

Borough Council of
**King's Lynn &
West Norfolk**



CABINET SCRUTINY COMMITTEE

AGENDA

**20th JUNE 2013
at 6pm**

Committee Suite
King's Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX



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Borough Council of
**King's Lynn &
West Norfolk**



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX.
Telephone: 01553 616275
Fax: 01553 691663

12th June 2013

Dear Member

Cabinet Scrutiny Committee

You are invited to attend a meeting of the above-mentioned Committee which will be held on **Thursday 20th June 2013 at 6pm** in the **Committee Suite, King's Court, Chapel Street, King's Lynn** to discuss the business shown below.

Yours sincerely,
Chief Executive

A G E N D A

1. Apologies for Absence

To receive any apologies for absence.

2. Minutes

To approve the minutes of the meeting held on 22nd May 2013 (previously circulated pages 32 - 37).

3. Urgent Business under Standing Order 7

To consider any business which, by reason of special circumstances, the Chairman proposes to accept as urgent under Section 100(b)(4) (b) of the Local Government Act, 1972.

4. Declaration of Interest

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

5. **Members Present Pursuant to Standing Order 34**

Members wishing to speak pursuant to Standing Order 34 should inform the Chairman of their intention to do so and on what items they wish to be heard before the meeting commences. Any Member attending the meeting under Standing Order 34 will only be permitted to speak on those items which have been previously notified to the Chairman.

6. **Chairman's Correspondence (if any)**

7. **Response to Previous Committee Recommendations (if any)**

To receive comments, and recommendations from other Council bodies, and any responses subsequent to recommendations, which this Committee has previously made. (N.B. some of the relevant Council bodies may meet after dispatch of the agenda).

8. **Matters called-in Pursuant to Standing Order 12 (if any)**

9. **Scrutiny of Cabinet/Portfolio Holders' Decisions**

(a) **Cabinet Decisions**

Members are requested to bring to the meeting the Agenda and any accompanying documents from the Cabinet meetings which were held on 4th June 2013 and 17th June 2013.

Cabinet – 4th June 2013

(i) **Notice of Motion 2/12 – Councillor A Tyler (Cabinet Agenda Item 10 (1) – page 9)**

Councillor N Daubney (Leader & Portfolio Holder for Resources) and Ray Harding (Chief Executive) have been invited to attend for this item.

Cabinet – 17th June 2013

Please note these item(s) may be subsequently withdrawn from the Agenda following the Cabinet meeting and subsequent publication of the Decision Sheet.

(ii) **Capital Programme and Resources 2012-2016 (Cabinet Agenda Item 10 (1) – page 8)**

Councillor N Daubney (Leader & Portfolio Holder for Resources) and Lorraine Gore (Chief Accountant) have been invited to attend for this item.

(iii) Revenue Outturn 2012/2013 (Cabinet Agenda Item 10 (2) – page 34)

Councillor N Daubney (Leader & Portfolio Holder for Resources) and Toby Cowper (Principal Accountant) have been invited to attend for this item.

(iv) Annual Treasury Report 2012/2013 (Cabinet Agenda Item 10 (3) – page 51)

Councillor N Daubney (Leader & Portfolio Holder for Resources) and Lorraine Gore (Chief Accountant) have been invited to attend for this item.

EXCLUSION OF THE PRESS AND PUBLIC

To consider passing the following resolution:

“That under Section 100(a)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act.”

(b) Schedule of Portfolio Holders’ Decisions (attached at page 1)

To note the attached Portfolio Holders’ Decisions/Pending Decisions

- i) Lease Renewal – Cliff Top Car Park, Hunstanton (attached at pages 2-4)

RETURN TO OPEN SESSION

- ii) Loan of 15 Paintings from the collections at The Town Hall to the Marriotts Warehouse / Green Quay, King’s Lynn (attached at pages 5 – 7)
- iii) Norfolk Mineral Site Specific Allocations Development Plan Document (DPD) and Norfolk Waste Site Specific Allocations DPD – Main Modifications and Additional Modifications – Invitation to make representations (attached at pages 8 – 12)

10. Date of next meeting

The next meeting of the Committee is scheduled to be held on **17th July 2013** at **6.00pm** in the **Committee Suite**.

Circulation:

Members of Cabinet Scrutiny Committee:

Councillors C Joyce (Chairman) D J Collis, J Collop, J Loveless (Vice-Chairman), A Lovett, T Manley, Mrs K Mellish, G Sandell and J M Tilbury

**Management Team Representative: Debbie Gates, Executive Director,
Central Services**

**Cabinet Members:
Management Team /Officers**

Nicola Leader: Legal Services Manager and Monitoring Officer

CABINET MEMBERS' DELEGATED DECISIONS LIST – MAY 2013 to 2014

Portfolio Holder	Title of Decision	Date Published	Signing Off Date	Deadline Date	Recommendations	Outcome
Regeneration	Lease Renewal- Cliff Top Car Park, Hunstanton	24/5/13	4/6/13	11/6/13	To approve the terms of the lease as set out within this report.	Passed
Health and Wellbeing	Loan of 15 Paintings from the collections at The Town Hall to the Marriotts Warehouse / Green Quay, King's Lynn	30/5/13	6/6/13	13/6/13	The agreement to an initial two month loan of 15 paintings, comprising 14 x watercolours by CT Page depicting scenes of King's Lynn, early 1900's, and 1 x pencil drawing of unknown garden with gateway King's Lynn, unsigned, probably by Henry Baines.	
Environment	Norfolk Mineral Site Specific Allocations Development Plan Document and Norfolk Waste Site Specific Allocations DPD – Main Modifications and Additional Modifications – Invitation to make representations	07.06.13	14.06.13	21.06.13	That the suggested amendments to the proposed Main Modifications 3) given in Appendix 1 of the report is sent to Norfolk County Council	

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory/	Be entirely within Cabinet's powers to decide	YES/NO	
	Discretionary /	Need to be recommendations to Council	YES/NO	
	Operational	Is it a Key Decision	YES/NO	
Lead Member: Cllr Elizabeth Nockolds E-mail: cllr.elizabeth.nockolds@west-norfolk.gov.uk		Other Cabinet Members consulted: Cllr Nick Daubney		
Lead Officer: Mark Fuller E-mail: mark.fuller@west-norfolk.gov.uk Direct Dial:01553 616407		Other Members consulted:		
Lead Officer: Mark Fuller E-mail: mark.fuller@west-norfolk.gov.uk Direct Dial:01553 616407		Other Officers consulted: Ray Harding - Chief Executive Chris Bamfield – Executive Director Leisure & Public Space		
Financial Implications YES/NO	Policy/Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO Pre-screening/ Full Assessment	Risk Management Implications YES/NO
Date meeting advertised:30 May 2013		Date of meeting decision to be taken: 6 June 2013		
Deadline for Call-In: 13 June 2013				

PROPOSED LOAN OF 15 PAINTINGS FROM THE COLLECTIONS AT THE TOWN HALL TO THE MARRIOTTS WAREHOUSE / GREEN QUAY, KING'S LYNN

Summary

Trustees of Marriotts Warehouse, King's Lynn have requested the loan of paintings from the Borough Collections housed at the Town Hall. The proposal is to display them within Marriotts Warehouse for a period of two months.

Recommendation

The agreement to an initial two month loan of 15 paintings, comprising 14 x watercolours by CT Page depicting scenes of King's Lynn, early 1900's, and 1 x pencil drawing of unknown garden with gateway King's Lynn, unsigned, probably by Henry Baines.

Reason for Decision

To support Marriotts Warehouse, for the paintings to be on public display and be appreciated by a potentially wider audience.

The proposal falls within the delegated authority of the Cabinet Member responsible for Arts and Culture.

Background

Following a period of closure the Marriotts Warehouse (formerly known as the Green Quay) on the South Quay, King's Lynn reopened on the 12th April 2013.

The Green Quay Trustees have requested the loan of 15 paintings from the Borough's Collections at the Town Hall for a period of two months. The paintings comprise 14 x watercolours by CT Page depicting scenes of King's Lynn, early 1900's, and 1 x pencil drawing of unknown garden with gateway King's Lynn, unsigned, probably by Henry Baines.

The paintings will be displayed on the first floor of the building which houses other information and collections on King's Lynn and the area.

Terms and Conditions of the Loan

Norfolk Museum and Archaeological Service (NMAS) as curators of the Borough collections have drawn up a draft loan agreement to be signed by both parties. The conditions of which are as follows;

The recipient agrees to take good care of the pictures and return them in the same condition as they left the lender.

The picture frames will be firmly fixed to the wall using mirror plates and security screws.

The display will discretely acknowledge the pictures are on loan from the Borough Council of King's Lynn & West Norfolk from the collections at King's Lynn Town Hall.

The pictures will not be displayed in direct sunlight.

Photography of the pictures is not allowed.

The Borough Council will continue to cover the insurance of the items under its existing policy subject to all reasonable steps to ensure their security.

The recipient agrees to return the pictures to the King's Lynn Town Hall by the agreed return date, unless an extension to the loan period is agreed beforehand.

Options Considered

No other options to be considered.

Policy Implications

There are no policy implications to this decision.

Financial Implications

There are no financial implications to this decision.

Personnel Implications

There are no personnel implications to this decision

Statutory Considerations

There are no statutory considerations to this decision.

Equality Impact Assessment (EIA)

Pre-screening assessment completed.

Risk Management Implications

A formal loan agreement has been drafted stating the loan conditions.

Whilst on loan the paintings will be covered by the Borough Council's existing insurance provided by Zurich Municipal.

Declarations of Interest / Dispensations Granted

No declarations of interest.

Background Papers

No background papers.

Signed.....

Cabinet Member for.....

Date.....

REPORT TO CABINET MEMBER FOR DECISION

Open/Exempt		Would any decisions proposed :		
Any especially affected Wards	Mandatory/ Discretionary/ Operational	(a) Be entirely within cabinet's powers to decide YES/NO		
No		(b) Need to be recommendations to Council		YES/NO
		(c) Be partly for recommendations to Council and partly within Cabinets powers –		YES/NO
Lead Member: Cllr Brian Long E-mail: cllr.brian.long@west-norfolk.gov.uk		Other Cabinet Members consulted: None		
		Other Members consulted: None		
Lead Officer: Alan Gomm E-mail: alan.gomm@west-norfolk.gov.uk Direct Dial: 01553 616237		Other Officers consulted: None		
Financial Implications YES/NO	Policy/Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO
Date advertised: 7 th June 2013		Date decision to be taken: 14 th June 2013		
Deadline for Call-In: 21 st June 2013				

Norfolk Mineral Site Specific Allocations Development Plan Document (DPD) and Norfolk Waste Site Specific Allocations DPD – Main Modifications and Additional Modifications – Invitation to make representations

Summary

The County Council have advertised a series of proposed modifications following discussion of the issues at the recent public Examination into their plans. It is suggested that representations are made about the content of modifications, particularly in relation to:

- Consistency of approach with the adopted Minerals and Waste Core Strategy
- Concern that undue weight might be given to the fact of a 'shortage' of silica sand above established policies protecting the environment and amenity.

Recommendation

That the suggested amendment to the proposed Main Modification 3) given in Appendix 1 of the report is sent to Norfolk County Council

Reason for Decision

To ensure that the risks from poorly located minerals development on the environment and amenity of the Borough are minimised.

1. Background

Members will recall that the Borough Council made representations about both of the above plans and as a result took part in the Examination into the soundness of them in March and April this year. The cases put forward followed the outlines given to Cabinet in June 2012. The Inspector heard the discussion put forward by all parties and will give his considered view in his report which is expected in August. However during the discussion on specific issues it became apparent that the positions assumed by the County Council in preparing the plans had (in some situations) altered from the Submission versions of the plans. A number of minor modifications were proposed by the County Council during the Examination, but given certain circumstances (outlined below) there was also a need for modifications of a rather more substantial nature. These 'Main modifications' have now been

published to allow representations on the soundness and legal compliance of the documents to be made. There are a number of additional modifications to the Minerals and Waste Site Specific Allocations DPDs that are not considered to be Main Modifications (i.e. when taken together they do not materially affect the policies set out in the plan). These additional modifications are also being published for information and so that representations may also be submitted regarding the soundness and legal compliance of the additional modifications. It is important that any representations relate to the Main and Additional Modifications referred to above.

A 6 week period to do this runs from 15 May to 26 June.

2. Content of the modifications

Attached at Appendix 1 is a list of the Main modifications and suggested responses to them by the Borough Council.

3. Policy Implications

There are no policy implications from the Borough Council viewpoint.

4. Financial Implications

There are no financial implications from the Borough Council viewpoint.

5. Staffing Implications

There are no staffing implications from the Borough Council viewpoint.

6. Statutory Considerations

There are no explicit implications from the Borough Council viewpoint, but the Minerals and Waste Site Specific Allocations plans will become a statutory document as part of the Development Plan for the County and therefore it is important to ensure it will function appropriately.

7. Equality Impact Assessments (EIA's)

There are no implications from the Borough Council viewpoint.

8. Risk Management

There is a risk that poorly located development could occur if the appropriate policies are not put in place.

9. Background Papers

Background papers can be found on the Norfolk County Council website at:

http://www.norfolk.gov.uk/Environment/Planning/Mineral_and_waste_planning/Minerals_and_waste_development_framework/Site_specific_allocations_examination/index.htm

Signed:

Cabinet Member for

Date

Norfolk Mineral Site Specific Allocations Development Plan Document (DPD) and Norfolk Waste Site Specific Allocations DPD – Main Modifications and Additional Modifications – Schedule of representations

County Council reference	Proposed Main modification	Borough Council officer comment
1)	The removal of site MIN 39, for the extraction of 1.5 million tonnes of silica sand (land at Wicken East, East Winch Road, Ashwicken) from the Minerals Site Specific Allocations DPD, as a result of the site being withdrawn from the Site Specific Allocations process by the landowner on 25 March 2013.	<ul style="list-style-type: none"> • This is a matter of fact. The site has been withdrawn and the County Council cannot rely on the potential mineral resource counted previously. <p>Suggested no specific representation</p>
2)	A change to the boundary of site MIN 40, for the extraction of 3 million tonnes of silica sand (land to the east of Grandcourt Farm, East Winch) to reflect the parts of the site that are of commercial interest to extract in the Plan Period. The modification will provide greater certainty to the residents of East Winch.	<ul style="list-style-type: none"> • This is a matter of fact. The site has been reassessed by the mineral operator and they have found that only a lesser area of the site is of commercial interest. • The amount of potential mineral resource remains the same. • As stated this could give more certainty about areas for extraction in the vicinity of East Winch <p>Suggested no specific representation.</p>
3)	<p>No replacement sites for silica sand extraction are proposed to be allocated, because none of the alternative sites or areas of search proposed are considered to be appropriate to allocate, due to their proximity to Roydon Common SSSI (part of Roydon Common and Dersingham Bog SAC). An early single issue review will therefore be carried out in respect of silica sand provision, and this review has been introduced into the Plan through rewording of paragraph 2.7. (As given below)</p> <p><i>Paragraph 2.7 - Add new text at the end of the paragraph to explain that the full silica sand apportionment figure cannot be met through allocations, and how this will be addressed:</i></p> <p><i>2.7 No new silica sand planning permissions were granted in 2010, or 2011 or 2012 and therefore the landbank of reserves has reduced accordingly (the latest confirmed landbank figure is 4.73 4.9 million tonnes as at a 31 December 2011/2012). Therefore, the quantity of additional silica sand resource needed over the plan period is 6.5 5.25 million tonnes. However, due to the Habitats Regulations Assessment findings, it has been possible to allocate only two one silica sand</i></p>	<ul style="list-style-type: none"> • The loss of potential silica sand sites through the above circumstances and the previously proposed withdrawal of a site at MIN 41 – Roydon Common has left the County Council in a difficult position. • They are not able to comply with the NPPF requirement for a 10 year supply of sites, they only have 6.5 years supply. • They propose an early review dealing only with silica sand to identify a suitable amount of additional mineral resource, i.e. an early review, but limited only to silica sand issues. (As noted in the revised text opposite). • A general statement is included in the revised text noting that: <i>If planning applications are submitted for the extraction of silica sand which would address the shortfall they will be considered favourably.</i> • Policy guidance is given in the Minerals and Waste Core Strategy as to how proposals for new mineral sites and extraction will be assessed.

<p>sites (MIN 39 and MIN 40), totalling 3.0 4.5 million tonnes. All other silica sand sites put forward are concluded to have either likely significant effects or, an uncertain impact on Roydon Common SSSI (part of Roydon Common and Dersingham Bog SAC) and in line with the precautionary principle, they cannot be allocated. This leaves a shortfall of 2.6 2million tonnes in the quantity of silica sand allocated. However, this shortfall in allocated resources would only occur towards the end of the Plan period (about 2023/4 2022/3).</p> <p>To address this shortfall a single issue review of silica sand will be completed by 2016. The aim of the review will be to consider land for site specific allocations, preferred areas and/or areas of search, which would be suitable to address this shortfall. This would be undertaken in advance of the full review of the Minerals Site Specific Allocations DPD, which will be undertaken five years after adoption to reflect market conditions and ensure an adequate landbank exists in the county; in accordance with paragraph 8.8 of the adopted Minerals and Waste Core Strategy.</p> <p>If planning applications are submitted for the extraction of silica sand which would address the shortfall they will be considered favourably.</p> <p>The determination of such applications would take into account the shortfall situation, the importance of silica sand as an industrial mineral and the policies of the NPPF. The presumption in favour of sustainable development is of particular importance, whilst recognising that this presumption does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.</p>	<p>Policy CS1 outlines the broad amounts but this would seem to be superceded by the Site Allocations work.</p> <ul style="list-style-type: none"> • Policy CS2 notes that: Preference will be given to extensions to existing sites over new sites. Given the national significance of Norfolk’s silica sand resources, appropriate weighting will be given in decisions on which sites are to be allocated and permitted, and sites which would be able to access the existing processing plant and railhead at Leziat via conveyor or off-public highways routes will be preferred. • Policy CS14 notes constraints about environmental factors including residential amenity. • DM8 covers design issues. • There is therefore existing policy guidance on how newly proposed sites should be treated in the light of the lack of a 10 years supply. However it is important to note that whilst the County Council is seeking to give favourable treatment to potential new sites this should not be at all costs. • In the terms of NPPF paragraph 14, permission needs to be considered against existing policy as noted above. • The statement as proposed by the County Council in the main modification could be considered too far reaching since it seems to imply that the overriding factor is the shortfall. Other considerations such as environmental impact and local amenity concerns are equally important and should be acknowledged in the modification. • The County Council is proposing elsewhere in its modifications a policy (SD1) containing a presumption in favour of sustainable development. This mirrors the NPPF paragraph 14. It states that planning applications should approved if they are in accordance with the Local Plan (in this case it consists of the Core Strategy and the policies quoted above and the yet to be adopted Sites plan).It would be more appropriate if the final paragraph opposite were to better reflect this situation, rather than implying that the shortfall is a blanket reason for approval.
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		<ul style="list-style-type: none"> • If this is not done the implication is that the policies providing a degree of protection to environmental aspects are secondary to any shortfall. Consideration should more properly start with the Local Plan and relevant policies and then the shortfall is then a 'material consideration' weighing in the balance. • As the modification is written undue weight is given to the shortfall before the development plan policies are referenced. • If the proposal is not amended there is concern that local factors will be of secondary importance and the interests of residents of the Borough could be prejudiced. <p>Suggested amendment to Main modification 3). Last two paragraphs to read:</p> <p><i>If planning applications are submitted for the extraction of silica sand which would address the shortfall they will be considered against the relevant policies of the Local Plan. (See policy SD1). The fact of a shortage of silica sand supply will be a 'material consideration'.</i></p> <p><i>The determination of such applications will take into account local amenity and environmental considerations in line with policies in the Core Strategy (including CS1, 2, 14 and DM8).</i></p> <p><i>The presumption in favour of sustainable development is important, whilst recognising that this presumption does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.</i></p>
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