

Cabinet Agenda

Monday, 5 December 2016 at 6.00 pm

Council Chamber, Upper Ground Floor, Aquila House, Breeds Place, Hastings,
East Sussex, TN34 3UY

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1.	Apologies for Absence	
2.	Declarations of Interest	
3.	Notification of any additional items	
4.	Minutes of the meeting held on 7 November 2016	1 - 6
5.	Petition in relation to Dog Control Orders and Public Space Protection Orders (Mike Hepworth, Assistant Director Environment and Place) (Cabinet Decision)	7 - 10
6.	Hastings Local Plan – Statement of Community Involvement (SCI) Update (Monica Adams-Acton, Assistant Director Regeneration and Culture) (Cabinet Decision)	11 - 16
7.	Financial & Legal Business Case for Local Housing Company (Andrew Palmer, Assistant Director Housing and Built Environment) (Cabinet Decision)	17 - 78
8.	Additional urgent Items (if any) Exclusion of the Public To resolve that the public be excluded from the meeting during the consideration of the items of business listed below because it is likely that if members of the public were present there would be disclosure to them of “exempt” information as defined in the paragraphs of Schedule 12A to the Local Government Act 1972 referred to in the relevant report.	
Confidential Business		

9. Land at Churchwood Drive
(Peter Grace, Assistant Director, Financial Services and Revenues)
(Cabinet Decision)

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Present: Councillors Chowney (Chair), Forward, Davies, Poole, Cartwright, Fitzgerald, Lee and Patmore

42. NOTIFICATION OF ANY ADDITIONAL ITEMS

An additional urgent item had been added to the agenda, Commercial Property Purchase – Retail Park (minute number 50), which was to be considered under confidential business.

43. MINUTES OF THE MEETING HELD ON 10 OCTOBER 2016

RESOLVED that the minutes of the meeting held on 10 October 2016 be approved and signed by the chair as a correct record

RESOLVED the Chair called over the items on the agenda, under rule 13.3 the recommendations set out in minute number 47 were agreed without being called for discussion

44. EU FUNDING APPLICATION APPROVAL - NEW VISITOR CENTRE AT HASTINGS COUNTRY PARK NATURE RESERVE

The Environment and Natural Resources Manager presented a report which sought delegated approval for the Director of Operational Services, in consultation with the Lead Member for Environment and Place, to enter into a partnership agreement with the Lead Partner for the EU project (UPSTRAW), should a second stage submission for funding to support the development of a new visitor centre at Hastings Country Park be approved. A sub-partnership agreement with Groundwork Trust to support the delivery of the project would also be required.

The council held a longstanding ambition to provide a new visitor centre at Hastings Country Park Nature Reserve, which is set out in the Corporate Plan 2016/17 – 2018/19. It was important that any new construction was sensitive to the landscape and environment of the country park. Extensive public consultation had been undertaken regarding the design and layout of the new visitor centre. In March 2015, planning permission was granted for a new building of straw bale construction.

The council had partnered with Groundwork South to project manage and deliver the new centre. A project board had been established to oversee these activities. The council had allocated £250,000 from a capital receipt to the project, and Groundwork South had been exploring a range of other funding opportunities.

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Groundwork South and the council, along with the School of Natural Building, had pursued an opportunity to join European partners under the Interreg North-West Europe Programme to build public buildings from straw. A successful expression of interest had been submitted in February 2016. The partners were now required to submit a full application by 23 December 2016, with a decision expected in January or February 2017. Groundwork South are also exploring separate grant applications to support heritage and nature conservation themed interpretation throughout the nature reserve and new visitor centre.

The report acknowledged ongoing uncertainty regarding the future of European Union (EU) funding streams, following the outcome of the referendum on the UK's membership of the EU earlier in the year. However, the Treasury had indicated that projects which have secured funding while the UK is still a member of the EU will be honoured by the government, provided they are good value for money and are in line with domestic strategic priorities.

Councillor Davies proposed approval of the recommendations to the Assistant Director, Environment and Place's report, which was seconded by Councillor Poole.

RESOLVED (unanimously) to give delegated authority to the Director of Operational Services in consultation with the Lead Member for Environment and Place to:

- **Sign a sub-partnership agreement with Groundwork trust to deliver the Hastings Borough Council associated activities and outcomes for the Interreg North-West Europe Programme – Public Building in Straw;**
- **Sign a full partnership agreement with the Lead Partner for the Interreg North-West Europe Programme – Public Building in Straw (UPSTRAW)**

The reason for this decision was:

Hastings Borough Council is committed to delivering a new visitor centre at Hastings Country Park Nature Reserve. In 2014 we partnered up with Groundwork South to help deliver this ambition. Groundwork project managed the preparatory work from architects through to planning permission in 2015. Groundwork South has been working with European partners to prepare a submission for Interreg funding to build the visitor centre from straw bales. The submission deadline is 23 December 2016 with an expected award date early in 2017.

45. **COUNCIL TAX SUPPORT SCHEME**

The Revenue and Benefits Service Manager presented a report which updated members in the results of a recent consultation regarding the council tax support scheme and the options available to set the scheme for 2017/18 in respect of working age customers.

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The council is required to review its council tax support scheme each year. The existing scheme, which has been in place since April 2013, provides for a set minimum weekly award of £5, removes second adult rebate and increases non dependant deductions. The purpose of the review was to ensure that the scheme continued to protect those on low incomes, whilst ensuring that the council retained sufficient capacity to provide essential services.

Three potential options for the 2017/18 scheme were subject to public consultation; the introduction of a minimum council tax payment for all working age customers, a reduction to the capital savings limit from £16,000 to £6,000 and the introduction of a weekly minimum income, in line with the national living wage, for self-employed customers. The consultation concluded on 16 September 2016.

The report noted significant welfare reforms which were due to be implemented over the coming year including a revised benefit cap and the roll-out of Universal Credit. Given the potential impact of these changes on the poorest sections of the community in particular, the report recommended that the existing council tax reduction scheme remain unaltered for 2017/18. All East Sussex authorities may wish to review their schemes in 2018/19.

Councillor Chowney proposed approval of the recommendations to the Assistant Director, Financial Services and Revenues, report which was seconded by Councillor Cartwright.

RESOLVED (unanimously):

- 1. To recommend to Full Council that there be no change to the existing Council Tax Support Scheme in respect of working age customers for 2017/18, and;**
- 2. To authorise the Assistant Director, Financial Services and Revenues, to update allowances and premiums, as required, when announced by the Government and for any relevant changes to the prescribed regulations**

The reason for this decision was:

The local authority is required to approve a scheme for the provision of council tax support in respect of 2017/18 by 31 January 2017.

46. MEDIUM TERM FINANCIAL STRATEGY

The Assistant Director, Financial Services and Revenues, presented a report on the medium term financial strategy. The council forecasted its financial position over the medium term to ensure its resources were aligned with its priorities and objectives and to assist with the budget setting process for future years.

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The report gave an overview of the council's income and expenditure, since the budget for 2016/17 was set in February. The Assistant Director, Financial Services and Revenues, commented that further significant budget reductions were expected in the years ahead. He also acknowledged further uncertainty regarding business rate appeals and an outstanding claim in respect of the pier closure. Consequently, it was essential that the council continued to optimise the efficiency of its services. Potential re-occurring savings identified in the medium term financial strategy would be investigated as part of the budget setting process for 2017/18.

The council had submitted an efficiency plan to the Government, with the intention of securing a four year grant settlement. If successful, this would provide a higher degree of stability and enable the council to more accurately predict its financial position over the coming years.

The council continued to explore a range of income generation opportunities. The Assistant Director, Financial Services and Revenues, commented that the council needed to retain sufficient reserves to offset the risks associated with these activities.

Councillor Chowney moved approval of the recommendations to the Assistant Director, Financial Services and Revenues, report which was seconded by Councillor Davies.

RESOLVED (unanimously) that the Medium Term Financial Strategy be approved

The reason for this decision was:

The council matches its available resources to its priorities across the medium term.

The report provides the opportunity to assess the council's resources to assist the review of corporate priorities given the continued reductions in funding and the need to continually ensure limited resources are properly aligned to targets.

47. TREASURY MANAGEMENT - MID YEAR REPORT 2016-17

The Assistant Director, Financial Services and Revenues, submitted a report to advise Cabinet of the treasury management activities and performance during the current year.

Treasury management relates to the authority's investments, cash flow, banking, money market and capital transactions. The report provided an update on the economic climate during the first nine months of 2016/17 as well as the council's current treasury position and strategies for borrowing and investment.

The council complied with the requirements of the Chartered Institute for Public Finance and Accountancy's Code of Practice for Treasury Management and carried out a mid-year review each year, to provide members with an opportunity to make recommendations to Full Council to address any issues which may have arisen since the original strategy was approved in February 2016.

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Market conditions and continued low interest rates created challenges in achieving the 0.70% return on investments, estimated in the budget. However, savings from the timing of new borrowing meant that the overall budget predictions for 2016/17 were still achievable.

The Audit Committee would be required to review the Treasury Management Strategy as the council continued to pursue new income generation opportunities, which may result in increased borrowing and risk to the authority.

RESOLVED that:

- 1. Cabinet ask the Audit Committee to explore investment opportunities in property funds and the treasury management implications for the council of making larger investments in, for example, commercial property, housing, and energy as part of the council's income generation strategy, and;**
- 2. The Audit Committee to consider the substantial implications and risks to the council at its meeting in January 2017 when considering the proposed Treasury Management Strategy for 2017/18, with a view to making recommendations to the meetings of Cabinet and Council in February 2017**

The reason for this decision was:

The Code of Practice on Treasury Management requires, as a minimum, a mid-year review of Treasury Management Strategy and performance. This is intended to highlight any areas of concern that have arisen since the original strategy was approved (February 2016). It is a requirement of the Code of Practice that the mid-year review is considered by Cabinet and Full Council.

The council is seeking to increase its levels of income generation and this will entail new borrowing over potentially long periods, with consequent risks in terms of asset valuations, credit worthiness, cash and reserve fund availability. Such risks cannot be considered in isolation of all the issues facing the council now and potentially in the future.

48. MINUTES OF THE MUSEUMS COMMITTEE HELD ON 12 SEPTEMBER 2016

The minutes of the Museums Committee meeting held on 12 September 2016 were submitted.

RESOLVED that the minutes of the Museums Committee held on 12 September 2016 be received

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EXCLUSION OF THE PUBLIC

Councillor Lee proposed a motion for the exclusion of the public from the meeting, which was seconded by Councillor Cartwright.

RESOLVED (unanimously) that the public be excluded from the meeting during the consideration of the items of business listed below because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in the paragraphs of Schedule 12A to the Local Government Act 1972 referred to in the relevant report

49. COMMERCIAL PROPERTY PURCHASE - RETAIL PARK

The Assistant Director, Financial Services and Revenues, presented a report which considered the potential purchase of a commercial property within Hastings.

RESOLVED (by 6 votes for, 2 against with 0 abstentions):

- 1. To recommend that the council purchases the property at the best possible price up to the maximum figure set out in the report (plus stamp duty land tax, registration fees, and agents fees), and;**
- 2. Delegated authority is given to the Chief Finance Officer to purchase the property and finalise arrangements**

The reason for this decision was:

The property is in a prime location and will become more prominent following changes to the highway in the area. The council needs to ensure that the area remains attractive for the future to ensure businesses are attracted to, and remain in, Hastings – particularly so as the council will need to ensure business rate growth in the future. The acquisition provides the council with the opportunity to diversify its property holdings and change the overall risk exposure within the portfolio. The council would also secure an additional income stream.

(The Chair declared the meeting closed at. 7.24 pm)

Agenda Item 5

Report to: Cabinet

Date of Meeting: 5 December 2016

Report Title: Petition in relation to Dog Control Orders and Public Space Protection Orders

Report By: Mike Hepworth, Assistant Director, Environment and Place

Purpose of Report

Inform Cabinet we have received a petition to change the times that dogs can be exercised off leads in St Leonards Gardens and to outline the process for moving from the current Dogs on Leads Orders to Public Space Protection Orders.

Recommendation(s)

Cabinet;

- 1 Acknowledge the petition;**
- 2 Recognise the council is currently working to replace Dog Control Orders with Public Space Protection Orders;**
- 3 Inform the petitioner that no immediate action will be taken before full public consultation on Public Space Protection Orders has taken place at the appropriate time in the review.**

Reasons for Recommendations

The petition has been received whilst the Council are in the process of changing from its current system of Dog Control Orders to Public Space Protection Orders.

Due process of review, including public consultation should be completed before action is taken on the request in the petition.

Introduction

1. The council has received a petition dated 1st August with 56 signatures, seeking to allow dogs to be exercised off leads in St Leonards Gardens throughout the day from 1st October to 1st May.
2. The Council is reviewing the way it deals with dog related offences. It is proposing to move from The Dogs on Leads (Borough of Hastings) Order 2008 and other Dog Control Orders in respect of fouling, exclusion zones and dog on lead by direction, to Public Space Protection Orders, PSPOs.
3. It should be noted that whilst the petition has been received to amend the times of the order, Officers have received alternative representations for the order at St Leonards Gardens to remain the same.
4. This paper sets out what we are doing to move to Public Space Protection Orders and proposes recommendations relating to the petition.

Our current framework - The Dogs on Leads (Borough of Hastings) Order 2008

5. The Dogs on Leads (Borough of Hastings) Order 2008 is designed to specify in which areas and at what times dogs need to be on a lead.
6. The Order provides that dogs can be exercised off a lead in all parks and open spaces except the following areas;
 - Lower Alexandra Park between Dordrecht Way and Bethune Way. Dogs must be kept on a lead between 8am and 6pm every day.
 - St Leonards Gardens. Dogs must be kept on a lead between 9am and 6pm every day everywhere within this site.
 - Upper Rose Garden, Warrior Square Gardens. Dogs must be kept on a lead between 9am and 6pm every day.

Public Space Protection Orders, PSPO

7. The PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable.
8. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour.

9. The council can make a PSPO on any public space within its own area but before doing so it must consult with the local police. The council must also consult with whatever community representatives it thinks appropriate.

Replacing Dog Control Orders with Public Space Protection Orders

10. The council is aiming to replace all Dog Control Orders with Public Space Protection Orders by October 2017.
11. If we did not undertake a review, the current dog control orders would automatically become PSPO's.
12. As part of the review the Council will be consulting with users, community groups and the police.

Petition to allow dogs to be exercised off leads in St Leonards Gardens throughout the day from 1st October to 1st May

13. A petition has been received with 56 signatures, seeking to allow dogs to be exercised off leads in St Leonards Gardens throughout the day from 1st October to 1st May. This, the petition states, would put the order in line with the restrictions for exercising dogs on seafront beaches.
14. Prior to the petition being lodged with the Council, our Parks and Open Spaces Manager met with the chief petitioner to explain what we are doing and reassure them that they will be part of the formal consultation process at the appropriate time. Notwithstanding officers' explanation of the process, a petition has been received for Cabinet to consider.
15. It is therefore recommended that Cabinet acknowledge the petition but recognise that we are working to replace Dog Control Orders with Public Space Protection Orders by October 2017.
16. It is further recommended that no immediate action will be taken to change the times for dogs exercising off leads in any parks and open space before a full public consultation has taken place at the appropriate time of the review.

Wards Affected

All

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	yes
Crime and Fear of Crime (Section 17)	yes
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	No
Local People's Views	yes
Anti-Poverty	No

Additional Information

Insert a list of appendices and/or additional documents. Report writers are encouraged to use links to existing information, rather than appending large documents.

Officer to Contact

Officer Name Murray Davidson
Officer Email Address mdavidson@hastings.gov.uk
Officer Telephone Number 01424 451107

Agenda Item 6



Report to: Cabinet

Date of Meeting: 5th December 2016

Report Title: Hastings Local Plan Statement of Community Involvement (SCI)
Update

Report By: Monica Adams-Acton
Assistant Director Regeneration & Culture

Purpose of Report

Following consultation on the Council's budget and the subsequent decision (Feb 2016), to advise Cabinet of changes needed to the SCI arising from the Council's decision to change its procedures in relation to publicising applications for planning permission.

Recommendation(s)

That Cabinet adopts the updated SCI incorporating the changes as set out in Appendix A of this Report

Reasons for Recommendations

To ensure that the adopted SCI is fully up-to-date and reflects the Council's current procedures relating to the publicity for applications for planning permission.

Introduction

1. Local Planning Authorities are required through national planning policy to prepare and adopt a Statement of Community Involvement (SCI) as part of the wider suite of documents making up their Local Plan.
2. The SCI sets out the Council's approach to community involvement, and provides details of how and when people can get involved in both the plan making and development management processes. It sets out clear community engagement standards and shows links with the Sustainable Community Strategy. This is the fourth review of the Hastings SCI, which was originally adopted in 2006.

Why the Hastings SCI is being updated

3. An update to the SCI is needed to reflect changes that have been consulted on and agreed by the Council as part of the consultation on the 2016/17 budget. The changes being made to the SCI relate to the methods this Council uses when publicising planning applications. These changes have arisen from a wider review of Council procedures with a view to making efficiencies and moving to a Digital By Design approach where possible.
4. The Budget Council on 24th February 2016 agreed as part of its Budget making process that neighbour notification letters for planning applications would no longer be sent out and would be replaced by Site Notices once effective alerts and online systems were implemented. This approach meets the publicity requirements set out in the General Development Management Order 2015.
5. The Council's recently launched online self-service system – "My Hastings" enables interested parties to search for information about planning applications in their area and register for email updates. In light of this, the Statement of Community Involvement, which advises that the Council will send out neighbour notification letters in relation to planning applications, needs to be amended to refer to Site Notices only. Paragraphs 5.42, 5.45, 5.53 of the 2014 version of the SCI subsequently need to be revised. Appendix A of this report shows the relevant paragraphs and the associated changes needed to update the SCI.
6. This update is necessary to help ensure that members of the community and planning applicants are fully informed about the methods the Council is currently utilising to meet and comply with, the regulatory requirements which relate to the publicising of planning applications. This revised approach to publicity will take effect following Cabinet's approval and adoption of the revised SCI.

Next Steps

7. Following Cabinet approval, the updated SCI will be published on our website. Paragraph 5.41 and other factual and minor elements of the SCI, such as weblinks, name changes and out-of-date references to draft planning documents, will also be updated. Members of the community will be made aware that the revised approach to planning application publicity has now come into effect through a news release and social media (Facebook and Twitter).

Policy Implications

8. Equalities & Community Cohesiveness: As part of the Council's Customer First and Digital by Design aspirations, planning application information will be available online, accessible via handheld devices or via public access points such as the Customer Contact Centre and Hastings library via the My.Hastings 'My Area' portal.
9. Local People's Views: The proposal was included in the draft Budget and Corporate Plan consultation process for 2016/17. The equalities impact assessment identified the change as Low impact on any specific equality groups.

Wards Affected

All

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	No

Additional Information

Appendix A: Updated wording for paragraphs 5.41, 5.42, 5.45, 5.53.

Officer to Contact

Kerry Culbert
kculbert@hastings.gov.uk
01424 783304

Extract from the Statement of Community Involvement (SCI) updated wording for paragraphs 5.41, 5.42, 5.45, 5.53 of the SCI

5.41 – bullet 1

- The minimum requirement for publicising submitted planning applications are laid down in Article ~~15 13~~ of The Town and Country Planning (Development Management Procedure) (England) Order ~~20152010~~. Article ~~1513~~ requires that the Local Planning Authority must publicise planning applications by way of a site notice ~~or and~~ neighbour notification, with provision for local advertisement in some cases

(note: in addition bullet points 2,3 & 4 under paragraph 5.41 will updated to refer to the article 15 of the DMPO (2015) and not article 13 of the DMPO 2010 which has been superseded).

- 5.42 ~~In accordance with Whatever the~~ statutory requirements, notification of applications made to Hastings Borough Council will be done via sites notices and where required advertisements in the local media. all applications made to Hastings Borough Council will have some form of notification. Along with site notices and advertisements in the local media, we also always send letters to owners or occupiers of neighbouring properties, and have internal standards setting out how this is determined. Further information on these standards is available on request from the Development Management team, by emailing dcenquiries@hastings.gov.uk, or telephoning 01424 451090.
- 5.45 Site notices ~~These publicity methods (notices, letters, or articles in Planning News)~~ will invite the public to view the planning application via our public computers ~~either~~ at the Hastings Information Centre (at the Town Hall) or alternatively, application documents can be viewed on our website at <http://www.hastings.gov.uk/planning/searching/> at the Planning Services offices at Aquila House, Breeds Place, Hastings, TN34 3UY. Officers will be happy to talk you through applications if they are available. Alternatively, you can view application documents on our website at http://www.hastings.gov.uk/environment_planning/planning/view_planning_apps/.
- 5.53 Where an applicant appeals a decision to refuse planning permission, the Council will contact all those people who have expressed an interest in the application. write to all these people receiving neighbour notification when the initial application was submitted, along with others who have expressed an interest in the application.

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Agenda Item 7

Report to: CABINET

Date of Meeting: 5TH DECEMBER 2016

Report Title: FINANCIAL & LEGAL BUSINESS CASE FOR LOCAL HOUSING COMPANY

Report By: ANDREW PALMER (ASSISTANT DIRECTOR – HOUSING & BUILT ENVIRONMENT)

Purpose of Report

This report sets out a proposal to create a Housing Company, which will be wholly owned by the Council.

The Housing Company will be designed to initially acquire and provide housing for both sub-market and market rent in the Borough but with the potential to undertake development activities (and provide housing for sale or rent) either inside or outside the Borough.

Recommendation(s)

- 1) That the principle of establishing a local housing company is supported on the basis of the governance and constitutional arrangements set out in this report.
- 2) That a detailed company business plan and governance arrangements are developed for a wholly owned Housing Company and implemented subject to final approval by Full Council.
- 3) Funding from the Council to be determined following production of a viable and long term sustainable business plan.

Reasons for Recommendations

By agreeing to the recommendations, the Council would be improving access to existing housing and delivering additional homes. This is key to the Council's regeneration plans and there are established corporate commitments covering the Council's housing and regeneration ambitions for the town.

There is also a necessity to generate new income streams to safeguard future services provision for residents, which has also been identified as a key corporate aim.

Introduction

1. The necessity to generate new income streams to safeguard service provision for residents is a key corporate aim and represents one of the single biggest challenges facing the Council.
2. The proposal to set up a Housing Company is therefore set in the context of the Council's policy to generate income through the development of commercial activity across its services and to generate new sources of income where opportunity is identified. In this context the acquisition or development of housing either inside or outside the Borough (either inside or outside of a company structure) will need to develop and be assessed alongside other potential income sources.
3. Improving access to housing and delivering additional homes remains a key regeneration objective and a pre-requisite of addressing the Council's anti-poverty objectives.
4. The Council will need to set the company clear objectives in terms of the balance between generating income that can be invested in supporting the wider activities of the Council and/or the reinvestment of any surplus generated in the provision of "sub-market" housing.
5. The Council recently commissioned Trowers and Hamlin and Savill's to undertake an initial feasibility assessment and advise the Council on appropriate models and structures for a housing company that can help take forward regeneration in the town and generate future income.
6. A briefing took place in July 2016 where members were presented with the consultant's findings and recommendations in terms of how the Council might progress a housing company. The briefing was well attended and generally well received.
7. This report contains a summary of those findings and sets out proposals for the establishment of a Housing Company wholly owned by the council.
8. The proposed Company would be designed to both acquire existing property and to develop new or refurbished homes on land owned or acquired by the Council. However, the initial focus would be on the acquisition of newly built or existing housing in the Borough and include the following specific objectives:
 - to make a financial return to the Council as owner of the Company by delivering housing for market rent (or in the longer term market sale); and
 - Provide additional sub-market accommodation in the Borough where this can be subsidised by the market rent housing (or in the longer term market sale) owned by the Housing Company.

These objectives would support other strategies of the Council.

9. The Housing Company would be required to be financially viable, operate in accordance with an agreed business plan and meet all its statutory obligations.

10. As previously stated it is initially proposed that the Housing Company would be used to purchase individual street properties and/or to acquire homes direct from developers, but will be set up so as to be able to undertake housing development activities in the future should a business case be made. The company might be well positioned to potentially develop or acquire housing on priority sites identified through its own asset management reviews.

11. The Housing Company would be financed by the Council through loans from the Council. The Council, using its own resources, or by borrowing from the Public Works Loan Board. The appropriate sources of finance to be identified by the Chief Finance Officer (s151 Officer).

12. There would be an initial cost in setting up and financing the Housing Company. This would be financed by a loan (revenue monies) to the Company and would be repaid by the Company in line with the business plan assumptions once the Housing Company produced a surplus.

13. The Council would set up the Company to ensure it would be the sole beneficiary of any future dividends, capital growth in the value of the property portfolio and would realise a premium for lending monies to the Housing Company.

14. The Financial modelling undertaken by Saville's indicates that in the short term the Housing Company would be at least cost neutral to the Council, insofar as it receives sufficient rental income to meet all of its costs including financing, housing management, property maintenance and administration. In the longer term, the modelling demonstrates it would produce income and capital growth.

15. The outline business case has been modelled by Savill's and includes a proposal for the Council to initially acquire a mixture of 20 existing properties to subsequently rent. A copy is attached at Appendix A. Variations on this proposal are also included at Appendix C. Please note all modelling is indicative only at this stage. Acquisitions of individual properties or land in future would be subject to detailed viability assessments and in line with the detailed business plan agreed by the Council.

16. It is imperative that a company wholly owned by the Council has an appropriate governance structure for the sound and robust management of the company. The governance arrangements must protect the Council's financial and reputational investment in the Housing Company, whilst not hindering its ability to act swiftly and pro-actively as a separate legal entity. The Council's Chief Legal Officer will work with Trowers and Hamill to achieve this.

17. As sole shareholder, the Council would appoint the directors to the Housing Company and approve the business plan and monitor and hold the Housing Company to account.

18. The directors of the Housing Company would have responsibility for the operation and management of the Housing Company. The directors would be

accountable to the Council for the company's performance through the Council's role as the sole shareholder of the Housing Company.

19. The Council has taken legal advice from Trowers & Hamlin's LLP to ensure that it has the powers and capability to create the company in line with relevant legislation. Trowers & Hamlin's LLP have detailed knowledge and experience of advising a number of Councils about the formation and management of commercial housing companies. A copy of their report is attached at Appendix B.

Background

20. The Corporate Plan 2016/17–2018/19 contains a specific work programme around income generation and identifies delivery of housing and income from housing, including the establishment of company structures if appropriate, as a key activity of the Council in 2016/17.

21. The Corporate plan also contains commitments to consider appropriate development which can enhance the town as a place to live, work, study and invest in and confirms the council's commitment to remove eyesores and return empty homes to use.

22. There is widespread acknowledgement that there is a national and local housing crisis with demand for homes far outstripping supply. The Council recognises that people need homes with security that allows them to establish roots in their communities. The Council's ambitions are not limited to any one subsection of the local community. The Council believes that neighbourhoods are at their strongest when they are genuinely mixed and diverse.

23. Housing needs to be available to meet a range of incomes. This is important not only to meet the needs of existing residents but also to attract business and skills necessary for the continued regeneration of the town. The Council aims to help create and support a sustainable built environment that will help meet the needs and aspirations of wide sector of both current and future residents. Developing homes for market or sub market rents (and possibly sale in the future) will complement the existing housing market and potentially reduce pressure on affordable rented homes provided by Housing Associations for which there is also an acute shortage.

24. The Councils Housing Strategy 2016-19 has three key strategic priorities aimed at supporting local residents and the economy of the town. Two of the three priorities identified are relevant to the proposal outlined in this report.

- Priority 1 is to address housing needs and aspirations of residents. This includes aims of ensuring an appropriate mix of housing is provided in terms of tenure, price, type, size and location, having regard to the accommodation needs of the town. It also contains a commitment to consider the potential for the Council to invest directly in new housing in pursuit of this objective.
- Priority 3 covering regeneration contains an express commitment to consider the establishment of a Local Housing Company to aid with development and regeneration of the town. Further it identifies the need to ensure that

appropriate housing options are available for keyworkers who can support a vibrant local economy where social housing is not considered a solution to their housing needs.

25. The Local Plan 2011 – 2028 seeks to ensure that 3,400 homes are delivered over the life of the plan. Objective 2 is to ensure that everyone has the opportunity to live in a decent home, which they can afford and in a community in which they want to live. The number of new homes being built currently lags behind the delivery profile.

26. Local Housing Companies are considered a valuable strategic tool for local authorities in helping to pro-actively shape their housing markets. The Elphicke-House Report (2015) commissioned by the Government recognised the role they can play in housing delivery and the former Housing Minister wrote to local authorities in March 2015 stating that the government supported the setting up of local housing companies where they were taking on a role distinct from that of providing affordable housing.

A Wholly Owned Housing Company

The Proposal and Company Objectives

27. The Housing Company would be wholly owned by the Council and established to purchase, develop and deliver housing for both market rent (and potentially development for market sale), and to provide sub market housing.

28. Key objective of the Housing Company would be:

To acquire existing or newly built property with a view to letting these to local people at market or submarket rents.

29. It is assumed at this stage that management of property acquired would be undertaken through the Council's Letstart Agency (Local Lettings Agency) although it is conceivable that it might be undertaken by other service providers.

30. The Council may consider whether it would consider, at a later date, developing land itself (or through a company) owned by itself or acquired on the open market for development or redevelopment. The purpose of such development or redevelopment to provide mix tenure housing for sale, market or submarket rent.

Company Structure and Governance Arrangements

31. Trowers & Hamlin's LLP have advised that a company limited by shares (CLS) is the appropriate form of vehicle for the Housing Company for a number of reasons, including:

- A CLS is the most common corporate vehicle in England for a profit distributing body.

- As the council may look to receive a return from the profits of the Housing Company and the CLS model is a typical form of commercial vehicle established with a view to making a profit.
- The ability for the Council to invest in the company by way of share equity as well as loan debt.

32. The Council would have full ownership of the Housing Company, holding 100% of the shares. This provides the Council with the ultimate 'control' of the company, including the decision making with regard to the allocations, selection of properties and the rents charged by the company, including the "mix" of market and sub-market rents.

33. The Council and Housing Company would need to ensure that appropriate governance arrangements are put in place so that the Council can set and monitor the Housing Company, whilst allowing the directors of the Housing Company to carry out the operational management effectively, efficiently and with clear targets and milestones and being accountable to Members for the success of the Company.

34. The establishment of a Shareholders Agreement (between the Council as sole shareholder and the Housing Company) would set out the parameters under which the Housing Company must operate within providing the Council with complete control over the Housing Company.

35. It is recommended that the following governance structure is implemented:

- The first level of governance would be the exercise of the Council's right as shareholder in the Housing Company, by which the Council would ensure control over the strategic direction and oversight of the Housing Company.
- It is proposed that this is exercised by the Council's Income Generation Board, which in return reports to the Council's Cabinet.
- The second level of governance would cover the day to day operational matters of the company and this would be the responsibility of the Housing Company's Directors. It is suggested that 4 senior officers of the Council are appointed as Company Directors with one being the Managing Director of the Company. This should include a Senior Finance Officer of the Council (who is not the section 151 officer). It is further proposed that an additional director is appointed who can bring external challenge and additional expertise in a housing development, legal or housing finance capacity. Subject to the recommendations set out in this report work will begin in identifying the mix of officers with the right skills to fulfil the duties of a board member.

36. The structure proposed avoids any potential conflict of interest for Members between their role as an elected Member of the Council and the day to day operational management of the Housing Company. However, Members would still exercise control of the Housing Company at a strategic level with Officers tasked with managing the Housing Company within a framework and through delegated authority provided by Members and documented in the Shareholder Agreement.

37. It is recommended that the Council's Chief Finance Officer (s151 Officer) and the Council's Chief Legal and Monitoring Officer are not appointed as Directors to

ensure a clear separation of their role within the Council. Officers need to be mindful to avoid circumstances where a conflict might arise in their role as a Director of the company and that of giving advice to Members in their role as Council decision makers; for example when making decisions to lend to the company, transfer land to the company. Should the Council's Assistant Director for Housing and the Built Environment be appointed as a Director, then the separation of his role needs to be made explicit in the Council's Scheme of Delegations, where it relates to Planning Service responsibilities.

38. Any Council Officer appointed as a Director would not be remunerated. However, it may be appropriate for Non-Executive Directors to receive modest remuneration. Staff and Officer time, including fair charges for assets would be a charge to the Company – required to avoid state aid assets.

Documentation Required to Establish the Housing Company

39. The following documentation would be required to complete the establishment of the Housing Company and associated governance arrangements:

- Articles of Association
- Shareholder Agreement
- Loan Agreement
- Changes to the Council's Constitution and Delegations to officers

40. In addition, the Housing Company would be governed by a series of operational documents, which would be controlled by the Council via the Shareholder Agreement:

- Business Plan –This would be developed to cover a minimum rolling 5-year period of investment activity and would outline the Housing Company's operations. The business plan would need to ensure that it covered a sufficient period to show the company was sustainable and would be reviewed and agreed annually and would cover the:
 - a) Company objectives (as established in the Shareholder Agreement)
 - b) Governance arrangements
 - c) Operational plans
 - d) Financial model and assumptions
 - e) Rents, sales and development assumptions
 - f) Fees, on costs and tax
 - g) Funding profile and sensitivity analysis
- Operational Policies including:
 - a) Rent setting
 - b) Letting policy
 - c) Rent arrears and debt recovery
 - d) Other general policies eg: Health and Safety

Site Acquisitions/Disposals

41. The Housing Company is a commercial entity with ability to purchase and dispose of sites. It is anticipated that the Council would retain control (as sole shareholder) of the parameters in which the Housing Company would be able to acquire properties (e.g. target yields, maximum purchase prices etc.), but within these parameters, it is envisaged that the board of the Housing Company would have direction as to the identity of individual acquisitions.

42. The Council's Chief Finance Officer would not consider recommending to the Council any loan to the Company where appropriate returns or due diligence had not been undertaken.

Property Management

43. Taking into account a range of factors including quality of service, costs, ability to deliver and knowledge of tenant requirements it is proposed the Housing Company will seek proposals from the Councils Social Lettings Agency in the first instance to provide these services.

Financing the Housing Company

Financial Modelling

Assumptions

44. Initial modelling undertaken by Savills is attached at Appendix A. This sets out a business case for both a development business and property investment and rental business. Members attention is drawn to para 3.9 on page 14 and 15 of the report which sets out a business case based upon the acquisition of 20 homes purchased from third parties and let at market rents.

45. Since the July 2016 report was issued, Savills have modelled further variations on a proposed 20 unit property investment and rental scheme and the results are attached at Appendix C.

46. Whilst anticipated returns on an initial 20 unit investment would initially be quite modest, this would represent a relatively low financial risk to the council. However, the Council's initial investment might be supplemented over time by Council development of its own land or by the transfer of completed units into the scheme from land disposed of to private developers (in lieu of capital receipts).

Stamp Duty Land Tax (SDLT)

47. SDLT will be payable by the Housing Company and included within the business plan.

Corporation Tax

48. To the extent that the Housing Company generates a taxable surplus, this surplus would be liable to corporation tax (at a current rate of 20%). A limited company can only declare dividends out of its net-of-tax profits.

VAT

49. The letting residential accommodation is exempt from VAT meaning that almost all of the VAT incurred in relation to those units (including VAT on management fees and on repairs and maintenance) is irrecoverable. The irrecoverable VAT position is reflected in the business plan.

Overall Results of Financial Modelling

50. In summary, financial modelling has been carried out to assess the viability of a business plan for the Housing Company, based on the acquisition and rental of a portfolio of properties in the area, with the Company being owned and funded by the Council. Financial modelling shows that a viable proposition can be presented from the perspective of both the Company and the Council, with a positive financial return forecast to be generated by the Council.

Legal issues for the Council

Powers to Form the Housing Company

51. The Council can rely upon the general power of competence within the Localism Act 2011 to form the Housing Company. Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the general power of competence. A local authority may exercise the "general power of competence" for its own purpose, for a commercial purpose and/or for the benefit of others. In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duties it owes to its rate and local tax payers) and to the public law requirements to exercise its powers for a proper purpose.

52. In the exercise of its powers under the Localism Act for a commercial purpose (as is the case here), the Council is obliged under the Localism Act to do so via a company, as is proposed here.

Powers to Fund the Housing Company

53. The Housing Company would need funding to acquire properties or develop in future.

54. The Council has the power to borrow under the Local Government Act 2003 for the purposes of the prudent management of their financial affairs, or in connection with any of their functions. Section 24 of the Local Government Act 1988 (the 1988 Act) specifically allows the Council to provide financial assistance to third parties in connection with the provision of privately let accommodation.

55. If the Council exercises its powers under this section, then under Section 25 of the 1988 Act it must also obtain the consent of the Secretary of State to do so. If this consent is not obtained, then any financial assistance given will be void. The Secretary of State has set out pre-approved consents in the "General Consents 2010" (July 2011) and the "General Consents 2014" (April 2014). The General Consents 2010 contains Consent C. and the Council can provide financial assistance to the Housing Company under this provision.

State Aid Compliance

56. It is also important that any services and funding provided by the Council to the Housing Company are provided on appropriate terms so not to as constitute unlawful State Aid.

Policy Implications

Equalities & Community Cohesion

57. Increasing the supply of housing, particularly housing offering greater security and designed to extend housing options to a range of income levels will enable more people to establish roots in their desired neighbourhoods and make a positive contribution toward community cohesion.

Crime & Fear of Crime

58. Empty Buildings and derelict building land are targets for a range of anti-social behaviour and provide an opportunity for criminal behaviour. Bringing property back into use and possibly redeveloping land in due course can make a positive contribution to community safety.

Risk Management

59. The main risks identified at this stage are legal, financial and reputational. The purpose in commissioning an external appraisal of the options has been to assist in the early identification of the risks and to minimise the impact of these upon any proposals that the Council may wish to consider. A full risk assessment would accompany a future Cabinet covering the company business plan and governance arrangements. The Company would be specifically identified within the councils corporate risk register.

60. The company would be responsible for the repayment of loans to it from the council. As a 100% Council owned company, the Council would be responsible for any shortfall and repayment of the loan where the income of the company is less than its outgoings. The Council would carry the risk where all or some of the company's investments generate a loss rather than a surplus. However, each property purchase or project progressed would be subject to a strict financial viability assessments and include an exit strategy in the event housing market conditions changed radically. The Local Housing Company model allows for the Council to

dispose of some, or all, of its housing assets to another provider or organisation at some time in the future, should it wish to exit from the initiative.

61. The Board would expect to receive regular financial reports which in turn would be reported to and scrutinised by the Council.

Environmental

62. The Council is committed to making best use of existing land and building for residential development. Bringing forward development of sites allocated for housing within the Local Plan or reconfiguring existing buildings minimises the risk and need to consider further land releases for housing in the future.

Economic & Financial Implications

63. The financial implications will be developed further as part of the business planning process. Company set up costs are minimal and any investment or lending to the Company would not take place until the Council has signed off the Company business plan. It is anticipated that an initial investment which could be in the region of £4-5m would come from prudential borrowing by the Council.

64. The company would provide an investment vehicle for the local authority that might give a financial return equivalent or better than that achieved through other investment opportunities. In addition to any dividend the Council might receive over time from company profits or capital appreciation of assets, to ensure we are compliant with state aid regulations the Council would lend to the company at market rates thereby deriving a further income from its lending. The Council would be recompensed for any services provided to the Company, and would need to do so to avoid State Aid issues.

65. The Council would not be able to borrow to support the day-to-day activities of the Company or the staff, but would have to lend the money from its own resources.

Organisation Consequence

66. Staffing implications are still to be considered but it has been assumed that existing council staff will be contracted to provide services to the new company, making use of skills already available. There may be a need at some point to buy in additional resources to provide extra company support or specialist expertise as the company progresses. The work to establish the company will be completed by an in-house project team working with the external advisers.

Anti-Poverty

67. Increasing the supply of housing would contribute towards meeting local housing needs, particularly in respect of good quality housing for rent. Demand for all forms of housing outstrips supply. Regenerating neighbourhoods and improving the local housing offer would provide a catalyst for further inward investment and help generate new employment opportunities. More homes and employment in Hastings is the only sustainable way of ensuring that low income households, often least able

to secure or retain suitable housing, will be able to lift themselves clear of poverty.

Wards Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	Yes
Risk Management	Yes
Environmental Issues	Yes
Economic/Financial Implications	Yes
Human Rights Act	Yes
Organisational Consequences	Yes
Local People's Views	Yes
Anti-Poverty	Yes

Additional Information

- a) Appendix A - Business Case and Financial Modelling -Savills
- b) Appendix B - Report on Legal Issues – Trowers & Hamlin's
- c) Appendix C - Further Scenario Modelling -Savills

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Agenda Item 9

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