

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL**  
**9 SEPTEMBER 2008 AT 6.30 P.M.**

**PRESENT:** MR. J.G. BANNISTER - MAYOR

Mrs. M. Aldridge, Mr. P.R. Batty, Mr. D.C. Bill, Mr. C.W. Boothby, Mr. J.C. Bown, Mr. S.L. Bray, Mrs. R. Camamile, Mr. M.B. Cartwright, Mr. D.S. Cope, Mr. W.J. Crooks, Mrs. S. Francks, Mrs. A. Hall, Mr. P.A.S. Hall, Mr. D.W. Inman, Mr. C.G. Joyce, Mr. C. Ladkin, Mr. M.R. Lay, Mr. K.W.P. Lynch, Mr. R. Mayne, Ms. W.A. Moore, Mr. K. Morrell, Mrs. J. Richards, Mr. A.J. Smith, Mr. B.E. Sutton, Mr. R. Ward, Ms. B.M. Witherford and Mr. D.O. Wright.

Officers in attendance: Mr. S.J. Atkinson, Mr. Michael Brymer, Mr. G. Chilvers, Mr. B. Cullen, Miss L. Horton, Mr. S. Kohli, Ms. L. Orton, Mrs. P.I. Pitt, Mr. T.M. Prowse, Mrs. J. Puffett and Mrs. S. Stacey.

Prior to commencement of the meeting the Mayor presented the Borough's winning swimmers and athletes with special awards to commemorate their success in the recent Youth Games.

179 **PRAYER**

The Reverend Canon B. Davis offered prayer.

180 **APOLOGIES**

Apologies for absence were submitted on behalf of Mr. P.S. Bessant, Mr. J.D. Cort, Mr. D.M. Gould, Dr. J.R. Moore, Mr. K. Nichols and Mr. L.J.P. O'Shea.

181 **MINUTES (C28)**

On the motion of Mr. Lay, seconded by Mr. Bray it was

**RESOLVED** - the minutes of the meeting held on 5 August 2008 be confirmed and signed by the Mayor.

Mr. Ladkin entered the meeting at 6.45 p.m.

182 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

183 **MAYOR'S COMMUNICATIONS**

The Mayor indicated the recent success of Ratby Parish Council in gaining two awards in the Best Kept Village Competition.

The Mayor then reminded Members of the forthcoming visit of representatives from Le Grand Quevilly and particularly to the planned pub games

evening on 19 September, which would provide an opportunity for this Council to meet their French counterparts socially.

The Mayor referred to the first Hinckley CAMRA Beer Festival to be held this weekend and to his intention to visit the Islamic Foundation College to coincide with the ending of Ramadan.

Finally, on behalf of Mr. K. Morrell, the Mayor stated that there was to be a meeting of the Bosworth Community Forum at The Royal Arms, Sutton Cheney on 18 September 2008, commencing at 6 p.m.

## 184 QUESTIONS

The following questions and replies were received in accordance with Council Procedure Rule 11.1.

### (a) Question raised by Mr. P. R. Batty and addressed to Mr. K. W. P. Lynch

“Unfortunately, due to ill health I was unable to attend the Finance and Audit meeting held on Monday 18<sup>th</sup> August 2008 but I was most concerned with the content of and recommendations within report number FASC9 - Developer Contributions:

I would like to ask the Executive Member for Finance if he could confirm my understanding that monies due under the terms of S106 agreements collected by the Borough Council on behalf of the Parishes are effectively “held in trust” for the Parishes until called on as payment towards relevant projects and that as the monies are paid in by the developer strictly for the benefit of the individual Parishes where the development takes place, that this fund should be ring fenced and not used for any other purpose. That being the case, could the Executive Member please confirm whether it is good practice or indeed even legal for the Borough Council to divert interest from a ring fenced fund to the Borough Council’s general fund, without having obtained an agreement of release from the beneficiaries of that fund.

Finally on this question, which I relate in the context of S106 contributions to the Parishes, could the Executive Member kindly refer me to the relevant section of the Council’s Constitution that allows monies, interest or otherwise, to be diverted from what I believe should be a ring fenced fund, to the Borough Council’s general fund to subsidise Council Tax and secondly it would be most helpful if the Executive Member for Finance could confirm when and if a resolution was passed by the full Council that authorises the transfer of any monies, interest or otherwise from the S106 fund to the Borough Council’s general fund to subsidise Council Tax. “

### Response from Mr. K. W. P. Lynch

“I would like to thank Cllr Batty for his question. I am sorry to hear that he has not been too well and I hope he is better. I can inform Cllr Batty that the use of the monies related to Section 106 agreements is governed by the terms of the agreements between the developer and Hinckley & Bosworth Borough Council. Unless the parishes are party to the agreement, they have no contractual right over the monies. The contracts (rights of third parties) Act 1999 is also specifically excluded within all our Section 106 Agreements.

The payment of Section 106 monies by the developer goes into the General Fund of the Borough Council, and any interest accrued on it whilst held is for the benefit of the Borough Council. There is no duty to formally ring fence the monies which may be paid for this benefit of a Parish, and neither is there a duty to repay the interest to the developer should the money not be paid within the agreed period. It is therefore perfectly acceptable for the interest to form part of the Council's General Fund.

Furthermore, the Section 106 monies being held by Hinckley & Bosworth Borough Council are not held on trust for the Parishes. For this to be the case, the developer would have to pay the monies with the intention of setting up a charitable trust. This is clearly not the case.

In short, therefore, there is no legal obligation on the part of the Borough Council to the Parish Council in respect of the Section 106 monies and there is certainly no obligation for any interest earned to be paid to them. Officers are working closely with the Parishes to ensure more timely draw downs of Section 106 funds that they are entitled to and I stress that the Parishes are suffering no detriment."

(b) Question raised by Mr. P. R. Batty and addressed to Mr. K. W. P. Lynch

"I must apologise if I have missed answers that may have been given to the following question as a result of my absence due to ill health but I would be much obliged to the Executive Member for Finance if he could help resolve my continuing confusion over the current situation of the Brodick Road transaction with Morris Homes. First could the Executive member please confirm the date when the Council received payment in full for the land in question, bearing in mind the reports in the Hinckley Times of contractors carrying out some clearance works on the site on behalf of Morris Homes and could the Executive Member for Finance please confirm whether the Borough Council owned "ransom strip" shown on the Morris Homes planning application was included in the transaction and if so, can the Executive Member please confirm that professional valuations were obtained to establish the true potential value of the ransom strip before any consideration was given by the Council to include this as part of the transaction.

Finally, on this question could the Executive Member please confirm to me whether or not any payments have been made by this Council to Morris Homes in respect of the Atkins site and whether Morris Homes may have any outstanding claims against the Council in respect of the Atkins site or the Brodick Road transaction and if so for what amount."

Response from Mr. K. W. P. Lynch

"I thank Councillor Batty for his question and would remind him, again, that the position with Morris Homes and the disposal of the land at Brodick Road is one that this Administration inherited and one that we are now trying our best to manage.

The present situation is that the land remains within the ownership of Hinckley & Bosworth Borough Council in its entirety, with Morris Homes having the benefit of an option agreement.

The Council has allowed Morris Homes to carry out some preliminary clearance work on the site in the spirit of co-operation. The present intention is for the entirety of the sight to be transferred to Morris Homes on completion, including the area initially identified as a possible “ransom strip” in the early stages of negotiation. The Council has not as yet received any payment for the land in question but a schedule of staged payments has been agreed with Morris Homes. The Council is also, at present, negotiating with Morris Homes, that any payments made by a third party for easement rights over the Brodick Road site will continue to be negotiated with the Council and paid to us (something that should have been addressed at the time of grant of option to Morris Homes). This will have the double benefit of retaining the same right to payment as would have been protected by the ransom strip, whilst at the same time removing the need for the Council to bear the responsibility for the long term maintenance of the strip.

In respect of payments made to Morris Homes in respect of the Atkins site, I can confirm that an option release fee of £36,000 was paid to Morris Homes, £20,000 of this money was to cover an option fee paid by Morris Homes to the previous owners and was accounted for by a negotiated reduction in the purchase price of the Atkins building. I can also confirm that Morris Homes have no outstanding claims against the Council in respect of the Atkins site and they do, of course, have the benefit of the option agreement over the Brodick Road site.”

In response to a supplementary question from Mr. Batty, Mr. Lynch stated that there was still some time remaining for Morris Homes to exercise their options agreement and that so far as the Council was aware that company was financially secure.

(c) Question raised by Mr. R. Ward and addressed to Mr. S. L. Bray

“Following the recent heavy rain and the chaos it caused in Northern Ireland would the Executive Member agree with me that the Planning and Development Policy of Hinckley and Bosworth Council should incorporate new provisions for combating any similar occurrences in the Borough? What policy changes have already been made and is it considered a serious issue for the Borough?”

Response from Mr. S. L. Bray

“I would like to thank Councillor Ward for his question.

As he will be aware, this authority has undertaken a Strategic Flood Risk Assessment, in line with the recommendations set out in PPS25; which was completed in November last year. This document has particular regard to ensuring that future development is located outside of any flood risk zones as determined by the Environment Agency. The Strategic Flood Risk Assessment does not deal with existing flood risk directly, only in as far that it ensures that future development will not exacerbate existing flood risk problems such as surface run-off etc.

The Strategic Flood Risk Assessment report was presented to Scrutiny on 28/11/07 and Executive in December 2007 and has since been made available to officers for use and has fed into the formation of relevant policy documents such as the Core Strategy and Site Allocations. It is a material consideration in the assessment of planning applications.

The Authority is aware that there are certain areas of the Borough which are subject to sporadic flooding and any concerns in this matter are dealt with by Environmental Health, who have been proactive in giving appropriate advice and guidance to individuals and Parish Councils. Furthermore, works have been undertaken in some areas to minimise the risk of localised flooding and these have been funded through the Council's capital programme. However, for the most part, Hinckley & Bosworth Borough is not at threat from large scale flooding, even after climate change modelling is applied”.

(d) Question raised by Mr. R. Ward and addressed to Mr. K. W. P. Lynch

“The national economy continues to create dreadful headlines, which Hinckley and Bosworth Borough Council will not be able to avoid. What precautions have been put in place to secure the necessary services are not put in jeopardy? Has revaluation of assets taken place, will increased borrowing be required and will the Executive Member confirm that every avenue has been explored and explain the initiatives taken?”

Response from Mr. K. W. P. Lynch

“I would like to thank Councillor Ward for asking this very relevant question and one that concerns me and the Leader of this Council. I would inform Councillor Ward, however, that we are a step ahead of him on this one in that we have already had discussions with officers and outside organisations to see how we can support the residents and businesses of this Borough through this difficult time of economic downturn.

Officers have commissioned revaluations of some of the assets of the Council and are presently undertaking an independent review of the whole of the Capital Programme and major projects that are to be programmed to be delivered over the period of the next four years. The full implications of funding this Capital Programme will become clearer once this review has been completed and the outcome of this review together with the financial implications of delivering the Capital Programme will be fully presented by officers to the cross-party budget working group which is planned to be convened in early October.

In addition to this, the Leader of the Council and officers have had discussions with voluntary organisations such as the Citizens Advice Bureau and arrangements are in place to provide support to those who are having difficulty in managing their debt, and also in providing financial advice and support. Officers are also considering the impact on local businesses of the removal of the empty property rate relief from 1<sup>st</sup> April 2008. The Leader of the Council has asked for a report from Officers on the effects of the “downturn” in the economy and how this Council proposes to respond to these for Council on 30<sup>th</sup> September 2008.

In short, I can assure Councillor Ward and Members of this Council that every precaution will be put in place to ensure that necessary services of this Council are not put in jeopardy. Furthermore, together with our third sector partners, we will ensure that a network of support is provided to those who need it.”

185 POSITION STATEMENT BY THE LEADER OF THE COUNCIL

This was circulated at the meeting with the Leader highlighting the positive community spirit which he had recently encountered, the increasing economic down-turn being evidenced both locally and nationally and continuing work with partners to improve the quality of life of local communities.

The Leader acknowledged the various concerns relating to the current financial situation and reminded Members of the intention of the Chief Executive to co-ordinate the production of a report to Council on 30 September 2008 on the implications of the economic down-turn for the local community and proposals to address such implications.

At this juncture, in response to a question from Mr. Lynch, the Chief Executive read out to Members clause 12.2 of the Constitution as to the procedure which applied following the presentation of the Leader's position statement.

186 SCRUTINY COMMISSION MEETING - 23 JULY 2008

In his presentation of these Mr Lay referred to:-

- The Commission's review of out-of-hours health care (Minute No. 103).
- The ongoing review of the Community Safety Partnership (Minute No. 104).
- Discussions on the creation of a Barwell and Earl Shilton Working Group (Minute No. 107).
- Voluntary and Community Sector Consultation (Minute No. 108).

187 PLAY AND OPEN SPACE SUPPLEMENTARY PLANNING DOCUMENT - ADOPTION (C30)

Circulated to Members at the meeting were revised recommendations to this report and Members were reminded that the Play and Open Space Supplementary Planning Document itself had previously been considered by Council on 8 July 2008. The Director of Community and Planning Services indicated that at its meeting on 18 August the Finance and Audit Services Select Committee had discussed and endorsed the implementation of the 2% monitoring/administration fee. It was emphasised that this fee related solely to contributions to Play and Open Space provision.

In response to a Member's request the Executive Member for Culture, Leisure and Regeneration undertook to arrange with the Director of Community and Planning Services to circulate details of the revisions to the Play and Open Space Supplementary Planning document to the local Town and Parish Councils.

It was then moved by Mr. Bray, seconded by Mr. Bill and

RESOLVED - the following revised recommendations be agreed

- (i) that Members endorse the decision of Council on 8 July 2008 and agree the adoption of The Play and Open Space Supplementary Planning Document and accompanying Sustainability Appraisal as part of the Hinckley and Bosworth Local Development Framework;

- (ii) that Members endorse the implementation of a 2% monitoring fee in respect of Play and Open Space Section 106 contributions; and
- (iii) that Members note that interest accruing on Section 106 contributions whilst these are held by the Borough Council is not payable to the relevant Parish Council when the contribution is transferred.

188 HINCKLEY AND BOSWORTH TOURISM PARTNERSHIP (C31)

As required under Article 11 of the Constitution Council approval was sought for certain Councillors and Officers within the Authority to become full members of the newly-formed Hinckley and Bosworth Tourism Partnership.

In promoting this initiative as good value for money and commending the work of the Council's Arts Development and Tourism Officer, it was moved by Mr. Bray, seconded by Mrs. Francks and

RESOLVED - approval be given to representation by Members and Officers on the Board of the Hinckley and Bosworth Tourism Partnership and as detailed in paragraph 4.2 of the Report of the Deputy Chief Executive.

189 STREET SCENE SERVICES - VALUE FOR MONEY AND SERVICE DEVELOPMENT (C32)

Council approval was sought to the Annual Report on the value for money of street scene services and proposed improvement to service delivery. In welcoming this report and the retention of services within the Council's ownership concerns were raised regarding the frequency of street sweeping and roadside gully emptying. The Executive Member for Refuse, Recycling and Environmental Health reported on the intention to purchase 5 more mechanical sweepers, which if Council now agreed, would be operational from November this year. In response to a Member's question, the Head of Business Development and Street Scene Services indicated that he would arrange for advance lists to be made available indicating the dates for street cleaning operations and added that, if his service area was given notice of planned events, assistance could be given to follow-up cleaning.

Also welcomed by Members was the intention with effect from 30 September 2008 to synchronise waste collection with the blue box recycling service being provided on the same day as that of residents' black/brown bin.

On the motion of Mrs. Francks, seconded by Mr. Wright it was

RESOLVED - the following be agreed

- (i) that Street Scene Services have demonstrated again value for money and should be retained "in house" until 2017;
- (ii) that a further value for money report be presented to the Council in September 2009;
- (iii) a further report on the progress with the implementation of the Grounds Maintenance Action Plan be presented to the Executive in March 2010; and

- (iv) the direction of the service as identified in section 8 of the Report of the Head of Business Development and Street Scene Services and noted that the additional £30,000 cost of a crew for the remainder of the year will be met from existing resources, with a growth bid being put forward for 2009/2010 for the full year cost of £60,000.

190 ADJUSTMENTS TO BUDGETS FOLLOWING JUNE BUDGET MONITORING BY THE FINANCE AND AUDIT SERVICES SELECT COMMITTEE AND THE STRATEGIC LEADERSHIP BOARD (C33)

In presenting this report the Executive Member for Finance briefly summarised the adjustments necessary to the budget and referred to the supplementary budgets required arising from the June monitoring exercise.

It was moved by Mr. Lynch, seconded by Mr. Bill and

RESOLVED - the approach taken by the Strategic Leadership Board to the identified underspend on the general fund for 2008/09 be endorsed and approval be given to the Supplementary Budgets and budget adjustments required and as set out in the Report of the Director of Finance.

The Mayor concluded the meeting by announcing that all Members were invited to meet for coffee with the French delegation on 21 September at Bosworth Hall Hotel, that a local resident, Fred Stevens, was participating in the Paralympic Games in Beijing and his intention to recognise the achievement of Mr. Robert McNair-Hall following his walk from Lands End to John O' Groats in 18 days.

(the meeting closed at 7.55 p.m.)