



ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE AGENDA

7.30 pm

**Monday
5 December 2011**

**Town Hall, Main Road,
Romford**

Members 7: Quorum 3

COUNCILLORS:

Jeffrey Brace (Chairman)
Dennis Bull
Peter Gardner
Garry Pain

John Mylod (Vice-Chair)
Barbara Matthews
David Durant

**For information about the meeting please contact:
Wendy Gough 01708 432441
wendy.gough@haverling.gov.uk**

AGENDA ITEMS

1 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS

(if any) – received.

2 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

3 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

4 REQUISITION OF CABINET REPORT - HORNCHURCH COUNTRY PARK, SOUTH END ROAD, RAINHAM - PROPOSED INGREBOURNE HILL EXTENSION (Pages 1 - 12)

Report attached.

**Ian Buckmaster
Committee Administration and
Member Support Manager**



ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE

5 December 2011

REPORT

Subject Heading:

**Requisition of Cabinet Decision –
Proposed Ingrebourne Hill Extension**

CMT Lead:

**Cynthia Griffin
Group Director – Culture & Community
01708 432260**

Report Author and contact details:

**Wendy Gough
Committee Officer
Committee Administration
01708 432441**

In accordance with paragraph 17 of the Overview and Scrutiny Committee rules, a requisition signed by two Members representing more than one Group (Councillors Michael Deon Burton and Denis Breading) have called in the decision of the Cabinet dated 16 November 2011. The text of the requisition appears at the end of this report (as Appendix A):

CABINET DECISION

At its meeting on 16 November 2011, Cabinet considered a report concerning the proposed extension of Ingrebourne Hill. (A copy of the Cabinet report is attached as Appendix B.)

Cabinet RESOLVED:

1. To agree in principle to the Council:
 - Entering into a conditional Option Agreement with Ingrebourne Valley Limited to allow them a secure period within which to seek planning consent and the necessary environmental

- permits for the proposed inert waste depositing to form the Ingrebourne Hill extension; and within which,
- The Council undertake public consultation under the requirements of S.123 (2A) of the Local Government Act 1972 concerning interests being granted in respect of public open space.
 - The agreement will include an income share between the company and the Council for the deposit of inert waste.
2. To agree in principle that the Option Agreement include a right for the company, once satisfactory planning permission and environmental permits obtained and statutory concluded, thereafter within a defined timescale to take a pre-agreed form of short lease for the depositing of the inert waste, together with an obligation to take a pre-agreed form of a 99 year lease from the Council for forestry planting and wetland management obligations when the depositing works are complete.
 3. To agree in principle to the Option Agreement giving the company the right to pass on the forestry planting and wetland management obligations by way of a co-terminus Management Agreement with DEFRA / the Forestry Commission on the payment to it of an agreed dowry from the company, subject to the acceptance of the scheme by the Forestry Commission.
 4. To agree that, once a planning permission has been applied for by the company, the Council initiate statutory consultation in accordance with S.123 (2A) Local Government Act 1972. Any objections received to be reported on at the earliest opportunity for consideration by Cabinet.
 5. To delegate to the Assistant Chief Executive – Legal & Democratic Services, in conjunction with the Property Strategy Manager, the responsibility for the completion of all necessary contractual documentation.

REASON FOR REQUISITION

- A. To give Members of the Council the opportunity to give detailed consideration of the reasons, rationale and conclusions as advanced in the above proposal
- B. There are concerns as to the probity of the information presenting in support of logistics, enforcement of agreements and ideology

RECOMMENDATION

That the Committee considers the requisition of the decision of Cabinet and determines whether to uphold it.

REQUISITION OF CABINET DECISION (Item 10) 16 November 2011

Hornchurch Country Park, South End Road, Rainham – Proposed Ingrebourne Hill Extension.

We the undersigned Councillors Michael Deon Burton and Denis Breathing call in (requisition) the above mentioned decision and ask that it not be acted upon and the matter be considered, in the first instance, by the relevant Overview & Scrutiny Committee.

The reason for the call in is as follows:

- To give Members of the Council the opportunity to give detailed consideration of the reasons, rationale and conclusions as advanced in the above proposal.

Specifically, but not exclusively, there are concerns as to the probity of the information as presented in support of:

- Logistics
- Enforcement of agreements
- Ideology

Councillor Michael Deon Burton
Councillor for South Hornchurch Ward

Councillor Denis Breathing
Councillor for South Hornchurch Ward

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CABINET

16 November 2011

REPORT

Subject Heading:

Hornchurch Country Park
South End Road
Rainham
Proposed Ingrebourne Hill Extension

Cabinet Member:

Councillor Roger Ramsey – Value
Andrew Curtin – Culture, Towns &
Communities

CMT Lead:

Andrew Blake-Herbert

Report Author and contact details:

Garry Green
Property Strategy Manager
LBH Strategic Property Services
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Policy context:

Revenue Generation & Improvements to
Park

Financial summary:

Estimated income for a set period, as set
out in an exempt appendix to this Report.

Is this a Key Decision?

Yes

Is this a Strategic Decision?

No

When should this matter be reviewed?

N/A

Reviewing OSC:

Value

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	[√]
Championing education and learning for all	[]
Providing economic, social and cultural activity in thriving towns and villages	[√]
Valuing and enhancing the lives of our residents	[√]
Delivering high customer satisfaction and a stable council tax	[√]

SUMMARY

Proposed extension of Ingrebourne Hill northwards on 32 acres / 12.95 hectares of Council owned land within Hornchurch Country Park to just south of Albyns Farmhouse in order to provide a more interesting profiled and managed forested / wetland landscape whilst generating an income receipt to the Council from a pre-agreed share of the revenues from the deposit of inert material on the land, in association with Ingrebourne Valley Limited (the company), and a saving in Parks Service maintenance.

RECOMMENDATIONS

1. That it is agreed 'in principle' that the Council is to enter into a conditional Option Agreement with Ingrebourne Valley Limited to allow them a secure period within which to seek planning consent and the necessary environmental permits for the proposed inert waste depositing to form the Ingrebourne Hill extension and within which the Council is to undertake public consultation under the requirements of S.123 (2A) of the Local Government Act 1972 concerning interests being granted in respect of public open space. The agreement is to include an income share between the company and the Council for the deposit of inert waste.
2. That it is agreed 'in principle' that the Option Agreement is to include a right for the company, once satisfactory planning permission and environmental permits are obtained and the public consultation process under S.123 (2A) Local Government Act 1972 is concluded, thereafter within a defined timescale to take a pre-agreed form of short lease for the depositing of the inert waste, together with an obligation to take a pre-agreed form of a 99 year lease from the Council for forestry planting and wetland management obligations once the depositing works are complete.
3. That it is agreed 'in principle' that the Option Agreement is to give the company the right to pass on the forestry planting and wetland management obligations by way of a co-terminus Management Agreement with DEFRA / the Forestry Commission on the payment to it of an agreed dowry from the company – subject to the acceptance of the scheme by the Forestry Commission.
4. That it is agreed that, once a planning permission has been applied for by the company, the Council is to commence the S.123 (2A) Local Government Act 1972 process of advertising in two consecutive weeks in a newspaper circulating in the area in which the land is situated notifying the Council's intentions to grant lease rights over the land, which is held as public open space and forming part of Hornchurch Country Park. Any objections

received are to be reported on at the earliest opportunity for consideration by Cabinet.

5. That it is agreed that the responsibility for the completion of all necessary contractual documentation be delegated to the Assistant Chief Executive – Legal & Democratic Services, in conjunction with the Property Strategy Manager.

REPORT DETAIL

This report proposes the extension of Ingrebourne Hill northwards on Council owned freehold public open space land within Hornchurch Country Park to just south of Albyns Farmhouse in order to provide a more interesting profiled and managed forested / wetland landscape whilst generating an income receipt to the Council from a pre-agreed share of the revenues from the deposit of inert material on the land, in association with Ingrebourne Valley Limited, and making a long term notional annual saving from a transfer of maintenance obligations for the land to the company. The income stream will offer a short term revenue saving to the Council, as set out in Exempt Appendix 6.

It is proposed to grant an option agreement to the company for a period within which it can endeavour to obtain planning permission and necessary environmental permits and within which the Council is to undertake public consultation under the requirements of S.123 (2A) of the Local Government Act 1972 concerning proposals affecting public open space.

The site is close to the Ingrebourne Marshes Site of Special Scientific Interest and the Grade II Listed Albyns Farmhouse and adjacent Barn. These are issues that will need to be addressed in the planning application.

If and when a satisfactory planning consent and environment permits have been granted and the S.123 (2A) Local Government Act 1972 public consultation process is concluded by the Council, the company will have the right within a defined timescale to take a short lease for a defined period of years from the Council within which the company will be permitted to deposit inert waste material on the land in order to extend the existing Ingrebourne Hill in a northerly direction to just short of Albyns Farmhouse.

The Council would simultaneously enter into an agreement with the company for the grant of a pre-agreed form of a 99 year forestry planting / wetland management lease to commence from the completion of the inert waste depositing works. A wetland area is proposed to be created as part of the scheme in the north-east corner of the land, just south of an existing lake in the Park.

The company have had discussions with DEFRA / Forestry Commission who have indicated that 'in principle', on the payment of a dowry by the company, they would be interested in taking a 99 year Management Agreement from the company to

take on the responsibility for the forestry planting / wetland and long term maintenance of the land. This will be subject to a Forestry Commission assessment of whether the inert waste depositing works have been carried-out to a satisfactory standard for them to take on the scheme.

A DEFRA report has shown the land to be of poor quality and the proposed scheme will improve the top soil.

The Council is to receive a pre-agreed share of the company's receipts from the permanent deposit of inert material on the land to be demised, which is as shown edged red on plan sps 0741/1 at Appendix 1 to this Report. Details of the receipt are set out in the 'agreement' and Heads of Terms at Exempt Appendix 5 and the financial information at Exempt Appendix 6.

The existing and proposed landform contours and cross-section profiles for the subject land are as shown on Plans 92046/IH/1, 92046/IH/2 & 92046/IH/3 which are Appendices 2, 3 & 4 to this Report.

The proposed lorry access route over the company's land from Rainham Road up to the site is as shown shaded yellow on plan sps 0741/1 at Appendix 1.

The proposed route for the company to gain access from South End Road over the Council's unadopted access road with light vehicles to any site office and car park proposed to be located on the demised land, for the duration of the inert material deposit lease, is shown shaded blue on plan sps 0741/1.

It is intended to prohibit the company from parking on this access road from South End Road and in the small Hornchurch Country Park car park located just short of Albyns Farmhouse for site works parking.

It is intended to grant rights to the company for them to be able to install, entirely at their own expense, any necessary cables and pipes for the supply of electricity, water and telecoms alongside the Council's unadopted access road (shaded blue on plan sps 0741/1) from South End Road to the demised land for utility services required for the company's proposed site office, etc. for the duration of the inert material deposit lease term.

There are footpaths running through the demised land. The company will be granted rights to construct, divert, make use of, or repair roads or ways (including public footpaths and bridleways) over the demised land which may be necessary or convenient for the effectual deposit of the inert material.

There will be a notional saving to the Parks Service maintenance budget arising out of not having to mow the grass and maintain paths once the lease has been granted for the company to proceed to deposit inert material on the land and continuing for the duration of the 99 year forestry / wetland provision & maintenance lease. These savings are small in the context of the budget for the maintenance of this Park.

Any surveying of the land to be demised in preparation for the submission of a planning application and their application for necessary environmental permits is advised to be capable of being undertaken by the company without the need to close the land to the public. However, the land is thought likely to be closed to the public for period of around 3 years, whilst the Ingrebourne Hill extension is formed from inert waste deposits and the land is planted with trees and generally landscaped.

Estimated timings are as follows –

- Year 1 (2012) - obtaining planning consent & environment permits - Full Public access
- Year 2 (2013) - inert deposit works to extend Ingrebourne Hill - No public access
- Year 3 (2014) - inert deposit works to extend Ingrebourne Hill - No public access
- Year 4 (2015) - planting works - No public access

Once works are completed, the demised land will be opened up again for the use and enjoyment of the general public as community woodland providing access to all members of the public for leisure and recreation purposes at no charge.

Under S.123 (2A) of the Local Government Act 1972, there is a need, before 'disposing' of such land, to advertise the Council's intentions in two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections to the proposed 'disposal' (in this case the grant of lease rights and obligations) which may be made to the Council. It is intended to give a period of 28 calendar days, from the publication of the first notice, within which any objections are to be received by the Council. It is proposed that this process is undertaken once an application for planning permission has been submitted by Ingrebourne Valley Limited for the proposed scheme.

REASONS AND OPTIONS

Reasons for the decision:

It is seen by the Council as desirable to make improvements to the landscape profile of Hornchurch Country Park, which is currently relatively flat. The extension of the Ingrebourne Hill and subsequent tree planting / wetland in a managed scheme will provide a more interesting landform and features.

The proposal also has the benefit of producing for the Council –

- (a) a share of significant receipts from the company's rights to deposit inert material on the land, and
- (b) an ongoing saving from the transfer of the long term maintenance of the land to the company, which it will be required to use best endeavours to pass onto DEFRA / Forestry Commission by way of a Management Agreement on the payment of a pre-agreed dowry from the company.

The land will be contracted to be opened up again for the use and enjoyment of the general public as community woodland once the inert material deposit and forestry planting / wetland works are complete.

Other options considered:

It would be unacceptable for lorries to gain access to the subject land from South End Road utilising the Council's unadopted road shaded blue on plan sps 0741/1 at Appendix 1, as this would be incompatible with the retention of public access to the remainder of Hornchurch Country Park during the period of the inert material deposit works.

Ingrebourne Valley Limited control the land to the south, including the proposed lorry access off an existing entrance in Rainham Road, ¼ of a mile (0.4 km) to the north of the Dovers Corner roundabout, and therefore there are no alternative proposals identified that can be pursued by the Council with other companies.

An option not to proceed has been considered, but rejected as it would be passing over a good opportunity to improve the landscape profile of Hornchurch Country Park, whilst gaining a much needed income receipt to the Council and tree planting / wetland and long term management scheme producing long term maintenance savings to the Council.

IMPLICATIONS AND RISKS

Financial implications and risks:

The Council will have the right to receive a pre-agreed share of receipts from the deposit of inert waste material on the 32 acre / 12.95 hectare land in question.

Projected income receipt information is set out in Exempt Appendix 6 to this Report.

The method of calculation of the quarterly receipt is proposed to be set out in the documentation, along with an initial, annual and final geometric survey data check on the amount of material actually deposited on the land. Rights are proposed to be reserved in the documentation for the Council to inspect the company's site deposit records. The income to be received is for rights to be granted; the transactions as a whole are not viewed as a disposal, so the income received to can be taken to revenue, not having to be treated as a capital receipt.

The documentation will provide for the company to provide, free of charge to the Council, its geometric survey data on each occasion for checking by a surveying company to be commissioned by the Council.

The cost of the Council verifying the accuracy of the geometric survey data received on, say, 4 occasions will be a cost that will need to be paid from the Council's share of the inert material deposit receipts. Such costs are currently estimated at £1,000 per survey, giving a total estimated cost of £4,000.

If planning permission and necessary environmental permits are obtained and the company proceeds to take a lease for the deposit of the waste (and after that a long lease for the forestation of the extended Ingrebourne Hill), there will be no longer be a need for the Council's Parks Service to mow the grass, or maintain paths, producing a notional saving. The savings are small in the context of the budget for the maintenance of this Park.

There is a risk that acceptable planning permission and environment permits will, either, not be forthcoming, or, be difficult to get and slip the timetable, particularly if there is a lot of public opposition to the scheme.

Legal implications and risks:

This is a relatively complicated matter, but it can be dealt with using internal resources with normal conveyancing processes.

It is considered that the Council has the necessary statute consent to enter into this transaction, subject to the need under S.123 (2A) of the Local Government Act 1972 before 'disposing' (in this case granting lease rights and obligations) over public open space land, to advertise the Council's intentions in two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections to the proposed 'disposal' which may be made to it.

It is intended to give a period of 28 calendar days from publishing the first notice within which any objections are to be received by the Council. Any objections received are to be reported on at the earliest opportunity for consideration by Cabinet. It is proposed that this process is undertaken once a planning permission for the scheme has been submitted by Ingrebourne Valley Limited.

Human Resources implications and risks:

If planning permission and environmental permits are obtained and the Council has considered objections submitted under the 1972 Act and the company proceeds to take a lease for rights to deposit inert material on the land (and after that a long lease for the forestry planting, the establishment of the wetland area and subsequent maintenance of the extended Ingrebourne Hill), there will be no longer be a need for the Council's Parks Service to mow the grass / maintain paths for the duration of the inert waste deposit short lease, and the 99 year maintenance lease.

This will have a small human resources implication, but will not entail losing any Council maintenance staff.

Equalities implications and risks:

Once works are completed, the land will be contracted to be opened up again for the use and enjoyment of the general public as community woodland, without discrimination. The landscaping will be mindful of equal opportunities for all, as far as possible.

BACKGROUND PAPERS

Disclosable

1. Plan sps 0741/1 showing proposed Ingrebourne Hill Extension land to be leased, including lorry and light vehicle access routes.
2. Plan 92046/IH/1 showing the existing Ingrebourne Hill landform.
3. Plan 92046/IH/2 showing proposed Ingrebourne Hill extension landform after the proposed deposit of inert waste material.
4. Plan 92046/IH/3 showing illustrative cross-sections in two directions for the existing landform and the proposed landform.

Exempt

5. Indicative Heads of Terms
6. Projected income receipt to the Council