

**MINUTES OF A MEETING OF THE
OVERVIEW & SCRUTINY BOARD
Council Chamber - Town Hall
2 April 2019 (7.30 - 9.50 pm)**

Present:

COUNCILLORS

Conservative Group	Philippa Crowder, Judith Holt, Robby Misir, John Mylod, Nisha Patel, Bob Perry, Viddy Persaud and Roger Ramsey+Christine Smith and +Ciaran White
Residents' Group	+Gerry O'Sullivan and Barry Mugglestone
Upminster & Cranham Residents' Group	Gillian Ford and Linda Hawthorn
Independent Residents' Group	Natasha Summers and Graham Williamson
Labour Group	+Tele Lawal
North Havering Residents' Group	Darren Wise (Chairman)

Apologies were received for the absence of Councillors Ray Best, John Crowder, Ray Morgon and Keith Darvill.

+Substitute Members: Councillor Ciaran White (for Ray Best) Councillor Christine Smith (for John Crowder Councillor Gerry O'Sullivan (for Ray Morgon) and Councillor Tele Lawal (for Keith Darvill).

All decisions were taken with no votes against.

The Chairman reminded Members of the action to be taken in an emergency.

30 DISCLOSURE OF INTERESTS

4. CALL-IN OF A CABINET DECISION RELATING TO CHAFFORD SPORTS COMPLEX.

Councillor Viddy Persaud, Prejudicial, Requisitioned Cabinet decision relates to Member's portfolio.

5. CALL-IN OF A CABINET DECISION RELATING TO LONDON COUNTER FRAUD HUB.

Councillor Roger Ramsey, Prejudicial, Requisitioned Cabinet decision relates to Member's portfolio.

6. CALL-IN OF A CABINET DECISION RELATING TO LAND AT HALL LANE PITCH AND PUTT COURSE, UPMINSTER.

Councillor Roger Ramsey, Prejudicial, Requisitioned Cabinet decision relates to Member's portfolio.

31 **CALL-IN OF A CABINET DECISION RELATING TO CHAFFORD SPORTS COMPLEX**

The report before Members detailed the call-in of a Cabinet decision relating Chafford Sports Complex. A requisition signed by Councillors Durant and Morgon had called-in the Cabinet decision. The grounds for the call-in were as follows:

I wish to call in the Chafford closure decision, because the gross disparity of funding in the leisure contract towards the south of the borough and the closure of Chafford will adversely impact on the users contrary to the statutory duty within the 2010 Equality Act. Also because the claimed “unaffordable subsidy” is a false claim as the money is available, which I have identified, see message below, which will be the basis for my call for the decision to be reversed.

Regards

Dear All,

“Unaffordable” £232,284 cost becomes £9,430 saving

The Conservative Cabinet decision to close Chafford Sports Complex and evict the many and varied people using the centre due to an allegedly “unaffordable £232,284 subsidy” despite spending £28.8m upfront on a new Romford Leisure Centre and £millions more on new centres and facilities in Hornchurch and Harold Hill. Except its not unaffordable, they just want to close Chafford and use Rainham’s £2m+ contribution to subsidies the ‘borough-wide’ leisure contract and boost figures at Sapphire.

According to the Chafford Sports Complex consultation document the average swim and gym attendance figures at Sapphire are less than Hornchurch and far less than Central Park.

Chafford Sports Complex

The March 13th Cabinet approved closing Chafford Sports Complex (item 6) due to the “unaffordable subsidy”! Even if we ignore the gross disparity of funding in the ‘borough-wide leisure contract’, the unaffordable figure is wrong and the money has been found!

The Cabinet report says £50,000 has been set aside if required for a feasibility study into building a new centre in the south of the borough, £38,714 will still need to be paid for an additional 2 months to closing date on May 31st and I understand about £4,000 (x2) will be paid to two primary schools to help them relocate to Sapphire. This means once the “unaffordable £232,284” is reduced by (£50,000+£38,714+£8,000) it becomes an “unaffordable **£135,570** subsidy”

London Counter Fraud Hub

The conservative policy of making Havering part of a Greater London involves promoting mergers and joining pan-London bodies irrespective of the need to do so.

This was illustrated by the March 13th Cabinet (item 9) decision to join a “London Counter Fraud Hub” to deal with housing fraud. The report offered the option of waiting to gauge the success of the scheme first, but the Cabinet, ignoring lessons from the Tri-borough Policing, agreed to join and pay a **£75,000** joining fee and annual subscriptions of **£70,000**. The scheme offered forecast savings, but Havering has already conducted an extensive audit of council properties and PSL, so has little immediate need for the new anti-fraud “Hub”. **This matters because delaying joining frees up £145,000 for other things.**

Namely if joining the “Hub” is delayed it means the **£145,000** can be used to help keep Chafford open and means rather than an “unaffordable **£135,570** subsidy” you get a welcome (£145,000 minus £135,570) **£9,430** saving.

Regards

PS. I have submitted a complaint that the closure decision is contrary to the statutory duty in the 2010 Equality Act.

Response from officers:

“the gross disparity of funding in the leisure contract towards the south of the borough and the closure of Chafford will adversely impact on the users contrary to the statutory duty within the 2010 Equality Act”

The requirement under section 149 of the Equality Act 2010 is to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civic partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

“Due regard” is the regard that is appropriate in all the circumstances and was a matter for Cabinet to decide. **As a matter of law, as long as Cabinet was properly aware of the effects of its decision to cease funding for the community use of Chafford Sports Complex with effect from 1 June 2019 and took them into account, it properly discharged its duty.**

In respect of this decision, the effects were set out in an Equality and Health Impact Assessment which was attached to the Cabinet report at Appendix E.

Cabinet’s decision was also informed by a comprehensive public and stakeholder consultation process. The full consultation survey report was attached to the Cabinet report at Appendix B and a summary and analysis at Appendix C. Further, the consultation approach and responses were summarised and discussed conscientiously in the body of the report itself.

Cabinet therefore discharged the Council’s public sector equality duty with great care and demonstrably.

“the claimed “unaffordable subsidy” is a false claim as the money is available, which I have identified”

SLM have indicated that if they manage and operate Chafford Sports Complex beyond the 1 June 2019 further investment will be needed. In fact, Section 1.6 of the Cabinet report states that “SLM have provided the Council with indicative essential maintenance costs to keep Chafford Sports Complex open for a further one year and a further three years from June 2019. To keep the whole complex open for a further year, the investment required would be an estimated £456,000, and for a further three years an estimated £577,000. To just keep the swimming pool open for either one year or three years, the estimated cost is the same at £375,000”. This would be in addition to the £240,000 required in a management fee and utility costs paid by the Council under the Leisure Management contract.. All of this would need to be funded from Revenue, as the Council cannot invest capital funds in a site it does not own. Due to the change of ownership of the site and previous uncertainty around DfE permission for the Council to include Chafford Sports Complex in the leisure management contract, no revenue budget was created for the ongoing management of the centre. However, one off funding has been identified until the end of March 2019.

If funds were redirected as identified by the call in there would still be a significant shortfall as no funding has been identified for the essential maintenance of between £375,000 and £577,000.

If the £50,000 set aside to fund the feasibility study is spent on running the existing centre, there will be no funds available to develop the proposal for a new build.

As a point of clarity only £3-4,000 will be needed to fund relocation of primary schools swimming, rather than the £8,000 quoted in the call in.

*If “the “Hub” is delayed it means the **£145,000** can be used to help keep Chafford open”.*

The decision of whether to delay the London Counter Fraud Hub should be considered in isolation on the basis of the details contained within the report.

During the debate a requisitioner of the decision felt that the decision was invalid under the Equality Act 2010 as a full Equalities Impact Assessment was required to be completed. The Member asked what disabled swimming clubs used the sports complex, how many clubs there were and what alternative facilities had been offered.

In response, the Cabinet Member for Public Protection and Safety stated that it was not her role to memorise the names of specific clubs. She was aware of the disabled swimming clubs involved and that they had happily moved to better facilities. The decision had not been made lightly and the Cabinet Member had assessed the position of disabled swimming clubs affected with officers.

A requisitioner felt that there was unequal funding allocated in the leisure contract to Chafford compared to the £29m spent on the Romford Leisure Centre. The Cabinet report only gave indicative costs of keeping Chafford open and the Member felt that Chafford should be kept open at least until the Hornchurch Sports Centre opened in 18 months time.

Although funding was available to support local primary schools with the relocation of their swimming lessons the requisitioner felt that these schools may still lose swimming times due to the longer journeys to get to the alternative facilities. There would also be costs to closure of the facility and the figures in the Cabinet report were wrong. The Leader of the Council reiterated that the Administration was committed to residents in the south of the borough.

The Cabinet Member added that the Council was committed to investing in the south of the borough but it was not viable to invest in the 30 year old Chafford building and viable alternatives had been put forward for the swimming clubs that used the facility.

Officers added that Cabinet had discharged the Council's Public Sector Equality Duty and that the response to the consultation shown in the Cabinet report included a response from a swimming club. A Member added that, whilst the report did show the impact on disabled swimming clubs, residents continued to believe that Rainham was treated as a poor neighbour. The Cabinet member confirmed however that any new facility, if not built on a school site, would have a swimming pool and gym. Capital could not be put into the Chafford site as it was part of a school, meaning revenue was having to be spent on needed repairs.

Two local primary schools would incur costs of transferring swimming classes from Chafford to Sapphire. Officers confirmed that the Council had offered to pay these transport costs for the schools for the remainder of the school year. The schools would then be able to budget for transport costs for the following year. Only one of the affected had in fact taken up this offer thus far. Indicative travel times to get to alternative facilities were included in the Cabinet report although it was accepted these could vary.

Schools were given a choice of alternative leisure facilities and only four primary schools were being directed towards Sapphire. Several head teachers had indicated they preferred to use the Sapphire facilities.

A requisitioner added that the cost of the proposed closure of Chafford, once discounted, was in reality a subsidy. A delay to joining the London Counter Fraud Hub would allow Chafford to stay open another year. At this point the Cabinet Member for Public Protection and Safety and all other Cabinet Members present left the Chamber.

The Board voted to dismiss the call-in by 9 votes to 7.

Councillors Wise, Smith, Perry, Patel, Mylod, Misir, Crowder, Holt and Best voted to dismiss the requisition.

Councillors Lawal, Summers, Williamson, Ford, Hawthorn, O'Sullivan and Mugglestone voted to uphold the requisition.

RESOLVED:

That the requisition of the Cabinet decision dated 13 March 2019 be dismissed.

32 CALL-IN OF A CABINET DECISION RELATING TO LONDON COUNTER FRAUD HUB

The report before Members detailed the call-in of a cabinet decision relating to London Counter Fraud Hub.

A requisition signed by Councillors David Durant and Ron Ower had called-in the Cabinet decision.

The reasons for the call-in were as follows:

I wish to call in Cabinet decision item 9 LCFH, because the scheme offers forecast savings, but Havering has already conducted an extensive audit of council properties and PSL, so has little immediate need for the new anti-fraud "Hub". This matters because delaying joining frees up £145,000 for other things.

When the Housing Revenue Account was restored to councils it transformed the housing department and an audit of council housing was progressed. Then after the PSL controversy, an audit of PSL is being undertaken. The housing audit would cover lawful occupancy and the one person discount. There is now small business rate relief across the board and so fraud is diminished as no one need claim. And again there was an audit of those eligible following a previous government grant to be awarded to small businesses. That is the council has made substantial progress on the audits to remove fraud in the areas covered by the proposed LCFH.

That is not to say we never join, it just means there is no immediate need to join this year. The report itself says we could delay to see how the scheme progresses first and says not all councils need join for it to get off the ground. Indeed the main argument in the report for joining this year was just to show solidarity with the rest of London. I.e. for political reasons, in keeping with council policy to make Havering part of a Greater London. However a greater political priority for delaying a year is the saved £145,000 helps keep Chafford Sports Complex open for another year.

Response from officers:

The audit of council properties and PSL was run for three years between 2015 and November 2018. This means that some of our housing stock have not been reviewed for three years so, therefore, the Council does not have up to date data regarding properties that may be allocated inappropriately. The previous audit was not data led and was based on visiting each of our housing stock, so properties and individuals that pose a greater risk of fraudulent activity were not targeted. The LCFH will allow our data to be matched with third parties and other boroughs, so will allow us to focus on tenancies that appear to be potentially fraudulent, rather than diluting fraud resources on visits to properties which the data does not indicate fraudulent activity.

It should also be noted that the annual costs of the fraud hub are significantly less than the running costs of the tenancy fraud audit.

The fraud hub will also provide data matches for single person discount and business rate fraud, which could lead to significant savings to the Council.

A requisitioner felt that there was no immediate need to join the London Counter Fraud Hub and that the saving from not doing so this year could be put towards keeping Chafford Sports Complex open.

The Cabinet Member for Finance and Property responded that the Hub replaced the National Fraud Initiative and would allow the Council access data relating to Council housing fraud. Joining the hub would repay the associated admission costs due to the reduction of fraud that would result. Joining the scheme at a later stage would increase the joining fee and at least 26 council needed to join in order to make the scheme viable. Part of the costs were apportioned to the Housing Revenue Account and so could not be used to support Chafford. The Cabinet Member therefore felt it was sensible, pragmatic decision to join the London Counter Fraud Hub.

It was uncertain how many Councils had joined this far but the Cabinet Member expected that a number of other Council would join. The scheme had to hit its performance indicators or Councils could withdraw from it. The contract for the scheme was still being finalised between the Councils and CIPFA. Any changes to the contract would be reported to the Overview and Scrutiny Board and to Cabinet.

Expected results from the scheme were estimates based on results from past boroughs. Pilot boroughs were considered to be roughly comparable to Havering, once results had been averaged out and it was felt that the hub would provide a higher quality of referrals that the Council could investigate. More staff resources would be needed in the first year of operation due to the large amount of data matches that were expected from the hub initially.

The contract duration was seven years but reviews would be undertaken annually and officers were happy to bring these to the Overview and Scrutiny Board. There would be some developmental costs associated with the technology to identify different fraud types. This would be developed by the supplier over the life of the contract.

Potential savings could be made from the hub highlighting the risk status of properties and more time would be spent imputing in order to get the risk rating correct. Officers felt that the largest potential risk was of the data not being correct but the hub itself would drive this.

At this point the Cabinet Member for Finance and Property and any other Cabinet Members left the Chamber.

A requisitioner reiterated that the London Counter Fraud Hub did not have to be joined at this point and that the General Fund could be used to support Chafford Sports Complex.

The Board voted to dismiss the requisition by 10 votes to 6.

Councillors Wise, Lawal, Smith, Perry, Patel, Mylod, Misir, Crowder, Holt and C White voted to dismiss the requisition.

Councillors Summers, Williamson, Ford, Hawthorn, O'Sullivan and Mugglestone voted to uphold the requisition.

RESOLVED:

That the requisition of the Cabinet decision dated 13 March 2019 be dismissed.

33 CALL-IN OF A CABINET DECISION RELATING TO LAND AT HALL LANE PITCH AND PUTT COURSE, UPMINSTER

A procedural motion that, given the grounds of the requisition only made reference to the decision in respect of Hall Lane Pitch and Putt Course, that the debate and any subsequent vote on the requisition should relate to Hall Lane only. The procedural motion was proposed by Councillor Perry and seconded by Councillor Crowder.

The procedural motion was AGREED by 8 votes to 7.

Councillors Smith, Perry, Patel, Mylod, Misir, Crowder, Holt and C White voted in favour of the procedural motion.

Councillors Lawal, Summers, Williamson, Ford, Hawthorn, O'Sullivan and Mugglestone voted against the procedural motion.

Abstention – Councillor Wise.

RESOLVED:

That the debate and any subsequent vote on the requisition should relate to Hall Lane only.

The report before Members detailed the call-in of a Cabinet decision relating to land at Hall Lane Pitch and Putt Course, Upminster. A requisition signed by Councillors Ford and Morgon had called-in the Cabinet decision. The grounds for the call-in were as follows:

1. The Local Plan Map and Policy DC18 of the Core Strategy show the Hall Lane Pitch & Putt land being designated under the broad description of 'parks, open spaces, playing fields, allotments'.
2. The site has been excluded from the Playing Pitch Strategy and the 2016 Open Space Assessment. The site specific assessment by LUC (Oct 2016) identifies that there is a need and demand for a publicly accessible park and garden. It clearly states that the development of

the site would be contrary to Policy 18 of the emerging Local Plan unless suitable equivalent or better quality provision is made in a suitable location. Why has the site been deliberately omitted and Policy 18 ignored?

3. As the site has not been declassified and the above applies. The land should have undergone a statutory consultation process to be disposed of as part of the draft Local Development Plan submission. Why has this not been undertaken?
4. The miniature pitch and putt site is surrounded by the Hall Lane Policy Area Zone B. Any development would impact on Policy Area Zone B. Why has this not been taken into consideration?
5. There has been no consideration or feasibility study of the retention of the site for public wellbeing. The nearest park is dedicated for sports activities. This site has other health benefits that have not been taken into consideration, for example social prescribing as part of Havering's strategy towards health prevention. Why?
6. Land disposal requires tree surveys to be undertaken. A tree survey has been undertaken of the site as part of planning application P0.248.19. Why has this survey been ignored as part of the sale, as there is a requirement to consider TPO's in accordance with the survey's findings?
7. Policy 18 of the Local Plan sets out (criteria (i)) "that the Council will continue to protect the boroughs designated open spaces from development". Why is this Policy not being adhered to?
8. No consideration has been given to Policy 30 Nature Conservation section iii with the commitment to preserving veteran trees. Why?
9. No consideration has been given to Policy 28 and the site as a heritage asset. Why?
10. No consideration has been given to Policy 29 protecting green infrastructure. Why?
11. No consideration has been given to Policies 33 on emissions. Why?
12. No consideration has been given to Policy 34 on air quality. Why?
13. Could you explain why there has been no public consultation on the sale of the land in respect to the residents gates leading onto the site, usage, rights of access without challenge from the local authority, afforded to them for over 20 years.
14. Contrary to planning application P0248.19 which suggests a percentage of the site to the front of the development would be retained for public open space, it is the intention for the site to be sold

as a whole. Therefore planning application P0248.19 would not have any public open space, why?

15. The As part of application P0248.19, a land value statement was submitted. The BNP Paribas references the Council's CIL viability study for a greenfield classification of between £250,000 to £350,000 per hectare and they have used the mid-point of this range to generate a value of £1,066,000. This is the value the land would need to be offered for in order that the development can be viable. They go on to say that even at this level there is currently a projected deficit in value based on current returns and they are reliant on this area outperforming London trends, and on being able to minimise cost inflation, in order to return the payment in lieu of affordable housing. This is a significant area of risk. The land value figure is £7.3m per hectare for residential land in Havering as reported in the GLA Economic Evidence Base for London 2016. Why the huge difference in land value figures?

Response from officers:

No decision has been made on the disposal of the land .The Cabinet was recommended to:

(a) Agree, in principle, that the land referred to below is no longer required to be held for the purposes for which the Council presently holds it and that it should be appropriated to planning purposes with a view to its subsequent disposal in due course:

- *Land at Gooshays Drive, Harold Hill*
- *Hall Lane Pitch & Putt Course, Upminster*

(b) Authorise, for the purposes of (a) above and in accordance with section 122(2A) Local Government Act 1972 and section 233(4) Town and Country Planning Act 1990 that notices are placed in a local newspaper circulating in the area for two consecutive weeks expressing

- (i) an intention to appropriate the land to planning purposes; and*
- (ii) an intention to dispose of the land following its appropriation.*

(c) Consider any objections to the intended appropriation and/or disposal before a decision to appropriate or dispose is made.

(d) Agree, in principle, following its appropriation for planning purposes, to the disposal of the land referred to above subject to (b) and (c) above.

The Council's intention therefore, is for the Cabinet to consider all of the objections made, both to the appropriation and the disposal at another meeting before a decision is made on whether or not to proceed with the disposal.

Points 1,2,3,4,6,7,8,9,10,11,12,14 and 15 relate to planning considerations, which will be considered in due course as part of the process to determine the planning application, which has been submitted. The report indicates that the Council intends to see the land used for development subject to securing planning and other relevant consents.

The Cabinet did not decide on the merits or demerits of the planning application or planning position of the site as is shown in the above recommended decisions (a) to (d). It is considered that all the above points will be dealt with under the process of determining the planning application.

With respect to point Number 5, the site is considered to offer little value in the delivery of the Council's health and wellbeing policies. It is located in one of the least deprived wards of the borough where physical activity rates are much higher than most deprived wards in the north (Gooshays and Heaton and the south (South Hornchurch)

During the debate concern was expressed over the proposed loss of long standing green space and it was stated that the reference in appendix 2 of the report to Claremont Gardens should in fact read Holden Way.

Some Members felt that the matters raised in the grounds were relevant and did not simply relate to planning considerations.

The requisitioning Members felt that alternative uses of the land had not been considered and asked why a planning application had already been submitted. It was also felt by some Members that the proposal may be contrary to the Havering Local Development plan and section 123 of the Local Government Act 1972 which stated that land could not be disposed of for a level of consideration less than that which could be reasonably achieved.

In response, the Cabinet Member for Finance and Property stated that the call-in grounds were raising technical planning matters and that the Administration had sought to act in accordance with professional advice. The Council conducted a review every four years which sought to identify land holdings which were not being used appropriately.

A survey had found that the pitch and putt course was a poor asset, offering limited public access and was not viable as a golfing facility. This meant it did not meet the criteria for retention by the Council and Cabinet had therefore advised that the land should go forward for planning and consultation. An outline planning application was due for decision on 23 May and this would let residents know what was intended for the site.

The establishment of Mercury Land Holdings would allow the Council to ensure any development was in accordance with its intentions. The Cabinet Member added that the Council had never acknowledged any rights to

access the land and that appropriation procedures overrode those rights in any case. It was accepted that the council was obliged to pay compensation if rights were overridden but this was unlikely to be a very high amount.

Officers added that the Cabinet decision was that of the landowner and that the site had been identified as being in surplus. The public would have the opportunity through the planning process to make any observations. The valuation of the land in the planning application would be assessed independently.

It was clarified that the ward covered by the decision was Cranham and that other options were not considered as no alternative use had been identified. It was clarified that the land was not a Green Belt site and that the Mayor of London wanted housing maximised in non-Green Belt locations such as this. It had not been necessary at this stage to undertake an Equalities Impact Assessment. It was also felt that the submission of an outline planning application allowed people to have more details of what was being proposed.

Legal advice had been that the advertisement should make reference to a period of two consecutive weeks for people to object to the appropriation but any consultation period could be longer in length. It was considered unlikely that the concurrent running of the periods to object to the land appropriation and disposal would be liable to be challenged legally.

Advice from equality officers was included within the Cabinet report and an Equalities Impact Assessment would be carried out in due course. The Cabinet Member added that housing on the site would be in keeping with the surrounding area, in line with the indicative planning application. A Member pointed out that 12 of the 48 properties were expected to be rental properties but the Cabinet Member emphasised that Mercury Land Holdings as the vehicle to ensure the intentions of developers were carried out. Affordable housing in the development could potentially be provided on a different site.

The Cabinet Member confirmed that a full statutory consultation period would take place and emphasised that any related planning issues would go forward in the planning application. The site was not considered by the Council to be a formal open space. A Member pointed out that the site had been classified as public open space in the 2009 Local Development plan and in the draft of the current Local Development Plan.

Officers added that asset management was an ongoing process and that there may be opportunities to bring other assets forward for disposal in the future. At this point the Cabinet Member for Finance and Property and all other Cabinet Member present left the Chamber.

The Board voted to dismiss the requisition by 8 votes to 7.

Councillors Smith, Perry, Patel, Mylod, Misir, Crowder, Holt and C White voted to dismiss the requisition.

Councillors Lawal, Summers, Williamson, Ford, Hawthorn, O'Sullivan and Mugglestone voted to uphold the requisition.

Abstention – Councillor Wise

RESOLVED:

That the requisition of the Cabinet Decision dated 13 March 2019 be dismissed.

Chairman