

EXECUTIVE – 30th MARCH 2009 AT 6.00 P.M.

PRESENT: Councillor Simmons (Chair); Councillors
M. Hussain, Khan, Roden, Shaw and Worliding.

APOLOGIES: Councillors Bailey and RJ Davis

IN ATTENDANCE: Councillors Franks, Neale and Rutstein

DECISIONS SHEET

Exemptions from the call-in process:

- (1) If the Council would be likely to suffer legal prejudice***
- (2) If the Council would be likely to suffer financial prejudice***
- (3) Where the calling-in of the decision would result in the decision not being capable of implementation at all***
- (4) Where the decision is to incur or forego expenditure of £5,000 or less except where the decision has been taken otherwise that in accordance with the Council's Policy Framework or any policies, practices, or procedures adopted by the Executive***
- (5) Where the decision results from a reference or report or recommendation from a Scrutiny Committee, a Scrutiny Panel or the Scrutiny Board***
- (6) Where the decision will be the subject of a recommendation to the Full Council***

AGENDA ITEM/ WARD(S) AFFECTED	SUBJECT	DEC. NO.	DECISION AND REASONS FOR DECISION	OTHER OPTIONS CONSIDERED
4.1 All	Integrated Children's Centre – Bid for Capital	EX/54/09	(i) That the Council's Bid for capital money to the Department of Children Schools and Families (DCSF) "co-location" fund be approved. (ii) That it be noted that the Children's Trust Partnership had a project and delivery plan for a suitable project which would deliver services	Not to bid. This would mean that the Council would miss a key opportunity to develop these services.

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			<p>for local priority groups</p> <p>Reason: To ensure the successful delivery of services for Children and Young People.</p> <p>(Note: The above item was considered by the Executive in compliance with Regulation 15 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (General Exception)).</p>	
4.2 All	Local Land Charges Fees	EX/55/09	<p>(i) That the schedule of charges in relation to local land charges fees based on cost recovery for the financial year 2009/10 set out at Appendices A and C to the report of the Head of Legal Services (Ref: 4.2) be approved.</p> <p>(ii) That an increase in the fees charged in relation to local land charges search requisitions submitted to the Council via the National Land Information Service (NLIS) set out at Appendix B to the report of the Head of Legal Services (Ref: 4.2) be approved.</p>	<p>(i) Raise the NLIS fee from £110.00 to £124.00 (residential) and from £195.00 to £229.00 (commercial) to meet the over the counter price.</p> <p>(ii) Reduce the official search fee from £124.00 to £110.00 (residential) and from £229.00 to £195.00 (commercial) to meet the NLIS price.</p>

AGENDA ITEM/ WARD(S) AFFECTED	SUBJECT	DEC. NO.	DECISION AND REASONS FOR DECISION	OTHER OPTIONS CONSIDERED
			<p>Reason: To ensure that search information is available to all on equal terms and at equal cost.</p> <p>(Note: The above item was considered by the Executive in compliance with Regulation 15 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (General Exception)).</p> <p>Exempt from Call In – Category 2</p>	
<p>6.1 All</p>	<p>Reference from Social Inclusion Scrutiny Committee – Council Tenancies for Children In Care and Care leavers</p>	<p>EX/56/09</p>	<p>(i) That in principle, the number of priority tenancies allocated to Children in care and Care Leavers be increased from 12 per annum to 18 per annum subject to further work being undertaken by the Director of Housing and Community Living as to the feasibility of this increase.</p> <p>(ii) That the Director of Housing and Community Living report back to a future meeting of the Executive on this issue.</p> <p>Reason: To take the Scrutiny Committee’s views into account.</p>	<p>To accept, note or modify the recommendations of the Scrutiny Committee.</p>
<p>8</p>	<p>Draft Corporate Plan 2008-14</p>	<p>EX/57/09</p>	<p>That the draft Corporate Plan be</p>	<p>Amend or reject the Plan</p>

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None			<p>commended to the Council for adoption as the Council's Corporate Plan.</p> <p>Reason: To set the long term vision and goals for services in Luton</p> <p>Exempt from Call In – Category 6</p>	
9 None	Draft Calendar of Meetings 2009/10	EX/58/09	<p>That the calendar of meetings for the Municipal Year 2009/10 as set out at Appendix A to the report of the Chief Executive (Head of Local Democracy) (Ref: 9) be approved insofar as it relates to meetings of the Executive.</p> <p>Reason: Administrative.</p>	To hold meetings on alternative dates;
10 All	Determined Admission Arrangements for Community Schools 2010/11	EX/59/09	<p>That the admission arrangements as set out in Appendix A to the report of the Director of Children and Learning (Ref: 10) be approved and that the Director of Children and Learning be requested to challenge the admission arrangements of other admitting authorities in respect of the academic year 2010/11, in accordance with the recommendations of Luton's Admissions Forum and guidance contained within the Admissions Code.</p>	Reject the recommendations or refer the matter back for further information.

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			Reason: To finalise the 2010/2011 admission arrangements for community schools.	
11 All	Trading Standards – Illegal Money lending Enforcement	EX/60/09	REPORT WITHDRAWN	
12 All	Joint minerals and Waste Development Scheme 2009	EX/61/09	That the draft 'Bedford Borough, Central Bedfordshire and Luton Borough Council – Minerals and Waste Development Scheme 2009' be approved for submission to Government for statutory approval. Reason: statutory requirement	To amend the scheme.
13 All	Integrated Transport and Highway Maintenance Work Programme	EX/62/09	(i) That the integrated Transport and Highway maintenance work carried out during 2008/09 be noted and that the proposed programmes set out in the report and Appendices A to Q of the report of the Head of Engineering and Transportation (Ref: 13) for these works in 2009/10 be approved. (ii) That the Head of Engineering and Transportation or the Head of Street Services (for maintenance works) be authorised, following consultation with the Executive	(i) Amend the recommendations. (ii) Not approve the recommendations.

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			<p>Member with portfolio responsibility for the Environment to make any necessary changes to the programme of work for 2009/10 to reflect such matters as increases/reductions in the available funding, alterations to schemes following consultation, rescheduling due to clashes with utility company works or to co-ordinate with other Council programmes/projects.</p> <p>(iii) That any recovered preparatory costs from the Department of Transport (DfT) for the Luton Dunstable Busway should initially be ring fenced to cover any potential cost increases on the Luton Dunstable Busway or funding shortfall on the Town centre Transport Scheme with any surplus funding on substantial completion of these projects being reallocated to the Integrated Transport Programme.</p> <p>(iv) That the Head of Engineering and Transportation be requested to send a written response to all Members of the Executive, Councillors Franks, Neale and Rutstein regarding the tender process for the Luton Dunstable Busway and in particular whether the timescale of</p>	

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			<p>Spring 2012 for the opening of the scheme was realistic and achievable.</p> <p>Reason: To ensure there is a planned programme of work to enable the targets and objectives in the Local Transport Plan to be met.</p>	
14 All	Bedfordshire Energy and Recycling (BEAR) Project: Executive Approval of Procurement Evaluation Criteria and Weightings	EX/63/09	<p>(i) That the update of the BeaR Project be noted and accepted.</p> <p>(ii) That subject to any views of the Environment and Non Executive Functions Scrutiny Committee arising from its meeting on 26th March 2009 and approval by all Partner Authorities, the proposed criteria, sub-criteria and weightings to be used to evaluate bidders' submissions during the procurement for the long term residual waste treatment contract be approved.</p> <p>(iii) That the Director of Environment and Regeneration following consultation with the Executive Member with Portfolio Responsibility for Environment be authorised to make any future minor and consequential amendments to the Evaluation Criteria.</p>	Not to approve the criteria, sub-criteria and weightings.

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			Reason: To deliver a sustainable waste management solution.	
15	Consultation on Draft Guidance for Local Transport Plans	EX/64/09	<p>(i) That the proposed process for publication of the third Local Transport Plan (LTP) as set out in the draft guidance published by the Department for Transport be agreed.</p> <p>(ii) That the proposals for a policy handbook containing a bibliography of relevant policy documents and guidance be welcomed.</p> <p>Reason: To keep under review the Local transport Plan as required by the Transport Act 2000.</p>	None.
16 All	Landfill Allowance Trading Strategy	EX/65/09	<p>(i) That the Landfill Allowance Trading Strategy (LATS) as detailed in the report of the Head of Street Services (Ref: 16) be adopted.</p> <p>(ii) That the Council's Section 151 officer be authorised following consultation with the Head of Street Services and the Executive Member with responsibility for the Environment to act as the Council's LATS Trading Officer with the ability to trade (i.e. buy</p>	<p>(i) To reject the adoption of the Landfill Allowance Trading Strategy</p> <p>(ii) To reject that delegated powers be granted to the Council's Section 151 Officer as the Council's LATS Trading Officer and the ability to trade in consultation with the Head of Street Services and the Portfolio Holder for Environment.</p>

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			<p>and sell LATS allowances).</p> <p>(iii) That the Head of Street Services be instructed to ensure that prior to any proposed trading transaction (banking, borrowing or trading of Landfill Allowances) a business case is prepared and the agreement of the Section 151 Officer and the Executive Member with Portfolio responsibility for the Environment be sought.</p> <p>Reason: To approve the Landfill Allowance Trading Strategy</p>	
17 None	Treasury Management Strategy Statement and Annual Investment Strategy – 2009/10	EX/66/09	<p>That Council be recommended to approve the Treasury Management Strategy Statement and the Annual Investment Strategy as set out in the report of the Head of Corporate Finance (Ref: 17).</p> <p>Reason: To determine the approach to Treasury Management for 2009/10.</p> <p>Exempt from Call In – Category 6</p>	Amend the strategies.
18 All	Treasury Management Activity	EX/67/09	That the Treasury Management Activity shown at Appendix A to the	To ask for more information if required.

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			<p>report of the Head of Corporate Finance (Ref: 18) be noted.</p> <p>Reason: To determine the approach to Treasury Management for 2009/10.</p>	
<p>19 Farley, Saints and Limbury</p>	<p>Disposal of land at rear of St. Nicholas House, Butterworth Path and Bretts Mead, Luton</p>	<p>EX/68/09</p>	<p>(i) That the disposal of the freehold land at: (a) the rear of St Nicholas House, 15/17 George Street, and (b) adjacent to 84 Butterworth Path be approved in principle.</p> <p>(ii) That the Director of Customer and Corporate Services and the Head of Capital and Asset Management be authorised, following consultation with the Executive Member with Portfolio Responsibility for Regeneration to approve the final terms and conditions of the disposal referred to in (i) above.</p> <p>(iii) That the disposal of the freehold land adjacent to 1 Bretts Mead be deferred for further investigation by the Director of Customer and Corporate Services and the Head of Capital and Asset Management as to the potential use of the land.</p> <p>Reason: To contribute towards the</p>	<p>Not to proceed with the freehold sales on some or all of the sites.</p>

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			target for capital income generation assumed in the funding profile of the Council's approved capital programme.	
20 South	Grant of Long Lease on land at Lea Road	EX/69/09	<p>(i) That the grant of a new 99 year ground lease of the land currently forming part of the adopted highway of Lea Road, as land to be added to the ground lease of adjoining land held by the University of Bedfordshire, (for a market rent) as set out in the report of the Head of Capital and Asset Management (ref: 20) be approved.</p> <p>ii) The Head of Capital and Asset Management following consultation with the Executive Member with Portfolio Responsibility for Regeneration be authorised to agree the terms for the lease.</p> <p>Reason: To enable the development of the University to proceed as soon as possible.</p>	Do nothing. This was not recommended as the University development could be delayed with, potentially, adverse impacts on the University's operations. Furthermore the increased rent would not be obtained.
21 All	Black and Minority Ethnic Housing Strategy	EX/70/09	i) That the report and draft Black & Minority Ethnic (BME) Housing Strategy as attached at Appendix A to the report of the Head of Housing be	To reject the strategy or choose not to publish a separate BME housing strategy.

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			<p>approved.</p> <p>ii) That the Director of Housing and Community Living in consultation with the Executive Member with Portfolio responsibility for Housing be authorised to approve and adopt the final strategy.</p> <p>Reason: To recognise the specific needs of the black and minority ethnic community within the Housing Strategy</p>	
<p>22 Northwell</p>	<p>Marsh Farm New Deal for Communities Delivery Plan 2009-10</p>	<p>EX/71/09</p>	<p>That the Marsh farm new Deal for Communities (NDC) Delivery Plan 2009-10 attached at Appendix A to the report of the Head of Regeneration (Ref: 22) be approved.</p> <p>Reason: To assist neighbourhood renewal in this area.</p>	<p>Not agree the Marsh Farm New Deal for Communities Delivery Plan 2009-10. This would lead to significant reputation and financial risks to the Council and is not the preferred option.</p>
<p>23 Northwell</p>	<p>Community Enterprise Centre (CERC) Marsh Farm</p>	<p>EX/72/09</p>	<p>(i) That a lease for space within the Community Enterprise and Resource Centre (CERC) be entered into and that the Head of Capital & Asset Management in consultation with the Executive Member with Portfolio Responsibility for Regeneration be authorised to agree</p>	<p>To not include Luton Borough Council Services in the CERC Building</p>

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			<p>terms.</p> <p>(ii) That the Head of Capital and Asset Management be instructed to enter into detailed negotiations with the Marsh Farm Legacy Vehicle in relation to funding use and management of the proposed community space.</p> <p>(iii) That the Head of Capital and Asset Management be instructed to ensure that the budget requirements are met from within existing council budgets and that provisions are factored into the 2010/11 budget setting process.</p> <p>Reason: To progress the building of the Community Enterprise and Resource Centre at Marsh Farm.</p>	
24 None	Local Government Act 1972, Part VA	EX/73/09	A resolution was passed under Regulation 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and the public were excluded from the remainder of the meeting as it was likely that if members of the public were present during consideration of the items remaining there would be disclosure	

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			<p>to them of exempt information falling within Paragraphs of Part 1 of Schedule 12A to the Local Government Act 1972.</p> <p>Reason: Statutory</p>	
25	Building Schools for the Future – Final Business case	EX/74/09	<p>(i) That the information in the Report of the Director of Children and Learning (“the Report”) and its Annexes (Ref: 25) providing details of the process and negotiations undertaken and work carried out to date in relation to the Luton Building Schools for the Future Project (the "Project") be noted;</p> <p>(ii) The power of the Luton Borough Council (the "Council") to enter into the Project Documents (as defined below) be noted;</p> <p>(iii) That it be noted that based on the information provided in the Final Business Case attached as Annex 1 to the Report (the “FBC), the Project remains good value for money for the Council;</p> <p>(iv) That it be noted that based on the information provided in the FBC, the Project was affordable by the</p>	

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			<p>Council;</p> <p>(v) That the balance sheet treatment of the Project as set out in the FBC be noted;</p> <p>(vi) That the financial implications for the Council of entering into the Project Documents (as defined below) set out in the Report be approved;</p> <p>(vii) That the award of contracts for the implementation of the Project to QED Wates (the "Consortium") who will form part of the Local Education Partnership (the "LEP") named as the Luton Learning and Community Partnership Limited ("LLCP") be approved. The three investors in LLCP being Wates, the Council and Building Schools for the Future Investments (BSFI)) to include (but not by way of limitation) the award/entry into the following contracts:</p> <p>(a) in relation to the Phase 1 PFI school (Challney High School for Girls) the Project Agreement to a special purpose company (QED Luton (Challney) Limited) to be established by the</p>	

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			<p>Consortium as a subsidiary of the LEP (as defined below), together with associated Funder Direct Agreement;</p> <p>(b) the Strategic Partnering Agreement to the LEP to be established by the Consortium (including exclusivity in relation to other projects as detailed in that agreement);</p> <p>(c) in relation to the Phase 1 design and build school (Lea Manor High School) and Barnfield South and West Academies, the Design and Build Contracts to the LEP;</p> <p>(d) in relation to the Luton Secondary Schools (excluding the Academies) - the ICT Services Contract to the LEP;</p> <p>(e) in relation to the Phase 1 design and build school (Lea Manor High School), the Facilities Management Contract to the LEP; and</p> <p>(f) the Funders Direct</p>	

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			<p>Agreement to be entered into between the Council and QED Luton (Challney) Limited and the Bank.</p> <p>(i) the investment by the Council in the proportions set out in the Final Business Case (FBC) in the LEP and also the Special Purpose Company (SPC or SPV) which is a company set up to Design, Build, Finance, Operate and Maintain the PFI project be approved (The SPC to be named QED Luton (Challney) Limited;</p> <p>(ii) That the BSF Project Director (or in his absence the Chief Financial Officer (Head of Corporate Finance), or the BSF Legal Adviser or the BSF Senior facilities manager or the major Projects and Airport Business Manager) following consultation with the Chief Executive and Executive Leader, or the Executive Member(s) with Portfolio responsibility for Children and Young People, be authorised to give final approval to the completion of the Project, including (but not by way of limitation) to the terms and execution of the following:</p> <p>(a) the Strategic Partnering Agreement to be entered into</p>	

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			<p>between the Council and Luton Learning and Community Partnership;</p> <p>(b) the Shareholders Agreement to be entered into between the Council and Wates and BSFI;</p> <p>(c) the Project Agreement to be entered into between the Council and QED Luton (Challney) Limited;</p> <p>(d) the Funders Direct Agreement to be entered into between the Council and QED Luton (Challney) Limited and the Bank;</p> <p>(e) the Joint Insurance Account Agreement to be entered into between the Council and QED Luton (Challney) Limited and the Bank;</p> <p>(f) the Design and Build Contracts to be entered into between the Council and Luton Learning and Community Partnership;</p> <p>(g) the ICT Services Contract to</p>	

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			<p>be entered into between the Council and Luton Learning and Community Partnership;</p> <p>(h) Independent Certifier's Deed of Appointment to be entered into between the Council and QED Luton (Challney) Limited and/or Luton Learning and Community Partnership and Gleeds;</p> <p>(i) The Facilities Management contract to be entered into between the Council and Luton Learning and Community Partnership;</p> <p>(j) the Collateral Warranties to be entered into between the Council and QED Luton (Challney) Limited/ and/or LLCP and the relevant sub-contractor;</p> <p>(k) the Credit Agreement to be entered into between, amongst others, QED Luton (Challney) Limited (as project company), Sumitomo Mitsui Banking Corporation Europe Limited (as lender, facility agent and security trustee),</p>	

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			<p>SMBC Capital markets Limited (as hedging counterparty) and the Council (as lender);</p> <p>(l) the Security trust and Intercreditor Deed to be entered into between, amongst others, QED Luton (Challney) Limited (as project company) the investors in the project company, Sumitomo Mitsui Banking Corporation Europe Limited (as lender, facility agent and security trustee), SMBC Capital Markets Limited (as hedging counterparty) and the Council (as lender) and</p> <p>(m) all notices, fee letters, certificates and other documents relating to the documentation referred to in paragraphs (k) and (l) above to which the Council (as lender) is a party</p> <p>together with any other documentation ancillary or additional to the above for the completion of the Project ("Project Documents") subject to:</p>	

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			<p>(a) Department for Children, Schools and Families ("DfCSF") approval of the Final Business Case (FBC); and</p> <p>(b) The grant of detailed planning permission for the proposed works on Lea Manor High School and Challney Girls High School.</p> <p>(i) That the Chief Financial Officer, as the statutory officer under section 151 of the Local Government Act 1972, (or in his absence the Chief Accountant), be authorised to sign any necessary certificates under the Local Government (Contracts) Act 1997 in relation to the Project to include (but not by way of limitation) certificates in respect of the Strategic Partnering Agreement, Project Agreement, Funders Direct Agreement and any relevant financing contracts such as the Common Terms Agreement, Loan Agreement and Intercreditor Agreement;</p> <p>(ii) That the execution of any of the Project Documents by affixing the Council's common seal and/or signatures (in accordance with</p>	

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			<p>Standing Order 78 of Part 4 of the Council's Constitution entitled "Standing Orders") be approved and that the BSF Project Director (or in his absence, the Chief Financial Officer, or the BSF Legal Adviser or the BSF Senior Facilities Manager or the Major Projects and Airport Business manager) be authorised in consultation with the Chief Executive to take any necessary further action and execute any further documents to complete the Project including any final amendments to the Project Documents, and give effect to the resolutions and authorised/delegated decisions referred to in these recommendations;</p> <p>(iii) That the Executive Member with Portfolio holder responsibility for Children and Young People be approved as the Council's voting representative on the Strategic Partnering Board, that will sit above the project and that the Chief Executive be confirmed as the Council's Director on the LEP Board;</p> <p>(iv) That the submission to the DfCSF of the Final Business Case (FBC), together with any ancillary</p>	

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			<p>documents be approved;</p> <p>(v) That the Chief Financial Officer, or in his absence, the Chief Accountant, following consultation with the Chief Executive and the Executive Leader and/or the Executive Member with Portfolio responsibility for Children and Young People, be authorised to approve any necessary amendments to the Final Business Case (FBC) prior to final submission to the DfCSF and any necessary ancillary documents to be submitted to the DfCSF with the Final Business Case;</p> <p>(vi) That approval and support be given to the Section 151 Officer in signing the Section 151 letter required by DCSF;</p> <p>(vii) That the arrangements for the establishment of and Council participation in the LEP be approved as proposed in the FBC;</p> <p>(viii) The arrangements for the discharge of the Council's functions in relation to the LEP as proposed in the FBC be approved;</p> <p>(ix) That it be agreed that the</p>	

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			<p>Council participate as a shareholder in the LEP and invest:</p> <ul style="list-style-type: none"> i. 10% of the pure equity in the LEP and SPV, which at the date of the Report is anticipated to be £10,000. This is an approximate figure and is subject to change; ii. 10% of the proposed Subordinated Debt to the LEP and SPV which at the date of this Board meeting is anticipated to be £747,139 on the basis of the financial model provided by the Consortium. This is an approximate figure and is subject to change; and iii. if additional shareholder loans are required by the LEP in order to fund the working capital of the LEP, 10% of such loans, subject to the entire Council investment by way of equity and shareholder loans not exceeding £150,000. <p>(i) That the Chief Financial Officer be authorised to agree to relatively</p>	

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			<p>minor changes to these figures that can be accommodated within the overall Council Budget; and</p> <p>(ii) That the BSF Project Director (or in his absence the Chief Financial Officer or the BSF Legal Adviser), following consultation with the Chief Executive and the Executive Leader and/or the Executive Member(s) with Portfolio responsibility for Children and Young People, be authorised to agree any further action to implement the arrangements set out in the Report and FBC, including any amendments to the proposals in the Report and FBC which do not affect the substance of those proposals.</p> <p>Reason: To progress the BSF Project.</p>	

The meeting ended at 7.05 p.m.

DATE OF PUBLICATION: 1st April 2009

CALL IN DEADLINE: 8th April 2009