CABINET

Meeting held on 3rd September 2019
in Council Chamber, Newham Town Hall, East Ham, E6 2RP

Present:
Rokhsana Fiaz OBE (Chair)

Cabinet Members
Councillors John Gray, Zulfiqar Ali, Julianne Marriott, James Beckles, Susan Masters, Terry Paul, Sarah Ruiz and James Asser

In attendance:

Mayoral Advisers and Commissioners
Councillors Carleene Lee-Phakoe, Firoza Nekiwala and Mas Patel.

The meeting commenced at 6.06 p.m. and closed at 7.30 p.m.

Mayor's Opening Remarks

The Mayor opened the meeting and informed all that, prior to the meeting, representatives from the People’s Empowerment Alliance for Custom House (PEACH) had attended at East Ham Town Hall and presented her with a gift of peaches to mark her return from her overseas trip. The gift symbolised each representative and acknowledged the support for the work of PEACH in seeking to achieve neighbourhood goals in education, jobs, housing and safety that had been given by the Mayor during her term as Ward Councillor for Custom House. The Mayor thanked PEACH for their gift and commended their continued valuable work for Custom House Ward.

1. Apologies for Absence

There were no apologies for absence received from Cabinet Members.

Apologies for absence were received from Councillors Charlene McLean (Deputy Mayor (Community) and Cabinet Member for Community Neighbourhoods), Jane Lofthouse (Deputy Cabinet Member for Education) and Mas Patel (Commissioner for Air Quality and Climate Change) for lateness.
2. **Declarations of Interest**

Councillor Paul declared an interest in respect of Agenda Item 15 (Renewal and Extension Ballot for Stratford Business Improvement District and Expansion) by virtue of the fact he was an unremunerated member of the Stratford BID Board.

3. **Minutes**

Cabinet **RESOLVED to AGREE** that the minutes of the Meeting of the Cabinet, held on 2 July 2019 subject to the following amendment at Minute 9 (iv) “that the budget implications concerning the development of the specialist school/school of excellence at Paul Street compared to developing high quality mainstream provision be dealt with via the Medium Term Financial Strategy Process.” and that the minutes of the Meeting of the Cabinet held on 9 July 2019 (Special), be approved as a correct record.

**Order of Business**

The Mayor altered the order of remaining business to move Item 5 (Newham Air Quality and Climate Change Strategic Intent) to the last item to be considered on the agenda in order to allow Councillor Patel (Commissioner for Air Quality and Climate Change), who had intimated that he would arrive at the meeting late, to present the report. Accordingly item 5 was moved for consideration as the final item of business at the meeting.

4. **Appointments to Outside Bodies**

The Mayor **confirmed the appointment** of Councillor Rev Ann Easter to fill one of two elected Member vacancies on the Standing Advisory Committee for Religious Education (SACRE).

5. **Newham Air Quality and Climate Change Strategic Intent Part Two: Addressing Climate Change**

Cabinet considered a report, which referred to the London Plan 2016 that required planning applicants to reduce carbon dioxide emissions (referred to as “carbon”) for certain types of major developments. It was reported that where applicants’ developments were not able to achieve reductions within their own development proposals, planning applicants could mitigate this impact elsewhere or make a payment to the local planning authority (LPA). It was noted that the payment to the LPA was calculated using the GLA’s cost of carbon for the shortfall that could not be achieved in the development based on the target established in Policy 5.2 of the London Plan 2016 and that the monies which accrued had to be ring-fenced towards a Carbon Offset Fund.
The Mayor introduced the report informing Members that it was appropriate for the Council to adopt an transparent approach and to communicate to residents how it would use this Fund. The Infrastructure Planning Manager informed Members that, due to the nature of some developments it was not possible for some developers to mitigate the negative effects of their proposed developments in respect of carbon produced. Therefore the Mayor of London had established an offset scheme through which carbon generated by such developments could be mitigated (for the local communities in which they would be situated) by payments to offset the carbon generated. Cabinet noted that the monies held represented all funds generated since the initiation of the scheme.

Decision

For the reasons set out in the report and the appendices, Cabinet RESOLVED to AGREE:

i) The content of the Interim Carbon Offset Fund;

ii) To publish the Interim Carbon Offset Fund on the Council’s website;

iii) That the monies held in 2019/20 (£264,451) would be applied towards carbon reduction or clean energy generating initiatives in LBN managed and/or maintained schools and community facilities in equal proportion (45% of the monies held at the time of the publication of the Cabinet report) and 10% of the funds ring-fenced for resourcing costs.

iv) That authority be delegated to the Director of Planning and Development, Chief Planning Officer, to make minor amendments and approve the final version of the Interim Carbon Offset Fund suitable for publication on the Council’s website.

v) To note that the Interim Carbon Offset Fund, in principle, allocated 45% of the monies accrued to date to investment in LBN maintained and owned schools; 45% in LBN owned and maintained public buildings and 10% on administrative costs and the detailed projects would be considered by the Chief Planning Officer;

vi) To note that a strategic Carbon Offset Fund looking at how the monies which were forecast monies (yet to be received or had reached their triggers for payment) would be spent, would progress alongside other corporate work streams and return to Cabinet for approval in Spring or Summer 2020 (a framework for this was included as Appendix 2 to the report);

vii) To note the criteria for projects which may receive funding from the strategic Carbon Offset Fund via the corporate Budget Setting process be reserved for further consideration as part of a subsequent decision as set out in Appendix 2: Scope of Carbon Offset Fund;
viii) To note that a growth fund request would be submitted for staff costs to support the delivery of projects and to assess ‘carbon’ savings from financial investments; and

ix) To note that the governance arrangements for the allocation of funds from the Interim and strategic Carbon Offset Fund would adhere to the principles established in the Developer Contributions: Governance and Funding and Allocation Strategy.

Alternatives Considered

1. The Council could delay agreeing this Interim Carbon Offset Fund and await further strategic work to progress.

2. There were deeds of planning obligation, which required the establishment of a fund, as did London Plan Policy 5.2; as such there was limited scope to delay indefinitely the establishment of the Fund – this would lead to Developer Contributions potentially being repaid and, crucially, delays in the delivery of emissions reductions interventions across the Borough.

3. The monies currently accrued could have been applied to:
   a) an Authority wide bidding process from different service areas based on in principle criteria, however this was discounted as being administratively burdensome based on the funding available;
   b) add funding to Keep Newham Moving through on-street lighting measures or other interventions; the scheme was successfully delivering based on the existing funding and this limited additional funding was not sufficient to enhance the extant programme in a meaningful way;

The alternatives considered above were primarily omitted due to the feasibility of prompt delivery. It was considered prudent to make initial investments in LBN assets as this could be expeditiously delivered.

6. Community Wealth Building Strategic Intent

Cabinet considered a report, which outlined the Mayor’s Community Wealth Building Strategy. It was reported that Community Wealth Building was about looking at driving economic regeneration from within the Borough by supporting Newham’s local businesses and residents and would also link in with the forthcoming Social Integration Strategy, which would work on resetting the Council’s relationship with Newham’s voluntary sector.

The Mayor introduced the report, which set out the intended approach towards building community wealth. The Corporate Director for Resources explained how the strategy would help to drive economic regeneration from
within the Borough and retain wealth in the Borough by supporting Newham's local businesses and residents. The strategy would be publicly launched in mid-October.

Decision

For the reasons set out in the report, Cabinet **RESOLVED** to **AGREE**:

i) The Community Wealth Building Strategy Intent, as set out in Table 1 to the report; and

ii) That the Corporate Director of Resources, in consultation with the Mayor, be authorised to finalise the Strategy in accordance with the overview set out in Table 1 to the report.

Alternatives Considered

Not applicable.

7. **Interim Carbon Offset Fund**

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8. Performance Report Q1

Cabinet considered a report, which published the full suite of current corporate plan performance measures and corporate plan actions, using April to June 2019 (Q1) data. It was reported that the Council’s Performance Management Framework (PMF) continued to be improved to ensure that the Council’s performance measures fully reflected its priorities; performance data was published regularly; and services were accountable for delivery and for driving improvement.

The Mayor introduced the report informing all present that the Corporate Plan had been published in February and this set out how the Council would establish its performance management framework and monitor performance against agreed indicators. The Interim Assistant Chief Executive outlined the performance reported in the first quarter (April – June) highlighting the areas of good progress and the measures being taken to address areas of underperformance. Cabinet noted that the scope of ‘Bright Futures’ priority reported at Appendix1 was broader than the function of the newly established Brighter Futures Directorate. Therefore the concepts to which the terms referred were distinct.
Decision

For the reasons set out in the report and the appendices, Cabinet RESOLVED to AGREE:

i) To note the overall performance against key performance indicators for the 1st quarter (i.e. April to June), including areas of good progress and the actions being taken to address areas of underperformance. (Appendices 1 and 2);

ii) To note progress against the Corporate Plan actions (Appendix 3); and

iii) That Lead Members work with Directors in 2019/20 to address emerging trends and areas for improvement.

Alternatives Considered

The alternative to not publishing current data would be a continuing lack of transparency about the Council’s performance that would undermine the ability of Members and residents to understand how well the Council was performing, and whether resources were being used effectively.

9. 2018/19 Treasury Management Year End Report

Cabinet considered a report, which advised it that the Council was required by regulations issued under the Local Government Act 2003, to produce an annual treasury management review of activities and the actual prudential and treasury indicators for 2018/2019. It was noted that the report met the requirements of both the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).

Councillor Paul introduced the report and outlined that the report summarised Treasury activity for the financial year 2018/19.

Decision

For the reasons set out in the report and the appendices, Cabinet RESOLVED to AGREE to note the report and its appendices.

Alternatives Considered

Not applicable.

10. Financial Viability Consultant Procurement

Cabinet considered a report, which sought the Cabinet’s approval for the award of contract for the Financial Viability Consultant (FVC) to robustly
scrutinise Financial Viability Assessments (FVA) which accompanied planning applications for the London Borough of Newham Local Planning Authority (LPA), as well as allowing review of viability matters relating to policy and strategic investment.

The Mayor introduced the report noting that Cabinet was required to consider the matter because of the value of the contract. The procurement of consultants to undertake this work would be beneficial as it would ensure that viability assessments submitted by developers were robustly scrutinised.

Decision

For the reasons set out in the report and the appendices, Cabinet RESOLVED to AGREE:

i) The award of a contract to BNP Paribas Real Estate Advisory and Property Management UK Limited (BNP Paribas), following the procurement exercise to appointment a specialist FVC; and

ii) To approve the award of the contract, for up to five years, commencing on 23 September 2019 at a total contract sum of £1,250,000.00 at £250,000.00 per annum.

Alternatives Considered

The option of using Bloom was considered, however, it was determined that using the recognised and Official Journal of the European Union compliant CCS framework would better satisfy the project’s broad scope and delivery requirements. An additional 5% was charged to the applicant via the Bloom framework. Even though this cost would be passed onto the applicant and cost neutral to the LPA, the use of a non-fee charging framework was considered better value for money. It should be noted that Transport for London and Homes England frameworks were also considered as part of this process however they were discounted following advice from LBN Strategic Procurement that the CCS Framework was more suitable to this form of work. It should also be noted that the value of the contract would require a sealed contract.

11. Newham Corporate Security Contract

Cabinet considered a report, which provided options for the delivery of security services for the Council’s corporate buildings for three years from April 2020 with an option of annual extension for a further two years.

Councillor Paul introduced the report and highlighted that the procurement approach adopted sought not only to identify a potential supplier but also maintain the potential for local purchase in keeping with the Council’s aim to spend locally. Additionally a requirement had been included that employment at London Living Wage, as a minimum, would be offered.
Decision

For the reasons set out in the report and the appendices, Cabinet RESOLVED to AGREE

To approve commencement of a tender exercise at an estimated contract sum of £14.5 million (over the duration of the contract) for a period of 3 years with the option to extend for a further 2 years in yearly increments with a proposed start date of January 2020 for the ongoing Newham Corporate Security Contract, using the Eastern Shires Purchasing Organisation (ESPO) Framework 347 Security Services.

Alternatives considered

1. **Do nothing**, this is not an option as LBN will be open to challenge by other suppliers as incumbents have been in situ for over 10 years.

2. **Local suppliers** are considered for works under £24,999, however the demand from our clients, residents and the portfolio are such that it is unlikely to be feasible to award a contract for individual requirements. Splitting the work across a disparate range of local suppliers would also result in more onerous contract management. may not be cost effective and will disaggregate the spend, hence one contract is more preferable However local suppliers can be incorporated into the supply chain and framework providers would be encouraged to recruit locally for services of this nature.

3. **OJEU** Should a suitable framework not be identified and contract value is over the public procurement thresholds then an OJEU procurement process to be conducted – this process could be time consuming and could take up to 9 months.

In-house provision at present this has not been considered due to this service not being a core function of the Council. The cost of it would incur to the Council in pension, national insurance, sickness, holiday pay, training, accreditation, liability insurance, and backhouse support and additional resources does not make this feasible.

12. **Building Compliance test inspection, repair and maintenance procurement proposals**

Cabinet considered a report which asked Members to agree a procurement approach to deliver building compliance test inspection, repairs and maintenance.

Councillor Paul introduced the report informing Members that an approach was sought to that would permit procurement through the use of a
specialist public sector procurement firm. Members were advised that Fusion 21 would provide this framework.

**Decision**

For the reasons set out in the report Cabinet **RESOLVED** to **AGREE**

i) To undertake a tender exercise, for the reason set out within the body of the report, at an estimated contract sum of £16.5 million, for a period of three (3) years with an optional two year (1+1) extension period and an estimated start date of January 2020, for the ongoing building compliance, test inspection, repair and maintenance project. The proposed form of contract to be the JCT;

ii) To waive Contract Standing Order 15 to allow for the use of the Fusion 21 framework and its procurement services to appoint six contractors through a mini competition to cover: mechanical; electrical; display energy certificates (DECs); energy performance certificates (EPCs); building fabric/minor works; legionella monitoring and maintain assets as listed in the appendix list 2 excluding Building 1000 Dockside; and

iii) To utilise the same framework, Fusion 21, to procure one contractor through a mini competition to provide the above services at Building 1000 Dockside

**Alternatives considered**

1. Newham Repairs and Maintenance Services (RMS)

   They primarily specialise in dealing with housing stock. The Newham portfolio covers commercial properties which at present RMS are unable to meet the demand /requirement of e.g. air conditioning, commercial boiler maintenance. RMS is rebuilding its portfolio of trades it will deliver through directly employed staff and would be able to offer a full maintenance service in the next 18 to 24 months. RMS would provide backup support if the need arises.

2. Local Suppliers

   Local suppliers are considered for works under £24,999, however the demand from our clients, occupants and the build stock are such that it is unlikely to be feasible to award a term maintenance contract for individual requirements. Splitting the work across a disparate range of local suppliers would also result in more onerous contract management. Hence may not be cost effective. However local suppliers could be used further down the supply chain.

3. OJEU

   Should a suitable framework not be identified and contract value is over the public procurement thresholds then an OJEU procurement process to be conducted, this process can be time consuming can take up to 9 months.
Fusion 21 was chosen as the preferred option as they can accommodate all LBN requirements via one framework provider. Due to the labour intensity of this procurement, Fusion 21 to be commissioned to undertake the tender process for this particular project using London Borough of Newham’s e- tendering system in accordance with requirements. The fee for performing this process would be 3.5% paid for by suppliers.

13. **Pre-procurement services for Citizen Data and Transactional Services Project**

Cabinet considered a report, which concerned the procurement of design and implementation services for a new customer records management (CRM) system

Councillor Paul introduced the report informing Members that procurement of CRM software was the first step towards better engagement with residents. A further report would be brought back once a suitable supplier had been identified.

**Decision**

For the reasons set out in the report Cabinet **RESOLVED** to **AGREE**

To commence the tendering process for the *Design and Implementation Services for a new CRM System*, in accordance with EU procurement rules and treaty principles and the Council’s Contract Standing Orders (CSO). The contract would be for a period of 18 months

**Alternatives considered**

1. **Alternative Procurement Routes** - The Procurement Team undertook some soft market testing of a range of procurement routes, in order to establish best value for money. The options explored were: Council run its own OJEU tender, Joint procurement with Havering and G-Cloud framework.

2. **Council run OJEU tender**: This option would be a lengthy process, which would delay the start of the project and substantially increase the risk of not completing the project before the existing CRM system goes out of support.

3. **Joint procurement with Havering** – The Citizen Data and Transactional Project in Havering has a very different scope, timeline, programme delivery strategy and benefits profile. Furthermore, waiting for the Havering programme to commence procurement would push the timeline for Citizen Data and Transactional Project back significantly. As a result, any joint procurement exercise with
14. **Procurement Review of Evaluation Weightings**

Cabinet considered a report, which proposed a new approach to procurement evaluation weighting. The suggested alternative was the outcome of a review that was triggered by concerns that the existing required contract award criteria under the Council’s contract standing orders did not always lead to a satisfactory outcome within a tender process.

Councillor Paul introduced the report informing Members that to deliver better outcomes it was intended to establish a matrix approach that would also work with the community wealth building strategic intent and enable the organisation to be more flexible. The report would be taken forward to Council.

**Decision**

For the reasons set out in the report Cabinet **RESOLVED to AGREE**

i) To recommend to Full Council, the replacement of the current 70/30 price/quality split within the Contract Standing Orders (CSOs) be modified to a more strategic and proportionate approach ensuring adequate scrutiny is undertaken in selecting the appropriate price/quality mix in line with the framework for future procurement activities; and

ii) A review of the new approach to be subsequently undertaken with findings reporting back to Cabinet at a later date.

15. **Renewal and Extension Ballot for Stratford Business Improvement District and Expansion**

Cabinet considered a report, which concerned a request for a ballot from Stratford Original for the renewal of Business Improvement District (BID) arrangements based on the current BID area.

The Head of Economic Regeneration introduced the report informing Members that under the BID framework a renewal ballot was required to be undertaken every 5 years. Funding granted through the scheme was used to invest in business in the BID area.

**Decision**

For the reasons set out in the report Cabinet **RESOLVED to AGREE** to:
i) Direct that the Returning Officer as “ballot holder” hold a ballot as required by the statutory framework noting the intention to commission Electoral Reform Services for this at an estimated cost of £1,930;

ii) Delegate authority for the Corporate Director for Resources to vote on behalf of the Council in favour of the BID proposal in the renewal ballot; and

iii) Authorise the Director of Legal and Governance to complete the necessary legal agreements required for the operation of the BID Levy, Ballot and service arrangements and any other necessary matters for the proposed BID in consultation with the appropriate officers.

Alternatives considered

1. The Council is statutorily bound to consider the BID’s proposals and hold a ballot of their businesses on its behalf upon receipt of proposals and prescribed information. As amended BID proposals have not yet been received, the Council may defer the instruction to the ballot holder. This would have the effect of delaying the BID ballot as there would not then be time to instruct the ballot holder. This is not a recommended option as the BID has already publicised the renewal ballot date to its members and has undertaken that amended proposals will be provided by 19th September 2019.

2. Officers have discussed the option of delaying the renewal ballot, with the BID, giving notice to the Secretary of State of a new BID arrangement (the new BID to cover both the old and new/ expansion BID area) and holding a ballot for that new BID after the required 84 days post-notice have elapsed. The BID has declined this option on the basis that it has already publicised the renewal ballot date to its members and considers that a delay would have a negative reputational and organisational impact.