

Cabinet Agenda

Monday, 11 September 2017 at 6.00 pm

Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY

For further information, please contact Michael Courts on 01424 451764 or email mcourts@hastings.gov.uk

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3.	Notification of any additional items	
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8.	Land and Property : Commercial Property Investment Strategy (Peter Grace, Assistant Director, Financial Services and Revenues) (Council Decision)	131 - 156
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10.	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

11. Public Conveniences Cleaning Contract
(Mike Hepworth, Assistant Director Environment and Place)
(Cabinet Decision)

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Agenda Item 4



Report to: CABINET

Date of Meeting: 11 September 2017

Report Title: Potential New Development

Report By: Simon Hubbard, Director of Operational Services

Purpose of Report

To seek authority to work with Hastings Harbour Quarter Ltd, East Sussex County Council and other partners to develop a strategic outline case for the potential development of a harbour, housing and associated outcomes at Rock a Nore. To seek authority to develop a funding package for this initial programme of work.

Recommendation(s)

- 1. The Director of Operational Services in consultation with the Leader of the Council and the Deputy Leader is authorised to support the development of a strategic case for the construction of a harbour quarter at Rock a Nore, including seeking external funding and support to take this forward.**
- 2. The Chief Legal Officer is authorised to conclude an options development agreement with Hastings Harbour Quarter in consultation with the Leader, Deputy Leader, Chair of the Charity Committee Foreshore Trust and Director of Operational Services**
- 3. That a further report be presented to Cabinet upon the conclusion of the strategic outline case (negative or positive) of this work, or before if necessary.**
- 4. That the Council, Foreshore Trust and scheme sponsors should develop a programme of community consultation and engagement while this early work is done.**

Reasons for Recommendations

To allow the viability of developing a new harbour, housing and leisure quarter to be properly assessed. To enable the council to assess at an early stage the benefits and potential impacts of such a scheme.

Introduction

1. There has often been discussion about the potential to develop harbour facilities within the borough but these have previously foundered on the basis of the costs and technical difficulties involved.
2. The Council has been approached to discuss the practicality of developing a major harbour and housing development through the development of an entirely new quarter constructed on the end of the current Stade. Discussions have been continuing with the scheme's sponsors, the MP, South East Local Economic Partnership (SELEP), East Sussex County Council and more recently civil servants in the Department for Business, Energy & Industrial Strategy (BEIS) about how such a major proposal can be brought forward and assessed.
3. This report is accompanied by a briefing prepared by the scheme's sponsors. It is felt that the proposal could, if viable in financial, planning, housing, employment and environmental terms, be of very substantial benefit to the Borough and the wider region. For this reason it is proposed that the council commit to the further development of these ideas and take decisions which enable this investigation to take place. The development of the detailed Business Case will be an expensive and technically demanding proposition and the sponsors are working with the Council to see if government and SELEP support is potentially available to supplement private investment. The Council will need in principle to agree a development option without which it will be unlikely to attract external support or interest private investors.

The Outline Scheme

4. It must be stressed that this report proposes nothing that will bind the Council to anything other than exploring the viability and practicality of the proposals at this stage.
5. The proposal is to construct a new harbour quarter, sufficient for c600 berths. Although the scheme is at an early stage of development its chief outputs are clear
 - a. Construction of a new marina providing moorings, boat storage facilities, accompanying chandlery and support services
 - b. Construction of around 1000-1300 homes (subject to detailed design and planning)
 - c. A protected launch/landing site for the Hastings fishing fleet
6. The true impact of a scheme of this size would be of strategic significance in regional terms and would substantially strengthen the Council's work in developing a new more culturally focused regeneration of the town. The Jerwood Gallery, Root 1066, The Source Park (BMX facility) and the regeneration of Hastings Pier are all examples of how the town is connecting to the new visitor economy. More recently is the masterplan for the White Rock area to attract wider investment in cultural and leisure facilities and new imaginatively designed housing.

7. There is a growing awareness that the coast continues to demonstrate a massive untapped resource for the nation's economy. SELEP and BEIS appear open to the argument that the transformation of underperforming towns requires a sufficient scale of investment to achieve self-sustaining change. Hastings and places like it need to be brought into the wider regional and national economy, but to do so requires substantial investment and an expansion in the economic base of the area.
8. Members will be aware that the supply of land for housing and employment in the Borough is very constrained and this presents challenges in terms of growth which will grow as an issue in the future. Effectively the project aims to reclaim land from the sea and might provide additional growth space allowing the provision of economic activity and housing.
9. However, it is critical that any development complements the natural and human made environment of Hastings. Indeed, it is these factors that make it attractive for such a development, and they should be retained or enhanced wherever possible.
10. The outcomes sought from a scheme of this size are both linked to the direct outcomes of the scheme and the initiatives it could help sustain and encourage, such as improved transport infrastructure.
 - a. The proposal will serve as a regeneration catalyst for the whole of the south east region and with substantial and lasting direct benefit to Hastings town
 - b. The proposal will introduce significant private investment into the region
 - c. Additional benefits to the public purse will accrue in the form of income tax, National Insurance contributions, benefits savings from increased employment, corporation tax and property taxes
 - d. The investment in supporting infrastructure will have wider benefits to the town and region
 - e. Enhancements and improvements to the public transport infrastructure in conjunction with East Sussex County Council (ESCC) will reduce the requirement for private car use
 - f. Job creation over a 10 year construction cycle is estimated at 500 construction jobs. Using best practice and case studies on economic employment based on densities and different job types the permanent job estimate is a minimum of 500 jobs to be created in an area of high unemployment. Figures for the period ending 31.03.17. showed a rate of unemployment of 6.3% against a national average of 4.8% and regional average of 3.8%.
 - g. The gross development value could be worth over £1bn of indirect and induced economic activity over its 20-year cycle
 - h. The proposed residential aspect of the development will accommodate residents with a current anticipated total spending power of approximately £26m per annum

- i. The proposal will serve as an exemplar for the successful regeneration of a traditional British seaside resort town
 - j. The image and reputation of the town and region will be enhanced
 - k. The project will establish improved facilities for the commercial fishing community and help secure the industry now and for the future fishing community
 - l. The project includes for the creation of a new venue for events
 - m. The proposal becomes an added halo attraction to the tourism market for both land based and water based visitors (including UK coast hoppers and foreign channel crossers)
 - n. There will be potential for water-based public transport to link along the coast
 - o. The development would help to stabilise the cliffs adjacent to the town and prevent further local coastal erosion
 - p. The development would add to the viability of the HS1 rail extension to Hastings, which in turn would benefit the development and town by providing a 'transformational effect' (then Transport Secretary Patrick McLoughlin, 2014)
 - q. 1,000-1,300 new residences built, a significant number of which will be affordable and provide homes for local people.
 - r. Government support/covenant will enable/facilitate substantial private sector capital investment, and is likely to attract inward investment to the UK from capital market funds
 - s. Growth in local construction trade industry and business parks that will service the harbour economy.
11. The scheme would have features which are worth noting:
- a. In commercial terms it plugs a gap along the South Coast for leisure sailors between Eastbourne and Dover or Ramsgate
 - b. It is intended to add to rather than detracting from the existing seafront and the restaurants, bars and shops of the Old Town and seafront, which are seen as a key part of the offer for potential future boat or home owners
 - c. On completion it's intended to hand the public assets to a local charity – potentially the Foreshore Trust but this is one of the features what will need to be more fully explored as the scheme develops
 - d. It can be of permanent benefit in terms of increasing local GDP. The councils will also benefit from the tax yield on this development

- e. The scheme's sponsors have said it is their intention that housing mix/tenure will comply with the council's policy in terms of tenure/type. The developers have expressed the intention that the project should develop a "living" community for Hastings.
12. The County Council is keen to work with HBC and the developers to explore the possible opportunity this may bring to Hastings. The infrastructure requirements for this proposal are significant and would have implications for the transport network both within and outside of the Borough area.
13. The County Council will facilitate a discussion with Team East Sussex (TES) and the wider SELEP in conjunction with HBC to seek out funding opportunities.

The Scheme Sponsors

14. The scheme's sponsors have established a company (Hastings Harbour Quarter, the directors of which are Michael Drain, John Walsh and Andrew Doyle (company no. 09602529). Andrew Doyle is the majority shareholder.
15. The company directors are experienced developers and architects having undertaken project delivery and development in the UK and elsewhere.

Andrew Doyle is a Director of the Land Group which specialises in property investment, finance and development in the UK and Ireland. His experience includes:

- 10 fire stations in Suffolk
- Locally in the development of offices in the town centre with HBRL (Sea Space) and industrial units on Queensway
- PFI project developing Queen Elizabeth hospital in Woolwich
- Refinancing a portfolio of schools in Aberdeen

John Walsh is from Senate Services who will act as project director has been involved in:

- Chelsea Barracks redevelopment which has a value of over £2billion
- Involvement in the delivery of the Olympic Park Athletes Village in London where he led de-risking in commercial, schedule and qualitative terms until 2010
- Additional substantial defence and other related commercial work which is not disclosable

Senate Services are currently appointed to lead the design process to planning consent as development manager for a £1.5billion harbour development at Blue Water Marina Gibraltar

Michael Drain the project architect has developed a number of major buildings including a 600 bed hotel at Heathrow and as lead consultant for a 200 acre

film studio technical campus and university in the North East which has gained planning consent.

16. In developing the proposals to this early stage the scheme's sponsors have engaged a number of private sector companies with track records in this kind of development to undertake:
 - a. The development of detailed options appraisal and outline business case in 2019.
 - b. Procurement process in 2020
 - c. Enabling works commencing in 2021

Officers regard these timescales as optimistic and there are a clear number of hurdles like obtaining guarantees, together with planning and environmental concerns that will not be within any developer's direct control. However, at this stage, the principle that such a scheme can be shown to be desirable and deliverable seems to be the crucial issue. A more detailed understanding of the true timescales is something that will depend on both technical factors and the state of the leisure and housing markets and investor confidence.

17. Although the scheme's sponsors have indicated that they will tender for further supply of development work a number of known companies involved in major development have involved in the pre-feasibility studies thus far:

Royal Haskoning DHV – major maritime engineering consultants

Ashfords LLP – leading in the legal land, marine and funding arrangements with particular expertise in marine works

Crofton Consulting – A local multidisciplinary practice currently appointed on a four year framework agreement with Dover Harbour Board including major structural, mechanical and electrical elements

WT Partnership/Gleeds – including local and global harbour and marine experience in cost management

BDO – Financial Consultants who have extensive experience of government infrastructure projects

Indigo Planning - one of the country's leading independent planning consultees, awarded planning consultant of the year 2015 and 2017

Examining the Proposal

18. Such a development would entail investment estimated by the scheme's sponsors presently as being around £1 billion over the lifetime of the project's gestation. As such, its benefits and impacts need to be carefully assessed to ensure that the scheme is one of benefit to Hastings and the region while being financially and environmentally viable.

19. The development time and costs are likely to be very significant. The early stages (support to develop a structural business plan) involve considerable effort in themselves. This strategic outline case will include:
 - a. Initial business case
 - b. Marine Assessment
 - c. Transport and Access masterplanning
 - d. Initial public space feasibility
 - e. Initial assessment in relation to SSSI and sustainability
 - f. Initial 3D land mapping
 - g. Legal advice including due diligence on land/marine issues and procurement
 - h. Financial modelling
 - i. Engagement with community
20. Of key significance will be the environmental issues in and around the development including the seabed, marine life, marine archaeology, cliffs, country park, traffic and appearance of the town needing to be properly assessed, particularly in relation to the valuable existing natural and human-made resource around Rock a Nore and the Old Town.
21. The County Council is the Highways Authority and is already engaged with this council in examining traffic management in White Rock/Town Centre in respect of the Town Centre and White Rock Area Action Plan. The County Council is prepared to engage with the investigation and development of the strategic outline case for the Harbour Quarter.
22. There are land ownership issues to resolve, with Crown Estates owning much of the maritime area and the Hastings and St Leonards Foreshore Trust owning land that will give access to the area to be examined for development. The Charity Commission will need to be fully engaged with the land issues concerning the Foreshore Trust. In order to enable the investigation of the site it will be necessary to give a fixed term options development agreement (in relation to Hastings Borough Council land) to the scheme's sponsors if they are to be able to attract private sector interest or the support of the State in the early stages.
23. The initial work is entirely at risk and discussions are taking place between the scheme's sponsors, HBC, ESCC and SELEP about how this first stage, estimated at costing around £1.5m, can be supported. The councils will seek to maximise the contribution they can make through the provision of officer time, transport/access advice and handling community engagement as the work is brought forward.
24. The developers are seeking a 10-year options agreement with break clauses to allow the development of the concept and to be able to interest private and government interest. This is broadly supported but the Chief Legal Officer will need to undertake more detailed work on the final form of this agreement. This has no immediate implications for the current occupants. It is possible that the Foreshore Trust may also be approached as the scheme develops but this will be an issue for the Trustees, Protector and the Charity Commission to consider in due course.

25. The Council will look to maximise the benefits of any future schemes for Borough residents, particularly in terms of social benefits and the environment:
- a. Achieving policy in terms of affordable housing and maximising the potential to retain and attract key workers like education and medical staff to live in the town
 - b. Ensuring access to the proposed new area is achieved sensitively and is linked to a wider approach to transport in the Borough and the seafront in particular
 - c. That no car parking is lost to the town's economy overall (excluding spaces created specifically for residents). An increase in capacity (provided it can be appropriately designed and located) will help capitalise upon the growth the scheme might stimulate.
 - d. Considering if a future Community Led Local Development (CLLD) bid could successfully be connected to such a development (along with other potential schemes) to generate potential opportunities for employment, skills and other provision for economically disadvantaged groups.

The Developer is clear about these concerns and the response to them will help shape thinking about the scheme as it evolves.

26. For the council the “point of no return” is clearly some time away. However, what is required to attract both State funding and stimulate private interest is a clear commitment to the principle of the proposal and the benefits it may deliver **if** the issues of finance, access, employment can be satisfactorily addressed. Hastings needs to be seen as “up for growth” providing it is of the quality and type that will be of long term benefit to the Borough and wider region.

Implications

27. Legal Implications:

There are no legal implications for the council from this report as an “options agreements” will need to be agreed by the Trustees of the Foreshore Trust and the Council in the future.

Legal implications are achieving ‘best value’ in terms of the options agreement for Hastings Borough Council land.

Obtaining permission from the Charity Commission to dispose of any Foreshore Trust land (if at all), achieving ‘best value’ in any disposal of Foreshore Trust land. Overcoming the restrictions that apply to commercial interest on Foreshore Trust Land including any potential land Swap (if at all)

State aid issues (if applicable)

The compromise agreement with the fishermen

Planning Issues

Other future arrangements with Southern Water and other owners/users of land

28. Risk Management:

There are considerable risks in moving forward in such an uncertain environment. Broadly these can be categorised as laid out in the table below:

<u>Risk</u>	<u>Likelihood</u>	<u>Impact</u>	<u>Mitigation</u>
Scheme is unviable	M	H	There are a wide range of finance, legal and environmental reasons which may threaten the viability of the proposal. The council will need these risks assessed and mitigated at each stage – or choose not to support the proposal. A full risk assessment will be produced as part of the first stage Statement of Case [SoC]
Severe Environmental Impact	M	H	The methodology of the access, marine archaeology and land environmental approaches will need to be demonstrated as being sound to HBC, ESCC and statutory consultees as well as to local people.
Lack of local support for scheme	M	M	The council will need to assess the employment, economic and strategic benefits and measure these against any negative impacts. A full programme of engagement will be needed to make sure local residents and business can evaluate the scheme.
The council and its partners are not sufficiently resourced to a manage a scheme of this size	H	M	The scheme (if it proceeds) is so large as to require significant additional resources to ensure a quality scheme, employment, housing, good planning etc. Resources will be sought from the scheme if it gets beyond the SoC stage.
The council lets the opportunity drop because of lack of sufficient ambition or boldness	M	H	The council will need to be clear in its support for a development of this scale in order that the planning, environmental, economic and design quality issues can be addressed.

A full risk assessment will be required as part of the SoC stage to ensure that as far as possible these risks are mitigated or avoided.

29. Environmental Issues:

Will be a key issue in the viability of the scheme and may be positive as well as negative. The council will wish to have oversight of all the reports produced as part of the early work in developing the SoC. However, at this stage there are no implications arising from this report. Of key concern will be the marine environment, the cliffs and the impact upon them and the transport access issues. The development would have impact upon the natural and human environment which will require detailed assessment at all stages of developing the scheme.

30. Economic/Financial Implications:

The report outlines some of the very significant potential in terms of the economy that might be gained. Additionally, the council(s) will benefit from the tax on homes and business developments and new homes bonus if it continues to exist. Such a development would improve our offer to other investors and strengthen the case for enhanced road and rail infrastructure. HBC is not yet aware of the match arrangement HMG and the LEP might make to support the scheme and the details of support they would seek from other partners like the Council.

31. Human Rights:

No implications for human rights arise from this report.

32. Organisational Consequences:

Should work on this proceed beyond the very early stages it will impose substantial burdens on the council throughout finance, legal, planning, housing, regeneration and other services. At the same time there are other significant developments like White Rock which will also impose further burdens. The council will need to seek agreements with the developer to fund the additional skills and time this scale of project will require.

33. Local Peoples Views:

Are likely to be varied and need to be properly informed as information becomes available. Key groups like the Fishermen's Protection Society, Coastal Users Group and officers of the Chamber of Commerce will be briefed before the Cabinet meeting. However, it is critical to stress that the employment, housing, skills, transport and recreational outputs and the impact on the Borough standing make this a matter for town wide engagement. The developers wish to develop relationships with the Chamber of Commerce, trader organisations and other business groups to maximise the complementary impact of the scheme to existing business. Good planning of what will be a new maritime quarter for them is of great interest and concern. Engagement will therefore need to be wide and move beyond the very local residents' and environmental groups which will naturally wish to be involved.

34. Anti-Poverty:

A key judgment in assessing the outcomes of any future proposal is not only the scale of benefits in terms of employment, skills, leisure and housing but how residents of the most disadvantaged communities are going to be enabled to enjoy them.

Conclusion

35. It is important to stress that this proposal is highly speculative at this stage and may come to nothing. However, the Borough has an opportunity to try and attract huge investment in transport infrastructure in particular and strengthening the economic case for extending HS1 to Hastings and further improvements to the A21. Some of the infrastructure and transport work to be undertaken may be of use even if this particular scheme is not ultimately developed. It would seem important to pursue the possibilities that arise from this proposal. As well as potential economic benefits, it will be worth examining how a harbour might offer protection to the cliffs behind and country park above it

Wards Affected

All

Policy Implications

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

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

Additional Information

Appendix 1 – Draft Business Case

Officer to Contact

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New Town

Old Town

Country Park

Cliff

Funicular
Railway

Cliff

Inaccessible
Beach

Historic Fishing
Area

Bridge

New Podium with Residential
Development and Public Realm
Space

Beach

Life
Boat

Fishing
Fleet

Beach

New Marina

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Enhanced Fishing Industry

New
Public
Access
Harbour

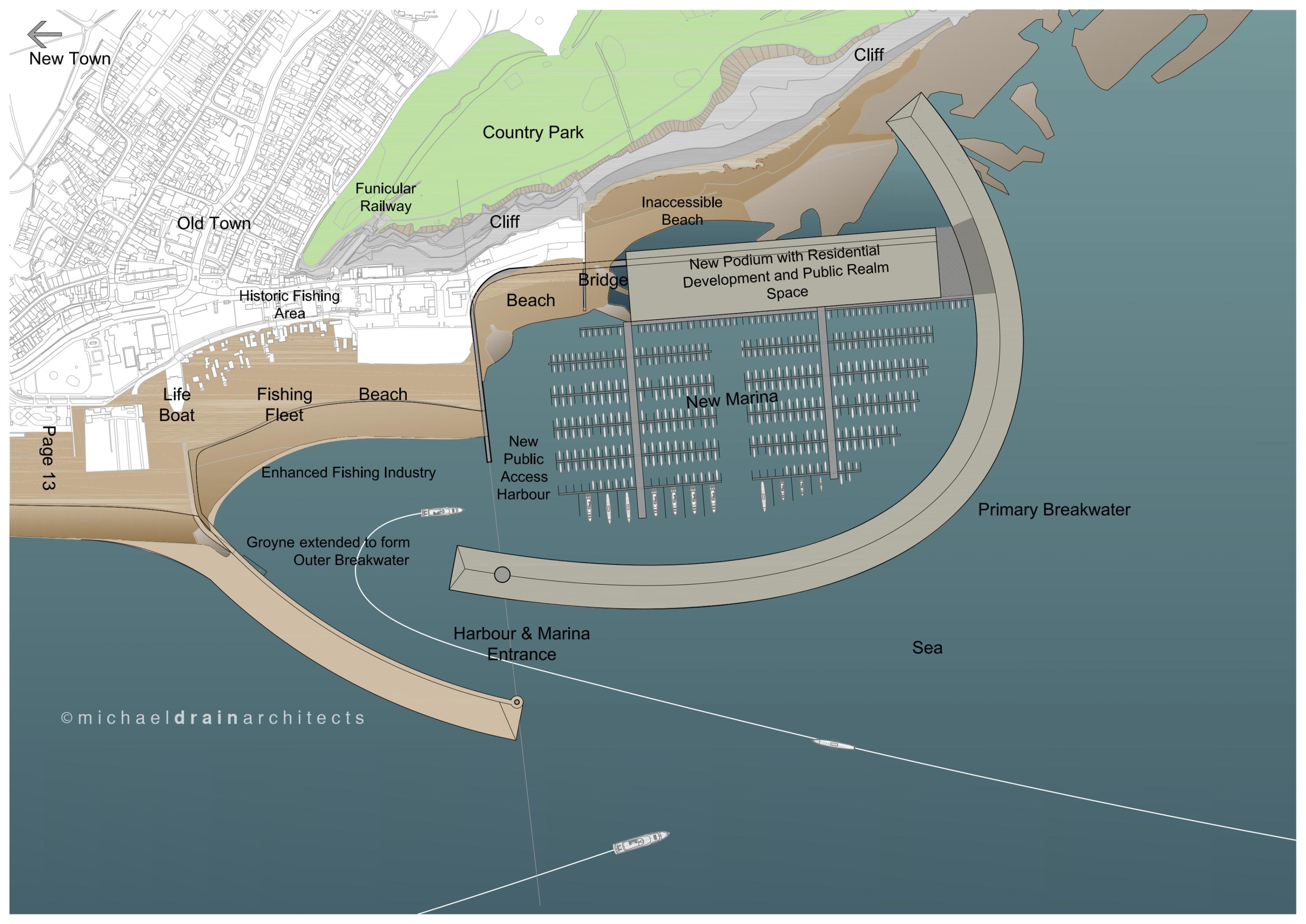
Primary Breakwater

Groyne extended to form
Outer Breakwater

Harbour & Marina
Entrance

Sea

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HASTINGS HARBOUR DEVELOPMENT

A Strategic Outline Business Case Prepared by BDO

For

Hastings Harbour Quarter Limited



Outline Paper

To: [Fund Applicant]

From: Hastings Harbour Quarter, Hastings Borough Council, East Sussex County Council and South East Local Enterprise Partnership.

Date: 18th August 2017

Purpose: To seek central government financial and other support to enable the further progression of the Hastings Harbour Development Project (the 'Project').

Specifically, the Project requires funding to develop a Strategic Outline Case (SOC) as the immediate next stage in the process.

HHQ Project Team

Hastings Harbour Quarter Limited (HHQ)

Andrew Doyle,	Director Funding
John Walsh,	Director Development and Delivery
Michael Drain,	Director Architecture and Masterplan
Financial Adviser:	Simon Carman, BDO
Legal Adviser:	Ken Smith, Ashfords LLP

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1. EXECUTIVE SUMMARY

Hastings Harbour Quarter (including a consortium of private sector interested parties) and have worked closely with their Consulting Team collaboratively to work up to concept stage a Project that would see the transformation of the Hastings sea frontage, the construction of a new enclosed harbour / marina and the social and economic regeneration of the surrounding area.

The full development will involve public and private investment to build the associated infrastructure, to deliver at least 1,300 new homes, to develop a new hotel and leisure facilities and to construct a marina within the new harbour walls. The scheme is projected to be entirely self-sustaining financially through re-investment of developer returns made on the commercial developments into the scheme's social realm infrastructure.

Some of the benefits that will be delivered by the Project include:

- Serving as a regeneration catalyst for the whole of the south-east region and with substantial direct benefit to Hastings town, bringing significant private investment into the region.
- Generation of income tax, National Insurance contributions, benefits savings from increased employment, corporation tax and property taxes.
- Enhancements and improvements to the public transport infrastructure in conjunction with ESCC to reduce the requirement for private car use.
- Job creation, with 500 to 1000 permanent jobs created in an area of high unemployment.
- The proposed residential aspect of the development will host residents with an anticipated spending power of approximately £26m per annum (current year).
- The image and reputation of the town and region will be enhanced.
- The project includes for the creation of improved facilities for the commercial fishing community.
- The project includes for the creation of a new venue for events.
- The proposal becomes an added halo attraction to the tourism market for both land based and water based (including UK coast hoppers and foreign channel crossers) activities.
- The development would help to stabilise the cliffs adjacent the town and prevent further local coastal erosion.
- A Minimum of 1,300 new residences built, a significant number of which will be affordable.

The HHQ team have already invested significant time and money into creating the Project conceptually at this stage. This has been done fully at risk from Hastings Harbour Quarter Limited and their specialist consulting teams. However, the project now needs to move to a sound footing in terms of being properly and fully resourced, and this note sets out the case for **central government support** to develop and submit a robust Strategic Outline Case for the project to move the project through the approvals stages and on to implementation.

The Project, subject to approval and as it progresses will also need to explore with government the availability of support for aspects of the borrowings that will be needed to mitigate some of the risks inherent in the infrastructure being developed - this might involve a Government Guarantee to part of the lending.

The key stages required to move this project from concept stage to delivery are set out below:

PROJECT STAGE	PURPOSE	TARGET COMPLETION
Concept Stage	Identify and secure support from relevant Stakeholders. Secure budget for Strategic Outline Case. Secure option on site.	Autumn 2017
Strategic Outline Stage (SOC)	Continue project development and Stakeholder engagement. This will include finalising and agreeing the land boundaries and assembling the key team to prepare the consultant scope of works for the OBC. It will include more detailed engagement with Finance, Legal and Planning to establish the framework of the development. Legal to establish and put in place consultant contracts and to identify the key contractual documentation needed to support the various elements of the Project. At the SOC stage, we will develop the construction plan and the masterplan, and will marry this with the development budget and financial plan. Market Advice and valuations will be sought and Social Context Themes will be developed. The overall aim is to demonstrate deliverability and affordability and to make the strategic case in terms of benefits and risks. Secure budget for Outline Business Case.	Spring 2018
Outline Business Case	Detailed Options Appraisal, full economic appraisal of deliverable options. Selection of preferred option. Fully developed funding solution and fully developed commercial arrangements including suite of legal documents. Procurement strategy detailed for all delivery partners. Continued progression of the project through planning and technical design. Detailed marketing exercise to understand residential and marine Gross Development Income vs Gross Development Operational Costs. Project Support Package approved. Likely to involve some kind of government guarantee for the borrowing needed for the harbour infrastructure.	Autumn 2019
Procurement of Construction and other Contractors	Identify procurement process for delivery contractors. Completion of funding competition	Summer 2020
Final Business Case (FBC)	Updated OBC based on outcome of procurement	End 2020

PROJECT STAGE	PURPOSE	TARGET COMPLETION
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Start on site	Enabling Works commences	Start 2021
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Our assumption is that any monies allocated by government for the development stages of this Project will be re-paid to government from returns made on the commercial elements of the development. The repayment of these sums will be fully included within any financial modelling undertaken as part of the Project's development appraisal.

We also understand that any public-sector support to this project could come from a variety of sources including HBC, ESCC, the LEP and Central Government.

We anticipate in depth and detailed open and transparent discussion with all relevant parties in relation to this, and are anticipating some cash contributions and some in-kind support through taking on some of the delivery tasks that are currently assumed to be undertaken by the HHQ advisory team.

2. HASTINGS HARBOUR PROJECT OUTLINE

2.1. CASE FOR CHANGE



Hastings is an urban seaside conurbation in an economic Travel to Work Area that is home to approximately 180,000 people (91,500 in Hastings itself). In 2013 Hastings was voted joint “best town in England” by the British Academy of Urbanism.

Nevertheless, Hastings remains one of the weakest economies in the South East of England, with severe concentrations of multiple disadvantage and structural weaknesses that put the area at a competitive disadvantage, particularly when compared to the expanding economies in the rest of the South-East region. Hastings and parts of neighbouring Rother have Assisted Area Status, and in 2015 Hastings was listed as the 13th most deprived town in England. The need for improved social mobility in the town has been recognised, as recently as January 2017, when Hastings was identified as one of 12 opportunity areas by the department of education, in part due to the levels of deprivation in the town and low attainment levels, but also due to the recognition that this is an area where, with additional investment, we can make innovative advances to combat social isolation.

Hastings is at a pivotal point in its economic development. Faced with the legacy of the South East’s most concentrated deprivation, there are clear signs of sustained improvement across a range of economic and social measurements. Investments in the local transport and communications infrastructure, in higher and vocational education, and in new employment space are helping to redress major obstacles to economic regeneration. Unemployment rates are slowly improving, crime has decreased dramatically, health indicators show signs of improvement, and child poverty is falling.

There are established public-private-community partnerships in the town working together to address some of the root causes of the deep and persistent pockets of deprivation, and our five-year (ESF-ERDF funded) CLLD programme will equip people in the most disadvantaged areas with the necessary skills and support to become economically active. This programme and a range of business support services will also help to stimulate business start-ups and entrepreneurial activity across the town.

Weaknesses in the local infrastructure which are significant obstacles to growth are being tackled through the combined efforts of the Hastings and Rother Task Force (a public-private partnership that is driving a six-point strategic plan to improve conditions for economic growth.

These include proposals for a high-speed rail link to London via Ashford; continued improvements to road connections to London and large coastal conurbations east and west of Hastings; and the growth of HE and FE skills provision linked to the needs of the local economy.

The strength of this cross party, multi-sector partnership has been a major factor in the considerable record of successful developments in the town in recent years. The most significant of these include: the establishment of a Higher Education institution, two new FE college campuses, the Bexhill-Hastings Link Road, new office and commercial buildings in the town centre, the innovation centre and other new commercial/industrial space and buildings on the western edge of the town and along the Link Road, the unlocking of considerable new housing sites, major seafront improvements including the Jerwood Gallery and associated Stade developments, the new Pier and, most recently, the opening of the largest underground BMX facility on the seafront.

There is, however, a compelling need to build on these achievements and to stimulate further business growth and diversity to ensure that Hastings - a subregional centre - is able to play its full part in a sustainable and thriving South East economy. The town currently has one of the lowest jobs density rates in the region, and a shortage of industries offering skilled and semi-skilled employment opportunities. The majority of the town has been designated an Assisted Area, which reflects both the level of deprivation and the town's economic growth potential.

2.2. DESCRIPTION OF SCHEME



The proposal is to create a new self-funding public harbour with associated public realm, residential accommodation and marina to sit alongside and compliment Hastings town. This development would act as a halo development and catalyst for regeneration within the town and wider area, setting a national precedent for the strategic regeneration of a British coastal town.

The proposal sets out to build upon and celebrate the maritime and harbour traditions of Hastings Town whilst adding a fully accessible public harbour and also a world class marina, reinforcing and strengthening the overwhelming ties which already exist between the town and the sea. The proposal has sought to add to the existing fabric of the town without reducing or undermining any of the sea front access or usage which is currently enjoyed, generating a huge stimulus to the local tourism industry, along with the creation of many more homes.

Ultimately the creation of Hastings Harbour would result in a lasting asset for the people of Hastings and East Sussex, unlocking a significant economic uplift within the local and regional area. The cost of the benefit would be funded by the value of the proposed real estate opportunity on the new podium. Ownership of the public asset would revert to the public sector through a charitable trust upon completion of the long-term funding process.

2.2.1. HARBOUR DEVELOPMENT



A harbour development in Hastings, in the context of the town's strong maritime heritage and its strategic location on the south-east coast, offers significant potential to expand the visitor economy in Hastings and the wider area. Marina-based recreational boating is a year-round activity, and the harbour development would stimulate increased year-round demand for food, drink and associated leisure and recreational services.

Hastings' fishing fleet, though small, plays a crucial role in the attractiveness of the town as a visitor destination. However, it is highly vulnerable and its future is by no means assured due, in large part, to the fact that the fleet is regularly prevented from launching from the beach (an inherently dangerous activity in the best of conditions), due to adverse weather and tides. Safe, fully accessible berths within a protected harbour would ensure that the fleet is able to fish year-round, thus having a profound impact on the sustainability of the fleet.

It is considered that a development of this scale would have a considerable multiplier effect not only on the visitor economy and housing market, but on a number of other factors too. The new jobs created within the marina and associated operations, as well as in a local supply chain that would develop to service the leisure marine activities, would provide much needed skilled and semi-skilled employment opportunities for young people. The impact of the harbour, with the associated marina and quality housing would help to transform the image of the town as an attractive location for new business investment and higher income/higher skilled residents. There would be considerable opportunities to engage young people and excluded communities in the leisure and employment opportunities the development would bring to the town.

The proposals envisage the creation of around 1,300 new homes. This would be a significant new addition to the Council's current Local Plan targets, increasing supply exponentially and broadening the housing offer in the town. The current Local Plan land supply allows for the construction of approximately 3,400 additional homes over the period 2011-2028 (although the objectively assessed need for Hastings was 6,863 over the Plan period). The proposal would increase the Plan's supply by a nearly a third.

The resulting housing would be available to meet a range of housing needs, attracting new skills and unemployment to the town, but also meeting current identified housing needs, including demand for affordable housing. At present, there are 1,500 people on the Council's priority housing register. The resulting housing would comprise dwellings of 1, 2 and 3 bedrooms, suitable for mixed needs including single persons for whom good quality apartments are in short supply in the town.

Residential development on the scale envisaged would generate some £456m of inward investment over 30 years and generate significant numbers of construction jobs. The nature of the proposal also lends itself to a potential focus on renewable energy (as a reference project), modern methods of construction and sustainable forms of living.

The success of a development of this scale in Hastings would serve as an example of truly transformational regeneration that has rarely, if ever, been fully implemented in other deprived UK coastal conurbations.

The large catchment of the Weald is an area with an increasing demand for boat ownership.

Current marina choices locally are at Newhaven, Brighton, Eastbourne and Rye. These are very much in demand in spite of their various disadvantages, with Newhaven having few visitor attractions to encourage visitors into the town. Brighton is somewhat decoupled from the town, and Eastbourne marina's high rise apartment complex is on the edge of an out of town shopping mall. Rye is an attractive destination and is very picturesque though it has limited Harbour and marine berths and is subject to tidal access. Hastings in contrast will be by far a more desirable home port linking with the Old Town on its doorstep and the Country Park but a short walk away.

The quality of the setting alone will draw berth-holders from the wider region who currently travel long distances to access fully serviced, attractive and all-weather marinas and moorings, including boat owners in the London metropolitan area.



A large (40ft+) yacht sailing east from the Solent to Dover can, if conditions are good, bypass all the south Coast harbours by taking advantage of the tides flooding eastward. Yachts under 40 feet, cannot keep up with the tide, and so must stop along the way. Sailing westwards between Dover and the Solent requires at least one stop because of the opposing currents. Between Eastbourne and Ramsgate, there is no harbour other than Rye which is often inaccessible due to tides, making the journey not worth considering for smaller vessels unless perfect timing and weather conditions prevail. Obviously, a new marina at Hastings would be a magnet for any such vessels.

Hastings is already a desirable location for European visitors, particularly French, Dutch and Belgian tourists. There are significant numbers of French and Dutch leisure sailors who regularly visit other marinas on the south coast, and a marina in Hastings would unlock a huge and currently inaccessible market from this sector for Hastings and the surrounding areas.

A 2014 British Marine Federation report in on the economic benefits of UK boating tourism revealed that it contributes £3.7bn to the UK economy and supports 96,000 jobs. For every job directly employed in the core boating tourism sector, a further 10 jobs are supported in the wider economy. An earlier RYA (Royal Yachting Association) report showed that the combined revenue for the southeast and southwest marine leisure sector accounted for 60% of the overall UK industry revenue. The majority of marinas, particularly in the south, cannot meet demand for berths.

Approximately 72% of all coastal berths in the UK are in the south eastern or south western regions. The annual average running cost of a marina based boat is well in excess of £5,000. In 2012, the RYA estimated that the average annual economic contribution of a marina based boat is between £9,500 and £19,000. A Tourism South East study revealed that the average spend per day per visiting boat is £183.40, and the average duration is around 3 nights. On-site marina tenant businesses generated the most significant impact (according to the BMF report).

2.2.2. FISHING INDUSTRY



The fishing industry and community has been at the heart of the proposal from the outset, although they have not yet been consulted. The team has waited to ensure that there is political support across the spectrum before engaging in dialogue with the fishermen. The key requirement from the fishermen will likely be for more quota. How this will develop following Brexit or the exit from the Common Fisheries policy is still unclear, but the expectation will be that there will be little change in the short term. One of the proposals which will be actively considered is the potential to buy quota (if still applicable), which would then be controlled by a charitable body or independent third party. In this way, the existing fishermen would be able to increase their quota and enhance their livelihood. Many of the people working in the fishing industry live distantly, outside of town. This proposal wishes to link affordable housing on site, close to work and the sea, and a key worker community.

The existing beach based fishing fleet has been retained, with increased protection for their entry and egress from the water, but alongside this would be the creation of a new public access harbour adjacent to the current fishing fleet. Many different alternatives have also been considered within the project to create ways in which the industry could not just become

sustainable, but which might help it to grow. A series of potential initiatives would be tabled such as access to pontoons in the outer harbour for loading and off-loading, access to a dock-side boat-lift, the creation of alternative sources of revenue generation such as public fishing trips with access from the harbour, improvements to their boat-winch infrastructure, improved opportunities to sell their fish, etc. A protected harbour environment and easy access on and off their vessels would enable the fishermen to fish throughout the year.



2.3. RATIONALE FOR CENTRAL GOVERNMENT SUPPORT

Initial financial modelling undertaken by our financial advisers strongly indicates that the Project is ultimately self-funding, which includes for a significant initial infrastructure cost which the commercial market will not fund due to the high levels of risk and long-term delay for any return on investment, the Borough and County Council have insufficient resource to cover this from a public perspective. For these reasons government assistance is therefore required because the scale of infrastructure and public realm to be created within the proposal makes the scheme unviable for private sector investors.

Whilst the proposal is ultimately self-funding, the initial investment in progressing the project through the approvals and procurement process, followed by the creation of the infrastructure required to develop the scheme is prohibitively expensive for a private development. The nature of the development requires the infrastructure investment to be front end loaded and securing funding for this element of the development would be challenging and potentially prohibitively expensive.

Significant elements of the project will be able to secure financing at reasonable rates, but certain elements relating to the enabling infrastructure (for instance the harbour wall), are unusual and do not generate a direct income stream. These elements will either be impossible to finance or would be prohibitively expensive to finance, without some kind of government support.

Government financial assistance is required to overcome this short-term investment hurdle allowing the ultimate profitability of the proposal to create a new town quarter with a high quality long term public asset. Once the original infrastructure has been created then this will act as a catalyst for further private sector investment creating jobs and additional high-quality housing.

A Government covenant will facilitate and release significant private investment by helping to mitigate the high initial cost of infrastructure.

Much of the new infrastructure required by the proposal will become public asset and for public benefit, including public realm, a new harbour, roads and services upgrades. It will truly be a public private partnership utilising private sector skills in construction and operation.

The benefits from the proposal would include the following:

- The proposal will serve as a regeneration catalyst for the whole of the south-east region and with substantial direct benefit to Hastings town.
- The proposal will introduce significant private investment into the region.
- Additional benefits to the public purse in the form of income tax, National Insurance contributions, benefits savings from increased employment, corporation tax and property taxes.
- The investment in infrastructure will have wider benefits to the town and region.
- Enhancements and improvements to the public transport infrastructure in conjunction with ESCC to reduce the requirement for private car use.
- Job creation, with 500 to 1000* permanent jobs created in an area of high unemployment (7.7%).
- The construction process could be worth over £1bn of indirect and induced economic activity over its 20-year cycle.
- The proposed residential aspect of the development will host residents with an anticipated spending power of approximately £26m per annum (this year).
- The proposal will serve as an exemplar for the successful regeneration of a traditional British seaside resort town.
- The image and reputation of the town and region will be enhanced.
- The project includes for the creation of improved facilities for the commercial fishing community.
- The project includes for the creation of a new venue for events.
- The proposal becomes an added halo attraction to the tourism market for both land based and water based (including UK coast hoppers and foreign channel crossers).
- There will be potential for water-based public transport to link along the coast.
- The development would help to stabilise the cliffs adjacent the town and prevent further local coastal erosion.
- The development would add to the viability of the HS1 rail extension to Hastings, which in turn would benefit the development and town by providing a 'transformational effect' (Transport Secretary Patrick McLoughlin, 2014).
- 1,300 new residences built, a significant number of which will be affordable.
- Government support/covenant will enable/facilitate substantial private sector capital investment, and is likely to attract inward investment to the UK from capital market funds.
- Growth in local construction trade industry and business parks that will service the harbour economy.

2.3.1. SUPPORT REQUESTED

Hasting Harbour Quarter is requesting support and approval for the following:

- Financial budget to support activities through the development stages of the Project and specifically for the preparation of a Strategic Outline Case (SOC), Outline Business Case (OBC) and for the identification of, and procurement of the design, construction and other delivery contractors (e.g. utilities).

- Strategic Outline Case (SOC)
 - Outline Business Case (OBC)
 - Procurement
- Government guarantee / support for initial development funding required for the early infrastructure works (the case will be made for this in the OBC).

Should the Public sector commit to providing support to this project by way of benefit in-kind resources and (can within the scale of this project explore their ability) may be able in lieu of budget alongside the central government support for the development stages of the Project. Any such support allocated to the project ought to commensurately reduce the amount required from central government.

The key tasks and activities that need to be undertaken at each of the development stages are outlined in section 3 of this paper.

Our assumption is that any budgetary support provided by any public-sector body to the development stages of this project, **will be by way of a refundable grant or a re-payable short-term loan.**

All development costs, including those funded by government, will be fully included in the development financial appraisal and will be recovered through the delivery of the commercial schemes.

3. DELIVERY PROGRAMME AND RESOURCE REQUIREMENTS

3.1. PROJECT MANAGEMENT APPROACH

HHQ and its consulting teams are following best public-sector practice in relation to developing this Project and are marrying this with the most stringent of private sector standards and approaches. The aim is to ensure that the Project demonstrably delivers the very best value to the public sector, is of exceptional quality and is delivered at acceptable levels of risk. As a minimum, we will continue to apply the following standards to the development and implementation of the Project:

- **Business Case Preparation:** We will prepare the Strategic Outline Case, the Outline Business Case and Final Business Case using the 5-Case model and all economic and financial analyses will be fully compliant with HM Treasury's Green Book, including the use of discounted cash flow analysis and the inclusion of optimism bias.
- **PRINCE2 Project Management Methodology:** We will project manage the delivery of the Strategic Outline Case, the Outline Business Case and the Procurement of Contractors using the key elements of the PRINCE2 project management methodology.
- **Procurement Approach:** Our procurement processes will be fully compliant with current EU Procurement Regulations and with the specific procurement regulations of whichever public-sector party fulfils the role of the Procurement Authority.
- **State Aid:** Our advisors are fully conversant with state aid regulations and we will appraise any potential public-sector support to the Project with a view to ensuring that these regulations are not breached.
- **Risk Management:** We will carefully appraise, monitor and manage all significant project risks. Where we are considering public sector risk, we will adopt HM Treasury's Orange Book approach to risk management.
- **Communications and Consultation:** a steering group will be assembled with ESCC and HBC officers together with the Hastings Harbour Quarter consortium. The aim of the steering group will be to provide strategic direction and decisions on the delivery of the SOC requirements.
- **Quality:** The Steering Group will review and select the best methods to demonstrate it is following best practice. It is also worth noting that a best practice document will be based upon Treasury Procurement Guidelines. The intent is to provide transparent, auditable procedures that provide best value.

3.1.1. PROPOSED DEVELOPMENT PROCESS

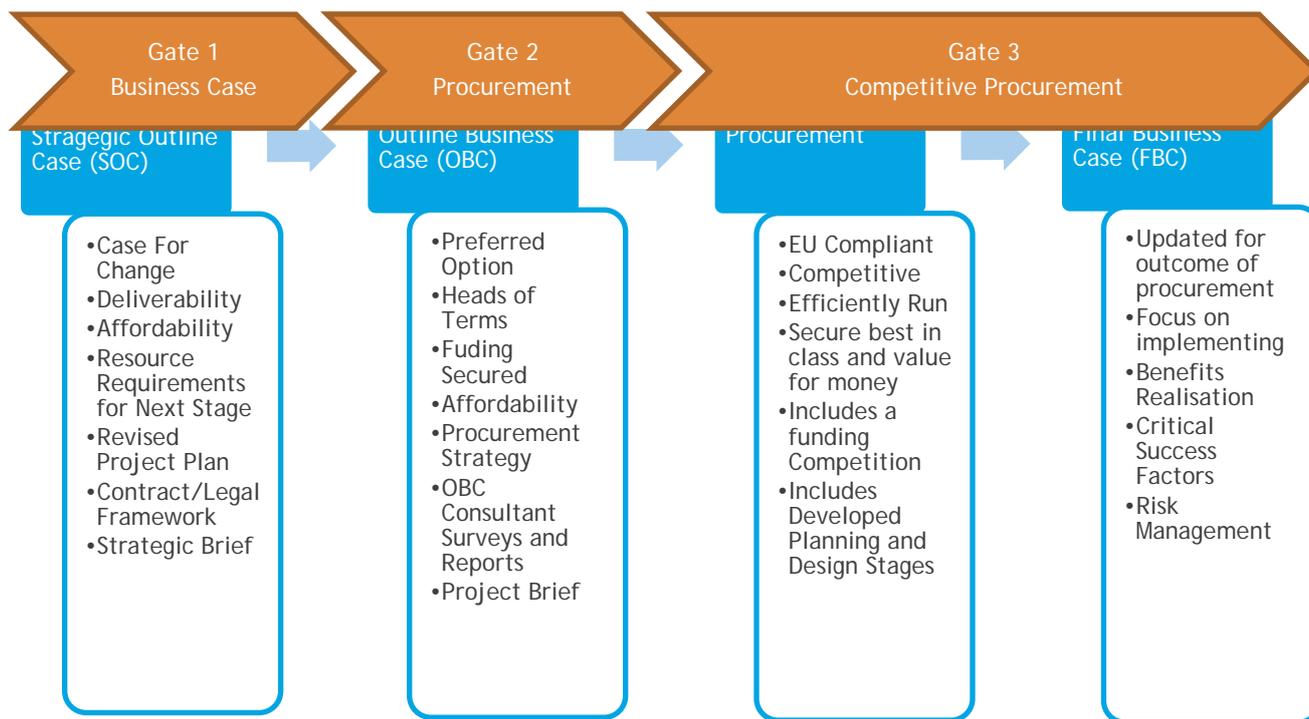
Broadly, the Project's development will adhere to the key stages ('gates') as defined within OGC's Gateway Process. We do not currently propose to implement formal Gateway Reviews, but for a project of this significance, there might be value in undertaking them and we will consider this further at the next stage.

Progression through the Business Case and Procurement stages of the Project will be subject to formal approvals by Project Sponsors and we are targeting the approval of the Final Business Case by the end of 2020.

We hope to progress the delivery of the project in parallel to the business case approvals processes and this will include design, surveys, securing funding, developing legal documentation and towards the end of the process we hope to expedite the delivery of the Project by undertaking early enabling works such as installing utilities and constructing access routes.

Once construction of the podium and harbour wall starts, we anticipate delivering the full Project within seven years.

The initial development of the project up to issuing the Final Business Case is anticipated to follow the key stages shown in the diagram below:



3.1.2. ESTIMATE OF REQUIREMENTS FOR INITIAL PROJECT STAGES

Hastings Harbour Quarter has already assembled a World-Class leading team of advisers and experts and key activities have been identified for the completion of the next stage of the Project and for the delivery to BEIS of a Strategic Outline Case. These activities and their estimated description are presented in the table below:

ACTIVITY	Brief Description
Project Management	Overall programme and project management of SOC and all associated development activities.
Business Case Authoring	Control of SOC document and authoring of Strategic Case, Management Case and input to other chapters of the document.
Technical Advisory / Cost Consultancy	Initial terrestrial and marine cost assessments.
Marine Engineering Advisory	Marine and transportation assessment to liaise with masterplanning and design.
Design and Masterplanning	Initial commercial feasibility masterplanning plus scheme design.
Landscaping of Public Realm	Initial Public Space feasibility masterplanning.
Environmental Assessment	Initial assessment particularly in relation to SSSI and sustainability.

Planning Consultant	Initial Planning assessment and coordination. Advice re approach to achieving planning approval.
Initial Mapping and Surveying	Above ground 3D mapping, but excluding marine and ground penetrating radar.
Communications / Consultation	Public and Media Consultant and initial engagement locally.
Legal Advisory	Due diligence on land and marine, preparation of NDA's, preparing advisory appointment terms, legal advice for inclusion in commercial case of SOC. Procurement advice.
Estate Agent / Real Estate Advisory (Valuations)	Initial assessment of local market value, potential and capacity.
Financial Advisory	Financial modelling, identification of deliverable funding, tax, VAT and SDLT high level advice, completion of economic and financial cases of SOC and contribution to commercial case.

HHQ is happy to work with this scope for the preparation of the SOC. Where activities are carried out by advisory firms, then funds will need to be made available to the Project. Where activities are supported on by one of the public-sector sponsor activities, then the funding requirement for this activity might be removed or reduced.

3.2. KEY STAKEHOLDERS

HHQ has identified a number of key stakeholders in relation to the development, and the response has been invariably supportive and at times enthusiastic. We will continue to engage and communicate as the Project progresses, and we will expand the list of Stakeholders to ensure it is fully inclusive of interested parties. At SOC stage, we will undertake a more formal stakeholder analysis to ensure that we understand the relative interest and influence that each stakeholder has in the project and how important they are to the successful delivery of the Project.

Excluding the local and regional public sector administration entities, our current key stakeholder list is as follows:

- Crown Estates
- Highways
- Natural England
- Fisherman
- Foreshore Trust
- Citizens of Hastings
- Old Town Residents
- Jerwood Gallery

3.3. DELIVERY TEAM

The Hastings Harbour Quarter delivery team for the SOC and OBC includes the following consultant services as a minimum

- Hastings Harbour Quarter Limited
- Financial and Accounting
- Funding
- Masterplan
- Project Management
- Planning
- Legal (Terrestrial and Marine)
- Estate and Land Agents
- Socio-Economic Consultant
- Quantity Surveying and Commercial / Contract Consultants
- Transport to include Marine, Civil and Environmental Engineering Consultant
- Public and Media Relations
- Environmental
- Energy
- Mechanical Electrical and PH Consultants
- Structural Consultants

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Agenda Item 5



Report to: Cabinet

Date of Meeting: 11th September 2017

Report Title: Joint Waste and Recycling Committee and Constitution

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

Purpose of Report

To update Cabinet on urgent developments with the joint waste procurement project, and seek approval to implement measures to ensure that the process can proceed.

Recommendation(s)

- 1) approve associated changes to the Constitution of the Joint Waste Committee at Appendix A;
- 2) approve the formation of the Joint Waste and Recycling Committee and adopt its Constitution at Appendix B;
- 3) agree that the existing Hastings members and substitutes for the Joint Waste Committee be nominated as members and substitutes for the new Joint Waste and Recycling Committee; and
- 4) the Lead Director for the Joint Waste Partnership be authorised to make minor amendments to the Constitution, in consultation with the Chair of the Joint Waste Committee.

Reasons for Recommendations

To comply with legal advice recently provided to the Joint Waste Partnership.

Introduction

1. In 2011 Eastbourne Borough Council (EBC), Hastings Borough Council (HBC), Rother District Council (RDC), Wealden District Council (WDC) and East Sussex County Council (ESCC) approved the setting up of a Joint Waste Committee (JWC) in order to procure a single Joint Waste Contract which was awarded to Kier Services Limited and started in April 2013. This Contract will end on 28 June 2019.
2. In 2016, the JWC began to consider possible options for the delivery of services and future role of the JWC from 2019. Lewes District Council (LDC) began to attend the JWC in a co-opted role without voting rights from April 2016. This meant that all the East Sussex Waste Collection Authorities and the East Sussex Waste Disposal Authority are aware of and have had opportunity to participate in waste related matters as they developed through 2016/17.
3. The Councils have confirmed their positions with regard to the joint procurement of a new Contract to start on 29 June 2019. HBC, RDC and WDC have resolved to participate in the procurement project. EBC has resolved to withdraw from the East Sussex Joint Waste Partnership and work with LDC to develop joint services across Eastbourne and Lewes. Officers subsequently advised that both EBC and LDC wish to be named on the OJEU notice for potential future access to the Contract by variation (although this was not a specific resolution by either Cabinet).
4. To enable a clear distinction between matters concerning the current Joint Waste Contract and the future procurement decisions for HBC, RDC and WDC it is therefore recommended that a new Joint Waste and Recycling Committee (JWRC) be established. The new committee will operate concurrently to the existing JWC and meet consecutively so although some additional administration work will be required, matters concerning the current Contract and matters concerning procurement and the future delivery of services are handled separately.

Joint Waste Committee and Constitution

5. Attached at Appendix A is an amended constitution for the JWC. The amendments are underlined for easy reference and clarify that the JWC is established to manage and oversee the Contract which was entered into.
6. Attached at Appendix B is a Draft Constitution for the JWRC. This Constitution differs from the JWC Constitution only in terms of voting rights and the provision to succeed the JWC from June 2019. Again, the differences are underlined for easy reference. The Constitution is therefore recommended for approval that will convey the executive powers from each authority to this JWRC to progress procurement of the future delivery of service. Each District/Borough is therefore being asked to adopt the Constitution and to appoint two Council representatives (and substitutes), preferably the same Members who are already members of the JWC.
7. EBC and LDC are invited to attend the new Joint Waste and Recycling Committee in a co-opted role without voting rights.

Risk Assessment Statement

8. If a new Constitution is not adopted it will require the existing Constitution to operate allowing voting rights for those authorities not participating in the contract.

Wards Affected

All wards

Policy Implications

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

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

Additional Information

Appendix A Joint Waste Committee Constitution (Amended)

Appendix B Joint Waste and Recycling Committee Constitution (Draft)

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Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council

**Joint Waste Committee
Constitution**

This Constitution has been approved by Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council as the Constitution of the Joint Waste Committee.

1. Establishment of the Joint Waste Committee

- 1.1 The Joint Waste Committee shall be the “Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council Joint Waste Committee”.
- 1.2 The Joint Waste Committee is established under Sections 101(5) and 102 of the Local Government Act 1972, Section 20 of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 by the Executives of Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council.

2. Objectives of the Joint Waste Committee

- 2.1 The Authorities have established the Joint Waste Committee with the intention of facilitating the Authorities in working together to manage and oversee the Contract which was entered into to improve the quality and effectiveness of the discharge of their waste collection functions under the relevant provisions of the Environmental Protection Act 1990..
- 2.2 To work in partnership with East Sussex County Council as the Waste Disposal Authority to maximise integration opportunities.

3. Powers Delegated to and matters reserved from the Joint Waste Committee

- 3.1 The Joint Waste Committee and Officers reporting thereto shall have such powers as are delegated and set out in Appendices 1 and 2 and such further powers as may from time to time be delegated to the Joint Waste Committee by the Leader or Executives of the constituent Authorities or of any of the constituent Authorities.
- 3.2 In so far as any powers may from time to time be delegated to the Joint Waste Committee, the following functions (the Reserved Matters) are matters reserved to each of the Authorities making such delegation and shall not be within the powers of the Joint Waste Committee:
 - 3.2.1 All non-executive functions of any of the Authorities
 - 3.2.2 Any decision which is contrary to or not wholly in

accordance with the budget approved by each Authority for the Joint Waste Committee, or is contrary to an approved policy or strategy which has been approved as part of the Policy and Budget Framework of that Authority.

- 3.2.3 Any decision in respect of which a scrutiny committee of any of the appointing authorities has notified the Secretary to the Joint Waste Committee in writing of the Authority's formal objection to the proposed decision in accordance with Paragraph 10.1 (below).
 - 3.2.3 Approval or amendment of any Joint Working Agreement between the appointing Authorities in respect of the discharge of the appointing Authorities' waste disposal functions.
 - 3.2.4 Any decision by an Authority to withdraw its Membership from the Joint Waste Committee.
 - 3.2.5 Approval of the final award of any Contract for the collection of waste.
- 3.3 The Authorities agree that the Joint Waste Committee and all or any powers and delegations to that Committee shall automatically cease upon the termination of the Contract. The powers and delegations shall upon termination automatically revert back to the Councils that delegated them.

4. Membership and Appointment of the Joint Waste Committee

- 4.1 The Joint Waste Committee shall comprise nine Members, being two Members appointed from the Executive of each of the Authorities with at least one such member for each Authority being the member with responsibility for waste, recycling and street and beach cleaning services together with one Member appointed by East Sussex County Council.
- 4.2 The Joint Waste Committee shall also have power to permit additional membership of the Committee, in particular Members appointed from Lewes District Council, in either a co-opted role without voting rights, or as a Full Member of the Committee with equal status and rights as the other District and Borough Members of the Committee.
- 4.3 Each Member of the Joint Waste Committee shall be appointed for the term of office, or the balance of the term of office, of the Executive of the appointing Authority.
- 4.4 The appointment of Members of the Joint Waste Committee to fill any vacancy for such Members shall be made by the Executives of each Authority –
 - 4.4.1 as soon as practicable following the adoption of this Constitution by the Executive of that Authority;
 - 4.4.2 as soon as practicable after the appointment of the Executive of that Authority in accordance with that Authority's Constitution; and

- 4.4.3 as soon as practicable after a vacancy arises in respect of a seat on the Joint Waste Committee to which the Executive of that Authority has the power to make an appointment.
- 4.5 A Member of the Joint Waste Committee shall cease to be a member of the Joint Waste Committee, and a vacancy shall automatically arise, where –
- 4.5.1 The Member resigns from the Joint Waste Committee by giving notice in writing to the Secretary to the Joint Waste Committee;
- 4.5.2 The Member ceases to be, or is suspended under Part III of the Local Government Act 2000 from acting as, a Member of the appointing Authority, or a Member of the Executive of the appointing Authority;
- 4.5.3 The Member is removed from membership of the Joint Waste Committee by notification in writing from the Leader of the appointing Authority to the Secretary of the Joint Waste Committee;
- 4.6 All appointments to membership of the Joint Waste Committee shall be made by notification in writing from the Leader or the Chief Executive (or equivalent executive officer) of the appointing Authority to the Secretary of the Joint Waste Committee.
- 4.7 Upon being made aware of any Member ceasing to be a Member of the Joint Waste Committee, the Secretary of the Committee shall write to that Member confirming that he/she has ceased to be a Member of the Joint Waste Committee, and notifying the appointing Authority and the other Members of the Joint Waste Committee accordingly.
- 4.8 Each Authority will appoint a substitute Executive Member of the Joint Waste Committee on the same terms as the Authority's appointed Member of the Joint Waste Committee. The substitute Executive Member will attend any meeting of the Joint Waste Committee with all the powers of the Authority's appointed Member in the event that an appointed Member is unable to attend a particular meeting.
- 5. Chairman and Vice-Chairman of the Joint Waste Committee**
- 5.1 At the first meeting of the Joint Waste Committee after the annual meetings of each Authority in any year, the Joint Waste Committee shall elect a Chairman of the Joint Waste Committee and a Vice-Chairman of the Joint Waste Committee for the following year from among the Members of the Joint Waste Committee, save that any co-opted Members shall not be entitled to election as Chairman or Vice-Chairman of the Joint Waste Committee.
- 5.2 By convention, if the Chairman of the Joint Waste Committee in any year is a Member of one of the Authorities, the Chairman of the Joint

Waste Committee for the next year would normally be a Member of another of the Authorities.

5.3 The Chairman and the Vice-Chairman of the Joint Waste Committee shall each hold office until:

5.3.1 A new Chairman or Vice-Chairman of the Joint Waste Committee is elected in accordance with Paragraph 5.1 above,

5.3.2 He/she ceases to be a member of the Joint Waste Committee, or

5.3.3 He/she resigns from the office of Chairman or Vice-Chairman by notification in writing to the Secretary of the Joint Waste Committee.

5.4 Where a casual vacancy arises in the office of Chairman or Vice-Chairman of the Joint Waste Committee, the Joint Waste Committee shall at its next meeting elect a Chairman or Vice-Chairman, as the case may be, for the balance of the term of office of the previous Chairman or Vice-Chairman.

5.5 Where, at any meeting or part of a meeting of the Joint Waste Committee, both the Chairman and the Vice-Chairman of the Joint Waste Committee are either absent or unable to act as Chairman or Vice-Chairman, the Joint Waste Committee shall elect one of the members of the Joint Waste Committee present at the meeting to preside for the balance of that meeting or part of the meeting, as appropriate.

6. Secretary to the Joint Waste Committee

6.1 The Joint Waste Committee shall be supported by the Chief Executive (or equivalent executive officer) or nominated officer of the Administering Authority in his/her capacity as Secretary to the Joint Waste Committee.

6.2 The functions of the Secretary of the Joint Waste Committee shall be:

- To maintain a record of membership of the Joint Waste Committee.
- To notify the Chief Executive (or equivalent executive officer) of each appointing Authority of any anticipated decisions to be taken by the Joint Waste Committee over the year (whether or not key decisions) and updated on a monthly basis, to enable such decisions to be included in the Forward Plans of each appointing Authority as required by the Local Authorities (Access to Information) (England) Regulations 2001 and in accordance with their respective constitutions.
- To carry out such notification to and consultation with Members of the appointing Authorities as may be necessary to enable the Joint Waste Committee to take urgent decisions which have not been included in the Forward Plans of appointing Authorities.
- To notify the Chief Executives (or equivalent executive officer) of the Authorities of the dates, times and venues of meetings and to publish the dates times and venues.

- To summon meetings of the Joint Waste Committee in accordance with paragraph 7 below.
- To prepare and send out the agenda for meetings of the Joint Waste Committee in consultation with the Chairman and the Vice-Chairman of the Committee and the Authority Lead Officers.
- To keep a record of the proceedings of the Joint Waste Committee.
- To take such administrative action as may be necessary to give effect to decisions of the Joint Waste Committee.
- To undertake such other functions as may be determined by the Joint Waste Committee.

7. Convening of Meetings of the Joint Waste Committee

7.1 Meetings of the Joint Waste Committee shall be held at such times, dates and places as may be notified to the Members by the Secretary to the Joint Waste Committee, being such time, place and location as –

7.1.1 the Joint Waste Committee shall from time to time resolve;

7.1.2 the Chairman of the Joint Waste Committee, or if he/she is unable to act, the Vice-Chairman of the Joint Waste Committee, shall notify to the Secretary of the Joint Waste Committee; or

7.1.3 the Secretary of the Joint Waste Committee, in consultation where practicable with the Chairman and Vice Chairman of the Joint Waste Committee, shall determine in response to receipt of a request in writing addressed to the Secretary of the Joint Waste Committee:

- From and signed by two Members of the Joint Waste Committee, or
- From the Chief Executive (or equivalent executive officer) of an Authority
- From the Leader of an Authority

which request sets out an item of business within the functions of the Joint Waste Committee that needs to be considered prior to the next scheduled meeting of the Joint Waste Committee.

7.2 The Secretary of the Joint Waste Committee shall formulate the agenda for any meeting of the Joint Waste Committee after consulting, where practicable:

7.2.1 the Project Manager, Senior Waste Officer of the Administering Authority and Waste Authority Lead Officers;

7.2.2 the Chairman and the Vice-Chairman of the Joint Waste Committee;

7.2.3 And shall incorporate in the agenda any items of business and any reports submitted by

- any two Members of the Joint Waste Committee in accordance with Paragraph 7.1.3 above
- the Leader of any of the Authorities
- The Chief Executive (or equivalent executive officer) of any of the Authorities (or their nominated officers) Senior Waste Officer of the Administering Authority and Waste Authority Lead Officers
- the Chief Finance Officer / Section 151 Officer to any of the Authorities
- the Monitoring Officer to any of the Authorities
- such other officers as the Joint Waste Committee may determine for this purpose

8. Procedure at Meetings of the Joint Waste Committee

- 8.1 The Joint Waste Committee shall, unless the Member of the Joint Waste Committee presiding at a meeting or the Joint Waste Committee determines otherwise, conduct its business in accordance with the Executive Decision-Making Procedure Rules of the Administering Authority, as set out in the Appendix 3 to this Constitution and as set out below.
- 8.2 A meeting of the Joint Waste Committee shall be inquorate and shall not be able to discharge any business unless there are at least four Members present, with such members representing at least three of the four District and Borough Council members of the Authorities.
- 8.3 The Chairman of the Joint Waste Committee, or in his/her absence the Vice-Chairman of the Joint Waste Committee, or in his/her absence the Member of the Joint Waste Committee elected for this purpose, shall preside at meetings of the Joint Waste Committee.
- 8.4 Whilst the Joint Waste Committee shall seek, wherever possible, to work on a principle of consensus, decisions of the Joint Waste Committee shall be determined by a majority of the Members of the Joint Waste Committee present and voting. In the event of an equality of votes, the person presiding shall have a second or casting vote.
- 8.5 Where the Joint Waste Committee are unable to support any motion on a matter, or any individual Full Member of the Joint Waste Committee is unable to support any motion on a matter, the decision will be held in abeyance until the next meeting of the Committee where a decision shall be taken in relation to that matter. In such circumstances, the Secretary of the Joint Waste Committee will notify the matter to the Leaders of the constituent authorities. .
- 8.6 Any decision of the Joint Waste Committee is subject to the scrutiny arrangements as set out 10 below.

9. Attendance at Meetings of the Joint Waste Committee

- 9.1 Notwithstanding that, in accordance with the provisions of the Local Government Act 1972, a meeting or part of a meeting of the Joint Waste Committee may not be open to the press and public the Members and officers specified in Clause 9.2 below of each Authority shall be entitled, in person or by another officer nominated by that officer, to attend all, and all parts, of such meetings, unless the particular Member or officer has a conflict of interest as a result of a personal and prejudicial interest in the matter under consideration.
- 9.2 The following are the elected Members and officers who shall have a right of attendance in accordance with clause 9.1 above:
- all elected Members of the constituent Authorities
 - the Chief Executive (or equivalent executive officer) of any of the constituent Authorities or nominated officers
 - the Directors and officers responsible for waste and street cleansing of the constituent Authorities
 - the Chief Finance Officer / Section 151 officer to any of the constituent Authorities
 - the Monitoring Officer to any of the constituent Authorities
 - any person appointed by the Joint Waste Committee to manage particular projects
 - any other officer of the Authorities at the request of any member of the Joint Waste Committee.

10. Call In by Scrutiny Committees

- 10.1 The delegation of powers from each Authority to the Joint Waste Committee is subject to the limitation that all decisions taken by the Joint Waste Committee in accordance with delegations from each Authority shall only take effect five clear Working Days after publication of the decisions following a relevant meeting of the Joint Waste Committee and shall be ineffective if a relevant scrutiny committee of one or more of the Authorities has given notice in writing to the Chief Executives (or equivalent executive officer) of the other Authorities and to the Secretary to the Joint Waste Committee within such period of five clear Working Days.
- 10.2 The authority seeking call in need to identify which part or parts of the decision are called in and to give the reasons for call in and must have support of the relevant number of members as set out in the Constitution of that Member authority.
- 10.3 If a decision of the Joint Waste Committee is called in, it shall not be implemented save where the decision on the call in
- is to support or take no further action, in which case the decision shall take effect at the conclusion of that call-in meeting, or
 - where the meeting of the Authority's Overview and Scrutiny Committee does not take place within ten clear working days of the valid submission of a notice triggering a call-in under 10.2 above, the decision shall take effect on the date of the expiry of the ten working day period.

- 10.4 Such matters shall within a further ten clear working days be referred and considered by a meeting of the relevant Scrutiny Committee(s) with the Senior Waste Officer attending the meeting (or deputy). The relevant Scrutiny Committee(s) may make such recommendations to the next meeting of the Joint Waste Committee on the matter as they think fit.
- 10.5 Where an Authority or Authorities have made such objection in respect of a matter, the Joint Waste Committee shall then reconsider the matter within a further ten clear working days and come to a decision. That second decision shall take effect immediately and no Authority can then call-in that second decision.

11. Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules

The Joint Waste Committee shall operate under the Standing Orders for Executive Decision Making, Contracts, Financial Regulations and Officer Employment Procedure Rules of the Administering Authority.

12. Amendment of this Constitution

This constitution can only be amended by agreement of all the Authorities.

13. Definitions

In this Constitution, the following words and phrases shall have the meanings set out below:

“the Administering Authority” means Rother District Council

“The Authorities” means Eastbourne Borough Council, East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council.

“the Contract” means the joint contract for the provision of waste, recycling, street and beach cleaning services entered into by the Authorities on 5 December 2012, which will terminate on 28 June 2019.

“Policy and Budget Framework” means the plans and strategies approved by the Council of each of the Authorities for the purpose of Regulation 4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as may be amended or replaced from time to time

“Project Manager”: Responsible person for the project management of the delivery of a joint waste contract.

“Senior Waste Officer”: Responsible for the preparation of the specification and all documentation in relation to the procurement of the Joint Waste Contract.

“Waste Authority Lead Officers”: Directors responsible for Waste, recycling and beach and street cleaning

Joint Waste Committee Delegation

1. Save as may be limited by the Reserved Matters set out in the Constitution, to exercise only such executive functions of the parties as may be required in order to oversee and manage the Contract up to the date of termination (being 28 June 2019). .
2. To provide strategic direction to the officers advising the Joint Waste Committee
3. To develop work programmes and projects in relation to the functions which are delegated to the Joint Waste Committee
4. To regularly report to each of the Authorities on its activities
5. To facilitate constructive partnership working
6. To respond to reports and recommendations made by the relevant Scrutiny Committee of any of the Authorities
7. To monitor the operation of the Joint Waste Committee and of any contracts procured thereunder
8. To propose a budget for the operation of the Joint Waste Committee to the Authorities and to monitor and manage any such budget once approved by the Authorities
9. To review these arrangements from time to time and make recommendations to the Authorities for amendment, improvement and /or alteration of these arrangements.
10. To arrange for the discharge of any of its functions, powers or duties by an Officer or Officers of any of the Authorities.

Officer Delegation

The Director of Services for Rother District Council and/ or such other officer(s) of the Authorities as may be nominated by the Joint Waste Committee may:

1. give effect to decisions by or on behalf of the Joint Waste Committee;
2. procure the completion of all documents etc., to give effect to decisions by or on behalf of the Joint Waste Committee for the purpose of implementing the powers and duties of the Joint Waste Committee;
3. authorise any action which is calculated to facilitate, or is conducive or incidental to the discharge of any of the Joint Waste Committee's functions.
4. place orders and enter into contracts for the supply of goods and services as authorised by the Joint Waste Committee and authorise or incur expenditure for which provision has been made in the appropriate revenue or capital budget by the Joint Waste Committee.
5. undertake any necessary consultation internally or externally on behalf of the Joint Waste Committee
6. carry out administrative, professional or technical work to implement the decisions of the Joint Waste Committee
7. authorise other staff to act in their name and on their behalf in the discharge of these delegations

Joint Waste Committee

Executive Decision Procedure Rules

1. Application

These procedure rules apply to all meetings of the Joint Waste Committee (JWC), and to any executive decisions taken by officers under powers delegated from the JWC.

2. Allocation and Delegation of Functions

(a) Sub-delegation

Except in respect of Key Decisions, where the JWC is responsible for the discharge of a function, it may arrange for the discharge of that function by an officer.

(b) Resumption of delegated functions

Where a function has been delegated by the JWC, it may at any time resume responsibility for the discharge of that function by notice in writing to the person or body to whom the function has been delegated, with a copy to the Secretary.

Where an officer has been given delegated powers in respect of a function, he/she may at any time refer the matter up for decision to the person or body from whom the power has been delegated.

3. Meetings

(a) The JWC shall meet as necessary for the effective discharge of its functions.

(b) The JWC shall meet at such times, dates and locations as may be determined by the JWC or by the Chairman of the JWC and notified to the Secretary.

(c) Where 1 of the Scrutiny Committees of the constituent authorities has requested the JWC or a Sub-Committee to reconsider a decision, the decision-takers shall meet and reconsider the decision within 10 working days of the referral by the Scrutiny Committees.

(d) Meetings will normally be held at such locations as the JWC shall determine, but with the intent that the meetings shall rotate around the constituent authorities.

4. Summons and Agenda Procedure

(a) All meetings of JWC shall be summoned by the Secretary.

(b) Except in cases of special urgency, at least 5 clear working days before the meeting, the Secretary shall prepare and send to each

Committee Member, the Leaders of the constituent authorities, Chairmen of the appropriate Scrutiny Committees of the constituent authorities, appropriate officers and the media an agenda setting out:

1. The identity of the body;
 2. The time, date and location of the meeting;
 3. The business to be transacted at the meeting, including:
 - i. Any reports and recommendations from a constituent authority
 - ii. Any reports or recommendations from the JWC
 - iii. Any notices of motion to, or referred to, the Committee
 - iii. Any petitions to, or referred to, the body
 - iv. Any reports to be made by statutory officers
 - v. Any matters which the Chairman has notified to the Secretary for inclusion in the agenda
 - vi. Any reports to be made by other officers appropriate to the proper discharge of the JWC's business.
 - vii. Consideration of the JWC's work programme
 - viii. Where practicable, an indication that the Secretary is of the opinion that it is likely that the press and public will be excluded from all or part of the meeting.
- (c) No business may be transacted at a meeting which is not specified in the agenda or supplementary agenda for the meeting unless the Chairman of the JWC agrees that the item should be considered as a matter of urgency. The reason for the urgency shall be specified in the statement of decision (the Minutes).
- (d) The agenda shall be accompanied by any reports and documents necessary for the decision-takers to discharge their business effectively. Each such report shall be in such standard form as the Secretary may prescribe and shall include a list of all background documents which the author of the report has relied upon in compiling the report. As a matter of principle, any written report relating to a matter included in the agenda should be made available and circulated at the same time as the agenda, but where this is not practicable because of the urgent nature of the matter, the agenda will state that the report is to follow and the report will be circulated as soon as possible after the circulation of the agenda for the meeting.
- (e) All reports shall be developed following appropriate consultation (including with Leaders and other stakeholders as appropriate).

5. Rights of Attendance and Audience

- (a) Agendas of the JWC meetings and reports, except those marked "Not for Publication", will be available for inspection on request by the public at the offices of the constituent authorities, during normal office hours as well as being published on the Administering Authorities website.
- (b) The presumption is that all meetings of the JWC and of any Sub-Committees shall be open to the public.
 - (i) Where the Secretary is of the opinion that it is likely that the press and public will be excluded from all or part of a meeting,

he/she shall so indicate on the agenda and may withhold from the press and public any report or background paper which would disclose confidential or exempt information.

- (ii) The JWC must exclude press and public from any part of a meeting at which confidential information is likely to be disclosed.
- (iii) The JWC may exclude press and public from any part of a meeting:
 - A) at which exempt information is likely to be disclosed; or
 - B) at which officers will provide a briefing to Members on a matter on which a decision is likely to be taken on the matter within the next 28 days.
- (e) All documents which are open to public inspection, will normally be available at least 5 clear days before the relevant meeting. Where a report is not available when the agenda is published, the report shall be made available for public inspection when it is made available to Members of the JWC.
- (f) The rights of Members of any of the constituent authorities shall be as set out in the protocol at Annex A.

6. Urgent Decisions

- (a) Urgent Decisions
Subject as below, the JWC shall not take a decision which has not been included in the Forward Plan of each of the constituent authorities (so far as the same is necessary under their respective constitutions) for the period in which the decision is to be taken unless at least 5 clear working days' notice of that decision has been given to the Chairmen of the relevant Scrutiny Committees of each constituent authorities setting out the reasons for urgency
- (b) Special Urgent Decisions
The JWC shall not take a Special Urgent Decision unless notice of the intended decision has been given by the Secretary to the Chairmen of the relevant Scrutiny Committees of each constituent authority and he/she, or in his absence the Chairmen of Council, or in his/her absence the Vice-Chairmen of Council, have notified the Secretary that he/she agrees that the decision is specially urgent.
- (c) Reporting Urgent and Special Urgent Decisions
The Secretary shall ensure that a report listing all Urgent Decisions and Special Urgent Decisions is presented to the next convenient meeting of the relevant Scrutiny Committees of each of the constituent authorities.

7. Departure Decisions

- (a) The JWC shall not take a decision which is contrary to or not wholly in accordance with the Administering Authority's approved Budget or the

authority's approved plan or strategy for borrowing and capital expenditure, and which is not within the approved virement limits, but shall refer the proposed decision to the Administering Authority's Council for determination.

- (b) The JWC shall not take a decision which is contrary to the Administering Authority's Policy Framework, but shall refer the proposed decision to Council for determination.
- (c) Paragraphs (a) and (b) shall not apply where the decision -
 - (i) is urgent (in the sense that the interests of the authority, its area or the inhabitants of the area are at risk of suffering unacceptable damage if the decision were to be deferred until the next ordinary meeting of Council); and
 - (ii) the Secretary has notified the Chairmen of the Scrutiny Committees of the relevant constituent authorities or, if he/she is unable to act, the Chairmen of Council or, if he/she is unable to act, the Vice-Chairmen of Council of the intended decision and the reasons for urgency and those Councillors have notified the Secretary in writing that he/she agrees that the matter needs to be determined as a matter of urgency.
- (d) In each instance where any urgent decision is taken under Paragraph (c) above, the decision taker(s) shall as soon as reasonably practicable after the making of the decision, submit a report to each relevant constituent authorities setting out the particulars of:
 - (i) the decision which has been taken
 - (ii) the reasons why the decision was urgent, and
 - (iii) the reasons for the decision itself.
- (e) The Secretary shall ensure that a report setting out each urgent departure decision is presented to the next convenient meeting of the relevant Scrutiny Committees.

8. Rules of Procedure

- (a) Who presides?

The Chairman shall preside at meetings of the JWC. In his/her absence, the Vice-Chairman shall preside. In the absence of both Chairman and Vice-Chairman, the Joint Waste Committee shall elect one of the Members of the Joint Waste Committee present at the meeting to preside for that meeting or part of the meeting, as appropriate.
- (b) What business is to be transacted?
 - (i) Apologies for absence.
 - (ii) Declarations of interest.
 - (iii) Matters set out in the agenda for the meeting.
- (c) The person presiding at a meeting shall conduct the meeting in

accordance with these Procedure Rules.

- (d) The person presiding at the meeting may vary the order of business at the meeting.
- (e) The person presiding at the meeting may invite any person, whether a Member or officer of the JWC or a third party, to attend the meeting and to speak on any matter before the meeting.

9. Quorum

The quorum for a meeting of the JWC shall be 4 Members, 1 from each of the partner authorities responsible for waste, recycling and street and beach cleaning services.

10. Record of Attendance

All JWC Members present during the whole or part of a meeting must sign their names on the attendance sheet before the conclusion of the meeting.

11. Disorderly Conduct

- (a) If, in the opinion of the person presiding, any Member of the JWC misbehaves at a meeting by persistently disregarding the ruling of the person presiding, or by behaving irregularly, improperly or offensively, or by willfully obstructing the business of the JWC, the person presiding may move not to hear the Member further. If the motion is seconded it shall be put to the vote without discussion.
- (b) If, in the opinion of the person presiding, the Member persistently misbehaves after such a motion has been carried, the person presiding may require the removal of the Member for such period as the person presiding shall determine. The person presiding may, if necessary, adjourn or suspend the meeting of the JWC.
- (c) If a Member is required to leave a meeting under this Procedure Rule, the Member is not entitled to vote during the period of exclusion.
- (d) If a member of the public or Councillor who is not a JWC Member interrupts the proceedings at any meeting, the person presiding may issue a warning. If the interruption continues the person presiding may order the person's removal from the room in which the meeting is being held.
- (e) In case of general disturbance in any part of the meeting room open to the public the person presiding may order that part cleared. If the person presiding considers it necessary, he may adjourn or suspend the meeting of the JWC.

12. Voting

- (a) Matters under consideration shall be determined by a majority vote of those members present and voting.

- (b) Voting is generally by a show of hands.
- (c) Any JWC Member may ask for a vote to be recorded, individual votes will then be taken by way of a roll call and recorded in the minutes so as to show how each Member present and voting gave his/her vote.
- (d) Any JWC Member may ask that his/her individual vote be recorded in the minutes. Immediately after a particular vote is taken any Member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- (e) Whenever a vote is taken by show of hands and not by roll call, the person presiding shall ask for those in favour, and those against to vote in turn. He/she will then ask those abstaining from voting to indicate accordingly. Any Member may ask for the number of those in favour, the number of those against and the number of those abstaining to be recorded in the minutes.
- (f) A Member may not change his/her vote once he/she has cast it and another Member has been called upon to vote.
- (g) If a Member arrives during the debate on a particular item but before the casting of votes has commenced he/she will NOT be entitled to vote on that matter.
- (h) A matter shall be considered to be approved if it receives the votes of a majority of those Members entitled to vote who are present and voting. In the event that the votes cast for and against a proposal are equal, the person presiding, will have a second and/or casting vote. There shall be no restriction on the manner in which the casting vote is exercised.
- (i) Where there are more than 2 persons nominated for any position to be filled by the JWC, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.

13. Recording the Decision

- (a) At the JWC
 - (i) The person presiding shall be responsible for ensuring that the Secretary is clear as to the decision taken and the reasons for that decision.
 - (ii) The Secretary shall then, as soon as reasonably practicable after the end of the meeting, but ordinarily within 5 working days of the meeting, prepare a statement of the decisions taken at the meeting (the Minutes), including:

- A) The JWC and other Members of the constituent Authorities attending the meeting;
- B) Any disclosures of personal or prejudicial interests;
- C) The decisions taken;
- D) Whether any decisions were urgent and should be implemented directly;
- E) A summary of the reasons for the decisions;
- F) The options which were considered at, but rejected by, the meeting.

The Secretary may consult the person presiding at the meeting as to the matters to be recorded in the Minutes.

- (c) Where the statement of decision(s) (the Minutes) would disclose confidential or exempt information, the Secretary shall produce a confidential minute as per current practice ensuring that a coherent account of the matters decided were recorded.
- (d) Where a decision is a reconsideration of a decision which has been subject to the "Call-In" arrangements, the Secretary shall be responsible for reporting that reconsideration decision to all the relevant Scrutiny Committees of the constituent authorities.
- (e) The Secretary shall be responsible for circulating the statement of decisions (the Minutes) to officers of the authority responsible for the implementation of the decision(s).

14. Implementing decisions

- (a) Decisions shall not be implemented until 5 clear days from the publication of the statement of decision(s) of the meeting or the decision¹.
- (b) Paragraph (a) shall not apply where the matter is urgent (in accordance with paragraph 6) or the JWC determines that the interests of one or more of the constituent authorities, its area or the inhabitants of the area are at risk of suffering unacceptable damage if the decision were not to be implemented directly.
- (c) Where a non-urgent decision is called in by any Scrutiny Committee before it is implemented, implementation of the decision will be deferred until JWC has had the opportunity to consider any request from the Scrutiny Committee for the re-consideration of the matter.

¹ Note that such a deferment of implementation is determined by the JWC and can be withdrawn if the JWC is of the opinion that such a deferment prevents the effective discharge of executive functions.

RIGHTS OF MEMBERS OF CONSTITUENT AUTHORITIES INSPECTION OF/ACCESS TO DOCUMENTS

All Members of the constituent authorities have the right to access all documents which contain material relating to items considered at meetings of the JWC.

They also have the right to inspect any other document or have access to any information which they need to properly perform their duties as a Member of one of the constituent authorities. These rights are, however, subject to the following:

- A Member is not entitled to inspect any document, or have access to any information, relating to a matter where the Member is acting against the Council in a professional capacity.
- In cases where information requested by a Member should not, in the opinion of the Chief Executive (or equivalent executive officer), be disclosed, (eg it does not appear to be required to enable the Member to properly perform their duties, or is of a highly sensitive or personal nature or otherwise exempt), the relevant Chief Executive (or equivalent executive officer) may, with good reasons (which should be explained to the Member), refuse access to a document or other information.
- If a Member is not satisfied with this decision, he/she may refer it to the Monitoring Officer of his/her Authority. If a Member remains dissatisfied with the ruling of the Monitoring Officer he/she may ask for the matter to be considered by the JWC. The ruling of the Committee is final.

The rules summarised above are complex and based on statutory provisions and case law. If there is any conflict between these rules and the legal provisions, the latter apply.

QUESTIONS

All Members of the constituent authorities may address questions to the Chairman of Committee. A period of up to 30 minutes at the beginning of each meeting shall be allowed for questions to be put. Written notice of the question shall be given 3 working days before the meeting:

The Chairman in responding to the question may;

- Answer the question himself
- Ask an officer to answer the question
- Offer a written answer
- Decline to answer and give his/her reasons

The questioner may ask only one supplementary question, regardless of the number of original questions they asked. The supplementary question must be on the same subject as the original question.

RIGHT TO ATTEND AND PARTICIPATE IN MEETINGS

All Members of the constituent authorities has the right to attend and speak at any JWC meeting. Notice of the topic(s) concerned shall be given by 12 noon on the working day before the meeting if the Member wishes to speak at any Committee meeting.

The Chairman will give Members who have notified their wish to speak the opportunity to speak at the commencement of the meeting to contribute their views on any agenda item or other matter within the remit of the Committee. A period of up to 30 minutes at the beginning of each meeting shall be allowed for this purpose.

The right to attend remains available when the meeting is considering private (or exempt) business. This is provided that the Member has a legitimate need to be in attendance, and that the attendance does not involve any conflict of interest, which may constitute a prejudicial interest as defined by the Code of Conduct.

The Chairman will exercise discretion on the overall time allowed for Members' participation. This will take into account the issues Members wish to raise and the other business of the meeting.

In managing the meeting the Chairman has discretion over the management of the participation arrangements

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East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council

**Joint Waste and Recycling Committee
Constitution**

This Constitution has been approved by East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council as the Constitution of the Joint Waste and Recycling Committee.

1. Establishment of the Joint Waste and Recycling Committee

- 1.1 The Joint Waste and Recycling Committee shall be the “East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council Joint Waste and Recycling Committee”.
- 1.2 The Joint Waste and Recycling Committee is established under Sections 101(5) and 102 of the Local Government Act 1972, Section 20 of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 by the Executives of East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council.

2. Objectives of the Joint Waste and Recycling Committee

- 2.1 The Authorities have established the Joint Waste and Recycling Committee with the intention of facilitating the Authorities in working together to procure, manage and oversee a new waste, recycling, street cleaning and beach cleaning contract with a view to improving the quality and effectiveness of the discharge of their waste collection functions under the Environmental Protection Act 1990.
- 2.2 To work in partnership with East Sussex County Council as the Waste Disposal Authority to maximise integration opportunities.

3. Powers Delegated to and matters reserved from the Joint Waste Committee

- 3.1 The Joint Waste and Recycling Committee and Officers reporting thereto shall have such powers as are delegated and set out in Appendices 1 and 2 and such further powers as may from time to time be delegated to the Joint Waste and Recycling Committee by the Leader or Executives of the constituent Authorities or of any of the constituent Authorities.
- 3.2 In so far as any powers may from time to time be delegated to the Joint Waste and Recycling Committee, the following functions (the Reserved Matters) are matters reserved to each of the Authorities making such delegation and shall not be within the powers of the Joint Waste and Recycling Committee:
 - 3.2.1 All non-executive functions of any of the Authorities

- 3.2.2 Any decision which is contrary to or not wholly in accordance with the budget approved by each Authority for the Joint Waste and Recycling Committee, or is contrary to an approved policy or strategy which has been approved as part of the Policy and Budget Framework of that Authority.
- 3.2.3 Any decision in respect of which a scrutiny committee of any of the appointing authorities has notified the Secretary to the Joint Waste and Recycling Committee in writing of the Authority's formal objection to the proposed decision in accordance with Paragraph 10.1 (below).
- 3.2.3 Approval or amendment of any Joint Working Agreement between the appointing Authorities in respect of the discharge of the appointing Authorities' waste disposal functions.
- 3.2.4 Any decision by an Authority to withdraw its Membership from the Joint Waste and Recycling Committee.
- 3.2.5 Approval of the final award of a Contract for the collection of waste and recycling services to have effect on and from 29 June 2019..
- 3.2.6 Any powers delegated to the Joint Waste Committee.

4. Membership and Appointment of the Joint Waste and Recycling Committee

- 4.1 The Joint Waste and Recycling Committee shall comprise seven Members, being two Members appointed from the Executive of each of the Authorities with at least one such member for each Authority being the member with responsibility for waste, recycling and street and beach cleaning services together with one Member appointed by East Sussex County Council.
- 4.2 The Joint Waste and Recycling Committee shall also have power to permit additional membership of the Committee, in particular Members appointed from Eastbourne Borough Council and Lewes District Council, in either a co-opted role without voting rights, or as a Full Member of the Committee with equal status and rights as the other District and Borough Members of the Committee.
- 4.3 Each Member of the Joint Waste and Recycling Committee shall be appointed for the term of office, or the balance of the term of office, of the Executive of the appointing Authority.
- 4.4 The appointment of Members of the Joint Waste and Recycling Committee to fill any vacancy for such Members shall be made by the Executives of each Authority –
 - 4.4.1 as soon as practicable following the adoption of this Constitution by the Executive of that Authority;
 - 4.4.2 as soon as practicable after the appointment of the Executive of that Authority in accordance with that Authority's Constitution; and

- 4.4.3 as soon as practicable after a vacancy arises in respect of a seat on the Joint Waste and Recycling Committee to which the Executive of that Authority has the power to make an appointment.
- 4.5 A Member of the Joint Waste and Recycling Committee shall cease to be a member of the Joint Waste and Recycling Committee, and a vacancy shall automatically arise, where –
- 4.5.1 The Member resigns from the Joint Waste and Recycling Committee by giving notice in writing to the Secretary to the Joint Waste and Recycling Committee;
- 4.5.2 The Member ceases to be, or is suspended under Part III of the Local Government Act 2000 from acting as, a Member of the appointing Authority, or a Member of the Executive of the appointing Authority;
- 4.5.3 The Member is removed from membership of the Joint Waste and Recycling Committee by notification in writing from the Leader of the appointing Authority to the Secretary of the Joint Waste and Recycling Committee;
- 4.6 All appointments to membership of the Joint Waste and Recycling Committee shall be made by notification in writing from the Leader or the Chief Executive (or equivalent executive officer) of the appointing Authority to the Secretary of the Joint Waste and Recycling Committee.
- 4.7 Upon being made aware of any Member ceasing to be a Member of the Joint Waste and Recycling Committee, the Secretary of the and Recycling Committee shall write to that Member confirming that he/she has ceased to be a Member of the Joint Waste and Recycling Committee, and notifying the appointing Authority and the other Members of the Joint Waste and Recycling Committee accordingly.
- 4.8 Each Authority will appoint a substitute Executive Member of the Joint Waste and Recycling Committee on the same terms as the Authority's appointed Member of the Joint Waste and Recycling Committee. The substitute Executive Member will attend any meeting of the Joint Waste and Recycling Committee with all the powers of the Authority's appointed Member in the event that an appointed Member is unable to attend a particular meeting.
- 5. Chairman and Vice-Chairman of the Joint Waste and Recycling Committee**
- 5.1 At the first meeting of the Joint Waste and Recycling Committee after the annual meetings of each Authority in any year, the Joint Waste and Recycling Committee shall elect a Chairman of the Joint Waste and Recycling Committee and a Vice-Chairman of the Joint Waste and Recycling Committee for the following year from among the Members of the Joint Waste and Recycling Committee, save that any co-opted Members shall not be entitled to election as Chairman or Vice-

Chairman of the Joint Waste and Recycling Committee.

- 5.2 By convention, if the Chairman of the Joint Waste and Recycling Committee in any year is a Member of one of the Authorities, the Chairman of the Joint Waste and Recycling Committee for the next year would normally be a Member of another of the Authorities.
- 5.3 The Chairman and the Vice-Chairman of the Joint Waste and Recycling Committee shall each hold office until:
- 5.3.1 A new Chairman or Vice-Chairman of the Joint Waste and Recycling Committee is elected in accordance with Paragraph 5.1 above,
- 5.3.2 He/she ceases to be a member of the Joint Waste and Recycling Committee, or
- 5.3.3 He/she resigns from the office of Chairman or Vice-Chairman by notification in writing to the Secretary of the Joint Waste and Recycling Committee.
- 5.4 Where a casual vacancy arises in the office of Chairman or Vice-Chairman of the Joint Waste and Recycling Committee, the Joint Waste and Recycling Committee shall at its next meeting elect a Chairman or Vice-Chairman, as the case may be, for the balance of the term of office of the previous Chairman or Vice-Chairman.
- 5.5 Where, at any meeting or part of a meeting of the Joint Waste and Recycling Committee, both the Chairman and the Vice-Chairman of the Joint Waste and Recycling Committee are either absent or unable to act as Chairman or Vice-Chairman, the Joint Waste and Recycling Committee shall elect one of the members of the Joint Waste and Recycling Committee present at the meeting to preside for the balance of that meeting or part of the meeting, as appropriate.

6. Secretary to the Joint Waste and Recycling Committee

- 6.1 The Joint Waste and Recycling Committee shall be supported by the Chief Executive (or equivalent executive officer) or nominated officer of the Administering Authority in his/her capacity as Secretary to the Joint Waste and Recycling Committee.
- 6.2 The functions of the Secretary of the Joint Waste and Recycling Committee shall be:
- To maintain a record of membership of the Joint Waste and Recycling Committee.
 - To notify the Chief Executive (or equivalent executive officer) of each appointing Authority of any anticipated decisions to be taken by the Joint Waste and Recycling Committee over the year (whether or not key decisions) and updated on a monthly basis, to enable such decisions to be included in the Forward Plans of each appointing Authority as required by the Local Authorities (Access to Information) (England) Regulations 2001 and in accordance with their respective constitutions.
 - To carry out such notification to and consultation with Members of

the appointing Authorities as may be necessary to enable the Joint Waste and Recycling Committee to take urgent decisions which have not been included in the Forward Plans of appointing Authorities.

- To notify the Chief Executives (or equivalent executive officer) of the Authorities of the dates, times and venues of meetings and to publish the dates times and venues.
- To summon meetings of the Joint Waste and Recycling Committee in accordance with paragraph 7 below.
- To prepare and send out the agenda for meetings of the Joint Waste and Recycling Committee in consultation with the Chairman and the Vice-Chairman of the and Recycling Committee and the Authority Lead Officers.
- To keep a record of the proceedings of the Joint Waste and Recycling Committee.
- To take such administrative action as may be necessary to give effect to decisions of the Joint Waste and Recycling Committee.
- To undertake such other functions as may be determined by the Joint Waste and Recycling Committee.

7. Convening of Meetings of the Joint Waste and Recycling Committee

7.1 Meetings of the Joint Waste and Recycling Committee shall be held at such times, dates and places as may be notified to the Members by the Secretary to the Joint Waste and Recycling Committee, being such time, place and location as –

7.1.1 the Joint Waste and Recycling Committee shall from time to time resolve;

7.1.2 the Chairman of the Joint Waste and Recycling Committee, or if he/she is unable to act, the Vice-Chairman of the Joint Waste and Recycling Committee, shall notify to the Secretary of the Joint Waste and Recycling Committee; or

7.1.3 the Secretary of the Joint Waste and Recycling Committee, in consultation where practicable with the Chairman and Vice Chairman of the Joint Waste and Recycling Committee, shall determine in response to receipt of a request in writing addressed to the Secretary of the Joint Waste and Recycling Committee:

- From and signed by two Members of the Joint Waste and Recycling Committee, or
- From the Chief Executive (or equivalent executive officer) of an Authority
- From the Leader of an Authority

which request sets out an item of business within the functions of the Joint Waste and Recycling Committee that needs to be considered prior to the next scheduled meeting of the Joint Waste and Recycling Committee.

- 7.2 The Secretary of the Joint Waste and Recycling Committee shall formulate the agenda for any meeting of the Joint Waste and Recycling Committee after consulting, where practicable:
- 7.2.1 the Project Manager, Senior Waste Officer of the Administering Authority and Waste Authority Lead Officers;
- 7.2.2 the Chairman and the Vice-Chairman of the Joint Waste and Recycling Committee;
- 7.2.3 And shall incorporate in the agenda any items of business and any reports submitted by
- any two Members of the Joint Waste and Recycling Committee in accordance with Paragraph 7.1.3 above
 - the Leader of any of the Authorities
 - The Chief Executive (or equivalent executive officer) of any of the Authorities (or their nominated officers) Senior Waste Officer of the Administering Authority and Waste Authority Lead Officers
 - the Chief Finance Officer / Section 151 Officer to any of the Authorities
 - the Monitoring Officer to any of the Authorities
 - such other officers as the Joint Waste and Recycling Committee may determine for this purpose

8. Procedure at Meetings of the Joint Waste and Recycling Committee

- 8.1 The Joint Waste and Recycling Committee shall, unless the Member of the Joint Waste and Recycling Committee presiding at a meeting or the Joint Waste and Recycling Committee determines otherwise, conduct its business in accordance with the Executive Decision-Making Procedure Rules of the Administering Authority, as set out in Appendix 3 to this Constitution and as set out below.
- 8.2 A meeting of the Joint Waste and Recycling Committee shall be inquorate and shall not be able to discharge any business unless there are at least three Members present, with such members representing at least two of the three District and Borough Council members of the Authorities.
- 8.3 The Chairman of the Joint Waste and Recycling Committee, or in his/her absence the Vice-Chairman of the Joint Waste and Recycling Committee, or in his/her absence the Member of the Joint Waste and Recycling Committee elected for this purpose, shall preside at meetings of the Joint Waste and Recycling Committee.
- 8.4 Whilst the Joint Waste and Recycling Committee shall seek, wherever possible, to work on a principle of consensus, decisions of the Joint Waste and Recycling Committee shall be determined by a majority of the Members of the Joint Waste and Recycling Committee present and voting. In the event of an equality of votes, the person presiding shall have a second or casting vote.

- 8.5 Where the Joint Waste and Recycling Committee are unable to support any motion on a matter, or any individual Full Member of the Joint Waste and Recycling Committee is unable to support any motion on a matter, the decision will be held in abeyance until the next meeting of the and Recycling Committee where a decision shall be taken in relation to that matter. In such circumstances, the Secretary of the Joint Waste and Recycling Committee will notify the matter to the Leaders of the constituent authorities. .
- 8.6 Any decision of the Joint Waste and Recycling Committee is subject to the scrutiny arrangements as set out 10 below.

9. Attendance at Meetings of the Joint Waste and Recycling Committee

- 9.1 Notwithstanding that, in accordance with the provisions of the Local Government Act 1972, a meeting or part of a meeting of the Joint Waste and Recycling Committee may not be open to the press and public the Members and officers specified in Clause 9.2 below of each Authority shall be entitled, in person or by another officer nominated by that officer, to attend all, and all parts, of such meetings, unless the particular Member or officer has a conflict of interest as a result of a personal and prejudicial interest in the matter under consideration.
- 9.2 The following are the elected Members and officers who shall have a right of attendance in accordance with clause 9.1 above:
- all elected Members of the constituent Authorities
 - the Chief Executive (or equivalent executive officer) of any of the constituent Authorities or nominated officers
 - the Directors and officers responsible for waste and street cleansing of the constituent Authorities
 - the Chief Finance Officer / Section 151 officer to any of the constituent Authorities
 - the Monitoring Officer to any of the constituent Authorities
 - any person appointed by the Joint Waste and Recycling Committee to manage particular projects
 - any other officer of the Authorities at the request of any member of the Joint Waste and Recycling Committee.

10. Call In by Scrutiny Committees

- 10.1 The delegation of powers from each Authority to the Joint Waste and Recycling Committee is subject to the limitation that all decisions taken by the Joint Waste and Recycling Committee in accordance with delegations from each Authority shall only take effect five clear Working Days after publication of the decisions following a relevant meeting of the Joint Waste and Recycling Committee and shall be ineffective if a relevant scrutiny committee of one or more of the Authorities has given notice in writing to the Chief Executives (or equivalent executive officer) of the other Authorities and to the Secretary to the Joint Waste and Recycling Committee within such period of five clear Working Days.

- 10.2 The Authority seeking call in will need to identify which part or parts of the decision are called in and to give the reasons for call in and must have support of the relevant number of members as set out in the Constitution of that Authority.
- 10.3 If a decision of the Joint Waste and Recycling Committee is called in, it shall not be implemented save where the decision on the call in:
- is to support or take no further action, in which case the decision shall take effect at the conclusion of that call-in meeting, or
 - where the meeting of the Authority's Overview and Scrutiny Committee does not take place within ten clear working days of the valid submission of a notice triggering a call-in under 10.2 above, the decision shall take effect on the date of the expiry of the ten working day period.
- 10.4 Such matters shall within a further ten clear working days be referred and considered by a meeting of the relevant Scrutiny Committee(s) with the Senior Waste Officer attending the meeting (or deputy). The relevant Scrutiny Committee(s) may make such recommendations to the next meeting of the Joint Waste and Recycling Committee on the matter as they think fit.
- 10.5 Where an Authority or Authorities have made such objection in respect of a matter, the Joint Waste and Recycling Committee shall then reconsider the matter within a further ten clear working days and come to a decision. That second decision shall take effect immediately and no Authority can then call-in that second decision.

11. Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules

The Joint Waste and Recycling Committee shall operate under the Standing Orders for Executive Decision Making, Contracts, Financial Regulations and Officer Employment Procedure Rules of the Administering Authority.

12. Amendment of this Constitution

This Constitution can only be amended by agreement of all the Authorities.

13. Definitions

In this Constitution, the following words and phrases shall have the meanings set out below:

“the Administering Authority” means Rother District Council

“The Authorities” means East Sussex County Council, Hastings Borough Council, Rother District Council and Wealden District Council, and “Authority” shall refer to any one of the Authorities individually.

“Policy and Budget Framework” means the plans and strategies approved by the Council of each of the Authorities for the purpose of Regulation 4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as may be amended or replaced from time to time

“Deputy Project Manager”: Responsible person for the project management of the delivery of a joint waste contract with effect on and from 29 June 2017.

“Senior Waste Officer”: Responsible for the preparation of the specification and all documentation in relation to the procurement of the Joint Waste Contract.

“Waste Authority Lead Officers”: Directors responsible for Waste, recycling and beach and street cleaning

Joint Waste and Recycling Committee Delegation

1. Save as may be limited by the Reserved Matters set out in the Constitution to exercise all the executive functions of the parties in order to commission, co-ordinate, provide, procure and/or manage any shared waste collection services, recycling services, street cleaning services and beach cleaning services; such powers to be further limited to the extent that the Joint Waste and Recycling Committee are unable able to exercise any executive powers defined above where those powers have been delegated to the Joint Waste Committee until such time as any constituent authority withdraws those powers from the Joint Waste Committee or the Joint Waste Committee is terminated.
2. To provide strategic direction to the officers advising the Joint Waste and Recycling Committee.
3. To develop work programmes and projects in relation to the functions which are delegated to the Joint Waste and Recycling Committee .
4. To regularly report to each of the Authorities on its activities.
5. To facilitate constructive partnership working between the Authorities.
6. To respond to reports and recommendations made by the relevant Scrutiny Committee of any of the Authorities.
7. To monitor the operation of the Joint Waste and Recycling Committee and of any contracts procured thereunder.
8. To propose a budget for the operation of the Joint Waste and Recycling Committee to the Authorities and to monitor and manage any such budget once approved by the Authorities.
9. To review these arrangements from time to time and make recommendations to the Authorities for amendment, improvement and /or alteration of these arrangements.
10. To arrange for the discharge of any of its functions, powers or duties by an Officer or Officers of any of the Authorities.

Officer Delegation

The Executive Director of Business Operations for Rother District Council and/ or such other officer(s) of the Authorities as may be nominated by the Joint Waste and Recycling Committee may:

1. give effect to decisions by or on behalf of the Joint Waste and Recycling Committee;
2. procure the completion of all documents etc., as may be required to give effect to decisions by or on behalf of the Joint Waste and Recycling Committee for the purpose of implementing the powers and duties of the Joint Waste and Recycling Committee;
3. authorise any action which is calculated to facilitate, or is conducive or incidental to the discharge of any of the Joint Waste and Recycling Committee's functions;
4. place orders and enter into contracts for the supply of goods and services as authorised by the Joint Waste and Recycling Committee and authorise or incur expenditure for which provision has been made in the appropriate revenue or capital budget by the Joint Waste and Recycling Committee;
5. undertake any necessary consultation internally or externally on behalf of the Joint Waste and Recycling Committee;
6. carry out administrative, professional or technical work to implement the decisions of the Joint Waste and Recycling Committee;
7. authorise other staff to act in their name and on their behalf in the discharge of these delegations.

Joint Waste and Recycling Committee

Executive Decision Procedure Rules

1. Application

These procedure rules apply to all meetings of the Joint Waste and Recycling Committee (JWRC), and to any executive decisions taken by officers under powers delegated from the JWRC.

2. Allocation and Delegation of Functions

(a) Sub-delegation

Except in respect of Key Decisions, where the JWRC is responsible for the discharge of a function, it may arrange for the discharge of that function by an officer.

(b) Resumption of delegated functions

Where a function has been delegated by the JWRC, it may at any time resume responsibility for the discharge of that function by notice in writing to the person or body to whom the function has been delegated, with a copy to the Secretary.

Where an officer has been given delegated powers in respect of a function, he/she may at any time refer the matter up for decision to the person or body from whom the power has been delegated.

3. Meetings

- (a) The JWRC shall meet as necessary for the effective discharge of its functions.
- (b) The JWRC shall meet at such times, dates and locations as may be determined by the JWRC or by the Chairman of the JWRC and notified to the Secretary.
- (c) Where 1 of the Scrutiny Committees of the Authorities has requested the JWRC or a Sub-Committee to reconsider a decision, the decision-takers shall meet and reconsider the decision within 10 working days of the referral by the Scrutiny Committees.
- (d) Meetings will normally be held at such locations as the JWRC shall determine, but with the intent that the meetings shall rotate around the Authorities.

4. Summons and Agenda Procedure

- (a) All meetings of JWRC shall be summoned by the Secretary.
- (b) Except in cases of special urgency, at least 5 clear working days before the meeting, the Secretary shall prepare and send to each

Committee Member, the Leaders of the Authorities, Chairmen of the appropriate Scrutiny Committees of the Authorities, appropriate officers and the media an agenda setting out:

1. The identity of the body;
 2. The time, date and location of the meeting;
 3. The business to be transacted at the meeting, including:
 - i. Any reports and recommendations from a nAuthority.
 - ii. Any reports or recommendations from the JWRC.
 - iii. Any notices of motion to, or referred to, the Committee.
 - iii. Any petitions to, or referred to, the body.
 - iv. Any reports to be made by statutory officers.
 - v. Any matters which the Chairman has notified to the Secretary for inclusion in the agenda.
 - vi. Any reports to be made by other officers appropriate to the proper discharge of the JWC's business.
 - vii. Consideration of the JWC's work programme.
 - viii. Where practicable, an indication that the Secretary is of the opinion that it is likely that the press and public will be excluded from all or part of the meeting.
- (c) No business may be transacted at a meeting which is not specified in the agenda or supplementary agenda for the meeting unless the Chairman of the JWRC agrees that the item should be considered as a matter of urgency. The reason for the urgency shall be specified in the statement of decision (the Minutes).
- (d) The agenda shall be accompanied by any reports and documents necessary for the decision-takers to discharge their business effectively. Each such report shall be in such standard form as the Secretary may prescribe and shall include a list of all background documents which the author of the report has relied upon in compiling the report. As a matter of principle, any written report relating to a matter included in the agenda should be made available and circulated at the same time as the agenda, but where this is not practicable because of the urgent nature of the matter, the agenda will state that the report is to follow and the report will be circulated as soon as possible after the circulation of the agenda for the meeting.
- (e) All reports shall be developed following appropriate consultation (including with Leaders and other stakeholders as appropriate).

5. Rights of Attendance and Audience

- (a) Agendas of the JWRC meetings and reports, except those marked "Not for Publication", will be available for inspection on request by the public at the offices of the Authorities, during normal office hours as well as being published on the Administering Authority's website.
- (b) The presumption is that all meetings of the JWRC and of any Sub-Committees shall be open to the public.
 - (i) Where the Secretary is of the opinion that it is likely that the press and public will be excluded from all or part of a meeting,

he/she shall so indicate on the agenda and may withhold from the press and public any report or background paper which would disclose confidential or exempt information.

- (ii) The JWRC must exclude press and public from any part of a meeting at which confidential information is likely to be disclosed.
- (iii) The JWRC may exclude press and public from any part of a meeting:
 - A) at which exempt information is likely to be disclosed; or
 - B) at which officers will provide a briefing to members on a matter on which a decision is likely to be taken on the matter within the next 28 days.
- (e) All documents which are open to public inspection, will normally be available at least 5 clear days before the relevant meeting. Where a report is not available when the agenda is published, the report shall be made available for public inspection when it is made available to members of the JWRC.
- (f) The rights of members of any of the Authorities shall be as set out in the protocol at Annex A.

6. Urgent Decisions

- (a) Urgent Decisions
Subject as below, the JWRC shall not take a decision which has not been included in the Forward Plan of each of the Authorities (so far as the same is necessary under their respective constitutions) for the period in which the decision is to be taken unless at least 5 clear working days' notice of that decision has been given to the Chairmen of the relevant Scrutiny Committees of each Authority setting out the reasons for urgency
- (b) Special Urgent Decisions
The JWRC shall not take a Special Urgent Decision unless notice of the intended decision has been given by the Secretary to the Chairmen of the relevant Scrutiny Committees of each Authority and he/she, or in his absence the Chairman of Council, or in his/her absence the Vice-Chairman of Council, have notified the Secretary that he/she agrees that the decision is specially urgent.
- (c) Reporting Urgent and Special Urgent Decisions
The Secretary shall ensure that a report listing all Urgent Decisions and Special Urgent Decisions is presented to the next convenient meeting of the relevant Scrutiny Committees of each of the Authorities.

7. Departure Decisions

- (a) The JWRC shall not take a decision which is contrary to or not wholly in accordance with the Administering Authority's approved Budget or the Authority's approved plan or strategy for borrowing and capital

expenditure, and which is not within the approved virement limits, but shall refer the proposed decision to the Administering Authority [Council] for determination.

- (b) The JWRC shall not take a decision which is contrary to the Administering Authority's Policy Framework, but shall refer the proposed decision to [each Authority]for determination.
- (c) Paragraphs (a) and (b) shall not apply where the decision -
 - (i) is urgent (in the sense that the interests of the authority, its area or the inhabitants of the area are at risk of suffering unacceptable damage if the decision were to be deferred until the next ordinary meeting of Council); and
 - (ii) the Secretary has notified the Chairmen of the Scrutiny Committees of the relevant Authorities or, if he/she is unable to act, the Chairmen of Council or, if he/she is unable to act, the Vice-Chairmen of Council of the intended decision and the reasons for urgency and those Councillors have notified the Secretary in writing that he/she agrees that the matter needs to be determined as a matter of urgency.
- (d) In each instance where any urgent decision is taken under Paragraph (c) above, the decision taker(s) shall as soon as reasonably practicable after the making of the decision, submit a report to each relevant constituent authorities setting out the particulars of:
 - (i) the decision which has been taken;
 - (ii) the reasons why the decision was urgent; and
 - (iii) the reasons for the decision itself.
- (e) The Secretary shall ensure that a report setting out each urgent departure decision is presented to the next convenient meeting of the relevant Scrutiny Committees.

8. Rules of Procedure

- (a) Who presides?
The Chairman shall preside at meetings of the JWRC. In his/her absence, the Vice-Chairman shall preside. In the absence of both Chairman and Vice-Chairman, the Joint Waste and Recycling Committee shall elect one of the members of the Joint Waste and Recycling Committee present at the meeting to preside for that meeting or part of the meeting, as appropriate.
- (b) What business is to be transacted?
 - (i) Apologies for absence.
 - (ii) Declarations of interest.
 - (iii) Matters set out in the agenda for the meeting.
- (c) The person presiding at a meeting shall conduct the meeting in accordance with these Procedure Rules.

- (d) The person presiding at the meeting may vary the order of business at the meeting.
- (e) The person presiding at the meeting may invite any person, whether a Member or officer of the JWRC or a third party, to attend the meeting and to speak on any matter before the meeting.

9. Quorum

The quorum for a meeting of the JWRC shall be 3 Members, 1 from each of the Authorities responsible for waste, recycling and street and beach cleaning services.

10. Record of Attendance

All JWRC members present during the whole or part of a meeting must sign their names on the attendance sheet before the conclusion of the meeting.

11. Disorderly Conduct

- (a) If, in the opinion of the person presiding, any member of the JWRC misbehaves at a meeting by persistently disregarding the ruling of the person presiding, or by behaving irregularly, improperly or offensively, or by willfully obstructing the business of the JWRC, the person presiding may move not to hear the member further. If the motion is seconded it shall be put to the vote without discussion.
- (b) If, in the opinion of the person presiding, the member persistently misbehaves after such a motion has been carried, the person presiding may require the removal of the member for such period as the person presiding shall determine. The person presiding may, if necessary, adjourn or suspend the meeting of the JWRC.
- (c) If a member is required to leave a meeting under this Procedure Rule, the member is not entitled to vote during the period of exclusion.
- (d) If a member of the public or Councillor who is not a JWRC member interrupts the proceedings at any meeting, the person presiding may issue a warning. If the interruption continues the person presiding may order the person's removal from the room in which the meeting is being held.
- (e) In case of general disturbance in any part of the meeting room open to the public the person presiding may order that part cleared. If the person presiding considers it necessary, he may adjourn or suspend the meeting of the JWRC.

12. Voting

- (a) Matters under consideration shall be determined by a majority vote of those members present and voting.
- (b) Voting is generally by a show of hands.

- (c) Any JWRC member may ask for a vote to be recorded, individual votes will then be taken by way of a roll call and recorded in the minutes so as to show how each member present and voting gave his/her vote.
- (d) Any JWRC member may ask that his/her individual vote be recorded in the minutes. Immediately after a particular vote is taken any Member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- (e) Whenever a vote is taken by show of hands and not by roll call, the person presiding shall ask for those in favour, and those against to vote in turn. He/she will then ask those abstaining from voting to indicate accordingly. Any member may ask for the number of those in favour, the number of those against and the number of those abstaining to be recorded in the minutes.
- (f) A member of the JWRC may not change his/her vote once he/she has cast it and another member has been called upon to vote.
- (g) If a member arrives during the debate on a particular item but before the casting of votes has commenced he/she will NOT be entitled to vote on that matter.
- (h) A matter shall be considered to be approved if it receives the votes of a majority of those members of the JWRC entitled to vote who are present and voting. In the event that the votes cast for and against a proposal are equal, the person presiding, will have a second and/or casting vote. There shall be no restriction on the manner in which the casting vote is exercised.
- (i) Where there are more than 2 persons nominated for any position to be filled by the JWRC, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.

13. Recording the Decision

- (a) At the JWRC:
 - (i) The person presiding shall be responsible for ensuring that the Secretary is clear as to the decision taken and the reasons for that decision.
 - (ii) The Secretary shall then, as soon as reasonably practicable after the end of the meeting, but ordinarily within 5 working days of the meeting, prepare a statement of the decisions taken at the meeting (the Minutes), including:

- A) The members of the JWRC and other persons attending the meeting;
- B) Any disclosures of personal or prejudicial interests;
- C) The decisions taken;
- D) Whether any decisions were urgent and should be implemented directly;
- E) A summary of the reasons for the decisions;
- F) The options which were considered at, but rejected by, the meeting.

The Secretary may consult the person presiding at the meeting as to the matters to be recorded in the Minutes.

- (c) Where the statement of decision(s) (the Minutes) would disclose confidential or exempt information, the Secretary shall produce a confidential minute as per current practice ensuring that a coherent account of the matters decided were recorded.
- (d) Where a decision is a reconsideration of a decision which has been subject to the "Call-In" arrangements, the Secretary shall be responsible for reporting that reconsideration decision to all the relevant Scrutiny Committees of the Authorities.
- (e) The Secretary shall be responsible for circulating the statement of decisions (the Minutes) to officers of the authority responsible for the implementation of the decision(s).

14. Implementing decisions

- (a) Decisions shall not be implemented until 5 clear days from the publication of the statement of decision(s) of the meeting or the decision¹.
- (b) Paragraph (a) shall not apply where the matter is urgent (in accordance with paragraph 6) or the JWRC determines that the interests of one or more of the constituent authorities, its area or the inhabitants of the area are at risk of suffering unacceptable damage if the decision were not to be implemented directly.
- (c) Where a non-urgent decision is called in by any Scrutiny Committee before it is implemented, implementation of the decision will be deferred until JWRC has had the opportunity to consider any request from the Scrutiny Committee for the re-consideration of the

matter.

¹ Note that such a deferment of implementation is determined by the JWRC and can be withdrawn if the JWRC is of the opinion that such a deferment prevents the effective discharge of executive functions.

RIGHTS OF MEMBERS OF CONSTITUENT AUTHORITIES INSPECTION OF/ACCESS TO DOCUMENTS

All Members of the constituent authorities have the right to access all documents which contain material relating to items considered at meetings of the JWRC.

They also have the right to inspect any other document or have access to any information which they need to properly perform their duties as a Member of one of the Authorities. These rights are, however, subject to the following:

- A Member is not entitled to inspect any document, or have access to any information, relating to a matter where the Member is acting against the Council in a professional capacity.
- In cases where information requested by a Member should not, in the opinion of the Chief Executive (or equivalent executive officer), be disclosed, (eg it does not appear to be required to enable the Member to properly perform their duties, or is of a highly sensitive or personal nature or otherwise exempt), the relevant Chief Executive (or equivalent executive officer) may, with good reasons (which should be explained to the Member), refuse access to a document or other information.
- If a Member is not satisfied with this decision, he/she may refer it to the Monitoring Officer of his/her Authority. If a Member remains dissatisfied with the ruling of the Monitoring Officer he/she may ask for the matter to be considered by the JWRC. The ruling of the JWRC is final.

The rules summarised above are complex and based on statutory provisions and case law. If there is any conflict between these rules and the legal provisions, the latter apply.

QUESTIONS

All Members of the constituent authorities may address questions to the Chairman of the JWRC. A period of up to 30 minutes at the beginning of each meeting shall be allowed for questions to be put. Written notice of the question shall be given 3 working days before the meeting:

The Chairman of the JWRC in responding to the question may;

- Answer the question himself
- Ask an officer to answer the question
- Offer a written answer
- Decline to answer and give his/her reasons

The questioner may ask only one supplementary question, regardless of the number of original questions they asked. The supplementary question must be on the same subject as the original question.

RIGHT TO ATTEND AND PARTICIPATE IN MEETINGS

All Members of the Authorities has the right to attend and speak at any JWRC meeting. Notice of the topic(s) concerned shall be given by 12 noon on the working day before the meeting if the Member wishes to speak at any JWRC meeting.

The Chairman will give Members who have notified their wish to speak the opportunity to speak at the commencement of the meeting to contribute their views on any agenda item or other matter within the remit of the JWRC. A period of up to 30 minutes at the beginning of each meeting shall be allowed for this purpose.

The right to attend remains available when the meeting is considering private (or exempt) business. This is provided that the Member has a legitimate need to be in attendance, and that the attendance does not involve any conflict of interest, which may constitute a prejudicial interest as defined by the Code of Conduct.

The Chairman of the JWRC will exercise discretion on the overall time allowed for Members' participation. This will take into account the issues Members wish to raise and the other business of the meeting.

In managing the meeting the Chairman has discretion over the management of the participation arrangements

H:\ZR123Li\Joint Waste and Recycling Committee\JWMEC Appendix (draft 5).doc

Agenda Item 6



Report to: Cabinet

Date of Meeting: 11th September 2017

Report Title: Leisure Centre Management Contract

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

Recommendation(s)

- 1. That Cabinet authorises the procurement of a contract to manage the Council's indoor leisure facilities at Summerfields Leisure Centre and Falaise Fitness Centre.**
- 2. That Cabinet delegates authority to the Director of Operational Services or his nominee and the Chief Finance Officer, in consultation with the Lead member for Leisure, to finalise the tender specifications, undertake the tendering process and conclude all negotiations and legal agreements with the most economically advantageous tenderer.**

Reasons for Recommendations

The current leisure management contract with Freedom Leisure concludes on 31st March 2018. The two centres that are managed under this contract accommodate a range of leisure and sports activities, and are very busy. The early master planning process for the White Rock area has identified the potential for greatly enhanced leisure activities which could better meet the needs of the town into the future. Thus, a long term management contract related to the existing centres could have an adverse impact on the council's ability to capitalise on this potential.

Background

1. A wide range of leisure and sports activities is accommodated within Summerfields Leisure Centre and Falaise Fitness Centre. Summerfields provides activities such as swimming, sauna, squash, fitness classes, indoor cycling, crèche service, children's parties, as well as sport hall activities such as badminton, basketball, trampolining and table tennis. Falaise offers a fitness gym with modern cardio and resistance training equipment.
2. The two facilities have been managed by Freedom Leisure under successive leisure management contracts since 2005. In September 2010 the Council entered into a contract with Freedom Leisure which was extended under a deed of variation in 2013 and runs until 31 March 2018.
3. The current contract is on the basis of a nil management fee, and a contribution of £160,000 by Freedom Leisure towards the cost of capital works at Summerfields. The previous contract was also on the basis of a nil management fee and a £334,000 investment by Freedom Leisure in equipment replacement and maintenance. In 2009/10 the value of the contract management fee paid out by the Council was £310,000. Three years ago, Freedom Leisure invested £130,000 in new equipment at Falaise, which would not be left in place if they were not the future contract holders.
4. In 2016/17 Summerfields and Falaise had a turnover of £1.2m and £675k respectively, with a combined profit of £14,700. This compares to a £2k loss in 2015/16. The main areas of expenditure were staffing (£867k), utilities (£180k) and central overheads (£186k).
5. A soft market test exercise was commenced in May 2017 to assess the potential level of leisure operator interest in managing the Council's indoor leisure facilities beyond the end of the current contract.
6. There was insufficient time or resources to permit detailed consideration of the potential costs and benefits of developing proposals for in-house management of the Council's indoor leisure centres, but this will be factored in in future procurement exercises.

Strategic context

7. Detailed analysis that informed the Hastings Leisure Facilities Strategy 2009-2020 (refreshed in 2015), revealed a significant shortfall in water space in Hastings. The shortfall is calculated at 414m², or 1,181 visits per week in the peak period, not being met by the current supply of water space. Summerfields is operating at capacity at peak times. The strategy recommends that the additional facilities and/or enhancements required to meet the deficit would include the equivalent of 7-8 additional lanes, a dedicated learner pool, leisure water and enhanced disability access. This shortfall obviously cannot be met within the current facility.
8. Falaise, which provides 80 stations, operates at maximum capacity during peak times. A study carried out in 2009 indicated a latent demand for an additional 70 stations across the Hastings catchment area. However, a number of smaller fitness

centres have been established since that time and will be helping to meet growing demand.

White Rock Area plan

9. In 2016 the council embarked on an extended process to determine how to capitalise on the White Rock area's regeneration potential. A masterplan has been developed which identifies a number of options for the White Rock area, including possible new and significantly enhanced leisure centre provision for residents and visitors.
10. The master-planning work on the White Rock Area is not yet sufficiently advanced to enable definitive conclusions about the scale, location and deliverability of future indoor leisure facilities, and it will take several more months of detailed work, including feasibility analysis and soft market testing, before costed development proposals could be worked up. Any proposals will also need to be aligned to the outcome of transport modelling, sustainability appraisals and other work that is either currently underway or will be completed this year and which will inform the development of the Town Centre and White Rock Area Action Plan. It is anticipated that the draft Area Action Plan will be ready for public consultation in early 2018.
11. In view of the ageing condition of the current facilities and the significant unmet demand for water-based and other indoor leisure uses, it is considered likely that the development of new indoor leisure facilities might be one of the key early developments (subject to available funding and investor interest), in what will be a long term beneficial transformation of the White Rock area.
12. Appendix A to this report provides a summary of the history and condition of Summerfields and Falaise.

Usage of the centres

13. There were 286k attendances at Summerfields in 2016, compared to 239k attendances in 2011; therefore, a 20% increase in attendance since 2011. Eight hundred and seventy children are currently enrolled in Freedom's swim school at Summerfields, compared to 574 in 2010.
14. However, the facility continues to fall well short of meeting the growing demand for water-based sport.
15. Attendances at Falaise increased by just 2% from 2011 to 2016. Prior to 2013 there was one exercise studio and one spin studio in use, both of which were dated and in need of modernisation.
16. The studio expansion in 2013 delivered two large studios, a multipurpose small studio and a bespoke spin studio with virtual technology. These new spaces have led to a growth in the range of exercise classes. Popular classes are Zumba, Les Mills Body Training Systems, Yoga, Pilates, Drums Alive, Powerhoop and Spin.

Soft market testing

17. The procurement hub manager has advised that the leisure market has been changing over the past few years, and that contracts across the country reflect a variety of approaches to fees and cost/profit sharing arrangements. There has been little interest by most leisure operators in contracts in Sussex and neighbouring areas. Wealden's procurement exercise in 2012 yielded only one bidder, as did Rother's tendering exercise in 2015.
18. A soft market test exercise for Hastings has now been completed and resulted in feedback from five leisure operators. This exercise enabled us to initially assess the market interest in managing the council's leisure facilities, and helps to inform how best value might be determined in relation to the council's procurement of a new management contract.
19. A high level summary of the outcome of this exercise is set out in the following sections.
20. Four operators indicated they would be interested in a contract of five years. One contractor would only consider tendering for a minimum of 15 years.
21. The length of the contract offered will affect the level of investment operators would be prepared to make in the facilities. In a contract with a length of up to five years it is likely that investment would be primarily in equipment and branding.
22. Four of the operators initially highlighted the financial and operational merits of potentially relocating Falaise operations within Summerfields Leisure Centre. However, during subsequent meetings with each of the potential bidders, it became clear that the expense and time involved in merging the two operations would outweigh any benefits.
23. All operators stated that they have extensive experience of providing targeted social inclusion programmes, both within their centres and through community outreach. The operators also provided examples of non-sports related community benefits which they offer such as public health schemes, apprenticeships and training.
24. A similar soft market test was used by Rother District Council to gauge market interest in 2015 and yielded a response from five operators. However, only one of them subsequently submitted a bid. It is the view of the procurement hub and our officers that this might well be the case in terms of our procurement exercise.

Procurement of new contract

25. Given the outcome of the soft market test exercise it is proposed that the new contract be procured through a competitive tendering process utilising the services of the East Sussex procurement hub and in accordance with EU procurement rules. The process will draw on relevant Sport England's best practice guidance on procurement.
26. It is proposed that the contract is on the basis of a nil-management fee and a profit sharing arrangement.

27. A term of five years, with the option of two extensions of two years each, is recommended as striking the best balance between providing an operator with a reasonable term of contract and not preventing the council from being able to pursue options identified within the White Rock masterplanning process for a potential new leisure centre and other developments in the area. It is considered that the two extensions will provide sufficient flexibility to extend the contract if required. It is also worth noting that a longer term use of either Summerfields or Falaise would require some major capital investment in these facilities in order to maintain them to a reasonable standard.
28. In terms of repairing obligations, it is proposed that these be broadly similar to the obligations under the current contract, but with some change to encourage operators to prioritise maintenance regimes.
29. The procurement will seek proposals from bidders for additional social value aspects, such as programmes targeting socially excluded groups or community outreach.

Timeframe

30. The procurement timeframe is as follows:

Tender specifications finalised	25/08/17
Cabinet decision to tender	11/09
Issue tender	19/09
Bidder open day	TBC
Clarification deadline	25/10
Clarification response	27/10
Tender return (52 days)	10/11
Evaluations	w/c 13/11 – 04/12
Bidder interviews	w/c 20/11
Recommendation to award	5/12
Bidder notification of award	18/12
Mobilisation period	Jan – Mar 2018
Contract start	01/04/18

Policy Implications

31. Summerfields Leisure Centre and Falaise Fitness Centre provide affordable opportunities for residents across the borough to engage in healthy and social leisure activity.
32. The facilities are extensively used and valued by Hastings residents and it will be important that the services to be contracted appropriately meet the needs of the users of Summerfields and Falaise.
33. The current contract is due to end on 31st March 2018, and sufficient dedicated staff time is needed in order to ensure a smooth and effective procurement process and a new management contract is in place by then. In addition to leisure services officer time, the process requires appropriate legal and financial resources. The timeframe set out in this report is tight, but does ensure that the process can be completed in time for the new contract to begin on 1st April 2018.

Wards Affected

All

Policy Implications

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

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

Additional Information

Appendix A – History and condition of Summerfields and Falaise

Officer to Contact

Officer Name: Monica Adams-Acton
Officer Email Address: adams-acton@hastings.gov.uk
Officer Telephone Number: 01424 451749

History and condition of Summerfields Leisure Centre and Falaise Fitness Centre

1. **The Summerfields Leisure Centre** was designed by the Borough Architects Department as a purpose built sports centre and swimming pool in the 1970s. It is built of concrete and steel with brick exterior cladding flat main roofs with mansard type perimeter roof slopes.
2. Internally it has been subject to numerous internal modifications and alterations over the years to cater for changing levels of customer usage and preferences, including the removal of the licenced bar, remodelling of the reception area and the addition of café, gym, dance studios and crèche facilities.
3. Since its original construction it has had a variety of component replacements and upgrading including a new main sports hall floor, addition of a passenger lift, refurbishment of the wet and dry changing areas, refurbishment of the kitchen and public toilet facilities and a new swimming pool ceiling.
4. The extensive mechanical and electrical services to the building are beginning to age and require an increasing amount of attention. Works have included new emergency lighting in 2009, new main sports hall lighting on two occasions, the re-wiring of the car park lighting, new swimming pool pumps and very recently the refurbishment of the pool filters and replacement of the main cold water storage tank. Some of the original ventilation and air handling plant is defunct and where possible this has been removed to reduce maintenance requirements and the incidence of roof leaks.
5. Externally, works have been limited to routine cyclical redecoration and roof repairs to ensure that the building remains in operation. In c.2012 the flat roof covering over the wet changing room area was replaced together with the main pool roof lights in an effort to reduce the incidence of persistent roof leaks.
6. In addition to the continuing requirement for routine and cyclical redecoration, maintenance, inspection and testing, future works within the next five years are likely to include further flat roof recovering and guttering replacement work, replacement of floor finishes, the installation of pool water UV treatment and the replacement of failing building services equipment including air handling and ventilation plant.
7. The underlying structure of this purpose built facility is in a generally good condition and with sufficient ongoing general maintenance, major building component and service plant replacement and upgrading works, should be capable of continuing in service into the foreseeable future.
8. **The Falaise Fitness Centre** is believed to have originally been built in the 1920s as an entertainment venue including a dance floor, kitchens and cafe in a single storey pavilion style with pitched timber main roofs, rendered masonry walls a timber ground floor and an under-croft beneath along its major south facing elevation which currently contain storage, bowling club, building services plant room spaces and toilets.
9. Falaise has been the subject of piecemeal extension and conversion works over the years and is currently arranged as a public gym and fitness studio facility with changing rooms and office accommodation. The original timber windows, doors and wall cladding

have been progressively replaced over recent years with upvc to reduce maintenance costs and the gradual deterioration of the original timber ground floor is the subject of ongoing repair.

10. Roof leaks and water ingress through entrances can also be a persistent problem requiring repeated attention. The mechanical and electrical plant and service installations are aged, and some of the air handling plant no longer functions.
11. The main entrance doorway and lobby area has been recently upgraded with new automatic opening aluminium entrance doors and an internal draught lobby with entrance mat flooring.
12. Works over the next five years in addition to the continuing need for routine maintenance, inspection and testing work will be the cyclical redecoration of the extensive painted cement rendered exterior wall surfaces along with the replacement of any remaining timber joinery with upvc. The air handling plant will also need renewal and there will be an eventual requirement to carry out reroofing works as the extensive flat and pitched roof coverings age and deteriorate. The gradual replacement of the timber ground floor will also have to continue due to the ongoing problem with rising and penetrating dampness.
13. The main structure of this converted facility is generally in a fair condition. It is however approaching 100 years old and as it was not originally conceived as a fitness centre it is not entirely fit for its present purpose in all respects. It will require ongoing general maintenance, major building component and service plant replacement and further alteration and upgrading works to ensure that it can be kept in useful service into the foreseeable future.

MJC/23 March 2017

Agenda Item 7



Report to: CABINET

Date of Meeting: 11 September 2017

Report Title: Income Generation Strategy

Report By: Simon Hubbard Director of Operational Services

Purpose of Report

To introduce the major reports intended to provide the basis for driving the Council's income generation strategy and discuss the next steps.

Recommendation(s)

- 1. Cabinet endorse the approach of the Income Generation Board in bringing forward the Income Generation Strategy and adopts the Income Generation Strategy including its appendices.**
- 2. Cabinet consider the thematic reports around commercial property investment and establishing a Hastings Housing Company that represent important early steps in implementing this Strategy.**
- 3. Cabinet agree the next steps moving the Strategy forward.**
- 4. Cabinet recommend the strategy to full Council.**

Reasons for Recommendations

Introduction

1. The Council is committed to seeking to use income generation as a key tool in both addressing its short term funding gaps caused by anticipated reductions in income from government grant and/or its share of business rates.
2. However, local authorities may accept that if they are to continue to develop their role in leading the future of their communities they need a financial base where increased proportions of income is not over dependent on changes to government funding which must inevitably take place. Pressure on local authority spending as a whole is likely to continue as national priorities are likely to be health, adult social care, the post Brexit economy and security/policing. Although housing is a national priority resources are in relatively short supply, and in Hastings the capacity for housing growth is limited by both potential land supply and the current market.
3. Hastings remains committed to its growth and the maximum inclusion of its residents in the town's prosperity. This type of commitment can only partly be met through assiduous pursuit of external funding. The council needs a secure "core" to give it the stability it requires.

Policies to be considered

4. The Income Generation Board has proceeded on the basis that it would concentrate its efforts on:
 - a. Property investment in commercial premises
 - b. Housing investment
 - c. Energy markets
 - d. Creating processes where staff ideas and participation are encouraged in new income and efficiencies
 - e. Ensuring it maximises its income from its fees and charges.

Income Generation Strategy

5. The Strategy is an overarching one intended to set the parameters for our delivery of this work. It lays out the detail of our position and the challenges the Council faces including the powers the Council has to undertake this programme.
6. It outlines a 3 year programme for programmes in housing and commercial property together with projects levels of investment and return. Like all such strategies it will be necessary to review and reset the targets in the light of our practical experience.
7. The Strategy also outlines key components for the delivery of the programme
 - Governance

- Control and oversight
- Management
- Risk Management and Audit
- Fees and Charges
- Energy
- Service Trading
- Overall spread of investment

Much of this work is contained in Appendix A to the report entitled – Change Management and Communications Plan – which addresses how change might be achieved including:

- Key Principles
- Key element
- Ethical Considerations
- Change Plan messages
- Communication Plan
- Change Main Steps

Commercial Property Investment

8. The policy to be discussed lays a clear basis for the Council to use in its acquisition of commercial premises. Has a clear ambition in this respect. Firstly in investing in existing premises within Hastings and its travel to work area it may secure employment and development whilst gaining income stream. Secondly in potentially investing outside this area through a future property investment company it has the opportunity to invest simply for income generation.
9. The Strategy also identifies the potential of developing land for employment and income generation and this is clearly something the Council will wish to consider.
10. The Commercial Property Investment Strategy also considers investment in property funds. This offers alternative rates of return but can only be undertaken through investment of the council's own resources rather than through borrowing. In this context it is offered as part of the "mix" of property investment giving both return and investment in the area's commercial future.

Housing Company

11. The final report in this cohort of work is the proposals for the Housing Company. It is crucial to agree the company's structure and an initial business plan. The Cabinet needs to assure itself that the proposed structure combines the elements of direction and control it will require with the flexibility required to take opportunity when it arises.
12. The initial investment is comparatively small and to deliver substantial returns significantly higher levels will be required in the future. It is important to stress that the primary purpose of the company is to earn income through commercial activity in the housing market. This activity will have the benefit of creating additional housing, but the company is unlikely given current government policy to be an

appropriate vehicle for delivering social rented housing objectives which the Council will continue to pursue in tandem and in line with its overall corporate aims.

Energy

13. A report outlining the intended direction of travel in respect of investment in energy will also be presented to Cabinet in October. This will be followed by more detailed advice about how and where the Borough can invest in energy including wind, solar power and participating in energy supply. This work is intended to be considered by members before Christmas.

Ethical Investment

14. The Income Generation Board have agreed that an Ethical Investment Policy should be developed and presented for initial discussion in November. Such a policy if adopted would apply to investments generally rather than those in the emerging income generation activities.

Next Steps

15. As well as carrying forward the programme identified in the Income Generation Strategy the Council should consider how this Strategy should be better aligned with the budget making process, workforce planning and its transformation programme.
16. Additionally staff engagement will need to be an ongoing priority moving forward for both political leaders and senior management. The importance of a communications plan cannot be under emphasised if we are to inspire the confidence and participation of staff rather than their acquiescence to the changes the Council will be undergoing. The questions involve embracing the use of staff and financial resources as well as a greater co-ordination about income assumptions and the budget process. Members are reminded that with the exception of the appointment of the Income Generation Manager no extra resources are available for the very considerable work involved. Resources have been committed to the development and delivery of the Council's overall transformation programme and it is likely the Council will need to invest on a larger scale in the delivery of the element around income generation.
17. Greater integration will enable clearer thinking about risk taking and where this is appropriate or where the level of risk makes a potential investment unwise. Care will be needed not to take excessive risk, but also not to preclude creativity and rational risk taking.

Implications

18. No implications arise from this specific report. These are identified in the specific reports on Income Generation and the Housing Company [NOTE: this will need re-adjustment for Cabinet].

Wards Affected

Report Template v29.0

All Wards

Policy Implications

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

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

Additional Information

Officer to Contact

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Officer Email Address	shubbard@hastings.gov.uk
Officer Telephone Number	01424-451753

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Hastings Borough Council
INCOME GENERATION STRATEGY
2017/18 - 2019/20

Version control:
Corporate Management Group 20th June 2017

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EXECUTIVE SUMMARY

Our Corporate Plan 2017/18 – 2019/20 sets out our aim that by 2019 we want “*a council that is financially strong enough to deliver the services and regeneration our town needs in the face of public expenditure reductions. We want to develop services which will both create new benefit for residents and income for the council*”.

To achieve this we will develop the financial, staffing and other policies that enable us to put commercialisation at the centre of everything we do. This Income Generation Strategy sets out our thinking and approach and will influence our planning and delivery over the next three years. The strategy describes:

- a) What our key commercialisation and income generation objectives are for the next three years
- b) What we need to put in place to achieve these objectives – resources, skills and freedom to act
- c) What framework/approach/principles we will follow to make decisions
- d) How we will judge success

This work programme is a key Council priority and is an enabler of our One-Council transformation programme – re-designing our council to be more efficient, responsive and more self-sufficient, releasing talent, innovation and ideas and thereby enabling us to continue to provide great services for local people in an environment of reducing financial support from central government.

Whilst we acknowledge the significant financial challenges we face, we also see this as an opportunity to build on the best of what we already do; to learn and deploy new skills and concentrate our efforts into actively looking for new income generating opportunities. We will aim to do this without losing focus on our existing customers or the quality of service delivery.

We want our staff to be actively involved in reviewing their services and seeking out potential ways for enhancing delivery and exploring new commercialisation options. We'll be clear about what we can deliver and what we cannot and where we need additional capabilities and resources.

The aim of this strategy is to deliver a financial return which contributes to our spending plans and to help sustain priority outcomes in our local community. In implementing this strategy we will deliver a programme of work that follows best practice and includes a process for identifying potential opportunities, applies methodologies to further develop those opportunities, has a structure in place to ensure those fledgling opportunities are nurtured and supported, and has the resources to successfully deliver them to conclusion.

Proposed projects will not be accounted for in revenue forecasts until they are sufficiently developed to provide a reasonable degree of surety about performance. The Council has nevertheless set itself the following targets:

Financial year	Net contribution from income generation
2017/18	£ 109,100
2018/19	£ 713,200
2019/20	£1,256,800

DRAFT

INTRODUCTION

1. In common with most Local Authorities in England, HBC is faced with a reduction in funding brought about by predicted progressively smaller funding settlements. The settlement is being reduced, in annual stages until financial year 2019/20.
2. Traditionally, when faced with a reduction in revenue, Public Sector organisations will simply cut spending; which in reality means cutting services received by customers, unless coupled with improved delivery. HBC has taken a different approach to the current situation and has adopted a policy of seeking efficiencies through transforming service delivery, and generating income through the introduction of a more commercial approach.

Government grant reduction and the funding shortfall

3. The level of government grant received from the government between 2010/11 (the year before the previous Comprehensive Spending Review) and 2016/17 has decreased by over 50%. For the period 2010/11 to 2019/20 the reduction in cash grant funding is estimated at 70% on a like for like basis (i.e. excluding Council Tax Freeze Grant, Homelessness Grant and Council Tax Support Grant in order to provide a clear comparison).
4. These figures are all based on cash and exclude the effects of inflation (the inclusion of which would increase the % reductions even more). In 2017/18 the Council will lose £797,000 in Revenue Support Grant. New Homes Bonus is some £379,000 less than in 2016/17 as and is set to fall further. The two grant losses alone amounting to some £1,176,000. This loss of grant when combined with the additional costs from inflation and pay increases and demand pressures present the Council with significant financial and resource challenges.
5. The Council's forward projection of the funding deficit for the next three years is as follows:

Financial year	Deficit
2017/18	£ 555,000
2018/19	£1,700,000
2019/20	£2,100,000

6. In short, there is a significant funding gap as the Council moves forward into the years ahead. Further details can be found in the Council's Budget report considered by the Cabinet in February 2017 '**Revenue Budgets 2016/17 (Revised) and 2017/18, plus Capital Programme 2017/18 to 2019/20**'.

Powers to support income generation activities

7. HBC is not a for-profit organisation but it can discharge its function in a more commercial manner using the best practice model shown at para. 12. The Council is not new to income generation (achieving income of over £10m in financial year 2016/17) but will now seek to optimise its revenue position through greater commercialisation.

8. HBC has a number of powers to enable it to act more commercially. HBC's existing income generating activities are supported by specific legislation (for example Public Restaurants Act 1947 allows HBC to provide and charge for catering services should it choose to provide them). In addition, The Localism Act 2011 gives Councils a General Power of Competence. In essence this means that Authorities may now act as any individual might, provided that they do not break any other law. It is this Power of Competence which allows HBC to undertake further trading, and some commercial charging in a way which they were unable to in the past; but limits of the General Power at sections 3 and 4 of the Act do apply. The Localism Act forms the legal basis to undertake the measures and types of activity outlined in this strategy, where they are not covered by other Acts. But other acts should be used in preference if they exist

Vision, objectives and principles

9. The vision for this strategy is:

“Hastings Borough Council will secure the long-term prospects for delivery of the services our residents expect, at the standard they deserve, through a structured and measured programme of income generation. The Council will undertake fair and effective charging; look to conduct trading; generate energy for savings or revenue; and invest in property. It will continue to do this in an ethical manner with robust control measures in place to mitigate as far as possible, risk. The Council will generate a positive annual contribution through these actions and ensure, through the investment of these contributions into frontline services that residents are protected, as far as possible, from future negative changes to the financial climate.”

10. Our objectives are:

- To encourage the right culture and environment to stimulate and actively encourage ideas and innovation, removing any barriers
- Undertake principled income generation activities to support the delivery of the Corporate aims
- To provide quality chargeable services that meet the needs of the customer, and whereby full costs are recovered by the Council
- Develop and operate sound business models, policies and procedures
- Establish clear governance and performance management arrangements
- Maximise current income sources that are sustainable in the longer term

- Ensure good customer relationship management to achieve loyal customers
- Identify new opportunities, avoiding negative impact on our business communities
- Develop a workforce that is commercially skilled and knowledgeable

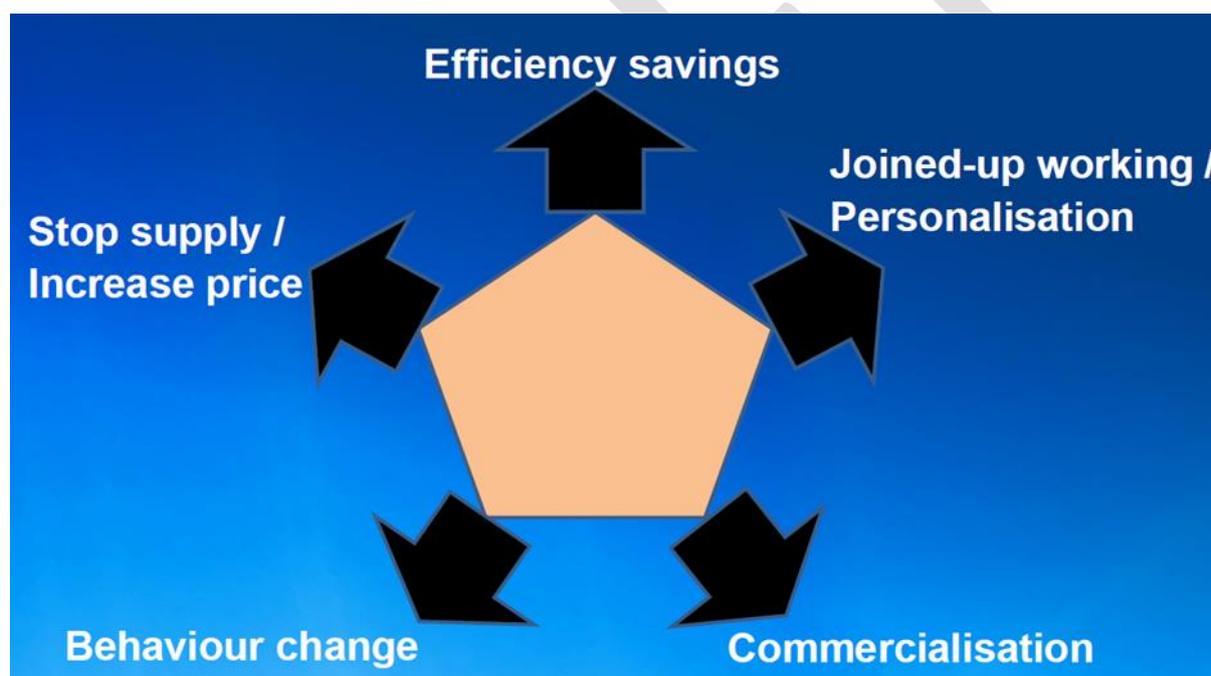
11. The principles we will abide by in delivering this strategy will be:

We are:

- Open to all options for service delivery
- Willing to take risks – we accept that some ideas may fail
- Honest about our current performance – not all services will be market ready;
- Prepared to invest now for a return in the future.

Strategic links

12. Recognised best practice for councils to manage the current financial climate can be demonstrated in the following graphic:



13. The Council's Transformation Strategy and Priority, Income and Efficiency Review (PIER) programme are interconnected and will complement the delivery of our Income Generation Strategy.

14. These related programmes are creating the infrastructure, culture, skills and capacity, and finances to support implementation of this strategy. This whole-council approach is being overseen by Cabinet.

15. Implementation of the Income Generation Strategy will address

- Efficiency savings.
- Commercialisation.
- Stop supply/increase price.

KEY OUTPUTS AND OUTCOMES

16. In order to generate a contribution towards the funding shortfall explained within the Budget Summary 2017/18 Appendix G, the key outputs for the next three years are:

Financial year	Key Output
2017/18	<ul style="list-style-type: none"> • Have the Income Generation Strategy adopted • Have approved the change plan at Appendix B • Form a housing company, as required to deliver investments in residential property • Invest up to £5m in residential property (within Investment Strategy parameters at Appendix A) • Invest up to £2m in energy generation (within Investment Strategy parameters at Appendix A) • Invest up to £9m in commercial property (within Investment Strategy parameters at Appendix A) • Conduct a review of fees and charges • Have developed a pipeline of approved income generation projects
2018/19	<ul style="list-style-type: none"> • Review strategy • Have an approved pipeline of income generation projects • Delivered the pipeline of projects in accordance with the Income Generation programme • Invest up to £5m in residential property (within Investment Strategy parameter at Appendix A) • Invest up to £2m in energy generation (within Investment Strategy parameters at Appendix A) • Invest up to £20m in commercial property (within Investment Strategy parameters at Appendix A) • Conduct a review of fees and charges
2019/20	<ul style="list-style-type: none"> • Review strategy • Have an approved pipeline of income generation projects • Delivered the pipeline of projects in accordance with the Income Generation programme • Invest up to £5 in residential property (within Investment Strategy parameters at Appendix A) • Invest up to £2m in energy generation (within Investment Strategy parameters at Appendix A) • Conduct a review of fees and charges

Outcomes

If the outputs above are achieved the outcomes will be as follows:

Financial year	Estimated net contribution or savings from income generation*
2017/18	
2018/19	
2019/20	

* Considers revenue only and not potential capital receipts.

INVESTMENTS

17. In order to achieve these outcomes the Council will need to make investments to generate returns and savings.

18. The Council acknowledges that the investments it may make in income generation are principally to support other policy and strategy outcomes; for example the decision to invest in residential property assists the council in bringing forward much needed housing. In the context of the financial position the Council finds itself in commercial best practice will always be applied and maximising returns will remain a priority for these investments.

19. The Council does not have unlimited resources and in order to achieve the vision for this strategy an investment strategy is required. See Appendix A.

Investments - resources

20. Investments can be financed from a number of sources including:

- Capital receipts.
- Reserves.
- Borrowing.
- Revenue.

21. The Chief Finance Officer will recommend the appropriate resource to use when deciding how to finance a project. In each case the cost of borrowing (if any) and provision for the repayment of any principal will be considered when conducting an investment appraisal.

22. Total borrowing and Minimum Revenue Provision (MRP) will be determined in accordance with the Treasury Management Policy.

Investments - business case development

23. There will, from time-to-time be a requirement to spend resource in the development of business cases. The Invest to Save Fund exists to bring ideas forward which generate a saving for the Council and this fund will be available to help develop business cases.

Investments -commercial failures

24. Although all measures will be taken to ensure the robustness of any business cases the Council acknowledges that there is always a risk of commercial failure. In such an eventuality the Council may elect to assist and mitigate impacts to the community. As such the Council will continue to review its level of reserves on an annual basis which takes account of all the risks that are faced along with allowance for unexpected events.

DELIVERING THE STRATEGY

Change management

25. The drive to optimise the returns available from the Council's activities requires certain actions: policies; training; and culture change. A Change Plan is proposed at Appendix B, with objectives as follows:

- Ensure the strategy; policies; procedures; etc. are in place to allow income generation to occur.
- Generate project ideas.
- Inform stakeholders and turn them from 'blockers' to 'enablers'.

Governance

26. The Council has a scheme of delegation on which investment decisions can be hung up to a limit.. The Income Generation Board will have overall responsibility for overseeing income generation and recommending investments to the appropriate decision maker.

27. The process for taking an idea from inception to delivery can be found at Appendix C.

Control and oversight

28. The Income Generation Board will be responsible for:

- Recommending policy and review investment levels for Cabinet and Council, including those relating to the trading companies.
- The oversight of the income development programme and reporting on this to Cabinet and O&S, including reports relating to Trading Companies.
- Oversight of complementary policies to support income.
- Making recommendations for major decisions to Cabinet and Council where this is required. Providing accountability of the delegated decision exercised by officers or members. Reviewing outcomes and progress and recommending the appropriate adjustments to strategies and plans
- Accounting to Cabinet and Council, Audit Committee and O & S as appropriate.

Management

29. The Director of Operational Services is the Project Sponsor for the Income Generation Programme. However, Corporate Management Group (CMG) will reshape its current priorities and membership to ensure the collective addressing of the programme, its performance, needs and of major decisions.

30. The programme of projects developed, presented and delivered as part of this strategy will form an Income Generation Programme. The Income Generation Manager will act as the programme manager and fulfil the function of a Programme Management Office (PMO), with project teams for each project. As the programme develops it will be necessary to appoint a coordinator to ensure that the PMO function is effectively discharged. The Council's existing programme management methodologies and policies will be employed at all times.

31. The Income Generation Manager will report to the Income Generation Board on the progress of the programme. A tracker will be used in this report which shows:

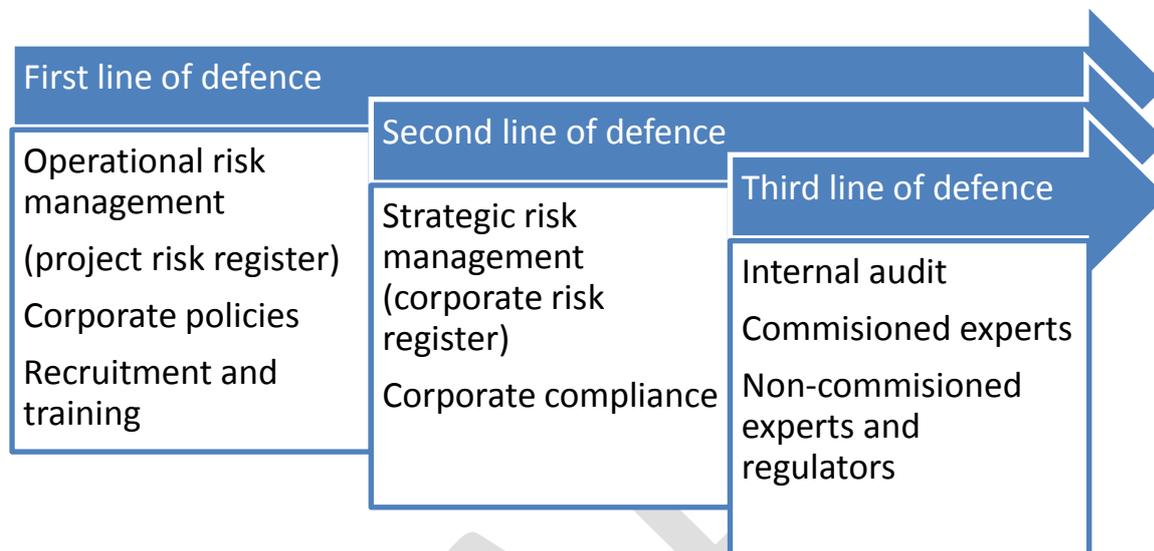
- All ideas received by the programme.
- Those ideas which have moved beyond inception; the current status with delivering the proposal; and the predicted contribution to outcomes.
- A 'dashboard' showing current progress against targeted outcomes.
- Completed or rejected ideas.

Measuring success

32. Income or savings which are generated through projects associated with this strategy will be weighed against the projected financial shortfalls.

Risk Management and Audit

33. The Council will adopt a 3 tier approach to risk management. The hierarchy and the measures within it can be seen in the following graphic:



34. The main function of the Internal Audit Service is to provide assurance by forming and evidencing an opinion on the organisation's risk management, internal control environment and governance. This forms the third and final layer of risk management in our model.

35. Where there is trading in an external company there is a statutory requirement to conduct a separate audit for those companies. Conducting external audits in this way will provide the Council with additional assurance.

Consolidated critical task list

Serial	Task	Outcome	Responsible	Deadline
1	Adoption of Income Generation Strategy	Adopted	Director of Operational Services	July 2017
2	Establish PMO	Corporate policy compliant	Income Generation Manager	July 2017
3	Change plan adopted	Stakeholder attitudes are improved	Income Generation Board	July 2017
4	Identify income generation opportunities	Income generation programme populated	Income Generation Manager	Ongoing
5	Individual business cases are developed	Projects approved	Cabinet	Ongoing
6	Measuring success	Benchmarking overall income and savings	Income Generation Board	Ongoing

Conclusion

36. The challenges that HBC faces are real and substantial but they are not insurmountable given the will to take action and careful planning. The Council is not embarking on this strategy for profits own but to ensure that it has the resources needed able to meet the needs of the residents of Hastings.

37. The foundations for success have been laid with the adoption of this strategy. Through its delivery, and the applications of lessons learned whilst doing so, has given itself the best chance of achieving its strategic objectives.

38. The strategy will be reviewed annually by the Income Generation Board and recommendations made to Cabinet/Council as appropriate..

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**Appendix A to Hastings Borough Council Income Generation Strategy 2017/18 to
2019/20**

INVESTMENT STRATEGY

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1. Introduction

The Income Generation Strategy (IGS) sets out the way forward following HBC's decision to invest in income generating activities, and the strategic outcome it expects to achieve in doing so. In short this is to make a contribution to bridging the funding gap caused by a reduction in central government funding.

This investment strategy defines the parameters designed to guide the Council when deciding to approve an investment in a proposal, or not.

1.1 Early stage strategy

The Council is not new to generating income, but it is now to taking a more formal approach to the issue, based on recognised best practice. With a new Income Generation Strategy defining outcomes and processes, and the investment strategy which enables the Council to make progress towards stated outcomes informs this approach. It has fairly tight parameters which are designed to minimise risk to the Council in the event of commercial failures. It is possible; as the Council learns and gains experience that the investment parameters will need amendment.

Whilst not discarding any viable opportunity to optimise returns this early stage strategy initially concentrates on four areas for further income generation:

- Investment in commercial property.
- Investment in residential property.
- Investment in energy generation.
- A review of fees and charges.

As the Council achieves success with these early stage measures the IGS will be reviewed to include other actions and investments.

1.2 Investment objectives

All investments that HBC will make under the Income Generation Strategy will be primarily focused on achieving a contribution in line with the outcomes laid out in that strategy. The outcomes specified in the main body of the strategy are summarised as:

Financial year	Estimated net contribution from commercial property	Estimated net contribution from residential property	Estimated net contribution from energy generation	Estimated net contribution from income generation*, **
2017/18	£ 88,500	£ 20,600	£ 0	£ 109,100
2018/19	£373,500	£ 59,700	£280,000	£ 713,200
2019/20	£570,000	£146,800	£540,000	£1,256,800

1.3 **Reviews of the investment strategy**

Review of the strategy will take place as follows:

- The Strategy will be reviewed annually by the Income Generation Board
- Performance will be measured to ascertain if the Council will be more, or less flexible when considering investments.
- If the economic environment; legislation; or borrowing rates change.

2. **Ethics**

The Council does not currently have an adopted policy on ethical investment. As investment in income generation is made to support other Council policies (for example the decision to invest in residential property is also in support of the need to bring forward housing in the borough) a special policy is not currently assessed as being required. Ethical considerations are considered when determining whether to approve a new policy, or not.

The Council does acknowledge that the potential for hitherto unforeseen conflicts or new ethical dilemmas may arise from its more formal approach to income generation. Ethics will always play a part when considering an investment opportunity, therefore. The subject of a separate policy on ethical investment will be considered again at the review points of the IGS.

3. **Investment themes**

In theory the Council will consider investment in any type of business (where it meets other criteria such as ethics, or returns) and will consider opportunities in support of existing policies and the five themes outlined in the body of the IGS if they seem attractive. In practice limited resources and capacity mean that it will concentrate on the key themes for the first three years. There is already sufficient diversity in the current portfolio to spread investment risk to allow returns in all areas.

The investment themes that the Council will initially consider (subject to individual business cases) are:

- Investment in commercial property.
- Investment in residential property.
- Investment in energy generation.
- A commercial review of fees and charges.

At the IGS review periods opportunities to include other areas of best practice will be considered.

Each theme is explored in more detail below.

3.1 Commercial property

The Council is already a successful commercial landlord in support of promoting economic success and diversity in the Hastings live-to-work area, and it will build on this success by developing its portfolio to generate an increased contribution.

The Council will invest in opportunities to develop its own portfolio (and potentially acquire development sites), i.e. building houses and/or commercial units. It will also seek opportunities to acquire and hold commercial property for rental.

Further specific details can be found in the report of the Chief Financial Officer, *Land and Property: Commercial Property Investment Strategy* dated July 2017

3.2 Residential property

In order to bring forward opportunities to deliver housing in the most commercial manner the Council will, on occasion rely on the Localism Act. This requires the Council to form a company for this purpose. The formation of a company is an action and output specified in the main body of the Strategy.

The Council aspires to bring forward development sites; hold property for rental on the private sector market; and to be able to receive property from developers as part of regeneration projects.

Further specific details can be found in the report of the Assistant Director Housing and Built Environment, *Hastings Borough Council Housing Company 11 Sept 2017*

3.3 Energy generation

The Council has an estate within which there are opportunities to reduce energy consumption and to generate and sell energy. There are existing powers for the Council to do this; for example: The Sale of Electricity by Local Authorities (England and Wales) Regulations 2010 (SI 2010/1910). The Council will therefore review those opportunities and invest in those which meet the criteria set out in para. 6 the savings available being counted as well as the income potential when measuring success. The types of technologies which will generate revenue and savings include:

- Solar photovoltaic
- Wind
- Storage
- Ground source heat pump

In addition there are opportunities to support community energy projects either through facilitating finance or leasing equipment.

Specific details be subject to a report of the Income Generation Manager and Sustainability Policy Officer, *An Energy Transformation for Hastings to be considered by the Income Generation Board in September 2017, and thereafter by Cabinet.*

3.4 Fees and charges

HBC already uses its existing powers to recover some of the costs of providing services to the residents and businesses of the borough. Examples of the type of service the council charges for include: parking; crematorium services; waste collection; allotments; etc. The council has a Fees and Charges Strategy which lays out the process for the setting of charges, and the legal basis for doing so.

It is within the remit of the Council to set the level of fees and charges by determination of the appropriate portfolio holder, thereby recovering some or all of its costs. Many diverse factors come into play when deciding the level at which costs are recovered (for example the Council may decide to not recover all its costs for social, or economic development reasons). In the current financial climate the Fees and Charges Strategy will be re-visited so that the Council recovers a higher percentage of its costs.

Each Service which collects fees and charges will further review the charging position against:

- Accurate cost of service delivery
- What customers are willing to pay for a service?
- What the market (other relevant local authorities) is charging?
- What concessions need to be considered to prevent hardship?
- How a rise might affect Corporate Priorities?
- What costs might be incurred to levy fees and charges (equipment; human resource; etc.)?

It is acknowledged that such reviews may require additional resources to complete, and then take action upon. The Council has an Invest to Save budget against which bids can be made, for this purpose.

3.5 Trading

Although this does not form one of the core themes for this early stage strategy opportunities to trade may be identified.

In the course of discharging its statutory and other functions the Council creates commercial opportunities. The Council will consider investing in mechanisms to capture those opportunities. The types of opportunities are numerous but could include activities such as:

- Operating concessions ourselves.
- Acting as our own debt recovery agent.
- Staging pay-to-use events such as open air cinema.

4. Quantum of investment risk

The Council's risk quantum will be defined as the total amount of capital invested in projects where there are significant revenue related benefits; plus any interest due on loans the council has taken to fund a particular project or other liabilities incurred; less the valuation of any assets held by the project. The Council will always seek, where possible first charge over assets in projects it is funding (where those projects are being conducted through a trading company).

The risk of these investments manifests itself as the Council's exposure to risk vs. income. The Treasury Management Policy lays out the Council's position and deals with the Minimum Revenue Provisions that must be made to mitigate that risk.

5. Investment risk profiles by theme

In selecting these themes to concentrate our investment strategy on (but not excluding other opportunities) it is possible to profile the Council's exposure to investment risk through defining what parameters are acceptable in each category; and by defining the Council's maximum exposure to each type of investment. Further details can be found in the theme reports referred to in para.3

5.1 Commercial and residential property

Property normally enjoys a high residual value in the event of a commercial failure in that the property being held can be sold to mitigate losses on the investment. Clearly, in the case of some developments and refurbishments the total invested may be more than the open market value. This situation may arise as the Council makes an investment decision based on revenue (which is its investment objective).

5.2 Fees

Investment in rescheduling and receiving fees will be in market testing and quantifying true costs (as described at para. 3.4) and these will not be recoverable if proposals for new or adjusted fees and charges are not carried through.

5.3 Energy

Any investment in energy generation includes the purchase of equipment which has a residual resale value. In addition equipment which is Microgeneration Certificated has a resale value as the revenue streams are then fixed for 20 years. The revenue derived from these projects is extremely secure.

5.4 Trading

It is more difficult to quantify the investment risk as the variety of potential opportunities is vast. When opportunities are identified individual business cases will be produced and assessed in light of the current financial position, and the impact on current resources and priorities.

6. Returns on investment by theme

If opportunities to deploy the full amounts contained within the appropriate reports, the following annual results can be achieved:

Theme	Maximum investment	Average net return	Estimated annual contribution
Commercial property	£29m	1.97%	£570,000
Energy generation	£6m	9%	£540,000
Residential property*	£15m	1.65%	£247,800

This assumes that all the investments are made through borrowing. This may not be the case if the Council has other opportunities such as capital receipts; grants; etc.

*The returns here relate only to the revenue generated from properties purchased for let on the private market. Returns may be better on Capital receipts through regeneration projects (such as the proposed sports hub); or from development of existing or acquired sites (such as Harrow Lane). Also shows figures at year 8; the return improves over times as the loan amortises.

7. Conclusion

The Council has the means to partially address the funding gap and generate the revenue targets at para.1.1. Income Generation will be an iterative process and its strategies will develop as the Council learns from its experiences.

Appendix B to Hastings Borough Council Income Generation Strategy 2017/18 to 2019/20

**CHANGE MANAGEMENT
and COMMUNICATION PLAN**

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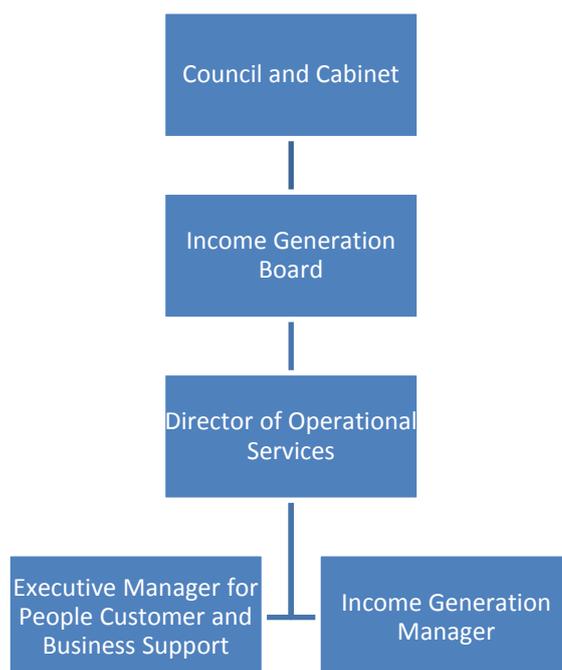
1. Introduction

1.1 Hastings Borough Council (HBC) has, in the face of significant reductions in government funding, embarked upon a programme of income generation. It has taken this decision to ensure that it has the resources to deliver the Corporate Plan, and help safeguard the Council from further reductions to funding. Full details of the background and the actions the Council are undertaking can be found in the body of the Income Generation Strategy . The Council's vision for income generation is as follows:

“In the face of funding pressures Hastings Borough Council will secure the long-term prospects for delivery of the services our residents expect, at the standard they deserve, through a structured and measured programme of income generation. The Council will undertake fair and effective charging; look to conduct trading; generate energy for savings or revenue; and invest in property. It will continue to do this in an ethical manner with robust control measures in place to mitigate as far as possible, risk. The Council will generate a positive annual contribution through these actions and ensure, through the investment of these contributions into frontline services that residents are protected, as far as possible, from future negative changes to the financial climate.” 1.2 In order to undertake income generation there will need to be appropriate strategies; policies; processes in place and this plan defines actions that need to be completed to ensure these are in place.

1.3 Cultural shift clearly forms a key element of realising this vision. Local Authorities do not primarily exist to generate revenue. They exist to execute statutory functions and serve their communities. In order to maximise chances of success, the key stakeholders in HBC, namely its residents; members and officers need to understand why HBC is undertaking this programme and the part they have to play. A simple and easily understood plan is required to communicate the key messages and encourage participation.

2. Income generation's change hierarchy



2.1 Decision making will remain consistent with The Council's constitution. In order to optimise decision making the Council identified the need for a group making clear recommendations on investment in income generation schemes, and so formed the Income Generation Board. The Board represents the corporate interests, in this matter. The lead officer on the Income Generation Board is the Director of Operational Services.

2.2 The officers providing day-to-day management of this Change Plan, and principal advisors to the Director of Operational Services on change matters will be: the Executive Manager for People Customer and Business Support and the Income Generation Manager.

3. Programme objectives

HBC is undertaking income generation to reduce the funding shortfall outlined in its Draft Budget Summary 2017/18 in Appendix G, Line 31. It is doing this to ensure that the Council has adequate resources to deliver its Corporate Plan.

4. Change objectives and principles

4.1 Objectives for change

HBC is undertaking this Change and Communication Plan to:

- Ensure the strategy; policies; procedures; etc. are in place to allow income generation to occur.
- Find political consensus on income generation
- Generate project ideas
- Inform stakeholders and turn them from 'blockers' to 'enablers'

4.2 Principles

Principle	Implication
Follow a change methodology (Kotter's)	Group tasks appropriately at para. 11
Change is in support of existing policy and Council decisions	All decisions will strategically linked Appropriate authority or decisions will always be sought before acting
Inclusive process	Formal and/or informal consultation will take place at all stages of the change process
Transparency	Documents and decisions should be disseminated; published; and otherwise distributed, as appropriate and where Freedom of Information/Environmental Information Regulations/Data Protection rules allow. Information will not be 'spun'. Successes and failures should be reported to stakeholders.

4.3 Ethical considerations

Issue	Measures
The Council will take into account its duties under the Equalities Act when conducting its business under the IGS	The Income Generation Strategy ensures that the impact to businesses, residents and employees of the Council are considered when deciding to proceed with a project, or not. Equality Impact Assessments will be carried out for each proposed project.
The Council is not to profiteer for profits own sake but to ensure resources are available to deliver core Council services.	Any surplus will be counted as a saving against the Council's budget and be credited to the General Fund. This will help ensure that the Council has adequate resources.
The Council should not be distracted from carrying out its core function	Income Generation is about supporting core functions by ensuring it is adequately resourced. Where income generation requires extra resources these will be factored in as project, or business costs. Provision for these costs will be made from the revenue available from a specific income generating activity.

5. Change plan elements

Element	Measure
People and culture	Raise awareness Explain why Get support SURVEY
Documentation	Income Generation Strategy adopted

New positions and roles	Income Generation board – in place Income Generation manager – in place
Processes	Defined process to progress income generation ideas Integrate this process into other corporate processes such as the Project management toolkit
Skills	Commercial awareness How to use the new process to progress an idea How to use the business planning canvas

6. Key Stakeholder Analysis (needs completing as an action)

Group	Main concerns	Main communication channels	Level of support 1 - 10
Residents			
Businesses			
Members			
Officers			
Partners			

7. Assessment of Readiness to Change

There is undoubted political support for change as income generation is referred to in the Corporate Plan. This aspiration is reflected in the senior officer group; with internal groups having been formed to facilitate income generation and an Income Generation Manager appointed to manage progress. An Income Generation Strategy has been developed which defines the process and parameters for investment, and which is targeted for adoption by the Council in Sept 2017. It is not possible to definitively state the level of commitment other stakeholders have in this process as to date attitudes have not been assessed. Surveying stakeholder attitudes therefore forms an action in the change plan. The empirical evidence is that officers, at any rate are supportive of this initiative. What seems to be missing is an understanding of how to progress their ideas.

8. Key change messages

The income generation vision at para. 1 is supported by the following six key messages for stakeholders:

Message	Loss	Gain
We have lost funding so need to generate alternative revenue	Delivery of the Corporate Plan is at risk without adequate resources	We have licence to be imaginative and creative about how we deliver our services
We have the legal means to address the funding gap	We will have to work hard to become more familiar with the legal powers available to us and not accept the first 'no' answer	We have a supportive and open minded Monitoring Officer and legal team. A robust plan to ensure legal advice is readily available is in place
We have excellent resources in place to support the development of new ideas (Income Generation Board; Income Generation Manager; political will; budget provision to fund suitable schemes; etc.)	Stakeholders will have to adapt to a new culture and learn a new way of working	The Council has ensured that resources are in place to support the process without significant extra duties falling on anyone's shoulders.
The Council is evolving to meet the realities of the environment in which it operates	We can no longer rely on what has gone before as acceptable and change is inevitable	We have an opportunity to shape how we do business in the future.
Income generated will be invested into front line services protecting and improving them	Without additional income service levels will be at severe risk.	The opportunity exists to streamline and improve service levels through new ways of working and alternative funding
Safeguarding jobs	Some traditional roles may be change	New types of jobs will be created as specific income generation projects are delivered There will be reduced pressures to simply cut roles and services if funding is further reduced

9. Change and Communication Plans

9.1 Change plan

Change Theme	Action	Who	When	Performance measure
Establish urgency	All officer introduction	Income Generation Manager (IGM)		Complete Y/N?
	Member working groups	Marketing and Major Projects Manager (MMPM)/IGM		Complete Y/N?
	Press briefing?	MMPM		Complete Y/N?
	Find out what stakeholder groups think	MMPM /IGM		Update change plan.
Create a guiding coalition	Income Generation Board is already in place – define its role further	IGM/IGB		Include in approved Income Generation Strategy
	Income Generation Group (Officer) is already in place – define its role further	IGM/IGB		Include in approved Income Generation Strategy
Develop a clear shared vision	Discuss draft vision with political leadership – get approval	IGB/IGB		Members approve a vision statement
	Discuss vision with CMG – get approval	IGM		Senior officers approve a vision statement
Communicate the vision	Ensure the vision is included in relevant documents; strategies; and policies.	IGM		Include in approved Income Generation Strategy
	Ensure the vision appears in communications actions	MMPM		Complete Y/N?
Empower people to act on the vision	Develop the tools to help people bring forward income generating ideas	IGM		Include in approved Income Generation Strategy

	(Business Planning Canvas)			Integrate income generation processes with existing protocols
	Define the process to take an idea from inception to delivery	IGM		Include in approved Income Generation Strategy
	Train people in these tools and processes	IGM/ MMPM		Complete Y/N? Training evaluation shows 90% satisfaction.
Create short term wins	Identify projects which can be enacted now in the Energy Generation theme (possibly others) of the Income Generation Strategy	IGM		Hierarchy of available projects is presented to the Income Generation Board
	Develop the business case to execute those proposed projects recommended by the Income Generation Board	IGM/IGB/Officer group		Detailed business cases are presented to Cabinet for consideration.
	Execute funded projects	IGM/Project Managers		BAU phase is reached
	Communicate results both internally and externally	MMPM/IGM		Complete Y/N?
Consolidate and build on the gains	Use the processes defined within the Income Generation Strategy to populate a programme of projects	MMPM		Ongoing
	Quarterly corporate updates	MMPM		Complete Y/N?
Institutionalise the change	Report progress and completed projects both	MMPM		Complete Y/N?

	internally and externally			
	Ensure idea generators are included in project communications plans	IGM/Project Managers		Complete Y/N?
	Measure changes in stakeholder views	MMPM		An updated Strategy/Change Plan
	Ethical investments policy	IGM		Policy adopted
	Review the Income Generation Strategy	IGM		Members approve changes or re-endorse the existing Strategy.
	Action the revised change plan	IGM		Complete Y/N?

9.2 Communications plan

Action	Description	When?	Who?
1:1 meetings	Senior officers and lead members.		IGM
Brief CMG	Brief CMG on objectives and scope of work.		IGM
Brief CAP	Brief CAP on objectives and scope of work.		IGM
Members bulletin	Brief staff and members on objectives and scope of work. Also make brief post on intranet, pointing to more detail in MB.		IGM/Comms
Chamber of Commerce	Give presentation at Chamber of Commerce meeting.		IGM/Comms
Workshops	Set up workshops for officers and members, every other month.		IGM
Attend CAP regularly	Attend CAP to give regular updates and generate further initiatives.		IGM
Drop-ins	Set up drop-in sessions for officers and members, every other month.		IGM
Intranet bulletins	Short monthly 'blog posts' on intranet to keep staff updated and involved.		IGM/Comms
Team meetings	When appropriate, attend team meetings and briefings.		IGM
News release	When first initiatives are agreed at Cabinet, issue news release. Also cover Marcus' role and objectives.		Comms

Social media	To support news release if appropriate.		Comms
Media interviews	Consider arranging media interviews to talk to the press about income generation.		IGM/Comms

10. Consolidation

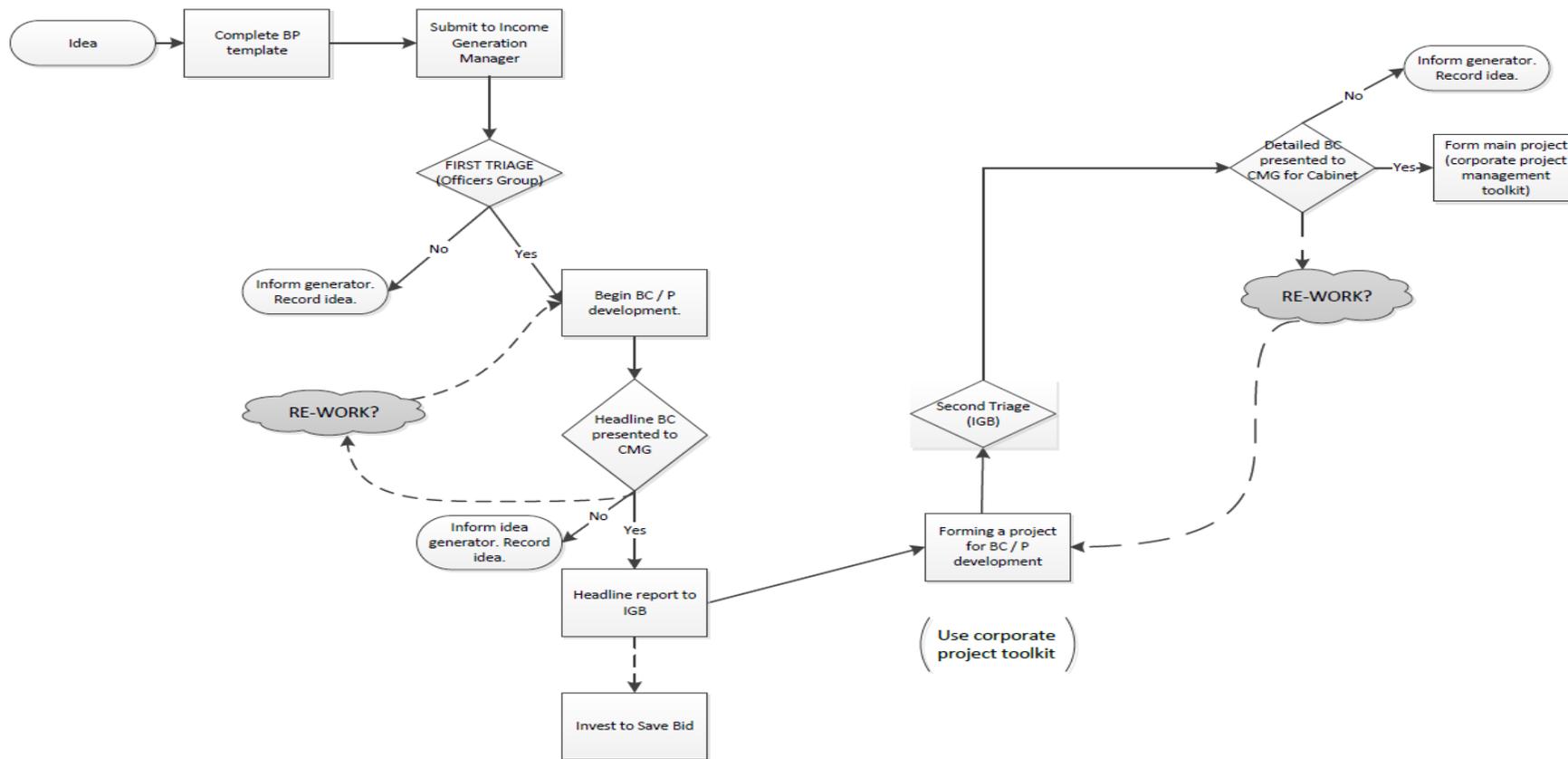
As the Change and Communication Plans are delivered any organisational or cultural barriers which arise will be entered into the risk register described in the main body of the Income Generation Strategy. Risks will then be managed in the designated way. This may involve amendments to the Strategy or the Change Plan at the appropriate review points.

11. Evaluation

Evaluation factor	Evaluation method	Success
Programme objectives	Percentage of the outcomes specified in para.16 the main Strategy	Targets achieved
Change process	Tasks in para. 9 completed	Tasks in para. 9 completed in time
Stakeholder attitudes	Survey Monkey	Increase in approval rating from benchmark

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BUSINESS PLANNING PROCESS



Triage will consist of:

- Political desirability
- Legal implications
- HBC capacity issues
- Financial implications
- IGS investment parameters

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HBC BUSINESS PLANNING CANVAS

Designed by:

Date:

Reference:

<p>CUSTOMERS</p>  <ul style="list-style-type: none"> Who are they? How many of them are there? What are their problems? <p><u>Quantify:</u> <i>Size of the market</i> <i>Value of the market</i> <i>The market niche</i> <i>Cross-selling opportunities</i></p>	<p>KEY ACTIVITY</p> <ul style="list-style-type: none"> What key activities are required? What are our distribution channels? What revenue streams could we have? <p><u>Categories:</u> <i>Production</i> <i>Problem solving</i> <i>Platform/network</i></p>	<p>WHAT PRODUCT ARE WE SELLING</p> <ul style="list-style-type: none"> Describe it What problem does it solve for the customer? What value are we providing? <p><u>Characteristics:</u> <i>Performance</i> <i>Customisation</i> <i>Accessibility</i> <i>Convenience</i> <i>Status</i> <i>Design</i> <i>Cost reduction</i> <i>Risk reduction</i> <i>Price</i></p> 	<p>KEY RESOURCES</p> <ul style="list-style-type: none"> What are our key resources? How do we distribute it? How do we interact with customers and maintain relations? <p><u>Types:</u> <i>Physical; intellectual; financial; human</i></p> 	<p>PARTNERS</p> <ul style="list-style-type: none"> Who do we need? What do they do? Who are key suppliers? What key activities do partners perform?  <p><u>Motivations to partner:</u> <i>Optimisation and economy</i> <i>Reduce risk</i> <i>Acquisition of resources and costs</i></p>
<p>COSTS</p> <ul style="list-style-type: none"> What are the most important costs in delivering our product? Which resources are most expensive? Which key activities are most expensive? <p><u>Characteristics:</u> <i>Is our business cost or value driven?</i> <i>Fixed costs</i> <i>Variable costs</i> <i>Economies of scale and scope</i></p> 		<p>REVENUE</p> <ul style="list-style-type: none"> What do customers really want to buy? What do they currently buy? How do they pay? How would they like to pay? What will they pay? <p><u>Types:</u> <i>Asset sale</i> <i>Usage fee</i> <i>Subscription</i></p> <p><u>Pricing:</u> <i>List price</i> <i>Product dependent</i> <i>Volume dependent</i></p> 		

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Agenda Item 8



Report to: Cabinet

Date of Meeting: 11 September 2017

Report Title: Land and Property: Commercial Property Investment Strategy

Report By: Peter Grace
Assistant Director Financial Services and Revenues
(Chief Finance Officer)

Purpose of Report

This report proposes that the Council makes significant additional investments in Commercial Property for the purposes of economic development and regeneration and for income generation or for a mixture of the two. It will assist in supporting the delivery of future Council services and strengthen its long term financial stability. This strategy excludes housing investment which is the subject of a separate strategy.

Recommendation(s)

1. The Commercial Property Investment Strategy is approved
2. That Council approve supplementary capital expenditure for property acquisitions of up to £29m for the period 2017/18 to 2019/20 based upon £29m of borrowing commencing in 2017/18 (for economic and social wellbeing purposes and to generate on-going revenue streams). This sum will be reviewed on a regular basis.
3. The Cabinet to continue to determine the individual property acquisitions, following consideration by the Income Generation Group (Special Cabinet meetings may need to be held at short notice to enable the Council to be sufficiently agile to take advantage of opportunities).
4. Delegated authority to remain with the Chief Finance Officer (S151 officer) to meet revenue acquisition costs from reserves that are not chargeable against a Capital budget – to include abortive costs.
5. The Council's Asset Management plan is updated to take account of this strategy and that economic development, regeneration and employment considerations continue to be the driving factor behind existing Council property and land development opportunities within Hastings.
6. To seek opportunities for commercial acquisitions:
 - a. Within Hastings and its travel to work area to be procured directly by the Council for both regeneration and income generation purposes.

- b. **Via Council owned property company for acquisitions outside this area undertaken for income generation purposes alone.**
7. **Acquisitions outside the area to be focused on those areas in the South and Midlands where the local economy is likely to offer the A trading company to be established to provide flexibility of approach - the Council is able to invest its own monies under existing investments powers in properties across the country, but anticipates the need to form a company if it wishes to purchase properties outside of the borough for the sole purpose of income generation.**
 8. **Appropriate due diligence be undertaken on each and every opportunity.**
 9. **Given that the Council's risk appetite will be constantly changing depending upon the risks and opportunities it faces, future funding predictions and economic environment, each commercial property investment must be considered on its merits and the financial position of the Council at the time within an overall borrowing umbrella.**
 10. **Further Property Fund investments to be considered as part of the 2018/19 Treasury Management Strategy – to be determined by full Council in February 2018.**
 11. **Accept that there are many property related opportunities that present themselves to the Council which are not specifically included within this strategy which may be considered commercial in nature e.g. investment in a new leisure centre. The Council will look to consider all options for investment and the Commercial Property strategy may help to inform the decision making process when alternative options for use of Council resources are being considered.**

Reasons for Recommendations

The Council already has a significant property and land portfolio from which, as well as helping to drive economic development in the Borough, it derives a significant income stream. This directly assists the funding of Council facilities and services

Given the current funding reductions the Council seeks to build upon its existing knowledge and experience to significantly enhance economic and regeneration opportunities within the borough and also enhance its income stream from property or property related investments.

Property investments have been returning higher rates of return than the Council can achieve with purely cash investments. Money from the Council's own reserves invested in property or Property Funds need to be surplus to medium term requirements or there is a risk that the Council would need to sell these at a time when there is the potential for a Capital loss.

The Council holds assets for a variety of purposes, and not purely for income generation. The Council's more commercial property assets such as factories and shops generally achieve a good return (particularly as most are not encumbered by debt). The council does review the assets that it already owns and has been successful in developing land and buildings in its ownership – and will look to continue to do so.

The Council needs to prioritise new Income generation from any review of existing assets.

Purchase of commercial property either in Hastings or beyond its boundaries provides the Council with opportunities to continue economic development and enhance employment prospects as well as develop and enhance income streams to assist in the future funding and delivery of core services.

Purchase of commercial property outside of the Hasting's travel to work areas may be viewed as purely an income generation initiative and a trading activity – if borrowing the money to do so. A separate company would be set up to accommodate this.

Introduction

1. The Council has resolved to introduce a strategy to invest further in commercial property for the purposes of economic development, redevelopment, and in support of its stated aim of income generation, or a mixture of both.
2. The proposed strategy attached lays out the basis for decision making around the acquisition of commercial property. It gives the basis for both members and officers to operate. It forms part of the Council's overall approach to income generation and regeneration.
3. This is not a wholly new activity for this Council and other local authorities, albeit the scale is significantly increasing and likewise the geographical spread of acquisitions is potentially much wider.
4. In February 2017 the budget report included updated forecasts for the future deficits the Council faces. For 2017/18 this amounts to £555,000, 2018/19 some £1.7m and 2019/20 some £2.1m. Given the financial position that the Council faces and the current low returns on investments the yields on good commercial property are attractive, albeit the risks in both the short term and longer term (beyond 10 years) have to be recognised at the outset.
5. The overall income receivable by the Council from its factories/ shops/offices and other land and buildings (excluding HBC operated services e.g. car parks, cliff railways, crematorium, parks, etc) is some £3.7m p.a.
6. The Council has experienced Estates and Surveying teams who are able to lead and support on the initiative, and the Council can build upon this experience and that of the legal and finance teams in respect of acquisition and development of commercial property.
7. Many authorities are making significant investments in Commercial property. More recent examples include New Forest DC (£30m), Basingstoke and Deane BC (£30m), Epsom and Ewell (£20m). These can be funded from the Council's own resources or by taking advantage of its ability to currently borrow at relatively low rates (prudential borrowing) from the Public Works Loan Board (PWLB) for the purposes of Capital expenditure. The strategy is based on the Council using its prudential borrowing ability to fund an enhanced Capital programme.
8. As already experienced Commercial property investment opportunities often arise at short notice and the Council needs to be able to move quickly when called upon to do so. An investment strategy will be helpful in order to be able to assess the individual opportunities.
9. Commercial Property is available through traditional selling routes, through auctions and through off market direct approaches by agents e.g. those working for institutional investors and those wishing to avoid formal marketing processes in order to save time and agents fees. Receivers and administrators of companies in trouble may also look to dispose of assets quickly.

10. The Council has recently purchased industrial land which adjoins existing Council land and will provide more opportunities for development in the future.
11. There are a number of ways of increasing income through property. The attached strategy looks at some of the key ones, but excludes housing given that this is subject to separate consideration. Namely:
 - (i) Current property related initiatives and income generation opportunities e.g. Aquila House, rental of town hall, rental of new business units, cafes, kiosks and new factories.
 - (ii) Sale and development of existing land, property and assets
 - (iii) Acquisition of land and commercial property inside and/or outside of Hastings and the travel to work area.
 - (iv) Property Investment Funds
12. The immediate emphasis is on the acquisition of commercial properties. The Council's existing Asset Management plan will need to be updated in the light of the agreement or otherwise of the various proposals coming forward under the umbrella of Income generation.

Risk Management

13. Commercial property can provide secure income streams for as long as the tenants businesses remain profitable and property markets no collapsing. The Council needs to consider these as long term acquisitions, but should not be afraid to dispose of assets where necessary. There will undoubtedly in the years ahead be falls in the property market, there will be void periods, and there will be bad debts, repairs, negotiations on dilapidations, and a myriad of other issues that all arise where property is concerned.
14. The Council will need to ensure that a fall in the property market, voids and non payment of rentals would not jeopardise its ability to repay the borrowing commitments it will take on. As such a careful review of the Council's overall financial position needs to be taken when considering each investment opportunity. An exit strategy needs to be considered, if ever necessary, should the long term viability of the property become questionable.
15. Undertaking the necessary due diligence work on each property should highlight the risks involved prior to purchase.
16. Having an experienced property management team should ensure that the ongoing management of the property does not become problematic.
17. More details of the risks involved are included in the strategy document. The fall back position for the Council is to maintain sufficient reserves to overcome short term problems and be able to attract new tenants or complete an exit strategy.

Environmental Issues

18. These will be considered when considering each acquisition.

Economic/Financial Implications

19. These are detailed in the strategy. In brief the Council would look to enhance the capital programme by £29m. This sum to be spent in the period 2017/18 to 2019/20. It may all be spent in 2017/18 if the right opportunities came forward. The Council would look for financial returns of between 5% and 7% (gross yields) and between 1% and 2% (net yields) after taking account of financing costs. Based on an average returns being achieved income is forecast to be between £290,000 and £580,000 per annum – based on in-house management.

20. This level of investment, along with the £21m (if approved) for other opportunities (housing and energy) over the next three years has the real potential to help close the budget deficits the Council faces.

Organisational Consequences

21. There may be capacity issues in Estates, surveying, legal and finance teams when commercial properties are being acquired due to the sheer volume of due diligence work required in a relatively short period of time. Additionally the Council may need to actively seek opportunity rather than waiting to be presented with it. Even if outsourced there will be capacity issues and a requirement to reprioritise work. The ongoing implications for the organisation are dependent upon the particular deal and the contractual arrangements in place e.g. full repairing and maintenance agreements, number of tenants in situ etc.

Wards Affected

All

Policy Implications

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

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

Additional Information

Officer to Contact

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(Chief Finance Officer)

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Land and Property: Commercial Property Investment Strategy

Introduction

1. The Council has resolved to introduce a strategy to invest in commercial property for the purposes of economic development, redevelopment, and in support of its stated aim of income generation, or a mixture of both.
2. This strategy lays out the basis for decision making around the acquisition of commercial property. It gives the basis for both members and officers to operate. It forms part of the Council's overall approach to income generation and regeneration.
3. This is not a wholly new activity for this Council and other local authorities, albeit the scale is significantly increasing and likewise the geographical spread of acquisitions is wider.
4. In February 2017 the budget report included updated forecasts for the future deficits the Council faces. For 2017/18 this amounts to £550,000, 2018/19 some £1.7m and 2019/20 some £2.1m. Given the financial position that the Council faces and the current low returns on investments the yields on good commercial property are attractive, albeit the risks in both the short term and longer term (beyond 10 years) have to be recognised at the outset.
5. The overall income received by the Council from its factories/ shops/offices and other land and buildings (excluding HBC operated services e.g. car parks, cliff railways, crematorium, parks, etc) is some £3.7m p.a.
6. The Council has numerous initiatives on the go at any one time which involve Council property or have property related issues e.g. White Rock area, West Marina, Ore valley, Summerfields, land purchases and disposals, and some of these will have the potential for the Council to generate income either directly (rentals) or indirectly (business rates/ new jobs/fewer benefit claims) or generate capital receipts.
7. The Council has experienced Estates and Surveying teams who are able to lead and support on the initiative, and the Council can build upon this experience and that of the legal and finance teams in respect of acquisition and development of commercial property.
8. Many authorities are making significant investments in Commercial property. More recent examples include New Forest DC (£30m), Basingstoke and Deane BC (£30m), Epsom and Ewell (£20m) . These can be funded from the Council's own resources or by taking advantage of its ability to currently borrow at relatively low rates (prudential borrowing) from the Public Works Loan Board (PWLb) for the purposes of Capital expenditure.

9. As already experienced Commercial property investment opportunities often arise at short notice and the Council needs to be able to move quickly when called upon to do so. An investment strategy will be helpful in order to be able to assess the individual opportunities.
10. Commercial Property is available through traditional selling routes, through auctions and through off market direct approaches by agents e.g. those working for institutional investors and those wishing to avoid formal marketing processes in order to save time and agents fees. Receivers and administrators of companies in trouble may also look to dispose of assets quickly.
11. The Council has recently purchased industrial land which adjoins existing Council land and will provide more opportunities for development in the future.

Commercial Property Vs Other Investment Opportunities

12. The Council has limits on the amount of borrowing that it is prudent to hold at any one time. This overall limit being determined by the financial position of the Council and its forecast of future income streams. Factors to take into consideration include, the level of risk of individual investments - based upon the type and period of the investment, along with a holistic view of the risks that the Council faces whether it be from reductions in grant, income generation, interest rates, inflation, economy, or claims being made against the Council and the level of reserves held . The Council sets the overall borrowing limits prior to the start of each financial year as part of its Treasury Management Strategy. The overall limits can only be changed in the year by full Council.
13. The Council will need to determine and regularly review the balance of its property portfolio and where it will invest its resources e.g. commercial property, housing or energy or to have a wider portfolio of investments across a number of sectors. This should be undertaken annually to inform the budget setting process and the Treasury Management Strategy.
14. Property related investments, whether it be in land, commercial property or housing investment or housing development, all have the ability to generate income streams as well as capital returns i.e. increases in value over the long term. Each area potentially having different levels of return in the short and longer term. The Council currently has a need for income but can reinvest any capital receipts obtained e.g. from future asset sales to generate interest receipts or income – would then be available to support the revenue budget.
15. The Council is able to use its investment powers to invest existing revenue reserves into a property fund (a diversified portfolio) without this counting as Capital expenditure – subject to selecting the correct fund.

Levels of Investment, Risk and Council Reserves

16. Investing further in property exposes the Council to varying risks. These would include Counterparty risk (defaults in rental payments, bankruptcy), economic downturn (lower market rents in the future), oversupply and competition. If borrowing the money there will be the normal risks of exposure to interest rate fluctuations (can borrow at fixed rates).

17. A large empty property or even a large number of smaller empty properties could leave the Council with significant rates bills, standing charges and maintenance costs. To ensure that these remain affordable the Council would need to retain sufficient reserves to deal with such situations.
18. The levels of borrowing approved by the Council at its meeting in February 2017 are reproduced in the table below as is an estimate of the new borrowing that would be available to support commercial property investment and Income generation.

Prudential Borrowing Limits	2016/17	2017/18	2018/19	2019/20
	£'000	£'000	£'000	£'000
External Borrowing Limit	35,000	65,000	75,000	85,000
other long term liabilities	5,000	5,000	5,000	5,000
Total Authorised External Debt Limit	40,000	70,000	80,000	90,000
Available – Property Investment and Income Generation (Est)		30,000	40,000	50,000

19. The level of new borrowing available for investment and income generation is partly dependent upon the level of asset sales (Capital receipts) received in the year in order to fund the existing Capital programme, the Council's plans for asset and land acquisitions, development costs and the levels of investments in respect of, for example, housing and energy initiatives. As such if receipts are not received the borrowing requirements increase and there will be less money available for investment and income generation.
20. For the purposes of this strategy, assuming sums of £5m p.a. are invested in housing in each of the next three years and £2m p.a. in energy it would leave at least £29m for investment at the current time in commercial property in the period 2017/18 to 2019/20. Such sums can be reviewed annually when determining the Council's budget or more frequently if necessary.

Returns on Investments

21. The experience of this and other local authorities indicates a yield of between 5% to 7% (gross) can currently be achieved on the types of commercial property that are likely to be of interest i.e. good quality retail, industrial, office space.
22. The Council is able to borrow monies from the PWLB for long periods at interest rates of below 3% (currently around 2.55% for 40 year money) where these are funding Capital expenditure and are for a lawful purpose.
23. There may well be occasions when a lower return/yield may be acceptable if the credit worthiness of occupiers is much higher than the average – and where long term rental agreements are in place or where there are other significant long term benefits to the Council.
24. The Council will need to consider its overall level of risk across all of its activities, along with that of the property portfolio, in order to properly inform the decision

making process should it wish to increase the overall borrowing limits in future years.

25. The Council is required to set aside a sum each year to repay debt – termed Minimum Revenue Provision (MRP). The borrowing of a sum over 40 years would result in a sum of 2.5% of the principal being repaid in each of the subsequent 40 years together with the interest payable. As a result the net annual return on a property investment may be between 1% and 2% p.a. plus any Capital appreciation and any increase that flows from upward only rent reviews.
26. Assuming minimum net returns of between 1% and 2% on £29m, the additional revenue to the Council in a full year would be between £290,000 and £580,000 p.a. If the life expectancy of the land or buildings is greater the annual return will also be higher. This does exclude the fact that the Council would year on year own more assets and the Council's net worth would be expected to increase significantly over time.
27. In brief there are a number of one-off and on-going costs that would be incurred when purchasing properties
 - (i) Agents or finders fee - (generally 1%)
 - (ii) Legal fees (0.75%) – so far avoided as using in-house expertise
 - (iii) Stamp Duty Land Tax (SDLT) – 0% first £150,000, 2% next £100,000, 5% on the sum above £250,000
 - (iii) Finance Costs (between 2.5% and 3%, plus debt repayment costs e.g. 2.5% over 40 years)
28. Against this there may also be a need to update the property and to account for any void periods in terms of loss of rent and business rates. General repairs and maintenance charges will be determined within individual leases and responsibilities and obligations on each party are understood as part of due diligence work prior to purchase.
29. Subject to the number and type of properties purchased and the respective responsibilities within the leases there may be additional staffing requirements. Likewise if properties are purchased outside of the Borough there may be managing agent's fees and a tender process for management and maintenance to consider.
30. The Council is required to take a prudent approach to the management of its financial affairs. Given the funding gap of nearly £1.7m for 2018/19 doing nothing does not remain an option for the Council.
31. When considering the investment opportunities the Council needs to consider arrange of issues, such as ,
 - (i) the level of reserves that must be retained,
 - (ii) the yield,
 - (iii) the life of the asset being acquired,
 - (iv) freehold vs leasehold,
 - (v) prospects for the economic sector,
 - (vi) creditworthiness of tenant

- (vii) Fully let ? and length of existing leases,
- (viii) repair obligations,
- (ix) management fees,
- (x) assumptions made for capital and rental growth.

Asset Management – Current and Continuing Activities

32. The Council continues to review its own property and land holdings. Many of the properties owned have derived from historical decisions and one off opportunities which has led to a diversified portfolio of assets which are held for a variety of purposes and reasons. It is managed in an efficient manner.
33. Many of the assets held could be considered as “Commercial Property Investments” with some 63 factories and 37 small business units (100 directly let units in total), a 10% share in Priory Meadow shopping centre, Muriel Matters House and four shops and the recent purchase of the retail park at Sedlescombe Road North.

In total there are some 342 agreements in place that cover land and property that the Council derives income from. These cover freeholds and ground rents on industrial units, a public house, a petrol station, to licences for ice cream vans. Some of the asset valuations (Capital Values) may be based on historic cost, and some of the assets that are held can't be disposed of at market value e.g. houses at Fairlight. The overall return (gross yield) on the assets held has been estimated at some 6.9% (see below):-

Capital Value	Gross Income	Gross Yield
£53,974,000	£3,735,000	6.9%

34. In terms of managing existing assets, the Council looks to rationalise land and properties and achieve higher returns from assets wherever possible. There has already been considerable success in reducing the level of accommodation occupied by the Council itself and also letting of existing buildings e.g. space in Muriel Matters House, Old Town Hall, seafront lettings. The Council will look to dispose of assets that either do not provide a good return or are surplus to current requirements, or where it can achieve a beneficial deal. For example some more recent disposals include:-
- (i) Small car park, Castle Hill Rd (left hand side) £22k – plus saving of rates/maintenance costs
 - (ii) Land near Brunel Rd £60k - enabling local company to expand/ improve local parking issues.
 - (iii) Summerfields business park - £650,000 – new housing

35. There have been a number of initiatives undertaken recently, or are in the pipeline, that the Council will seek to obtain an additional income stream from or reduce outgoings, whilst looking to enhance economic development in the broadest sense. For example:-
- a. Kiosk - West of Pier (Promenade) – opened May 2017
 - b. Bottle Alley - various units
 - c. Industrial Unit land (Brunel Rd) – purchased. This will enable site consolidation with existing land and provide an option to develop land for industrial purposes.
 - d. Purchase of Muriel Matters House (previously Aquila House) and 4 shop units
 - e. Town Hall – 5 different lessees in situ
 - f. Old Town Hall – change of use – business opened May 2017
36. Initiatives such as those above are set to continue, subject to available resources and suitable business plans, and agreed on a case by case basis. It is recommended that the Council update its Asset Management Plan to reflect this strategy and the wider implications arising from income generation.

Asset Management – Sale and Development of Existing land, Property and Assets

37. The Council has a number of sites which are included in the land disposal programme whereby the Council can consider disposing of these or developing these ourselves e.g. Harrow lane, Mayfield E, Bexhill Road, West Marina. There are advantages and disadvantages of developing the council's own sites.
38. Advantages include, potentially more profit, ensuring the site is developed within an acceptable timescale, ability to retain income streams from ground rents, future uplifts in rentals of commercial properties. Disadvantages may include delays in receiving receipts, additional borrowing levels, risk of losses, reputational issues, capacity of the organisation to undertake or oversee the level of development.
39. It is recommended that there should remain a presumption of asset retention until such time as assets are considered on an individual basis and whether or not a business case can be made for retention.
40. Commercial assets that are not considered to be performing adequately and which cannot be enhanced will be included in the disposal programme. For large value land and properties this is included within the budget on an annual basis. In future there may be a need to report more frequently.
41. Assets that are not considered to be providing the Council or community with good value or are no longer considered core investment assets will be disposed of and sale proceeds considered for other property investment opportunities – any such decision to be taken by Cabinet.

42. The Estates team has some 340 property agreements/licences that are generating income for the Council. The average rental income per asset may thus be considered small as may the average capital value. However there are clear merits in the Council having majority interests on the industrial estates whether it be directly renting out properties or through retaining ownership of ground leases.
43. Whilst it will at some stage be appropriate to undertake further analysis and reviews on existing assets and interests the Council needs to maintain focus in the short term on new acquisitions, save where assets are costing the Council money to hold, are particularly staff intensive, or where the community benefit is low.

Acquisition of land and commercial property inside and/or outside of Hastings and the travel to work area.

44. In 2016/17 the Council took its first steps into significantly increasing the value of its property portfolio. It purchased its main administrative offices (Muriel Matters House) and the Retail Park at Sedlescombe Road North.
45. It is recognised that there are unlikely to be sufficient quality commercial investment opportunities within Hastings and hence the Council needs to look more widely – within the travel to work area and potentially nationwide in order to secure good commercial property investments.
46. Purchase or development of commercial property either in Hastings or within travel to work boundaries provides the Council with opportunities to continue economic development and enhance employment prospects for the community whilst also generating income. From the public's perspective there is a visible and tangible benefit of building and developing within Hastings itself.
47. Purchase of commercial property outside of the Hastings travel to work areas may be viewed as purely an income generation initiative and a trading activity – if borrowing the money to do so. A trading company will be set up to allow a flexibility of approach.
48. Nationally there are significant debates and some challenges to councils for investing outside of their areas and also borrowing to do so. Advantages and disadvantages of commercial acquisitions and development within Hastings and the travel to work area include:
- (i) The practical issues and potentially greater costs of managing assets outside of Hastings and travel to work areas. Commercial properties can be managed in-house and issues can be swiftly resolved. Relationships developed and intelligence of respective business requirements gained.
 - (ii) In future there may be opportunities to give financial assistance more easily (if ever necessary) to businesses within the area e.g. through rate relief or incentives.
 - (iii) Purchasing properties at a distance is more difficult and time consuming, and there are different risks. For example, knowledge of the area and future developments/ competition is not known, appointing agents can be time consuming, the ability to understand the tenants and the local market conditions

would take time and to assist a company in difficulty (if necessary) would not be as easy when remote.

(iv) Purchasing properties outside of the area would enable a geographical spread of the portfolio – increasing diversification and resilience in the portfolio.

(v) Purchasing properties outside of the area may provide the opportunity of better returns – against which are the management and administration costs, control issues, lack of knowledge of the respective area.

(vi) The benefits of not having to form a company include simple and beneficial VAT treatment, tax on capital appreciation, reduced administration.

49. Given the limited levels of borrowing that can be prudently undertaken, the Council will need to determine whether it should potentially be prepared to accept a slightly lower level of return on its investments within Hastings than elsewhere in return for ensuring that the long term economic development benefits and employment prospects remain within Hastings.
50. In looking to determine where the Council can maximise investment returns with the lowest levels of risk, a policy of looking at the more populated and potentially more affluent areas i.e. towards bigger conurbations within the country would help to diversify the portfolio.
51. It is recommended that given that uncertainties surround Brexit and a future independence vote and that different laws govern Scotland and Northern Ireland there are sufficient opportunities for investments to be made solely within England and Wales for the moment.

It is proposed that the Council acquire properties directly if they are within Hastings and its travel to work area and through a company if opportunity to earn income is found elsewhere. It is likely in looking outside the travel to work area that the major conurbations of the South and Midlands are appropriate places to look for opportunity.

Investment Strategy - Structured Assessment

52. Some local authorities have adopted a structured scoring mechanism to assess acquisition opportunities. The ideal investments would be ones where the Council obtains the freehold, where the tenants are strong e.g. large businesses with high credit ratings, where the service charges are fully rechargeable, where the property running costs are low, yields are high, and where the building is fully let and the unexpired periods of the leases are long (minimum of 10 years), the size of the investment is not excessive when considered against the Council's overall portfolio and the mix of investments.
53. The better investments in the stronger growing parts of the country are likely to result in lower yields (higher cost of purchase) i.e. will be nearer 4.5% to 5%.
54. Commercial investments in offices, retail, or industrial property are available. The prospects for each sector are regularly reported upon by the property and

investment press. Currently in favour are investments in industrial land and property and the larger retail parks. However local conditions and economic growth prospects play an important role in determining the success or otherwise of any investment and as such each opportunity needs to be considered on its merits.

55. Legal Constraints: The Council will need to consider creating a wholly owned property investment company through which to purchase commercial property. If the Council wishes to acquire such property by borrowing solely for the purposes of income generation it can only do so through a company structure. If the Council wishes to invest existing resources in commercial property (inside or outside the district or in a Property Fund) or if the Council continues to act for the purposes of economic development and regeneration within the district using borrowing, then no separate company would be required. If the Council has a mixed purpose of economic development and income generation then provided the economic development was one of the main purposes of the property acquisition this can be undertaken without a company.
56. The Council's preference is for high quality buildings, in good locations with financially strong tenants. A scoring matrix allows the relative merits of an investment to be measured and assessed. The matrix is still a relatively crude tool and will be used to help inform a decision rather than determine it.
57. It is recommended that the Council set up a trading company to enable a flexible approach to be adopted.

Investment in Property Funds

58. One of the easiest and most convenient ways to enter into property investments is through a property fund. The Council having invested £2m of its own reserves in April 2017 in the fund operated by CCLA Investment Management Ltd (CCLA = Charities, Churches, Local Authorities).
59. The Council is not able to borrow monies to invest in property funds.
60. The returns on such funds in the last few years have exceeded 4.5% (9% once capital appreciation is included). The benefits of these investments, if chosen carefully, are that the revenue monies invested are not counted as capital and hence when returned are not considered Capital Receipts.
61. One advantage of such funds is that expertise is sourced centrally and asset diversification managed by a team. Thus if one asset is performing poorly the risk is spread over all investments. Such funds can invest across the whole of the country and in a wide variety of assets e.g. industrial units, offices, shops, both large and small.
62. Risks of investing in a property fund are very similar to the risks of direct purchases e.g. void periods, liquidity risks, counterparty risks, interest rate risk. However given the ability to enter an already diversified fund (between asset type, location, size, business segment) provides a strong incentive to invest in such a fund rather than look to start from scratch oneself.

63. The Fund benefits from a favourable accounting and regulatory framework, where dividends are treated as revenue income, but the General Fund is protected from fluctuations in the unit price. The acquisition of share capital in a body corporate, including units in unregulated collective investment schemes, normally counts as capital expenditure under section 25(1)(d) of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended). However, as a scheme approved by HM Treasury under section 11(1) of the Trustee Investments Act 1961, and in accordance with section 25(3)(d) of the regulations, the purchase of units in the Fund does not count as capital expenditure in England.
64. The returns achievable are currently in the region of 4.5% if investing in the CCLA property fund. This compares to investment returns of around 0.5%% on the Council's cash investments. The returns on investments in the Property Fund are higher than those of direct investment in property financed by borrowing as there is no interest payable and no sums to be set aside each year for capital repayments.
65. It should be noted that when investing in such funds, as is the case when investing in more expensive property, there is an immediate fall in the value of the book value of the investment - this is the equivalent of Stamp Duty Land Tax. Such investments should really only be contemplated if investment horizons of 5 years or more are acceptable.
66. It is recommended that the Council reviews the level of investments held in Property Funds when considering the Treasury Management Strategy for 2018/19 in February 2018. Such a decision to be based on performance, risks, and the Council's overall financial position.

Staffing Resources

67. There are opportunities to redirect the Council's existing workforce e.g. estates, surveyors, legal and finance at least temporarily onto projects that involve the acquisition and development of assets. This does involve re-timetabling existing works and the renewals and repairs programme for example.
68. The retention of the procurement work, surveying, and legal work inhouse, as far as practical and where such knowledge exists should be a priority if overall returns are to be maximised. The same staff and resources would be available for housing initiatives whether it be identifying houses to buy in conjunction with housing, surveying them, and legal work in acquiring them, and subsequently renting the properties. The skills and knowledge acquired from the commercial property work are readily transferrable skills to the housing market.
69. Should the Council purchase a significant number of new properties, rather than a few larger properties and not divest itself of some of the time consuming work, additional staff resources may be required.

Corporate Governance Arrangements

70. To make investments within a Property Fund full Council agreed amendments to the Treasury Management Strategy and Investment Policy when determining the investment strategy for 2017/18. A review of the future levels of investment and

borrowing will commence with the consideration by the Audit Committee in January 2018.

71. The Council needs to be able to take advantage of opportunities as and when they arise and has shown that it is capable of doing so with the two recent purchases of Muriel Matters House and Sedlescombe Road Retail Park.
72. For clarity, any new capital scheme requires the approval of Cabinet and any such decisions are limited by the Council's overall borrowing limits and Prudential indicators as determined by full Council each year. Such limits can be amended but only by full Council.
73. Any new opportunity is normally channelled through the Council's Estate Manager (the Council's designated Property Manager) and may come from a variety of sources, e.g. agent, Councillor, press article, auction catalogue, direct approach, local knowledge/ discussions on land and development opportunities. The Income generation/development manager is available to work up new opportunities.
74. Where a significant opportunity presents itself an initial report is prepared for the Income Generation Board which outlines the key issues, and estimates of the yield (gross and net) . The report details would aim to cover,
 - (i) location
 - (ii) tenant issues – strength, creditworthiness
 - (iii) tenure – freehold or leasehold
 - (iv) Occupiers lease length
 - (v) repairing terms – if known (generally full repairing and insuring leases sought)
 - (vi) sale price and yield (including estimates of property life)
75. Should the Income Generation Board agree that the opportunity is worthy of further consideration then due diligence work is commissioned – some of the work is at risk to the Council e.g. surveys, whilst other work is at risk to the agent. There is currently no separate budget for this work other than that of the existing Estates and contingency budget – the need for a separate budget will be kept under review.
76. All acquisitions will be subject to a building survey, purchase report and valuation. In view of the potential values and work involved the Council is likely to be externally represented by an agent who will work closely with the Council's Estate Manager.
77. In acquiring commercial property Council's may be bidding against each other and such bids may be being made over the phone and through agents and thereafter confirmed in writing.
78. The processes involved are included in Appendix 2

Policy Implications

79. Financial Implications

The strategy recommends £29m of new assets be acquired in 2017/18 and

2018/19. This is in addition to Sedlescombe Road Retail Park and the purchase of Muriel Matters House.

80. For the purposes of this financial projection the acquisition of commercial land and all other commercial lettings, rent reviews, etc are excluded. There will be other initiatives presented to Council over the next 3 years which will involve development of Council land.

Table : Projection of net Revenue Receivable – Acquisitions mid-year

	2017/18	2018/19	2019/20
	£	£	£
Acquisitions	9,000,000	20,000,000	
Financing Costs (incl MRP)	181,500	766,500.00	1,170,000
Rent Receivable	270,000	1,140,000	1,740,000
Net Revenue	88,500	373,500	570,000
Gross Yield			6.00%
Net Yield			1.97%

81. The above estimates are based on borrowing rates of 2.6% (Annuity). The returns assume the Council does its own legal work and all service charges are fully recoverable and based on full repairing leases with an average gross yield of some 6% overall.
82. The effects of new borrowing and the new income streams will affect the Minimum Revenue Provision (amount to be set aside annually for debt repayment), will affect the property income levels and will affect the borrowing cost lines within the budget. These figures will be included in future budgets, revised budgets and Medium Term financial strategies. The timing of the investments and hence the impact on the accounts will however remain a significant variable.
83. The Council is able to borrow monies from the PWLB for Capital purposes only, and on-lending is not permitted.
84. There may be some due diligence costs incurred when looking at opportunities that are not chargeable against a Capital budget e.g. if purchase is aborted following surveys commissioned. The Chief Finance Officer currently has delegated authority to make payments from a Council reserve. The alternative is to set up a specific budget which may or may not be called upon in future. As such it is proposed that existing arrangements continue and that any unforeseen costs or those not chargeable following an abortive purchase are met from contingency or other designated reserve.

85. The above figures are not necessarily the total additional income that can be derived from new commercial property investments over the period. The Council has purchased industrial land and is progressing development opportunities which will drive additional revenue and business rate growth. Such schemes will be added to income projections when there is a degree of certainty that they can be achieved.

Risk Management

86. The income generation proposals that the Council is looking at will require substantial investments to be made by the Council and will necessitate new borrowing. The levels of new borrowing that the Council can afford to take on board for new commercial property purchases and development, housing and energy schemes, etc, will be dependent upon the individual proposals and credit worthiness of the counterparties involved. Due to the timescales within which some property purchasing and disposal decisions have to be made the Council's existing governance arrangements and delegated authorities may again need to be reviewed.

87. The additional risks that the Council will consider taking will need to be individually considered in the context of the totality of risk that the Council faces e.g. Pier claim, rates revaluation, robustness of income streams, economic downturns, etc. Where there is more risk and volatility in income streams the Council will need to ensure that it maintains sufficient reserves to ensure the Council's ability to deliver key services is not jeopardised.

88. There are many risks faced when purchasing any property, and certainly so given the sums of money involved. There is however a considerable risk to the Council of not investing, and whilst interest rates remain low there is a window of opportunity to lock into ongoing income streams in order to help balance the Council's budget.

89. There are significant potential losses if things do go wrong, but at the level of investments currently proposed, the size of the Council's balance sheet and the level of existing reserves the Council is still able to take on such risks. The expectation is that the Council will hold such assets for a minimum of 40 to 50 years and that the Minimum Revenue Provisions will match the period of the useful life.

90. The common risk areas are voids, creditworthiness, tenant disputes particularly on repair and maintenance obligations, economic downturn, borrowing costs, failure of businesses, location, environmental issues.

91. The Council already has experience of all such risks and will seek to mitigate these by undertaking due diligence before taking on the properties, not taking on too many at any one time, seeking to ensure sufficiently experienced and qualified staff are in place, and identifying an exit strategy should things go wrong e.g. alternative uses for property/site, disposal options.

92. In order to ensure that the Council is able to dispose of properties in the future should the need arise it will always seek to ensure that the Council has clear title to

the property and will always look to purchase the majority of its properties on a freehold basis.

93. The Council will look to employ agents to seek out commercial property acquisitions. There may be a lack of suitable properties. Given the competitive nature of the property market the Council may not be the successful bidder on some occasions.

94. **Organisational Consequences**

The purchase of this level of new property along with the current property activities will place significant additional work on the Estates, legal and finance teams. Work will need to be prioritised and additional external assistance procured where necessary and where available.

95. **Environmental Considerations**

Any environmental impacts will be considered on a case by case basis when considering proposed property investments.

96. **Legal Implications**

The Council has the power to acquire any land for the purpose of carrying out its functions or for the benefit, improvement or development of the area (Section 120 Local Government Act 1972)

97. Section 12 of the local government Act 2003 provides powers for the Council to use its own monies for investment purposes. Firstly for any purpose relevant to its functions and Secondly for the prudent management of its financial affairs. This includes investment in property if it relates, for example, to the economic wellbeing of the Borough.
98. Section 1 of the Local Government Act 2003 provides a power for the Council to borrow for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs.
99. Under Section 1 of the Localism Act 2011 the Council has the general power of competence to do anything that individuals generally may do, save for where there are other specific powers that would override this. This power does support activity which enhances the social, economic or environmental wellbeing of the Borough.

Conclusions

100. It is evident that the Council's funding gap will not be closed quickly without significant income generation or a greater level of cuts to services. There are not expected to be a sufficient number of quality commercial opportunities to satisfy the Council's income generation requirements unless properties are also acquired outside of the Council's area.

101. Investments by the Council for the long term in other areas of the Country would not normally appear to be justifiable when the Council itself is seeking inward investment. It is however more justifiable where investments or development opportunities can be taken in the shorter term for income generation purposes and where diversification of the portfolio or liquidity is also prime concern.
102. The Strategy results in a number of recommendations that would need to be agreed by Council:
- (i) The Commercial Property Investment Strategy is approved
 - (ii) That Council approve supplementary capital expenditure for property acquisitions of up to £29m for the period 2017/18 to 2019/20 based upon £29m of borrowing commencing in 2017/18 (for economic and social wellbeing purposes and to generate on-going revenue streams). This sum will be reviewed on a regular basis.
 - (iii) The Cabinet to continue to determine the individual property acquisitions, following consideration by the Income Generation Group (Special Cabinet meetings may need to be held at short notice to enable the Council to be sufficiently agile to take advantage of opportunities).
 - (iv) Delegated authority to remain with the Chief Finance Officer (S151 officer) to meet revenue acquisition costs from reserves that are not chargeable against a Capital budget – to include abortive costs.
 - (v) The Council's Asset Management plan is updated to take account of this strategy and that economic development, regeneration and employment considerations continue to be the driving factor behind existing Council property and land development opportunities within Hastings.
 - (vi) Seek opportunities for additional commercial property acquisitions firstly within HHHhHastings and thereafter the travel to work area and thereafter in the larger conurbations of the South East and the Midlands as part of the Council's objective for the continued economic development and regeneration of Hastings, or for income generation for the provision of Council services or a mixture of both.
 - (vii) A trading company to be established to provide flexibility of approach - the Council is able to invest its own monies under existing investments powers in properties across the country, but anticipates the need to form a company if it wishes to purchase properties outside of the borough for the sole purpose of income generation.
 - (viii) Appropriate due diligence be undertaken on each and every opportunity.
 - (ix) An exit strategy be considered for each proposal.
 - (x) Given that the Council's risk appetite will be constantly changing depending upon the risks and opportunities it faces, future funding predictions and economic environment, each commercial property investment must be

considered on its merits and the financial position of the Council at the time within an overall borrowing umbrella.

- (xi) Further Property Fund investments are considered as part of the 2018/19 Treasury Management Strategy – to be determined by full Council in February 2018.
- (xii) Accept that there are many property related opportunities that present themselves to the Council which are not specifically included within this strategy which may be considered commercial in nature e.g. investment in a new leisure centre. The Council will look to consider all options for investment and the Commercial Property strategy may help to inform the decision making process when alternative options for use of Council resources are being considered.
- (xiii) Decisions continue to be taken using the governance arrangements now in place.

Appendix 1

Commercial Property Investment Strategy – HBC Matrix

Matrices such as the one below are in use by other Councils. This is slightly adapted from those in use elsewhere with a change of emphasis on tenancy strength between multiple and single tenants. It is meant to act as a guide for decision making and not replace judgement.

	Score	4	3	2	1	0
Scoring Criteria	Weighting Factor	Excellent/very Good	Good	Acceptable	Marginal	Unacceptable
Location	12	Major/Prime	Micro Prime	Major Secondary	Micro Secondary	Tertiary
Tenancy Strength	10	Single Tenant with strong financial covenant	Multiple Tenants with strong financial covenant	Single Tenant with good financial covenant	Multiple Tenants with majority of good financial covenant	Tenants with poor financial covenant strength
Tenure	9	Freehold	Lease 199 years plus	Lease 125years plus	Lease 50 to 125years	Less than 50 years
Lease Length	5	Greater than 10 years	Between 7 and 10 years	Between 4 and 7 years	Between 2 and 4 years	Less than 2 years/ Vacant
Repairing Terms	4	Full repairing and insuring lease	Internal repairing – fully recoverable	Internal repairing – partially recoverable	Internal repairing- non recoverable	Landlord
Lot Size	2	Between £6m and £12m	Between £4m and £6m or £12m to £18m	Between £2m and £4m or £18m and £20m	Between £1m and £2m or £20m and £29m	Less than £1m or more than £29m

The Maximum score attainable is 168

Marginal for all areas would give a score of 42

Acceptable for all areas would give a score of 84.

The Sedlescombe road retail park would for example have scored 146

A score of 80 or more is considered worthy of further investigation. An opportunity where any criteria scores zero is unlikely to be considered further unless there are other merits to the proposal e.g. development opportunities.

Prime property, much as the name suggests, is good-quality property, usually situated in big towns and cities and attracting a string of top-drawer tenants. Secondary and tertiary property is situated in less prime locations, with high-quality tenants harder to

find. There's a higher yield available from these sub-prime properties, as the risk of void (empty) periods and defaults is higher.

Appendix 2

The Processes Involved in Commercial Property Procurement

1. As identified in the Strategy, there are many ways in which properties come to the market, and depending upon the information available and the type of property or land there will be different assessments to be made and information to be gleaned. The steps and timing of the processes vary significantly but are generally determined by the seller. The general processes are outlined below.

- ii. Review of sellers information – sale particulars, freehold, covenants, price, rental streams etc.
- iii. Review of site – visit
- iv. Financial evaluation – risk- exit strategy
- v. Draft report to Corporate Management Group & Income Generation Board to ascertain interest and approval to proceed
- vi. Agents appointed – if interested, fees agreed, valuations
- vii. Confidentiality agreement – if appropriate
- viii. Negotiate and agree price – or ascertain deadline for bids, bidding process
- ix. Due diligence – Property, include commissioning of Surveys – building, land environmental, service and maintenance responsibilities
- x. Due diligence -Review of Leases, covenants, title – this may necessitate appointing external legal advisers depending upon workload
- xi. Due diligence – Finance – tenants,
- xii. Heads of Terms negotiated /agreed i.e. sale price
- xiii. Draft report for Cabinet – ascertain Cabinet support or areas for further investigation.
- xiv. Contract negotiations
- xv. Exchange of contracts – payment.
- xvi. Set up new management and maintenance agreements/contracts, collect rent, calculate service charges, etc.

2. There is significant due diligence work involved where large commercial acquisitions are involved and this work is compressed into very short timescales. Other work has to be reprioritised. Even with contracting out, there is considerable involvement from senior management in agreeing terms, leases, contracts and fees.

3. There are significant ongoing responsibilities as a property owner, and these include rent collection, service charge calculation and collection, building maintenance, and a host of operational issues. The Council is well used to undertaking rent reviews but does call in specialists where there is limited experience and national issues e.g. supermarkets.

Agenda Item 9



Report to: Cabinet

Date of Meeting: 11 September 2017

Report Title: Hastings Borough Council Housing Company

Report By: Andrew Palmer, Assistant Director Housing and Built Environment

Purpose of Report

To recommend that the council establishes a wholly owned Housing Company limited by shares. To consider and agree the company's initial Business Plan including the basis on which the council will loan and invest in the company.

To agree the Articles and Memorandum of Association and the Shareholders agreement.

The appropriate delegations and operational policies will be implemented in support of the new company, in accordance with the business plan.

Recommendation(s)

1. That the council establishes a wholly-owned Housing Company limited by shares
2. That the council delegates authority to Chief Financial Officer in consultation with the lead member, the Chief Legal Officer and Director of Operational Services to establish further companies should separate vehicles (companies) be advantageous for related purposes.
3. That the council delegates authority to the Chief Financial Officer to provide a working capital loan to the company of £120,000.
4. That the council approves the Articles of Association attached at Appendix B
5. That the Shareholder and Loan Agreement attached at Appendix C is approved
6. That the council agrees the Business Plan attached at Appendix A
7. That the Housing Company's delegations to officers set out in the report and appendices are agreed.
8. That officers put in place the necessary operational policies covering such matters as rent setting, letting policy, rent arrears and debt recovery in advance of the company acquiring its first property.
9. That delegated authority is given to the Directors of the Company, in agreement with the Council's Chief Legal Officer to make minor amendments to the constitutional documents of the company, as required.

Reasons for Recommendations

Cabinet agreed in principle to the establishment of a Local Housing Company in December 2016. This report sets out details of the proposed governance arrangements, the initial Business Plan and outlines the funding being made available from the council to the company. Cabinet are asked to recommend these to council.

Introduction

1. At Cabinet on 5 December 2016, Members considered and agreed a proposal to create a Housing Company wholly-owned by the council. The company would be designed to initially acquire and provide housing for rent in the Borough with the potential to undertake development in the future. Members resolved that a detailed Company Business Plan and governance arrangements be developed for a wholly-owned Local Authority Housing Company, subject to final approval by Full Council. Funding for the company would follow the production of a viable Business Plan.
2. Members are referred to the original report which outlines the rationale for establishing the Company and the key legal and financial requirements.
3. The Housing Company to be known as 'The Hastings Housing Company Ltd.' (HHC) will be a company limited by share. The council will be the sole shareholder.

Business Plan

4. This sets out the aspirations for the company and contains specific proposals for initial lending by the council.
5. The Company will undertake trading in three areas:
 - Investment of up to £5m per annum for three years for the purchase and provision of housing on the open market for private sector rent.
 - The acquisition of residential property for rent from developers in lieu of capital receipts it would receive as part of wider regeneration proposals.
 - Development or the receipt of housing on land owned or purchased by the council, for sale or rent.
6. The Housing Company's Business Plan objectives for the first three years are to invest up to £5m per annum for three years into the residential property market, acquiring properties for private let. In addition to the above, the company may also receive properties from HBC or others in exchange for equity. Full details of the initial purchases can be found in the attached Business Plan. The company will primarily focus on acquiring post 1980's, 2 and 3 bedroom freehold houses. These are considered the easiest to let; in significant demand; and would be the least problematic to maintain. When all these factors are combined they will provide the company with the safest long term return on its investments.

7. Attention is drawn to the section of the business plan that deals with Houses in Multiple Occupation (HMO). HMOs provide an excellent investment opportunity but they are in short supply. Current planning policy makes the creation of new HMOs difficult and the business plan has not included them, although the company will further consider opportunities to acquire them, should they become available.

The company has no stated intention to dispose of its investments, but will have the option of disposing of assets in the future and realising a capital receipt, which can be returned to the council if considered desirable or necessary.

As sole shareholder, the council will exercise control of the company.

8. The shareholders and loan agreement sets out the role of the council as a sole shareholder and provides parameters for what the company can and cannot do without the council's consent. It details how the company will conduct its business and how it will report back to the council. A number of references are made to the Business Plan.
9. Subject to these Articles, the Directors are responsible for the management of the Company's business and may exercise all the powers of the Company. The Council, as sole shareholder, may by special resolution direct the directors to take or refrain from taking specified actions.
10. It is proposed that initially there will be four directors, who will take decisions collectively. The quorum for the transaction of the business will be three directors. The four directors will be the chair of the Charity Committee, the Assistant Director of Housing & Built Environment, Income Generation Manager and the Chief Accountant. The directors will appoint a chair for company meetings. The council will retain the power to appoint and remove Directors. For the avoidance of doubt, directors of the company will not receive a salary under the approved business plan.

Council Investment in the Company

11. It is important that a distinction is drawn between the operating profit/loss of HHC and the returns available on the council's investment. In essence HHC will be making a limited operational profit as, in common with all property investment companies the bulk of its assets are counted in the balance sheets for the company. This is standard practice for companies of this type. Many of HHC's costs appear as receipts for HBC, e.g. the recharges for staff time. The company will, where it is getting market value, buy in professional services from HBC.
12. Although the company makes a limited operating profit it is over time reducing the debt held against its assets. This situation is reflected with the council's investment as, over time its debt to the PWLB is reduced. The council will need to extend working capital to HHC Ltd in the form of a loan or equity.
13. HBC's return on investment is materially affected by the amount of reserves committed to financing the company. The starting position is that HBC will borrow the entire amount from the Public Works Loan Board (PWLB) and capitalise the company through a mix of debt and equity. The terms of the council's loan to the company are largely dictated by the requirement to comply with the rules regarding

State Aid. Following the European Commission guidelines the debt/equity split should be 60/40% and the indicative rate of interest that the council can charge is 4.78% (although this will need recalculating at the time the loan is made). For planning purposes it is assumed that the rate of interest on the council's loan from the PWLB will be 3%.

14. The council will need to ensure that it complies with its Treasury Management Policy and make a Minimum Revenue Provision (MRP) for the loan/s that it takes from the PWLB.

15. A headline summary of the council's investment position is seen in the following table:

Amount of reserves (per £5m investment)	Council's return on investment @ year 4 (first steady state year)	Council's return on investment @ year 15
£0	£228,635	£301,068

Notes

1. Steady state year is when the full proposed investment is deployed and steady rents are being received.
2. ROI includes decreasing debt/ownership of equity.
3. Cash flow is the HBC position after MRP is deducted from net receipts
4. The return increases year-on-year as the loan amortises and the principal decreases exponentially.

Memorandum and Articles of Association

16. The attached Memorandum and Articles of Association sets out how the company will operate and details how decisions will be reached.

Operational Policies

17. In advance of the first purchase a range of operational polices will be finalised covering:

- Rent and lettings policy
- Sales policy
- Debt recovery policies
- Conflict of interest policy

The assumption is that where properties are retained by the company they will be let on Assured Shorthold. It will be important that the Company adopt a fully commercial approach to both letting and debt recovery.

Given that directors of the company will also be employees of the council a clear and unambiguous conflict of interest policy will be drawn up which makes clear the respective roles and responsibilities. Such a policy will also need to cover instances where other officers are providing services to the company.

Policy Implications

Equalities & Community Cohesion

18. Increasing the supply of good quality housing for rent or sale will extend housing options for a range of income levels and enable more people to establish roots in their desired neighbourhoods. This should therefore make a positive contribution toward community cohesion.

Crime & Fear of Crime

19. Empty buildings and derelict building land can be targets for a range of anti-social behaviour and provide opportunities for criminal behaviour. Bringing property back into use and possibly redeveloping land can therefore make a positive contribution to community safety.

Risk Management

20. The purpose in commissioning external legal and financial advice in respect of the options available to the council has been to assist in the early identification of the key risks. A risk assessment is attached at Appendix D covering the company business plan and governance arrangements.
21. The main risk is that relating to the repayment of loans to the company from the council. As a 100% council owned company, the council will be responsible for any shortfall and repayment of the loan where the income of the company is less than its outgoings. The council will 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 will be subject to a strict financial viability assessments. In the event market conditions change radically the company model allows for the company to dispose of some, or all, of its housing assets to another provider or organisation at in the future, should it wish to exit from the initiative.
22. The Income Generation Board will expect to receive quarterly financial reports which will be referred to Cabinet, as appropriate.

All risks associated with the formation and operation of HHC will, in accordance with the draft Income Generation Strategy, be entered into the project or corporate risk registers, where appropriate

Environmental

23. Nothing specific at this stage.

Economic & Financial Implications

24. The financial implications are set out in the body of the report and the attached business plan.
25. In addition to any operating profits the council will 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.

Organisation Consequence

26. The company will start with no permanent full-time staff. Hastings Borough Council will provide services to the company as and when required, for which it will receive remuneration. Existing council staff will be recharged to provide services to the new company, making use of skills already available. There will be the need to buy in additional expertise and advice from time to time and this has been factored into the business plan.

Anti-Poverty

27. Increasing the supply of housing will 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 can 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, are able to escape poverty.

Wards Affected

All Wards.

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	No
Organisational Consequences	Yes
Local People's Views	
Anti-Poverty	Yes

Additional Information

Appendix A – Business Plan

Appendix B – Memorandum and Articles of Association

Appendix C – Shareholders' Agreement

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Agenda Item 11

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