

**MINUTES of the meeting of COUNCIL held at The Shirehall,  
St Peter's Square, Hereford on Tuesday 17 February 2009  
at 2.00 pm**

**Present:** Councillor J Stone (Chairman)  
Councillor JB Williams (Vice Chairman)

**Councillors:** PA Andrews, WU Attfield, LO Barnett, CM Bartrum, DJ Benjamin, AJM Blackshaw, ACR Chappell, ME Cooper, PGH Cutter, H Davies, GFM Dawe, BA Durkin, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, AE Gray, DW Greenow, KS Guthrie, JW Hope MBE, MAF Hubbard, RC Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, P Jones CBE, G Lucas, RI Matthews, PJ McCaull, PM Morgan, AT Oliver, JE Pemberton, RJ Phillips, GA Powell, PD Price, SJ Robertson, RH Smith, RV Stockton, JK Swinburne, AP Taylor, NL Vaughan, PJ Watts, DB Wilcox and JD Woodward

**21. PRAYERS**

The Very Reverend Michael Tavinor, Dean of Hereford, led the Council in prayer.

**22. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors H Bramer, WLS Bowen, SPA Daniels, KG Grumbley, B Hunt, MD Lloyd-Hayes, R Mills, A Seldon, DC Taylor, AM Toon and WJ Walling.

**23. DECLARATIONS OF INTEREST**

The following declarations of interest were received by Members in respect of items on the meeting's agenda:

- Councillors SJ Robertson, JD Woodward, AT Oliver and ACR Chappell declared a personal interest in respect of items 9 and 11 as a local authority governors.
- Councillor RI Matthews declared a personal interest in respect of item 9 the notice of motion on smallholdings due to a relative being a tenant in Council accommodation.
- Councillor PJ Edwards declared a prejudicial interest in respect of item 9, the notice of motion on smallholdings due to a close relative being a tenant in Council accommodation.
- Councillor D Greenow declared a prejudicial interest in respect of item 9, the notice of motion on smallholdings.
- Councillor RJ Phillips declared a prejudicial interest in respect of item 9, the notice of motion on smallholdings.

**24. MINUTES**

**RESOLVED: That the minutes of the meeting held on 31 October 2008 be approved as a correct record and signed by the Chairman.**

**25. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reflected on the severe winter weather that had been recently experienced. Council was informed that the authority's own staff and those of Amey had worked around the clock to ensure Herefordshire's principal routes were kept well gritted and were safe to use, with each gritting run costing around £9,000. Members were advised that as many as four grittings in a 24 hour period had been required. The supplies of salt had been most carefully managed during very challenging circumstances on behalf of the Council the Chairman thanked staff and to those of Amey, for a job well done. He additionally thanked the emergency services for their efforts during the recent weeks, including the work of the hospital and ambulance services.

The Chairman stated that Herefordshire Council was privileged to be among those who welcomed His Royal Highness Prince of Wales and The Duchess of Cornwall to the city of Hereford and Hereford Cathedral on 13 February 2009. The Prince, in his capacity as Patron of Hereford Cathedral Perpetual Trust, met many of those who had worked hard to bring many worthwhile projects to fruition.

Members were advised that the Council worked closely with the Trust and the Cathedral in helping to secure funding and support needed for the protection and restoration of our great cathedral and its environment. The Chairman took the opportunity to recognise the work of Clare Wichbold, Regeneration Coordinator at Herefordshire Council who had been seconded part-time to Hereford Cathedral Perpetual Trust during 2005/6. She had supported the fundraising for the cathedral and contributed to the Close Project, which culminated in the awarding of a grant of over £4m to the Perpetual Trust in June 2007.

The Chairman was pleased to announce that the Council's Customer Services team had been successful in maintaining the Charter Mark quality award. They had also achieved a very positive pre-assessment for the Customer Service Excellence. The Assessor had been impressed with all the work, progress and achievements made in the past year and was confident that an application for Customer Service Excellence in the coming year would be successful.

Members were reminded that for a number of years the Council had been working with Herefordshire Group Training Association, finding placements for young people who wished to work whilst continuing with their educational training. He congratulated Matt Hallett who had originally joined the Land Charges team as a Modern Apprentice and who had won Herefordshire Group Training Association's "Student Personal Development Award 2008". Matt had now been successfully appointed to a substantive post in the Land Charges section.

Members are reminded that the Civic Service would be held at 3.30pm on Sunday 15 March 2009 at the Cathedral followed by tea being served at the Town Hall. All Councillors and Members of the Public were invited to attend the service.

The Chairman brought to Members' attention the change of date for Annual Council from 29 May to 22 May, in order to avoid school holidays.

The Chairman congratulated Mr David Powell on his appointment as Director of Resources.

**26. CONSTITUTIONAL AMENDMENTS**

Members noted the report which sought their approval to the adoption of changes to the Council's constitution.

**RESOLVED: That:**

- (a) **the Council considers and adopts the amendments to paragraphs 12.4.1 and 12.4.4 of the scheme of delegation.**
- (b) **Council adopts the amendment to the constitution to permit members of the public to ask one supplementary question of Cabinet Members of a Chairman of a Committee at public questions.**

**27. QUESTIONS FROM MEMBERS OF THE PUBLIC**

Copies of all public questions, received by the deadline, with the written answers were distributed prior to the commencement of the meeting. The Chairman advised Council that following the Council's adoption earlier in the meeting of changes to questions from Members of the Public that each Member of the public who had lodged a written question was permitted to ask one supplementary question, should they so wish. Supplementary questions were asked by Mr McKay, Mr Clay, Mrs Clay and Ms Evans. A copy of the public questions and written answers together with the supplementary questions and answers are attached as Appendix 1 to the minutes.

**28. FORMAL QUESTIONS FROM COUNCILLORS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS**

1.1 Question from Councillor RI Matthews to Councillor JP French, Acting Cabinet Member Resources

1.1 *During the past twelve months, extensive internal alterations have been carried out within the Council Headquarters at Brockington, also a new disabled access ramp was constructed. Could we please be informed how much this work, including any new equipment and furnishings that were required, has cost?*

Answer from Councillor JP French, Acting Cabinet Member Resources

1.1 Total cost to the Council in the last 12 months has been £152,076 of which approximately £92,000 was for maintenance and system upgrades and compliance with regulations

1.2 Question from Councillor RI Matthews to Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing.

1.2 *Can the Cabinet Member for the Environment and Strategic Housing confirm that Section 106 obligations no longer apply to developers engaged in the construction of Business/Industrial premises on the Council's industrial estates? If that is the situation, can he please explain to us why the same conditions do not apply to all commercial developers within the county?*

Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing.

1.2 Yes I can confirm that I have reviewed the requirement for Section 106 obligations across the County. In light of current economic circumstances I have recently agreed to suspend the requirement for Section 106 contributions from commercial developers at Leominster Enterprise Park, Rotherwas Business Park and Model Farm in Ross. In all these cases it has been quite clear that there has already been significant investment in respect of the transport infrastructure requirements on these estates. This council is currently looking at mechanisms for a suspension, until further notice, of Section 106 requirements on commercial/industrial developments; in the meantime the current policy does allow for exceptions to be made on the basis of an individual business case.

Supplementary question from Councillor RI Matthews

The Member expressed disappointment in the answer provided as he stated that the suspension of Section 106 requirements for commercial development did not provide a level playing field for the domestic construction industry and builders merchants, who, due to the current economic climate were in terrible state at present. It was requested that the Cabinet Member reconsider the suspension of Section 106's for housing development.

Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing.

The Cabinet Member stated that he was surprised by the Member's disappointment and that he had considered the issues in great detail.

This was an appropriate opportunity to announce that the Council was currently considering the suspension, for twelve months, of Section 106 requirements on business developments (however this would not apply to agricultural developments).

With respect of housing developments the authority was looking into measures which could support the stimulation of the housing industry by giving consideration to development of four or more houses, however it was stated that it was important that planning applications were not banked by developers and that a time constraint of 12 months would be considered for such applications.

1.3 Question from Councillor RI Matthews to Councillor LO Barnett, Cabinet Member Social Care Adults.

1.3 *Government research suggests that a large number of elderly people suffer physical or emotional abuse whilst in care, and a recent check of Local Authority records showed that very few of these cases are investigated by Social Services. Can the Cabinet Member for Social Care Adults inform us of what the situation is within this authority, and what procedures are in place to deal with such incidents?*

Answer from Councillor LO Barnett, Cabinet Member Social Care Adults.

1.3 All reported incidents of physical, emotional, financial, or sexual abuse suffered by vulnerable people in care are investigated by the Local Authority acting in partnership with other key agencies such as the Police, PCT, Probation. From the urgent initial investigation, a strategy meeting of key stakeholders will be convened to evaluate the findings and agree a course of action.

Where the allegation relates to a Residential or Nursing home a visit would also be undertaken separately to the specific investigation to look at the overall performance of the home. Herefordshire Council has also initiated a process for senior management to have oversight of all reported cases.

It is important to be clear that all allegations reported to the Council or its partner agencies are investigated appropriately, and that the Council is proactive in encouraging a culture that supports the reporting of concerns.

The Commission for Social Care Inspection (CSCI) regulate all Homes, requiring Homes to demonstrate that their policies and processes for responding to incidents are in place, and all staff are trained in adult safeguarding procedures. They are routinely invited to strategy meetings, and would certainly have raised concerns with Herefordshire council if they felt there were incidents not being investigated.

Supplementary question from Councillor RI Matthews

Councillor Matthews thanked the Cabinet Member for the response on this emotive issue.

Answer from Councillor LO Barnett, Cabinet Member Social Care Adults.

The Cabinet Members stated that the Council was beginning to take extra precautions around older and vulnerable people in the community.

2.1 Question from Councillor AT Oliver to Councillor JP French, Cabinet Member Corporate and Customer Services and Human Resources

2.1 *Would the Cabinet Member please advise for the 2008/9 financial year the number of council employees receiving a full time equivalent salary of :-*

- a) £150,000 plus per annum
- b) £100,000 - £150,000 per annum
- c) £70,000 - £100,000 per annum
- d) £10,000 – £15,000 per annum

Answer from Councillor JP French, Cabinet Member Corporate and Customer Services and Human Resources

2.1 I should point out for clarity that the figures are based on current employees only.

From	To	Non school	Schools	Total
£10,000	£15,000	96	581	677
£70,000	£100,000	15	6	21
£100,000	£150,000	4	0	4
£150,000	up	1	0	1
		116	587	703

Supplementary Question from Councillor AT Oliver

Are the relatively low number (96) of non school employees in receipt of a salary in the range of £10,000 - £15,000 due to positions being contracted out, or for any other reason?

Answer from Councillor JP French, Cabinet Member Corporate and Customer Services and Human Resources

More analysis would be undertaken to assess the reason, however it was not necessarily true that the relatively low number of staff on this salary range was due to contracting arrangements.

2.2 Question from Councillor AT Oliver to Councillor PD Price, Cabinet Member ICT Education and Achievement

2.2 *In respect of any new contract being prepared for the completion of Riverside Primary School has the Council considered a clause enabling all sub-contractors employed on the site to be paid directly by the Council.*

*Would the Cabinet Member confirm that any extra costs incurred by the Council on the collapse of the main contractor, Pettifers, have been covered by the bond that they had to deposit with the Council.*

*What was the amount of the bond and how long before the actual collapse of this contract were the Council aware that Pettifers had serious financial problems.*

Answer from Councillor PD Price, Cabinet Member ICT Education and Achievement

2.2 It would be unwise for the Council to consider employing sub-contractors direct. The normal approach is to have one main contractor who coordinates all the sub-contractors and is responsible to the Council for the execution of the contract. If there are any issues during the contract, (or any what are known as "latent defects"), that occur after the contract is completed, the Council has only one party to deal with.

The only time a sub-contractor would be engaged direct would be for very specialised works. In these instances they are known as a "nominated sub-contractor" and the Council has a responsibility to pay them even if the main contractor went into administration.

The bond concerned is a conditional bond guarantee. It covers breach by the contractor which, in this instance, is failure to perform. Negotiations are ongoing with the consultants appointed by Norwich Union Insurance who provided the bond. The full costs of the delay and the extra costs for defective workmanship are part of these negotiations.

The bond deposited was 10% of the contract figure i.e. £673,989.00. At the time of placing the contract (15.2.07) a financial check was undertaken on Pettifer Construction and a 'sound' rating with a 'low risk' status was obtained.

During the last 6 months of the contract, prior to Pettifer Construction going into administration, the Asset Management and Property Service (AMPS) became aware of concerns regarding the contractor. The situation was closely monitored by the AMPS which also ensured that the site was made secure immediately and that steps were taken as quickly as feasible to resolve with the Receivers the completion of the contract.

Supplementary question from Councillor AT Oliver

The contractor, employed to deliver two large contracts (Riverside Primary School and the Rose Gardens) has gone into administration owing £100,000 to local contractors and who to date remain unpaid. Would the Council consider not assigning two large projects to the same contractor to mitigate against such failure?

Answer from Councillor PD Price, Cabinet Member ICT Education and Achievement

The Cabinet Member stated that he would respond to the Member outside of the meeting regarding the specific issue of assignment of contracts. With respect of the monies owed to local contractors, it was anticipated that the bond deposit would cover these outstanding invoices and that this would be activated due to the contractor's failure to perform. Members were advised that the Riverside Primary School contract would be retendered shortly.

3.1 Question from Councillor MAF Hubbard to Councillor DB Wilcox Cabinet Member Highways and Transportation.

3.1 *How many current notices have been served against Herefordshire Council under Section 89 Environmental Protection Act 1990 and how many under Section 91(5)?*

3.2 *Is it a criminal offence to fail to comply with such notices?*

3.3 *Assuming a summons is issued for each notice not complied with, what is the maximum fine that the court could impose against Herefordshire Council, and what therefore is the maximum possible fine in respect of all the notices?*

3.4 *What contact has been made with Mr Waistell (issuer of the notices and a retired lawyer) to resolve the matter?*

3.5 *Has the litter and gum been removed?*

3.6 *What plans have been set in place to deal with the accumulation of litter, gum and graffiti within Hereford's city centre?*

Answer from Councillor DB Wilcox Cabinet Member Highways and Transportation.

3.1 As of 30 January 2009 there have been 43 notices of complaint which are warnings of possible applications for litter abatement orders under section 91 of the EPA 1990. Two of these have been withdrawn and six concern private land. Nineteen notices of intention to apply for litter abatement orders have been received.

3.2 It is not an offence in itself if such notices are not complied with. They are warnings about possible future actions. Offences are committed if the magistrates' court issues litter abatement orders and they are not complied with.

3.3 The Council would comply with any summons to attend a magistrates' court. Should the court be satisfied that land is defaced or wanting on cleanliness, the court may make an order. If that order is not complied with, then on summary conviction a fine is liable to an amount currently not exceeding £2,500, with a further daily sum of £125 for any delay in complying. However

one order may cover several applications of small or adjoining areas and each would be contested as the Council has cleaning regimes and responds to specific problems as they arise.

- 3.4 Mr Waistell, has issued 40 of the 43 notices of complaint. The Council has contacted Mr Waistell on a number of occasions and explained the actions the Council is undertaking.
- 3.5 Litter has been cleared from the areas that are under the Council's control, and efforts are made to keep the streets clear of chewing gum through combinations of surface treatments and cleaning regimes.
- 3.6 The systems for reporting litter through to its clearance are constantly monitored and improved. It is anticipated that the establishment of a new model of service delivery with Amey as a result of the recent Service Delivery Review will provide opportunities for an increased focus on delivering improved outcomes in this regard.

No supplementary question was posed

- 4.1 Question from Councillor TM James to Councillor JP French, Acting Cabinet Member Resources.

4.1 *Can the Cabinet Member inform Members of the total cost of the building works and refurbishment of the offices and meeting rooms at Brockington which have taken place over the last twelve months?*

4.2 *Were the works put out to competitive tender?*

Answer from Councillor JP French, Acting Cabinet Member Resources

- 4.1/2 Total cost to the Council in the last 12 months has been £152,076 of which approximately £92,000 was for maintenance and system upgrades and compliance with regulations. In all cases corporate procurement processes were complied with.

Supplementary question from Councillor TM James

A comment was made comparing the cost of providing 10 more meeting rooms with the other matters for consideration on the agenda.

Answer from Councillor JP French, Acting Cabinet Member Resources

It was important for the authority to have a fully functioning headquarters. By having additional meeting rooms, the authority is minimising the impact of sending officers/members around the county for meetings (reducing travel cost, carbon footprint). The accommodation also provided additional capacity for Members use and to accommodate additional meetings such as briefings, additional scrutiny reviews etc.

- 5.1 Question from Councillor PJ Edwards to Councillor PD Price, Cabinet Member ICT Education and Achievement.

5.1 *When Cabinet closed the local Education Authority Swimming Pool it confirmed "the requirement for monitoring to ensure the needs of Schools*



*and other users be met" so will the Cabinet Member for ICT, Education & Achievement acknowledge that since the Pool closed, opportunity for children to attain previous levels of achievement badges has been considerably reduced?*

Answer from Councillor PD Price, Cabinet Member ICT Education and Achievement.

5.1 I do not believe that the opportunities for children to attain previous levels of achievement badges has been considerably reduced. I am aware that there is a range of information circulating about the number of badges that children have passed. I have also been informed that the national standards which Halo follow are of a higher standard than those traditionally used at the LEA pool. Indeed, Halo has achieved the highest possible level of accreditation within the Amateur Swimming Association's Aquamark scheme, a quality scheme to which the LEA Pool was not accredited. Children and young people are able to learn to swim in the current arrangements and the Cabinet takes the matter of swimming provision very seriously.

Supplementary question from Councillor PJ Edwards

Councillor referred to national curriculum requirement outlined in the National Curriculum Programme of study in November 1999 which referred to the requirement for children at Key Stage 2 to swim 25 meters unaided and to have knowledge of water safety matters. Could the Cabinet Member provide assurance that pupils were being provided the opportunity to attain this target and what number of children were attaining this requirement this year and the previous two years?

Answer from Councillor PD Price, Cabinet Member ICT Education and Achievement.

The swimming facilities made available is coping with the additional numbers. Of 3,600 children attending Halo facilities, 2,000 were undergoing the Amateur Swimming Association accredited standards. The cabinet Member had written confirmation that 800 badges had been given to children who had met the accredited standards since the closure of the LEA pool and that the HALO pool was meeting the necessary criteria.

5.2 Question from Councillor PJ Edwards to Councillor DB Wilcox, Cabinet Member Highways and Transportation.

5.2 *I am regularly approached by Belmont Ward pedestrians and cyclists who complain that their Tow-Path approach to the City appears unsafe due to its mudded surface which also cambers toward the River. Will the Cabinet Member for Highways & Transportation please ensure that basic improvements to this strategic City route are carried out ASAP?*

Answer from Councillor DB Wilcox, Cabinet Member Highways and Transportation.

5.2 We have only received one complaint regarding this matter from a member of the public. Having looked into concerns regarding the camber of the surface, the substantial verge between the path and the river would act as a safety barrier to help prevent a cyclist falling into the river. The camber does perform an important function in terms of ensuring drainage off the route, particularly during heavy rain and following flooding from the adjacent River Wye.

In the longer term we would wish to upgrade the route to provide a wider surface but this would be dependent on funding and Environment Agency approval.

Supplementary question from Councillor PJ Edwards

Can the future planned upgrade be entered into the programme of activities so that the public can view progress of the upgrade?

Answer from Councillor DB Wilcox, Cabinet Member Highways and Transportation.

The tow and cycle paths would be prioritised in turn according to the agreed priorities of the budget. All paths would be monitored accordingly.

6 Question from Councillor NL Vaughan to Councillor RJ Phillips, Leader of the Council

6 *Some residents in Aylestone Ward are concerned about the impact on local road networks of the proposed ESG Transport Hub to be built at the bottom of Aylestone Hill. The Ward already suffers from (a) high numbers of commuter traffic coming in from Worcester and (b) traffic going to and from the number of schools and colleges in the Ward.*

*I applaud efforts by the ESG to engage the community but will the Leader attend my own consultation event in the ward - so he can listen to residents' concerns in person?*

Answer from Councillor RJ Phillips, Leader of the Council.

6 I would be delighted to meet local residents in Aylestone to discuss the Transport Hub in Hereford. Proper consultation and explanation of the issue is important to ensure the concerns of residents and users are properly evaluated and addressed.

No supplementary question asked

7.1 Question from Councillor ACR Chappell to Councillor JA Hyde, Cabinet Member Children's Services

7.1 *How many county children are waiting to be assigned a social worker? With so many school children exposed to domestic problems and other influences, should a review be undertaken to ensure that the best possible personal care is taken of our children through our schools? Is it possible to have social workers and associated disciplines based in high school pyramids?*

Answer from Councillor JA Hyde, Cabinet Member Children's Services

7.1 Children's Services have on average around 200 new referrals per month. All urgent child protection cases are allocated immediately. At any one time there are referrals which following screening wait for an initial assessment.

We currently have 411 open cases, of these 17 children are awaiting allocation to a social worker. These children have all had an initial

assessment and the cases are monitored by the relevant Team Manager who will ensure that a duty social worker carries out necessary work until they can be allocated to a named social worker.

With regard to the association with high school pyramids, we are currently developing new locality multi disciplinary teams who will be associated and linked to schools in their locality.

Supplementary question from Councillor ACR Chappell

In referring to high school pyramids and the linked multi-disciplinary teams, it was stated that many child protection issues were highlighted during pupil's attendance at primary school, therefore it was important to ensure appropriate links were made. The multi-disciplinary teams should also consider involving housing associations, citizen's advice bureau, charitable organisations and local councillors, many of whom were school governors.

Answer from Councillor JA Hyde, Cabinet Member Children's Services

In response, it was stated that a consultation document, 'No Wrong Door' was being published on the development of the multi disciplinary locality teams. The document's title summed up what was trying to be achieved by establishing these teams. All relevant organisations and individuals would be involved in ensuring the safeguarding of the county's young people.

7.2 Question from Councillor ACR Chappell to Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing

7.2 *Are there any plans for Herefordshire Council in partnership with Herefordshire Housing to buy homes from owner occupiers who are forced to sell their homes because they default on their mortgage?*

Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing.

7.2 Herefordshire Council has, for a number of years, operated a Mortgage Rescue Scheme in partnership with Elgar Housing Association under which householders at risk of repossession can remain in their own homes and retain some equity. Herefordshire's model was part of the inspiration for a new National Mortgage Rescue package and Herefordshire Council is fully engaged with preparations to use the new national scheme. The national scheme is funded by the Homes and Communities Agency (HCA) who have nominated preferred partners, called 'Home Zone Agents', to work in partnership with the Local Authorities to draw down funding.

Because of Herefordshire's unique position in having a current and successful partnership with Elgar Housing Association special dispensation is being given by the CLG and Homes and Communities Agency for Herefordshire Council to continue to work with Elgar Housing Association, rather than the Home Zone Agent for the region. Herefordshire Housing do not form part of any plans to operate Mortgage Rescue in Herefordshire and are not Home Zone Agents.

7.3 Question from Councillor ACR Chappell to Councillor RJ Phillips, Leader of the Council.

- 7.3 *Could the Leader tell me what the rateable value of the racecourse is and its value on the open market? Does the Leader consider that the rent of £20,000 pa paid by the present tenant is a reasonable rent for such a valuable asset? I understand that a recent health and safety inspection was undertaken on the racecourse, can the Leader tell me the result of that inspection?*

Answer from Councillor RJ Phillips, Leader of the Council.

- 7.3 The Rateable Value of the racecourse is currently £37,000.

The rates payable for the current financial year 08/09 are £8,560.48. The House is assessed for Council Tax as Band D and the tax payable currently is £1,402.50. The current asset valuation as noted in the Council's Asset Register is £200,000 as at 2006. The property is not due for revaluation until 2011.

The racecourse is let to Hereford Racecourse Company on a 50 year lease from 01 January 1979 with 5 yearly rent reviews on the basis of open market value or existing rent whichever is higher. The last review was carried out in 2004 when the Council employed DMP Chartered Surveyors licensed leisure and business property specialists to act on our behalf.

The rent is due for review this year and again we will employ specialist valuers to act on our behalf. The rental therefore does reflect the market rent at the date of review of 2004. Given the current financial circumstances, it is difficult to estimate at this time how the market rental may have been affected.

Any Health and Safety inspection results would be issued to the Racecourse Company direct.

Supplementary question from ACR Chappell

In reference to the final sentence of the original question, as the race course belonged to the people of Herefordshire, any health and safety concerns should be made known to the Strategic Monitoring Committee and Community Services Scrutiny Committee for consideration.

Answer from Councillor RJ Phillips, Leader of the Council.

There was a need to make sure that officers are informed and to ensure the long term viability of the property was maintained and assurance provided for the public's safety.

- 8 Question from Councillor GFM Dawe to Councillor AJM Blackshaw, Cabinet Member Economic Development and Community Services.

*I note from the published Edgar Street Grid (ESG) accounts that Herefordshire Council gave £555,000 to ESG in 2007/8 and £302,000 in 2006/7. (£857,000 in total.)*

- 8.1 *How much is Herefordshire Council's payment for the year 2008/9?*

- 8.2 *Is this level of expenditure, nearly £1m, justified in the UK's present economic circumstances?*

- 8.3 *Hereford people consider that ESG is causing planning blight in Hereford*

*City. Does this Council not think that this recession is not a good opportunity to stop paying ESG and have a breathing space of two years to reconsider the whole plan?*

Answer from Councillor AJM Blackshaw, Cabinet Member Economic Development and Community Services.

8.1 I can confirm that in the 2008/09 financial year the Council will make a contribution of £350K.

8.2 - 3Yes I do believe that this level of expenditure is entirely justified. The redevelopment of the 100 acres of land which comprise the Edgar Street Grid area is an essential element of our future vision for Hereford as the key economic driver for the County. The Edgar Street Grid redevelopment is one of a package of measures aimed at ensuring that Hereford fulfils this role. A successful Herefordshire needs a successful Hereford. It is quite clear that in the current economic climate the Council and Advantage West Midlands and the Edgar Street Grid Board will have to reconsider the timing and phasing of the development. We have the funding in place to do develop key elements of infrastructure which will enable the long term development of this land to the benefit of the City. It is right that we should proceed with the relocation of the Livestock Market, the implementation of a flood relief scheme and the commencement of construction of the new access road. We have to think long term, we have to plan for the future of Hereford and not just think about the next 12 months. This investment in the City is crucial for future generations and future prosperity.

Supplementary question from Councillor GFM Dawe

*Should not the money currently being spent by the Council on the ESG project be spent on supporting the future of existing small businesses?*

Answer from Councillor AJM Blackshaw, Cabinet Member Economic Development and Community Services.

The ESG project was not on standstill but the timescales had been redefined, as stated in the recent edition of Herefordshire Matters. It was a vital initiative to regenerate the City and the county as a whole. Work was being done with Hereford City Partnership to deliver the aims of this crucial project.

Question from Councillor GFM Dawe to Councillor JP French, Acting Cabinet Member Resources.

*The Council's smallholdings*

8.4 *How many are there in total and what is the average size of a smallholding?*

8.5 *How many have recently been sold and what was the total price raised?*

8.6 *How many remain and are there plans to sell any more during 2009/10?*

Answer from Councillor JP French, Acting Cabinet Member Resources.

8.4 There are 73 smallholding tenancies, 2 cottage tenancies and 2 business tenancies. Overall there are 77 in total. The average size of a smallholding tenancy is 60 acres.

- 8.5 Since 2005 there have been 12 disposals, mostly of buildings with some small parcels of adjacent land. Total receipts are £3.99m.
- 8.6 There are 77 tenancies. There are no current proposals for disposal in 2009/10 financial year.

Supplementary question from Councillor GFM Dawe

What had the £3.99million been spent on and why was it raised – had it been used to service the council's debt?

Answer from Councillor JP French, Acting Cabinet Member Resources

Members would be aware of the budgetary pressures with capital bids made in respect of the Council's priority areas.

9 Question from Councillor JD Woodward to Councillor JP French, Acting Cabinet Member Resources.

9.1 *How much money has been saved in efficiency savings since the current Conservative administration came to power in May 2007?*

9.2 *In what areas were these efficiency savings made?*

9.3 *Financially how much of these savings has been redirected back into frontline services?*

9.4 *To what areas have these savings been specifically redirected?*

Answer from Councillor JP French, Acting Cabinet Member Resources

9.1 In terms of the Gershon efficiency savings the following savings have been made;

2007/08 £2.67m **cashable**  
2008/09 £5.05m cashable (projected)

9.2 The 2007/08 savings were in the following areas;

Adult Social care  
Children's services  
Community Services  
Environment  
Transport  
Supporting people  
Corporate services  
Procurement  
Benefits & Exchequer

**£2.67m**

The projected 2008/09 savings are in the following areas;

Corporate costs  
Vacancies  
Supplies and Services  
Agency staff

Cross directorate process and Procurement efficiencies	£0.75m
inflation absorbed by directorates	£3.3m
	<b>£5.05m</b>

9.3 In 2007/08 the savings contributed towards £3.524m for Invest to Save initiatives, the majority of which was allocated to Adult Services. In 2008/09 £275k was invested in Mental Health services and Learning Disabilities services in Adult Social Care. Also, £1.65m was used to avoid the need for service cuts or increased council tax.

9.4 As 9.3

Supplementary question from Councillor JD Woodward

If considered together, the savings for 2007/08 and 2008/09 (projected) would equate to over £7million. In the November 2008 edition of Herefordshire Matters, the Leader stated 'that in the last three years, the Council achieved almost £14 million in savings ... much of which had been directed to provide support to the most vulnerable'. The £3.8million of efficiencies spent collectively in 2007-2009 on specific service delivery to support the vulnerable was only a relatively modest proportion of the overall £14 million. This therefore meant that the current administration was no more efficient than when in joint administration arrangements.

Answer from Councillor JP French, Acting Cabinet Member Resources

The Cabinet Member noted the comments.

## 29. NOTICES OF MOTION UNDER STANDING ORDERS

The Chairman informed Council that two notices of motion had been received, one proposed by Councillor TM James on smallholdings and the another proposed by Councillor ACR Chappell on the LEA Pool, urgency was moved on both items. The Chairman proposed that the first debate would be on the LEA pool with any discussion relating to this item dealt within the debate and not in any other part of the agenda.

Councillor ARC Chappell had submitted the following Notice of Motion, which was duly seconded.

*Based on the evidence collated by the St Martin's Community Swimming Support Group, the current swimming provision is clearly a compromise which is untenable for all users and providers.*

*Therefore, we recommend that Herefordshire Council support the St Martin's Community Swimming Support Group by committing funds to be made available for the necessary repair works to the St Martin's Pool, enable the pool to re-open in September 2009 to address the needs of the whole community.*

Councillor ACR Chappell, speaking for the motion stated that 23 Councillors had signed the notice of motion, including three opposition group leaders and informed Members that several more signatures would have been added to the notice of motion had it been allowed, e.g. PTA, Sports Clubs. He was pleased to see young people in the chamber who had come to listen to the debate. The following points were raised by Councillor Chappell as the proposer of the motion:

- The Cabinet had asked that the community get involved in developing plans for any future running of the LEA pool and work had been carried out across the community in the drafting of a report with several meetings having taken place. Letters in support of reopening the LEA pool had been received, including from an Olympic swimmer.
- Reference was made to the St Martin's Community Swimming Support Group Report within which concerns were expressed about the current arrangements of school swimming provision in the Hereford leisure pool and which outlined reasons for the reopening of the LEA pool. Members were informed that Councillor AT Oliver had undertaken detailed work regarding financial projections relating to the re-opening of the LEA pool.
- The report outlined the problems with the current school swimming arrangements within Hereford leisure pool which included:
  - the sharing of the pool with others (including adults)
  - the negative impact of the leisure pool environment on teaching practices which included reduced teacher/pupil contact both in terms of sight and hearing due to high walls and disparate location of teaching groups.
  - A 50% decrease in awards achieved since the closure of the LEA pool.
- He stated that during school time, the responsibility of children lay with teachers and support staff, therefore it was important that the environment within which teachers and staff were required to oversee their charges was appropriate. Within the current arrangements, safety could not be guaranteed and as there was a high degree of risk, staff should not have to bear the responsibility of the situation.
- Learning to swim was an important marker in the development and progression of children and the process of learning assisted in building the confidence of youngsters. To date, 10 schools had stopped arranging swimming classes in the leisure pool and it was stated that other schools were considering their position.
- He informed Members of a memorial on the riverbank in St Martins/Hinton ward which was dedicated to a pupil from Marlbrook School who drowned nearby. The Wye Drown Memorial was established following a cross party campaign which sought to raise awareness of the dangers of the river. It was important for every child to have due regard to the danger of rivers.
- He stated that consideration by Cabinet in April to re-open the LEA pool would be too late, as the budget for the forthcoming year would be set at the March council meeting. A decision to reopen the LEA pool needed to be made during today's meeting to ensure the provision of purpose built facilities within which children were taught to swim.
- A named vote was requested on this motion and Councillor Chappell, as the proposer, reserved his right to speak at the end of the debate.

Councillor AT Oliver seconded the motion and made the following comments:

- The LEA pool was not a community swimming pool but was dedicated to school use with 38 schools using the facility prior to its closure. The LEA pool was subsidised through the education budget. For the other 43 schools in the county, the cost of swimming over and above the half hour fee of £65 paid by the school was met out of environment budget through the



£1,085million management fee paid to HALO.

- Given that all schools were therefore in receipt of subsidy from the authority (either from the education or environment budget), Members attention was drawn to the dichotomy in which the Schools Forum recommended the closure of the LEA pool on financial grounds due to the perceived inequality of use of education budget for 38 schools, whilst no reference was made to the subsidy received by the other 43 schools via the environment directorate's payment of the Halo management fee.
- The majority of primary schools would be in favour of re-opening the LEA pool as concerns had been expressed about safety in the leisure pool and its wider public access
- Members were advised that detailed calculations had been undertaken to assess LEA pool's financial situation. In broad terms, the Council was informed that given an investment of £282,500 (£72,500 to re-open and £210,000 to upgrade with energy efficiencies) the LEA pool could continue to be a useful asset for at least a further 10 years at a cost of less than £30,000 per year. The capital monies to support the LEA pool could be drawn from the income gained by the Bradbury Lines (Taylor/Wimpy) housing development.
- Further financial details were provided relating to the estimated budget for running the pool and of projected income which could be raised by the pool being used out of school hours by other clubs, organisations and private individuals. The deficit between running costs and income would be met by efficiencies and consideration would be given to the transfer of the LEA pool's management to HALO to achieve economies of scale. By using comparative data from HALO's management of other leisure pools, Members were informed that savings in the region of £56,000 could be achieved. With an uplift for schools from £65 to £85 per half hour swimming session, a break even situation could be demonstrated for the re-opening of the LEA pool.
- In closing, Members were advised that whilst the re-opening of the LEA pool was a viable option in accounting terms, it was necessary to ensure the quality and capacity of the current full swimming provision to Herefordshire's children.

Councillor SJ Robertson spoke in support of the motion and stated the Children's Services Scrutiny Committee had made strong cross party representation about opening the pool and said that the Council was failing in its provision. There was a statutory duty for all to children to swim 25 meters and she expressed concern that there was evidence of a 51% reduction in the number of children achieving badges, and a substantial decrease in achieving challenge awards. She additionally made the following comments;

- Members were informed that there had been an instance of double booking of the leisure pool facility which caused unnecessary cost to the school and disappointment to the children. Concern was expressed that during a recent swimming lesson, a child suffered an asthma attack and due to the leisure pool's high wall the child had to swim to a shallow area whilst suffering the attack.
- It was stated that due to travel time concerns existed about the amount of teaching time lost and the knock on impact of less time in which swimming skills could be developed. The concerns of teachers, who had a duty of care

for the children, were being ignored whilst the LEA pool had annually received good OFSTED reports.

- The Member commented that as the authority had a new post of Swimming Co-ordinator, supported by the Department for Children, Schools and Families, why had the officer's views not been sought on the issues and why were schools not made aware of the appointment?
- Concerns were additionally raised about the safety of the general public in the leisure pool as due to the schools use of the pool, the general public were regularly being restricted to a small number of lanes.

Councillor PJ Edwards appreciated the Cabinet Member ICT Education and Achievement difficult role however he stated that Members needed to be provided with data which detailed the number of pupils in receipt of swimming lessons and the number of pupils who had met the minimum accredited requirement of 25 meters and had received an award in the last three years. He was pleased to acknowledge that £200,000 had been received from Central Government to support under 16 and over 60 free swimming and quoted the Leader's statement from the press release issued that free swimming 'would be popular across the county'. However it was emphasised that capacity needed to be available in the swimming pools to enable those individuals taking advantage of the free swimming facility to use it.

Councillor J Pemberton wished to place on record that the individual who drowned in the River Wye referred to earlier in the debate could swim, but was caught in the undercurrent of the river Wye. It was important to inform children not to go in the river, regardless of their level of swimming skills.

Councillor TM James stated that:

- The four main swimming pools in the County should, according to statistical data, be capable of delivering leisure and lesson provision. However, he highlighted that the Hereford leisure pool serviced half the population of the county and that the levels of capacity in the pool was scarce. He stated that it was clear that there had been a reduction in the number of children trained and the time spent in the water (due to travel time etc) since the closure of the LEA pool, whilst at the same time capacity in the leisure pool for public swimming had been curtailed.
- It was vital for the Council to improve facilities in the LEA pool as the current situation was reducing the number of hours spent in the water which had a direct impact on the building of children's confidence.
- The authority should be increasing the level of investment in swimming with the budgetary cost to reopen the LEA pool negligible in the broader scheme – the facility was of vital importance for the future of children.
- The reopening of the pool should be done immediately as it was one of the most important functions provided by the council.

Councillor WU Attfield informed Council that the LEA Pool provided learning for South Wye, City and beyond and that the facility had been established as a Learning pool which was not solely based around swimming. The councillor commented on a recent swimming class that she had observed and stated that the changing room facilities were not appropriate (formerly used as a team sport changing room), the children were crowded in some parts of the pool, and as they were grouped according to ability were disparate and separated into four unequal groups

- Lessons should be constructed to enable positive learning outcome and it was important to assess each child individually in terms of progress and improvement within each session so that the base line could be determined for future lessons.
- The acoustics in the leisure pool were of a poor teaching quality and the configuration of the pool did not allow the teacher a visual overview of the 20-30 children in their care and it was therefore stated that the leisure pool was not a tenable place to teach.
- As it was important to encourage a culture of lifelong learning it was stated that swimming was one of the few sporting activities that could be undertaken by a lone individual to help maintain a healthy life and therefore it was essential that the Council should not discard a source of swimming for the benefit of the community. There was a need for the Council to give consideration in the long term for swimming capacity within the county.

Councillor A Blackshaw stated that he would be happy to discuss further with Councillor Oliver the financial information which had been shared with the Council and that he would be pleased to receive the business plan once prepared and finalised, which would include detailed analysis of the potential additional income stream. He stated that he was proud that by the annual investment of £1million in Halo allowed for the employment of good capital and advised Members that Halo had recently succeeded in gaining the Investors in People award, which was a credit to its management team. Members were advised that capital expenditure in HALOs assets was substantial with £266,000 provided by the Council and a further investment of £111,000 by HALO. In referring to the free swimming, Councillor Blackshaw advised the Council that the Minister had complimented Herefordshire Council on providing this opportunity for under 16 and over 60. It was additionally stated that Sport England had undertaken an audit of water space within Herefordshire and had reported that the provision was adequate for a population of 180,000 prior to the building of the facility in Leominster.

Councillor JD Woodward drew members' attention to ward profiles and specifically the number of individuals under 16 and over 60 population who would be entitled to free swimming. Within Hereford City the number of people entitled to this provision would be 23,100, within Ross on Wye 4,600, Leominster 4,900, Ledbury 4,600. Taking the County as a whole, 81,300 individuals would be entitled to claim free swimming. It was stated that the capacity in the Hereford leisure pool would be further curtailed and consideration may be given to the introduction of a time limited banding system. It was emphasised that in terms of free swimming entitlement, Hereford had to make provision to a potential take up which was equivalent of five times the size of Leominster with similar sized facilities.

- A response was sought on how much the free swimming entitlement would cost the authority once the £200,000 had been spent and whether it would continue in forthcoming years. It was stated that it was probable that due to the current economic climate, those entitled to free swimming would be encouraged to take up the opportunity.
- Concerns were expressed regarding the B1 Membership of HALO which provided unlimited access to facilities at an annual cost of £399.00. As capacity in the leisure pool for the wider public had been curtailed to accommodate school use, the terms of the membership would be challenged as it was not fully delivering under its written terms and conditions. Not only

was the Council failing the children with the closure of the LEA pool it was also as a consequence failing to provide adequately for the rest of the citizens.

Councillor RI Matthews informed Members that he had supported the motion from the outset. Adding to the previous comments made regarding teaching environment, he emphasised the need for children to learn in relaxed environments as this assisted with learning. He reiterated that there had been a 50% drop in qualifications gained since the closure of the LEA pool and stated that there was a genuine concern to reopen the pool and requested that the Cabinet Member listened to these concerns. The Aylestone Councillors were informed of one school within their ward which was not providing swimming lessons to their pupils.

Councillor RJ Phillips reminded council of the work undertaken to establish a swimming pool in North Herefordshire, which was delivered by the authority in spite of a lack of support from Sport England, such situations needed to be reflected upon. The Leader had met with the Minister and had held a frank discussion on the provision of free swimming. Responding to a question posed earlier in the debate it was stated that whilst the free swimming entitlement was an added pressure on the revenue account the authority had taken a clear, informed decision to take up the opportunity and had therefore taken on board the risk/strain. The Council was advised that free swimming provision had been made available in Wales and that it was important to learn from the examples across the border.

- The Leader informed Council that the Schools Forum did not wish to see the money spent on the LEA Pool and had stated that any monies to support the LEA pool should come from the general account.
- It was stated that in the papers to be considered by Council on 6 March, there would be a commitment in the capital programme for the county's four leisure pools as a priority as it was important to ensure the principle of swimming provision – this approach has been backed up by information discussion with the DCMS's Principal Secretary. Members were informed that there was a huge demand on the capital programme and that the County's leisure service was now better supported than if it had been maintained in house. A further dialogue would take place in the next year with Halo, the Courtyard and leisure services
- Members were reminded that leisure was a non-statutory service which needed to be valued and that it was important to have clarity by which such services were supported, which were clearly outlined in the capital programme and the Medium Term Financial Strategy. Herefordshire's commitment to leisure services had been demonstrated in Leominster as the County was the only one in England to build a new swimming pool in an 18 month time period, which was built without any financial support from Government or national agencies but with the extension of the council's borrowing facility with the support of local people. The emphasis needed to be on examining the lifespan of existing leisure pools and to consider the longer term strategy of future service provision.
- The Leader commented that there would be safety and safeguarding issues around all facilities and should the LEA pool be re-opened how these issues were to be approached would need to be addressed.
- The Council was reminded that the LEA Pool would be revisited by Cabinet before Easter 2009.

Councillor H Davies commented that as everyone was encouraged to develop and maintain Healthy lifestyles it was important for children to swim in safe places.

Councillor PM Morgan advised the Council that in light of her attendance at the recently held seminar on the budget that she would be opposing the motion. In addition, she reminded Members that when residents were asked for their views on how spending on services should be balanced over the next four years, the latest research did not view leisure as a priority. She commended the investment being made available for accessing of swimming provision for under 16 and over 60 as opposed to the option of putting money into fixed assets that the authority could not afford.

Councillor GFM Dawe in referring to Councillor Oliver's contribution to the debate on financial considerations stated that the amount required to re-open the pool, £300,000, was minimal and there would be little draw from the Council's budget to re-open the facility.

Councillor PD Price advised Council that he had listened intently to the comments made. He had recently attended the Hereford City leisure pool unannounced during school swimming classes and had viewed the change over of four schools – the process of which was managed very efficiently by Halo staff. During his visit three locations were being used within the leisure pool for teaching and several children were swimming the 26 lengths required for accredited ASA badge, many then going on to attempt for awards in diving. He advised Members that HALO had assured the Council that it could meet the additional demands placed upon the facility.

- A business plan which outlined how the LEA pool would be run and operated would be considered at the Cabinet meeting on 2 April and any expectations placed on the Council to invest money would be examined. The business plan would need to outline the aspirations of future demand and consider the long term whilst being mindful that the LEA pool under debate was built over 30 years ago. It would also be important to consider safeguarding issues in the business plan submitted.
- The Cabinet Member stated that he would look further into the number of pupils in receipt of swimming lessons and the number of pupils who had met the minimum accredited requirement of 25 meters and had received an award in the last three years, however he emphasised that he was in possession of the most up to date figures up to the end of January 2009 which accurately reflected the facts. The Local Education Authority's Swimming Training Teacher informed the Cabinet Member that 800 badges had been achieved since the closure of the LEA pool. Cllr PD Price stated that he would seek assurance that the badges gained met the minimum ASA quality standard.
- He stated that investment should be put in the main leisure pool and should the capital become available should aspire to other facilities, not solely about the LEA pool.
- It was acknowledged that safeguarding was a critical issue and was rightly strictly governed by standards. He was aware of the incident which occurred in January 09 and informed the council that had this incident occurred in the LEA pool all the children would have had to leave the pool due to the insufficient number of staff available to deal with the incident whilst overseeing the pool at the same time. The incident therefore would have

curtailed the lesson time for all the children. Due to the amount of staff in the leisure pool, the lesson activity was able to continue at the same time as the child was receiving attention.

Councillor PJ McCaull – Advised the Council that he was very pleased with the leisure pool facility in Leominster and that a reception had been held for the paralympic athletes who trained in the Leominster pool and their success had brought much publicity for Herefordshire. The pool accommodated the athletes training programme by making the facilities available out of public hours, however concern was expressed that the pool may be less accommodating to the training programme due to the increase capacity required to meet the pressures of free swimming provision.

- In referring to the need for the community to present a Business Plan, it was stated that the facts were clear, the supply of one pool in Hereford to support both leisure and learning was inadequate and that there was a detrimental impact to schools in both travel time and cost.
- A question regarding the availability of a business plan for the new cattle market site was posed as this would be a facility which would be unused for five to six days of the week. It was stated that the Council should reconsider the cattle market scheme and allocate 50% of the current £10 million budget to its establishment which would allow for £5million to be spent in alternative ways. The finance to re-open the LEA pool is within the Council's budget, however it has been allocated to the wrong issue.

Councillor TM James stated that Members should be considering where and on what current finances were being spent, as it was his view that priorities were confused. It was acknowledged that the County had four community leisure pools and until recently one dedicated LEA pool. Hereford leisure pool currently supported half the population of the county. Council Members were challenged to consider their role and responsibilities in this matter when, in his view, millions were being spent on trivia.

Councillor GA Powell asked whether the Cabinet Member had spoken with the swimming co-ordinator. She informed the Council that 26 schools had indicated their commitment to returning to the LEA pool should it be re-opened. It was essential that a duty of care needed to be shown and that this would be demonstrated by the immediate re-opening of the LEA pool.

Councillor ACR Chappell urged Members to think of the children in relation to the motion. Council was advised that the report written stated that Herefordshire Swimming Club and Triathlon Club would support the re-opening of the LEA pool and would be interested in hiring the facilities out of hours. LEA pool could be opened longer on weekdays and weekends, so that other young people could represent the county and their country. Hope that Councillors looking at what needs to be done e.g leisure pool / teaching pool. Staff to monitor number of pools. Want children to learn to swim and give teachers the right facilities. Rivers are dangerous places – confidence helps. Need a dedicated learning pool.

Following a named vote, the result of which was; 19 votes cast for the motion, 28 votes cast against the motion, no abstentions, the Chairman announced that the motion was not carried.

Following the announcement of the vote, Councillor PJ Edwards presented the Chairman with letters of support to reopen the LEA pool.

**The Council meeting was adjourned at 3.50 pm and reconvened at 4.00 pm.**

Prior to the commencement of the debate on the notice of motion on smallholdings Councillors PJ Edwards, D Greenow and RJ Phillips left the room.

Councillor TM James had submitted the following Notice of Motion, which was duly seconded.

*This Council notes the recent announcement in the advertisement columns of the local press announcing the sale of a substantial part of the smallholdings estate including three farms with sitting tenants. We also note that a number of other tenants have been given notice to quit or face eviction.*

*There was a clear undertaking made by the Cabinet Member and officers at a special meeting of the strategic monitoring committee meeting on 10 December that no change in the Council's policy would be taking place. On being asked whether there were plans to instigate a policy of selling holdings the Cabinet Member and officers indicated that there was none.*

*We now know that four days after that meeting letters were sent to tenants informing them that their homes and livelihoods were to be placed on the market to sell to a private landlord. This having been done without any consultation with Councillors, tenants or the public. This is clearly seen by the public and agricultural rural community as a major policy change and should have been treated as a key decision, this decision having been made privately by the Cabinet Member and officers should have been subject to full and open debate.*

*For eighty years the retention of our smallholdings estate has been seen across the political divide as a vitally important part of the economic and social fabric of our County, being the only route available to young working people to enter farming.*

*Therefore this Council instructs the Cabinet to withdraw the sale of holdings on the Nieuport estate and begin a consultation on the future of our smallholdings in this County.*

Councillor TM James, as the proposer of the motion, expressed the following statements:

- He stated that the smallholdings issue was important to many of the County's population as agriculture had historically been the backbone of the county, however he expressed disappointment that it had become evident that the agricultural industry was not held in as great an importance as it should be. Smallholding families were active contributors to the economic and community life of the rural county and helped sustain village schools and facilities. Historically smallholdings had enjoyed overwhelming all party support however he feared that this situation was now changing and that smallholdings were considered assets to be cashed.
- Reference was made to consideration of a smallholdings report at the Strategic Monitoring Committee (SMC) of 10 December 2008 and it was stated that many present at that meeting were encouraged by the tone of the report. However, the situation seemed to have changed since that meeting, and this had angered the councillor. During the SMC meeting, Members were advised that there were no plans to sell smallholdings, however since that meeting valuations had been undertaken with agents and surveyors approached to prepare the smallholdings for onward sale with sitting tenants.
- When the Cabinet Member was asked to provide clarification on the issue a

reply was given that there was no knowledge of a sell off; the public and Members of the SMC were comforted by this definitive response. Four days following the SMC meeting, tenants received letters informing them that their smallholding would be sold on the open market or to neighbouring farms with the letter additionally providing tenants with a notice to quit. A firm view was expressed that both Members and the public had been misled by the discussions held at the SMC, it was additionally stated that no mention was made at the December meeting of the SMC of the policy agreed in 2005 in the joint conservative/independent administration.

Following a point of order, the Chairman advised Councillor TM James to moderate his language and to ensure that any further comments were pertinent to the issue under debate.

- Councillor TM James continued by stating that in current recession the selling off of a family business, and evicting people was a disgrace and that Council should be supporting local businesses not undermining their future viability. It was stated that the agricultural community and rural area as a whole were appalled by this situation.

Prior to speaking on the motion, Councillor RI Matthews stated that he had sought legal advice due to this declaration of a personal interest and had been advised that this interest did not preclude him in taking part in the debate. Councillor RI Matthews spoke in favour of the motion and expressed the view that the smallholdings issues had overtones of the small schools closure and was an embarrassing issue for the administration. He raised concerns about the apparent lack of democratic processes in determining the potential selling of smallholdings and questioned the openness of the whole situation. It was additionally stated that the current climate was the wrong time to be considering selling publicly owned assets as the sale would not provide a proper financial return for the taxpayer. The Property Strategy agreed in during a joint administration in 2005 was referred to and the Members quoted directly from this document which state that, 'Land that becomes available can be combined with adjoining holdings and planning opportunities will be considered'. Councillor Matthews stated that had the decision to sell smallholdings been a key decision, the opportunity to hold a debate would have been available.

Councillor JW Hope MBE informed Council that letters outlining the notice to quit was usual practice with such a notice provided after five years. The Councillor had personally lived on the estate up until he was 65. The Farm Business Tenancy (FTB) scheme was set up with tenants and most tenants whose smallholdings may be sold would be continuing as normal. Consultations regarding these disposals had been taking place since January 2008 and prior to this date a possible sale was considered in 2005, no objections were received at this time. Council was reminded that there had been various disposals during the stewardship of preceding local authorities, which had not always been to the benefit of the County.

Councillor SJ Robertson informed Members that she had attended the 10 December SMC and there was no indication of selling off any part of the smallholdings estate. She said that two houses remained redundant from an amalgamation of farms three years ago and a planning application had been received for three dwellings on this site (It was also stated that this was the fifth occasion that a third party had informed the local ward member of a Council issue of which she was unaware). Could not the empty properties be used to house families on the housing list. The Councillor sought assurance, which was given, that the local ward member had been informed of the potential disposal of properties on the Neiuport Estate. It was the view of the Councillor that whilst the amalgamation of farms was acceptable income should be generated from other properties.



Councillor JB Williams stated that following the SMC on 10 December 2008 he had been content in his understanding that the status quo would be maintained. He told Council that he had been on smallholdings committees in prior authorities in which he contributed to tenancy decisions which provided opportunities for keen, capable young farmers to establish themselves in the agricultural business. He acknowledged that the six years notice was not a good way in which to manage the smallholdings business and expressed concern that the estate may be considered an easy target and tenants did not deserve such a negative situation. Assurance was sought that existing tenants would not be evicted. Council was informed that smallholding families made a great contribution to parish life and were an asset to the wider community and would be supporting the motion.

Councillor JP French rose to ask Council to reject the Motion and began by stating her sensitivity to the strain on the tenants affected by the marketing exercise of the land at Almeley, particularly when homes and livelihoods were linked.

- It was stated that the market testing of part of the smallholding estate was transparent and had been advertised in line with council policy and should the tender be acceptable the capital receipt could assist the long term viability of the wider smallholdings estate.
- Council was reminded that the current smallholdings policy was approved by the previous joint administration at Cabinet in May 2005. Former Councillor Charles Mason, Cabinet Member for agriculture and rural regeneration worked hard to ensure that all tenants' accounts were up-to-date and he had approached tenants and brokered arrangements to ensure that outstanding debts were cleared.
- The smallholdings policy recommended the disposal of buildings and farms that required high levels of capital investment, which were expensive to maintain or were redundant. The policy also recommended that £10 million of capital receipts be raised between April 2005 – March 2015.
- The property in question comprised of four farms and a parcel of 90 acres of wood and if the sale proceeded it would reduce the Council's maintenance bill by around £500,000; currently rents received were £22,000, therefore it was clear that the Council could not rely on rent to cover maintenance costs. Members were informed that the Council owned 73 tenant farms and managed the Buchanan Trust Estate which provided an entry point for first time farmers. It was stated that therefore the marketing of four farms and a 90 acre wood did not equate to a substantial part of the smallholdings estate and should the sale proceed it would provide the potential to consider a proper level of capital investment in the maintenance and improvement of the wider smallholdings estate.
- The Council was advised that since 2002 the Council had spent £1million in both Capital and Revenue and a further £150,000 in revenue was scheduled for the current financial year. The Cabinet Member stated that Members would be aware of the difficulties in prioritising the capital bids especially when there was a great need in terms of the County's infrastructure and the Council's statutory services such as adult and children's' social care.
- Members were informed that a list of those properties sold during previous administrations was maintained, and it was acknowledged that rationalisation and appropriate sales were required to ensure investment and to safeguard

the future overall viability of the smallholdings estate.

- The Cabinet Member outlined the business case for the disposal and stated that the sale of the land at Almeley was not a new proposal as it had been under consideration for the last three years and had almost been sold in the previous joint administration. It was reported that all tenants were offered the opportunity to buy their holdings, with one offer received which was unfortunately unrealistic.
- The policy complied with government legislation and was compatible with the policies of other local authorities. Members were advised that whilst the Council had a strong record of budget management, it should not be putting public money into high maintenance smallholdings to the detriment of other council-owned farms.
- Members were advised that in general terms, the Council was not required to consult with all Councillors, all tenants or the public in respect of proposed individual transactions for non-operational properties. In February 2008 valuations and fee bids were sought from four agents for the marketing of the land at Almeley and since that part of the process all relevant tenants had been kept fully informed of developments and had been supported in the process and provided advice. Tenants had been advised in November 2008 that the properties would be marketed on 18 December and all tenants agreed to fully co-operate with the agents with numerous visits made to the farms to ensure that communication was maintained by all concerned and that assistance was provided to Agents in familiarising prospective purchasers with the holdings.
- The Cabinet Member outlined the tenancies involved, one tenant had agreed to a voluntary surrender of the tenancy at an agreed level of compensation; another tenant, should the estate be purchased privately, would acquire a life tenancy in place of a retirement tenancy; and the remaining tenants would continue their existing agreements which would be assured to the end of their current terms.
- Across the smallholdings estate, eight tenants were issued with a notice to quit in January 2008, of these; 3 were offered renewals at the same time as part of the tenancy renewal process, two were subject to proposals at Model Farm (the authority's new business park project); two were re-considered and renewals offered following discussion with the tenant and their retained agents, one tenancy was due to be terminated in September 2009 as part of the rationalisation process to dispose of high maintenance buildings. The retained land would be split between neighbouring smallholdings.
- The then Director of Resources' draft report presented to SMC on 10 December was for consideration and consultation on the proposals and recommendations for a revised strategy for the smallholdings estate. The revised strategy re-affirmed the need to rationalise the estate and that disposals would continue where appropriate.
- Members were informed that the draft revised strategy report considered by SMC included the following recommendations:-
  - That the Council retains the smallholding estate as a valuable strategic asset, whilst recognising that further rationalisation might be necessary.
  - That the Council revokes the financial target of achieving £10 million in Capital receipts over 10 years.

- To reinvest in the estate.
- During the past 10 years, the Council had raised just over £3 million in sales, however turnover in the smallholdings had enabled only 10 new tenancies.
- The draft strategy would be considered by Cabinet later in the year following a further review by the new Director of Resources in which he would be consulting with tenants about the smallholdings estate.
- The Council was assured that the agricultural estate would be retained and that investment would be made in agriculture and the wider economic priorities of the County. The Curry recommendations would be supported.
- Regular meeting between the Council and tenant representatives, including Herefordshire Federation of Young Farmers would be established and the authority would collaborate with managers of other agricultural estates in the public and private sector. It was additionally stated that the Council would re-consider the proposed length of tenancies to ensure they provided for proper business development and sustainable enterprise. The Director of Resources would additionally consider the period of time of 'holding over' for seven months.
- The Cabinet Member stated that she was not in a position to confirm the allegations made, however the new Director of Resources would be putting a new imprint on the strategy, however it was essential that money was made available to invest in and provide for future opportunities in smallholdings.

Councillor RH Smith thanked the Cabinet Member for the clear, well reasoned answer. He advised Council that he would be voting against the motion.

Councillor GFM Dawe sought clarification on the implication that the £3.99million raised from disposals since 2005 had been invested in smallholdings maintenance, and not elsewhere.

Councillor AJM Blackshaw informed Council that the national smallholdings scheme came into effect in 1918 and had a proud history of providing support to soldiers returning from the first world war. He stated that agriculture was vital to the economy and that the authority had an emotional and historic duty of care to the wider smallholdings estate, however it was also important that the Council managed its assets well and gave consideration to its broader issues. Members were reminded that the Council had a big commitment with the relocation of the cattle market, which was a substantial and justifiable investment. In addition, time, energy and capital would be invested into the butter market, which would be vital to local food procurement and the 10 mile diet. The Cabinet Member emphasised that agriculture was vital to the county's economy and was important to the Council as a whole.

Councillor H Davies commented that during the current credit crunch the council should be supporting local businesses, not taking them livelihoods and homes.

Councillor PM Morgan advised Members that she supported the smallholdings estate, however she emphasised the need to ensure value for money and the need for the Council to focus on and achieve its wider objectives. It was restated that disposal of the properties in question was agreed three years ago, and whilst times had changed economically, the costs to the Council are maintained. It was stated that the Council's assets needed to be managed appropriately.

Councillor AT Oliver informed Members that during the SMC meeting, the question was put to the then Director of Resources whether there had been any consideration of smallholdings' sales and the response was that there would be no sales of smallholdings. He stated that the smallholdings should be retained unless there was a corporate priority for such a sale.

Councillor JG Jarvis advised Members that the smallholdings would retain fully protected tenancies no matter who owned the property, this fact needed to be recognised and considered as part of the debate.

Councillor DB Wilcox took exception to any suggestion implied or otherwise of lack of transparency in relation to the SMC meeting in December 2008.

Councillor PD Price recognised that the debate was on an emotional topic. As a farmer all his working life, he advised Council that he had been at the end of various contractual obligations. The FBT introduced clearly set out the period of time and the contractual obligations for the tenancy which included the one year notice to quit. He stated that he considered that there was a wider debate which needed to be held about the direction in which agriculture was going, however on this issue, by using FBT tenants are taken on board and know from the outset the obligations within the tenancy. It was recognised that the Council needed to work with tenants in a more constructive way and to consider future impact. However, it was stated that there was also a need to recognise that the Council might need to sell assets to raise capital, with the option to ring fence some or all of the capital raised for the benefit of smallholdings. It was reiterated that a review of smallholdings was to be the subject of further consideration by the Director of Resources and that through this review there would be an open debate to consider the six year contract and considerations given to options to extend through agreements, however it was emphasised that contracts were a two sided agreement. He made clear that this issue was not about forcing people out of homes. He additionally advised Council that he had received much correspondence on the issue, and would be responding to all in due course.

Councillor TM James expressed his concern that Councillors, members of the public and other organisations in attendance on 10 December all had a similar understanding of the report considered and the discussion that was held and he stated that there was a clear change in policy, which was deceptive. In referring to a comment raised regarding back rents, the Councillor advised Council that as the county was severely hit by the foot and mouth epidemic a policy decision was taken to manage the impact appropriately and as the agricultural industry suffered enormous difficulties, measures were put in place regarding payment of rents..

He stated that he was aware that of the three farms proposed for disposal the adjoining property had stated an interest. He expressed doubt that a fraction of the money raised would be reinvested in modernising the estate and urged Members to support the notice of motion.

Following a named vote, the result of which was; 17 votes cast for the motion, 26 votes cast against the motion, no abstentions, the Chairman announced that the motion was not carried.

Councillors RJ Phillips and PJ Edwards rejoined the meeting for the remainder of the agenda. Councillor Greenow had left the meeting.

### **30. REVIEW OF HEREFORDSHIRE COUNCIL CONSTITUTION**

Members were informed of process for reviewing the Council constitution.

**RESOLVED: That Council notes the process which will support the review of the constitution.**

**31. CABINET**

The Leader of the Council, Councillor R.J. Phillips, presented the report of the meetings of Cabinet held on 16 October, 20 November and 18 December 2008 and 22 January 2009.

In response to a question regarding the Employee Opinion Survey (para 6.5 of page 63) the Leader provided assurance to Council that work to address employee feedback would be undertaken.

**RESOLVED: That the reports from the meetings of Cabinet held on 16 October, 20 November and 18 December 2008 and 22 January 2009 be received.**

**32. PLANNING COMMITTEE**

Councillor TW Hunt presented the report of the meeting of the Planning Committee held on 14 November 2008 and 9 January 2009.

**RESOLVED: That the report of the meeting of the Planning Committee held on 14 November 2008 and 9 January 2009 be received.**

**33. STANDARDS COMMITTEE**

Mr David Stevens presented the report of the meeting of the Standards Committee held on 16 January 2009 and recommended that Council consider the Code of Gifts and Hospitality for adoption, which had been appended as appendix 1 of the report.

Members were informed of the significant increase in the activity of the Standards Committee in recent months and formally recorded his appreciation on behalf of the Committee to the support provided by Officers.

Responding to a question raised by Councillor RI Matthews regarding minute 75(c) of the Standards Committee meeting of 17 October 2008 and the length of time taken to amend decision notices, Mr Stevens advised him that the question had been previously asked and answered and that he would provide a written response following the meeting.

**RESOLVED: That the report of the meeting of the Standards Committee held on 16 January 2009 be received.**

**That the Code on Gifts and Hospitality (appendix 1 of the report) be adopted by Council for inclusion in the Constitution (following rectification of typographical error).**

**34. STRATEGIC MONITORING COMMITTEE**

Councillor PJ Edwards presented the report of the meetings of the Strategic Monitoring Committee held on 19 November and 10 December 2008. Council were informed of the recent reviews carried out and that an external healthcheck had been undertaken of the scrutiny function. He expressed his thanks to all Members and Officers who had been involved in the scrutiny reviews.

**RESOLVED:** That the report of the meetings of the Strategic Monitoring Committee held on 19 November and 10 December 2008 be received.

Councillor GFM Dawe left the meeting.

**35. REGULATORY COMMITTEE**

Councillor Brig P Jones presented the report of the meeting of the Regulatory Committee held on 4 November and 2 December 2008 and 6 January 2009.

**RESOLVED:** That the report of the meetings of the Regulatory Committee held on 4 November and 2 December 2008 and 6 January 2009 be received.

**36. AUDIT AND CORPORATE GOVERNANCE COMMITTEE**

Councillor RH Smith presented the report of the meeting of the Audit and Corporate Governance Committee held on 21 November 2008 and 23 January 2009.

**RESOLVED:** That the report of the meetings of the Audit and Corporate Governance Committee held on 21 November 2008 and 23 January 2009 be received.

**37. WEST MERCIA POLICE AUTHORITY**

Councillor RH Smith presented the report of the West Mercia Police Authority, which was held on 16 December 2008. Members attention was drawn to the policing pledge, the aims and priorities for the Authority for the years 2009-2012 and the new non-emergency helpline telephone number – 0300 333 3000.

**RESOLVED:** That the report of the meeting of the West Mercia Police Authority which was held on 16 December 2008 be agreed.

**38. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY**

Councillor Brig. P Jones CBE presented the report of the meeting of the Hereford & Worcester Fire and Rescue Authority which were held on 19 December 2008. Council was informed that the following a recent Audit Commission inspection, the Authority has been rated in the top three Fire and Rescue Authorities in the country, which had been achieved due to much effort on the part of all involved.

**RESOLVED:** That the report of the meetings of the Hereford & Worcester Fire and Rescue Authority which were held on 19 December 2008 be received.

## APPENDIX 1

## PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

**1 Question from Mr Peter McKay, Leominster, Hereford.**

- 1 Council motto is to Preserve our Heritage, and Full Council initial reply to my question put before that meeting is that Council is keen to ensure information it holds is readily accessible, and will look at how it can improve availability. Back in 1983, on 27 January, Hereford and Worcester Council held a Public Rights of Way County Conference, with the conference learning, question 24, that the Council would look into difficulties concerning paths not shown on the definitive map. This came about due to a large number of parishes at the conference asking why paths were not recorded, a question raised by them at that time due to it only becoming apparent in the 1980/90s when paths were cleared of obstructions and signed that this was not being undertaken on all parish paths, ie they had not all been recorded, and parishes had not been informed that their information had been rejected and the reasons why. Having inspected some of your modern records I find they reveal that many paths submitted for recording by parishes and rural district councils were not recorded, for reasons which Government Inspector has declared to have nothing to do with whether or not they were public rights of way, reference FPS/W1850/7/7 a copy of which is held by your Rights of Way Department regarding paths Wellington 14 and 26, and can be provided. Council action per conference has yet to take place, and these paths are slowly being lost to development. But Council has now completed its computerisation of the definitive map and could raise a layer showing these unrecorded paths, along with the reasons not shown, enabling your planners to take their existence into account, and assume that they exist unless and until proved otherwise, and parishes to likewise have access to this information so that they may consider whether or not the reason for rejection was valid and to bring those paths back into use. This would comply both with your motto to preserve our heritage, and with your stated intention to be keen to make information you hold readily available, along with the conference consideration of this issue. So would Council undertake to do this, or if not, change its motto?

**Answer from Councillor DB Wilcox Cabinet Member Highways and Transportation**

- 1 A digital mapping layer of unrecorded routes would only be of any value if it could be reliably established that the routes recorded on it were indeed public rights of way.

The Council in its roles of highway authority and surveying authority cannot just *assume* that public rights exist over a way: it must act reasonably and on the basis of evidence. Similarly, compiling and using such a mapping layer to influence planning decisions raises significant questions over blighting land for future development, and also legitimate interest of the current landowners/occupiers. This could rightly be challenged on the basis of being arbitrary and not based on sound evidence.

There is considerable range of reasons why routes did not get recorded on the original definitive map. Determining which routes should be included on such a digital mapping layer could only be achieved through considerable research and

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

assessment of the evidence against established criteria. Such a process already exists – it is the definitive map modification order procedure set out in section 53 of the Wildlife and Countryside Act 1981. Although time consuming, this process does provide legal certainty over the status of rights of way which are so recorded. Producing an additional map layer of suspected unrecorded rights of way would, in the Council's view, only give rise to greater uncertainty and confusion whilst diverting valuable resources away from the Council's statutory duties under that Act.

#### **Supplementary Question from Mr McKay**

Council stated that the procedure is set out in section 53 of the Wildlife and Countryside Act 1981 – this being the case, could the matter be referred to the Community Services Scrutiny Committee so that they can determine whether it is functioning correctly.

#### **Answer provided by Councillor DB Wilcox Cabinet Member Highways and Transportation**

It is for the Scrutiny Committee to consider appropriate issues for deliberation, however the Cabinet Member will take up the matter with the Interim Head of Culture and Leisure to ensure that the issues are addressed.



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#### 2 Question from Ms Nicola Goodwin, Hereford

*Since the closure of the pool teachers and coaches have found it impossible to give children the standard of swimming coaching that they deserve, the number of badges completed by children has almost halved since the pool was closed (from 212 to 108) and the health and the safety of children using the St Martin's pool has been compromised on numerous occasions. The amount of time available for the Hereford public to swim has been dramatically cut and both Hereford Triathlon Club and Hereford Swimming Club have seen members leave the county due to the lack of pool time available. I would like cabinet to ask to view CCTV of the St Martin's pool between 0930 and 1000 on Friday January 23 when you will see almost 60 pupils from the Kielder Unit forced into half the main pool with no space to improve their swimming, up to 5 fast swimmers unable to swim at their regular speed as the lane they were pushed into had no space for overtaking and the remaining 16 plus recreational swimmers packed into the remaining lane like sardines. The safety of all of those swimmers was at risk and this is at a time advertised on Halo's website and in their promotional material as 'public swimming.*

- 2 *Will the council please consider reopening the LEA pool in Hinton with immediate effect to ensure the safety of Herefordshire's schoolchildren and the general public?*

#### **Answer from Councillor PD Price Cabinet Member ICT, Education and Achievement**

Composite Answer:

- 2 Cabinet recognises the strength of feeling that continues to be expressed in support of ensuring appropriate swimming provision within the county. As a reflection of the priority Cabinet places on maintaining and developing the four public swimming facilities within the county (in the City itself and the market towns of Ledbury, Leominster and Ross on Wye), the capital programme proposals to be put before Council at its meeting in March will include investment over the next two years to ensure these public facilities are fit for purpose. It is also a Cabinet priority to deliver free swimming provision for those county residents under the age of 16 and as well as those over the age of 60.

To enable the local community to have sufficient time to assess the viability of taking on the operation of the closed LEA pool as a community asset, Cabinet has ensured that alternative arrangements are in place for school users and that these arrangements are operating in compliance with all relevant health and safety and best practice guidelines. Cabinet will consider any business case put forward by the community at its meeting on 2 April.

The council continues to work closely with its partner HALO to meet the needs of the different user groups within the county.

**Not in attendance - no supplementary question posed**

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### 3 Questions from Mr Iain Nunn, Belmont, Hereford

3 *Please would the Council please consider re-opening the LEA Pool in Hinton because:*

- a: *the structure of the Leisure Pool has proven to be completely unsuitable for teaching young children to swim;*
- b: *the amount of time available on the current timetable for Public Swimming is just not acceptable. The sessions that are available are too restrictive, and at times dangerous due to the large number of swimmers (of all abilities) being restricted to lane swimming;*
- c: *more people should be encouraged to swim and take exercise to combat obesity, heart problems etc. etc., all of which puts a severe strain on our Health System;*
- d: *the population of Hereford/Herefordshire is continuing to grow; and*
- e: *athletes from Hereford are now looking elsewhere to train, possibly even moving away or just giving up due to this closure.*

*I hope you will vote favourably on this very important issue.*

#### **Answer from Councillor PD Price Cabinet Member ICT, Education and Achievement**

Composite Answer:

3 Cabinet recognises the strength of feeling that continues to be expressed in support of ensuring appropriate swimming provision within the county. As a reflection of the priority Cabinet places on maintaining and developing the four public swimming facilities within the county (in the City itself and the market towns of Ledbury, Leominster and Ross on Wye), the capital programme proposals to be put before Council at its meeting in March will include investment over the next two years to ensure these public facilities are fit for purpose. It is also a Cabinet priority to deliver free swimming provision for those county residents under the age of 16 and as well as those over the age of 60.

To enable the local community to have sufficient time to assess the viability of taking on the operation of the closed LEA pool as a community asset, Cabinet has ensured that alternative arrangements are in place for school users and that these arrangements are operating in compliance with all relevant health and safety and best practice guidelines. Cabinet will consider any business case put forward by the community at its meeting on 2 April.

**Not in attendance - no supplementary question posed**

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### 4 Question from Mr Steve Grist, Chairman, Herefordshire Association of School Governors

*I can still remember the feeling, at age five years, of slipping under the surface of the River Roding. I can still see my father diving into the river, fully clothed, dragging me to the surface and emptying my lungs of water. A year later I nearly drowned in the sea and again my father pulled me out of the waves. By the age of six years I was terrified of rivers, the sea and any expanse of open water. My father was, understandably totally fed up with pulling me out of those expanses of water, half drowned. The remedy was quite clear, that being that I should attend the LEA swimming pool to learn to swim.*

*It was a very cold summer and the LEA pool was an open pool. I shivered for six weeks gradually developing the confidence to move away from the side of the pool. Then I took a few strokes, then I swam..... and at the end of the summer holiday I was able to swim three hundred yards. Not only was I now able to swim and be safe around water but I developed a sense of confidence and self esteem that carried on into other areas of sport and learning.*

*It is essential that the children of Herefordshire have the same access to a swimming pool that I had. The Hereford Leisure Pool does not meet the requirements for teaching a child to swim, and I am aware that it is incumbent upon schools to teach each child to swim a minimum of twenty five metres. The majority of school governors are parents and they are adamant that their children are taught to swim from an early age. Herefordshire, after all is a County with a large river flowing through it and a number of very swift flowing tributaries. The Hereford Local Authority Pool must be re-opened, and rapidly. It provides both a life saving and educational service to our children.*

4 *A recent questionnaire to school governors poses the question, how will they as governors fulfil their obligations ensuring that children are taught to swim the requisite twenty five metres. I believe that question should now be posed to Herefordshire Council, that being how do they mean to provide the facilities, the LEA pool, whereby children may be taught to swim?*

#### **Answer from Councillor PD Price Cabinet Member ICT, Education and Achievement**

Composite Answer:

4 Cabinet recognises the strength of feeling that continues to be expressed in support of ensuring appropriate swimming provision within the county. As a reflection of the priority Cabinet places on maintaining and developing the four public swimming facilities within the county (in the City itself and the market towns of Ledbury, Leominster and Ross on Wye), the capital programme proposals to be put before Council at its meeting in March will include investment over the next two years to ensure these public facilities are fit for purpose. It is also a Cabinet priority to deliver free swimming provision for those county residents under the age of 16 and as well as those over the age of 60.

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### **PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009**

To enable the local community to have sufficient time to assess the viability of taking on the operation of the closed LEA pool as a community asset, Cabinet has ensured that alternative arrangements are in place for school users and that these arrangements are operating in compliance with all relevant health and safety and best practice guidelines. Cabinet will consider any business case put forward by the community at its meeting on 2 April.

**Not in attendance - no supplementary question posed**

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### 5 Questions from Mr Mike Wilson, Lugwardine, Hereford

*On matters of procedure:*

- 5.1 *In a recent request to the Standards Committee, for review of an Assessment sub-committee decision, the Review sub-committee failed to comply with the timescale laid down in the Act of Parliament, namely 3 months. What action has been taken for this breach of the Law and what actions have been taken to ensure it does not happen in the future?*
- 5.2 *The Standards Board for England (SBE) in its document on Local Assessment of Complaints states that Standards Committees are to develop Assessment Criteria, which are to be available to the public. Are these in existence and where may they be found? A search-engine search of the website failed to produce them.*
- 5.3 *In the complaint at question 5.1, the Standards Committee's decision notices contained errors of fact (again) and also stated that evidence was not submitted. The document at question 2 clearly shows the task of the sub-committees to be to consider if there was a POTENTIAL breach of the Code of Conduct. To be requiring evidence at this stage is premature and implies the committees are making findings without the full evidence. To quote the document "The assessment and review sub-committees make no findings of fact". If this is the case were the decisions valid and are the sub-committees carrying out the task for which they were set up or are they exceeding their remit?*
- 5.4 *Why is the Standards Committee exempt from any form of scrutiny and apparently answerable to no one?*

#### **Answer from Chairman, Standards Committee**

- 5.1 This question refers to eight complaints brought by the questioner. The Standards Committee's Assessment Sub-Committee considered that there was no *prima facie* evidence of a breach of the Code of Conduct in any of them. The questioner then asked for a review of that decision. The Review Sub-Committee, consisting of different members, endorsed the decision of the Assessment Sub-Committee in every one of the eight cases. The Review Sub-Committee was called for 25 October. One member declared a prejudicial interest and the meeting had to be postponed. 25 November was the earliest date on which it could be rescheduled. The questioner was told of the delay. The meeting took place eleven days outside the required time. We informed the Standards Board for England of the delay and the reasons for it.
- 5.2 The Assessment Criteria have been available to the public since they were agreed by the Committee on the 4 July 2008. An amendment on the handling of anonymous complaints was made on 17 October 2008. They are now on the Council's website.

The new procedures were advertised in the Hereford Times on 7 August 2008.

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The Assessment Sub-Committee's Terms of Reference were also set out in the Decision Notice, a copy of which was given to the questioner.

5.3 This question is baseless. Obviously the Assessment Sub-Committee has to consider whether *prima facie* there may have been a breach of the Code of Conduct. Similarly, the Review Sub-Committee has to consider whether there are any grounds, including any further information that may be to hand, for reversing the decision of the Assessment Sub-Committee. Neither makes findings of fact, and neither did in this case.

5.4 The questioner has had this question answered before, but for the sake of the record, I will say that the Standards Board for England has regulatory powers in respect of Standards Committees; that:

Committees' determinations may be appealed to the Adjudication Panel for England, and on a point of law to the High Court: and that:

The Herefordshire Standards Committee reports fully on its work both to the Council and to the public.

**Not in attendance - no supplementary question posed**

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### **6 Questions from Mr Bob Clay, Hereford**

- 6.1 Will the Cabinet Member Corporate and Customer Services and Human Resources now publish the legal advice that the Cabinet rely on when refuting the opinion of the House of Commons library and Paul Keetch MP, the parliamentary sponsor of the Hereford Markets Act 2003, that “the Act does not require the council to build a new market”?
- 6.2 Does the Council have the legal power to purchase houses within its area that have been re-possessed by financial institutions?
- 6.3 How much has been spent so far on Aylestone Park and what has been achieved so far? What is the current estimate of the time and funding required to complete the project as currently envisaged?
- 6.4 What plans does the Council have for the future use of Churchill House?
- 6.5 What representations has the Council received concerning the lack of a Community centre or any similar facility in Aylestone Ward?

#### **Answer from Councillor JP French Cabinet Member Corporate and Customer Services and Human Resources and Acting Cabinet Member for Resources**

- 6.1 No. The legal advice the Council has received is clear in stating that the Council has a continuing obligation to provide a cattle market. It is also important to emphasise that, in any event, the Council would want to support the local economy through the provision of a market to meet the current and future needs of the agricultural industry. It is the long standing policy of the authority not to disclose confidential legal papers.

#### **Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing.**

- 6.2 The Council has the general ability to use wide ranging powers conferred by the Local Government Act 2000 for the social, economic or environmental well being of the county. Such powers could be exercised, in appropriate circumstances, for the acquisition of property. Herefordshire Council has, on a number of occasions, provided grant support and worked in partnership with Registered Social Landlords (RSL), to purchase homes off the open market where appropriate opportunities have arisen. Such properties are then owned and managed by the partner RSL who will let the property at affordable rents to households from the Housing Register. The purchase of properties off the open market is expensive by comparison to new build provision and higher levels of grant input may therefore be required. Furthermore, such properties are unlikely to meet the housing standards expected by the Homes and Communities Agency when it provides grant support.

#### **Answer from Councillor AJM Blackshaw Cabinet Member Economic Development and Community Services**

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

- 6.3 The spend to date on Aylestone Park has been approximately £1.03 million, this has been spent on the purchase of the land, the laying the cables underground, the construction of the main road junction, the construction of the gate pillars and underlying groundworks, the refurbishment of the RAF Gates and their erection, a grant to Aylestone Park Association (spent on materials, plant hire etc for footpaths and fencing), the desilting the canal, treating the silt and building the roadway and carparking spaces. This figure also includes fees

The funding required to complete the project is estimated to be £550,000 for Football Pitches, a Bowling Green and a Building. Whilst there are some modest funds available from within the project it is not enough to complete the project. The future completion is dependent on further funding being secured.

- 6.4 The Council currently leases Churchill House to Hereford College of Arts. Discussions are ongoing with the current tenant regarding a possible extension or new lease.

- 6.5 Various discussions have been held over recent years addressing the lack of community facilities in the Aylestone/Tupsley Wards. Representations have been received from the former College Estate Residents Association and its successor body. Following a study undertaken through Hereford Voluntary Action in 2007, a needs analysis for the area confirmed that community facilities were needed. Representations have also been made by one of the local Aylestone Ward members resulting in £180,000 received for the loss of the Youth Centre on College Road to be placed into a reserve fund for future use to provide a community facility in the area.

#### **Supplementary question from Mr Clay**

Has the Cabinet Member Corporate and Customer Services and Human Resources and Acting Cabinet Member for Resources seen the letter referred to in the question from the House of Commons Library to Paul Keetch MP and will the Council disclose its legal advice to enable full consideration of the facts when reaching decisions in this matter?.

#### **Answer from Cabinet Member Corporate and Customer Services and Human Resources and Acting Cabinet Member for Resources.**

Trusted officers have given clear advice to members on this matter, any challenge of this matter should be carried out in court.



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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### 7 Question from Mr Luke Moseley, Hereford

- 7 As a PE teacher in Herefordshire I am only too aware of the importance of promoting healthy lifestyles for our young people. Can the committee explain how they will ensure that the loss of pool time for young people/schools will **not** have an adverse effect on the number of young people learning to swim (as evidenced by the greater than 50% reduction in the number of swimming badges gained by the young people of Herefordshire since the closure of the LEA pool)?

#### Answer from Councillor PD Price Cabinet Member ICT, Education and Achievement

Composite Answer:

- 7 Cabinet recognises the strength of feeling that continues to be expressed in support of ensuring appropriate swimming provision within the county. As a reflection of the priority Cabinet places on maintaining and developing the four public swimming facilities within the county (in the City itself and the market towns of Ledbury, Leominster and Ross on Wye), the capital programme proposals to be put before Council at its meeting in March will include investment over the next two years to ensure these public facilities are fit for purpose. It is also a Cabinet priority to deliver free swimming provision for those county residents under the age of 16 and as well as those over the age of 60.

To enable the local community to have sufficient time to assess the viability of taking on the operation of the closed LEA pool as a community asset, Cabinet has ensured that alternative arrangements are in place for school users and that these arrangements are operating in compliance with all relevant health and safety and best practice guidelines. Cabinet will consider any business case put forward by the community at its meeting on 2 April.

**Not in attendance - no supplementary question posed**

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### 8 Question from Mr Peter Crowther, Hereford

- 8 How can the council not consider reopening the Local Education Authority pool after the quality of children's teaching has substantially decreased since its closure." This is clearly evident from the fact that the amount of swimming badges completed by schoolchildren in Herefordshire has dropped from 212 badges per year to 108 per year since the pool was closed.

#### Answer from Councillor PD Price Cabinet Member ICT, Education and Achievement

Composite Answer:

- 8 Cabinet recognises the strength of feeling that continues to be expressed in support of ensuring appropriate swimming provision within the county. As a reflection of the priority Cabinet places on maintaining and developing the four public swimming facilities within the county (in the City itself and the market towns of Ledbury, Leominster and Ross on Wye), the capital programme proposals to be put before Council at its meeting in March will include investment over the next two years to ensure these public facilities are fit for purpose. It is also a Cabinet priority to deliver free swimming provision for those county residents under the age of 16 and as well as those over the age of 60.

To enable the local community to have sufficient time to assess the viability of taking on the operation of the closed LEA pool as a community asset, Cabinet has ensured that alternative arrangements are in place for school users and that these arrangements are operating in compliance with all relevant health and safety and best practice guidelines. Cabinet will consider any business case put forward by the community at its meeting on 2 April.

**Not in attendance - no supplementary question posed**

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### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### 9 Question from Mrs Uta Clay, Hereford

- 9 What consultation took place with service users and carers in relation to the proposed amalgamation of the two respite units for Learning Disabled adults? Will the effect of this amalgamation be that the availability of respite will be reduced?

#### Answer from Councillor LO Barnett Cabinet Member Social Care Adults

- 9 Extensive consultation took place in 2007/08 to agree the strategic direction for service modernisation, which led to the Cabinet decision of May 2008 approving the strategic partnership with 'Midland Heart' as part of the Transformation Plan.

As a follow up to this consultation and the Cabinet decision, it was agreed that individuals would have their needs reviewed to ensure that their services were commissioned to meet those assessed needs. This process will be completed by 31 March 2009.

The Council can reassure Mrs Clay that those service users and their carers who need respite care will receive services in the new arrangements, and that specific, sensitive and careful preparation will be undertaken with families to make sure any potential disruption is kept to a minimum.

In terms of the volume of available service in the future arrangements, the Council is facing a difficult challenge to balance the increasing demand for this service from service users with increasing levels of dependency. The individual reassessments (currently underway) will clarify service users' level of need as measured by 'Fair Access to Care', and ensure that those whose needs are critical or substantial are offered an appropriate volume of service. Inevitably, there could be some service users who no longer meet the eligibility criteria, and there are certainly new service users reaching adulthood who will have critical or substantial needs.

A range of other services have also been developed to support family carers and offer alternatives to residential respite care. These include personal budgets, weekend breaks, adult placements and individual support to access local leisure and social activities.

The Council continues to look for ways in which consultation and engagement can be improved, and will undertake further discussions with the families affected over the next month.

#### Supplementary Question from Mrs U Clay

If the proposed amalgamation of two respite units for Learning Disabled adults goes through, how many respite beds will be lost?

#### Answer from Cabinet Member Social Care Adults

The exact number was not to hand, however the answer will be forwarded to Mrs Clay.

## APPENDIX 1

### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

**10 Question from Ms Barbara Evans, Kings Thorn, Hereford.**

- 10 Does responsibility for planning all bus services that will access the Edgar Street Grid transport hub rest with the County Council or the ESG company?

**Answer from Councillor DB Wilcox Cabinet Member Highways and Transportation**

10 The ESG Company has no responsibility for planning bus services. The services that are likely to access the proposed Transport Hub will comprise services subsidised by the Council as well as commercial services operated by bus operators. The responsibility for planning bus services will lie with the Council in respect of the services it subsidises and with bus operators in respect of commercial services.

**Supplementary question from Ms Barbara Evans**

When will the detailed plans for transport hub be available and how can the transport hub go ahead without these plans?

**Answer from Councillor DB Wilcox Cabinet Member Highways and Transportation**

Two recent displays have been put on for interested groups and put forward to the bus operators so that they are aware of the outline proposals and are able to provide comments. We will be synchronised and joined up about how public transport will operate.

## APPENDIX 1

### PUBLIC QUESTIONS TO COUNCIL – 6 FEBRUARY 2009

#### 11 Questions from Ms Rebecca Gill, Hereford

I was very disappointed to learn that the LEA pool has not re-opened. I have always taken my 4 year old twins swimming and we are now feeling the impact of the closure of the LEA pool as I am finding the public baths often inaccessible because they are closed due to swimming lessons or galas. I try to take them swimming in the week as at weekends it is usually full of young people who are often boisterous and their behaviour and bad language is upsetting to my twins.

- 11.1 Why can't the LEA pool reopen for school use which would then free up the public baths for the general public?
- 11.2 People are having to take their families to Leominster, do you not agree then that Hereford is not providing enough public swimming time for them and do you not agree that Hereford is losing valuable income?
- 11.3 The Council is failing in its duty to provide adequate swimming for my children along with other members of the public, do you not agree that because of the increased school use and decreased public use, we are now being denied the right as citizens and taxpayers of Hereford to accessible public swimming sessions?

#### **Answer from Councillor PD Price Cabinet Member ICT, Education and Achievement**

Composite Answer:

11.1 – 3

Cabinet recognises the strength of feeling that continues to be expressed in support of ensuring appropriate swimming provision within the county. As a reflection of the priority Cabinet places on maintaining and developing the four public swimming facilities within the county (in the City itself and the market towns of Ledbury, Leominster and Ross on Wye), the capital programme proposals to be put before Council at its meeting in March will include investment over the next two years to ensure these public facilities are fit for purpose. It is also a Cabinet priority to deliver free swimming provision for those county residents under the age of 16 and as well as those over the age of 60.

To enable the local community to have sufficient time to assess the viability of taking on the operation of the closed LEA pool as a community asset, Cabinet has ensured that alternative arrangements are in place for school users and that these arrangements are operating in compliance with all relevant health and safety and best practice guidelines. Cabinet will consider any business case put forward by the community at its meeting on 2 April.

**Not in attendance - no supplementary question posed**

