the procedures and that the proposals before Members fell within the law. The Director of Corporate Services also confirmed that, subject to agreement of some minor matters by the vendor's legal advisors, contracts were now ready to exchange.

RESOLVED: That

- 1. The Director of Corporate Services be authorised to purchase land at the end of Cornwall Drive, St Paul's Cray and associated access road at a cost of £120,000;**
- 2. The release of funding in the sum of £2.409m be authorised to purchase the land and to secure clearance. The Executive Director of Environment and Community Services be authorised, with the**

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agreement of the Director of Finance, to apply any further sums received from the Environment Agency to site clearance works;

- 3. The Council's Contract Procedure Rules be waived to allow the contract to be directly awarded to Veolia;**
- 4. The Council's contribution of £300,000 be allocated from the 2016/17 Central Contingency sum.**

Chairman

The Meeting ended at 8.52 am