



Waverley Borough Council
Council Offices, The Burys,
Godalming, Surrey
GU7 1HR
www.waverley.gov.uk

To: All Members of the Council

When calling please ask for:

Emma McQuillan, Democratic Services Manager

Policy and Governance

E-mail: emma.mcquillan@waverley.gov.uk

Direct line: 01483 523351

Calls may be recorded for training or monitoring

Date: 13 July 2017

Dear Councillors

COUNCIL - 18 JULY 2017

I refer to the agenda for the meeting of the Council, on Tuesday, 18 July 2017 and now enclose the following item which was marked To Follow in your agenda papers:

8.b Minutes of the Executive meeting held on 11 July 2017 (Pages 3-74)

Yours sincerely

Emma McQuillan
Democratic Services Manager



INVESTOR IN PEOPLE

This page is intentionally left blank

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE EXECUTIVE - 11 JULY 2017

SUBMITTED TO THE COUNCIL MEETING – 18 JULY 2017

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Julia Potts (Chairman)	Cllr Jim Edwards
Cllr Tom Martin (Vice Chairman)	Cllr Jenny Else
Cllr Brian Adams	Cllr Ged Hall
Cllr Andrew Bolton	Cllr Carole King
Cllr Kevin Deanus	Cllr Chris Storey

Also Present

Councillor David Hunter, Councillor Jerry Hyman, Councillor Wyatt Ramsdale, Councillor Richard Seaborne, Councillor Ross Welland, Councillor Nick Williams and Councillor John Williamson

23. MINUTES (Agenda item 1)

The Minutes of the Meeting held on 6 June 2017 were confirmed and signed as a correct record.

24. DECLARATIONS OF INTERESTS (Agenda item 3)

Cllr Kevin Deanus declared a non-pecuniary interest in Agenda Item 9 regarding the Springbok Estate in Alfold and withdrew from the Council Chamber during consideration of the item.

25. QUESTIONS FROM MEMBERS OF THE PUBLIC (Agenda item 4)

The Executive received the following questions in accordance with Procedure Rule 10:

- i. from Mr Beaman of Farnham

"Revenue from Waverley's car parking charges is significantly greater than allocated costs which provides substantial surplus revenue to enable other essential public services to continue to be provided despite reductions in central government grants. WBC is currently proposing to introduce car park charges for certain, but not all, holders of Blue Badges and since the car parks themselves already yield a substantial surplus for what purpose(s) would any additional car park revenue from holders of Blue Badges be used for?"

Answer

"Thank you for your question Mr Beaman. In February the Council set its budget for 2017/18 against a backdrop of unprecedented financial pressure arising from cuts in government grant. The Council had some difficult

decisions to take to protect vital services to Waverley's residents. One of those decisions was to introduce means tested parking permits for blue badge holders in Waverley's car parks which means that those blue badge holders who can afford to, will now need to pay to park. This generates additional income for the Council which, along with the other car park income, helps pay for important environmental services in the Borough such as street cleaning, community transport, open spaces and management of the countryside and woodlands. This is a perfectly legitimate use of car park revenues and I'm sure you would agree that its services like these that residents really value and help make Waverley such a lovely place to live."

ii. from Steve Cosser, Chairman of the Farncombe Initiative

"Given

1. The disproportionate and adverse impacts the lack of public toilet facilities have on vulnerable groups such as the elderly, disabled and incontinent and the failure of the Council to act lawfully by considering the detailed impacts on these groups, as required by the Equalities legislation, at the time it took the decisions to close the toilets in Godalming and Farncombe;

2. The health and quality of lives impacts that toilet closures have on residents and visitors;

3. The failure of the Council to take account of the need for there to be publically available toilets so as to enable it to honour its commitment to the National Lottery from whom funding was received for the Philips memorial park which was conditional on increasing public access to the area;

4. The damage done to the significant work undertaken by other public authorities and community groups such as the Farncombe Initiative to encourage local people and visitors to visit and use the town and village centres in Godalming and Farncombe and to put on periodic events in Godalming Town centre attracting large numbers of residents and visitors where sufficient public toilet provision is essential;

will the Executive please agree to immediately reopen these toilets and undertake urgent discussion with Godalming Town Council and appropriate community groups with a view to finding an agreed way forward which enables the Council to then formally reconsider the matter in a way which has regard to its statutory obligations in respect of equalities and better meets the needs and aspirations of those it has been elected to represent?"

Answer

In February the Council set its budget for 2017/18 against a backdrop of unprecedented financial pressure arising from cuts in government grant. The Council had some difficult decisions to take to protect vital services to Waverley's residents. One of those decisions was to close the public toilets

in Godalming and Haslemere subject to alternative provision being made available. There is therefore no budget provision for 2017/18 to reopen these toilets. The Godalming Town Clerk has approached Waverley to explore options for the future operation of the toilets by the Town Council and the Lead Member for the Environment is trying to arrange a meeting with the Town Councillors to pursue this. Alternative facilities are already available in Godalming at the Borough Hall and Café Mila.

iii. From Cllr Stefan Reynolds, Leader of Godalming Town Council

“In September and October 2016, when the prospect of the immediate closure of Farncombe toilets was planned, both Cllr Steve Cosser and I mooted the idea that Godalming Town Council would be interested in working with Waverley to consider the possibility of taking on the freeholds of Farncombe and Godalming toilets in order to redevelop both sites with a commercial solution which could provide an income to cover the cost of maintaining the provision of toilets on the same sites. The Waverley Portfolio Holder and officers seemed interested in the idea but said that this would be something that Waverley would take forward themselves. I am not sure if this has been done and a recent conversation with the Deputy Leader suggested that he was not aware either.

Could I therefore please ask the Leader to agree to formally open up discussions with Godalming Town Council on this basis, and to keep open both sites in the meantime”.

Answer

Waverley is open to proposals for commercial use of the building which might also provide an alternative public service or generate funding to support Waverley’s expenditure on local services. The Council is happy to discuss any such uses which the Town Council or others may come forward with.

iv. from Damian Wheeler

“Please could the public toilet in Station Road, Farncombe be reopened again immediately for the use of the local community? I have been regularly using this toilet during the last six months and it is very frustrating that the facility is currently not available.

This public toilet has been open for many years and it is surprising that Waverley are considering closing this toilet and it indicates that local services are at there lowest ebb for decades. Other places such as Cranleigh, Farnham, Grayshott and Midhurst can maintain their toilet facilities, so why can’t we in Farncombe.

The unisex toilet in Farncombe has worked well and can continue without any investment. Part of the problem has been that the toilet was only open five or six days each week and some people lost confidence that it would be open. In addition there have been three periods of at least a week each when the toilet door could not be locked

from the inside due to a faulty lock. A new appropriate lock was fitted five days before closure. These two faults definitely reduced the usage of the unisex toilet.

The local community would be very grateful if the unisex toilet could be reinstated please.”

Answer

There is no budget provision for 2017/18 to reopen these toilets. The toilets in Cranleigh, Farnham, Grayshott and Midhurst are operated and paid for by the Town and Parish Councils not Waverley Borough Council.

- v. from Joy Poulter of Godalming

“How have the alternative toilets been advertised to visitors and tourists to our town who incidentally we are trying to encourage?”

Answer

Alternative toilet provision in Godalming has been publicised by notices and plans indicating the location of the alternatives on the Crown Court Toilet gates, which have been renewed after they were vandalised recently.

- vi. from John Petty

“The costs of maintaining the Farncombe public conveniences are quoted as the motivation for their closure. As far as I am aware, the Broadwater Park toilets, refurbished quite recently at not inconsiderable cost, are being kept open. These have to be serviced in a similar way to Farncombe. Please could I ask the Executive to provide a breakdown of the cost allocation, including staffing costs, and whether there is any possibility that the staff cleaning Broadwater could also, unless they have other duties, clean Farncombe?”

Answer

The cleaning of Broadwater Park Toilets costs £9,441 per year, which includes staffing, materials costs etc. The cleaning is arranged through our grounds maintenance contractor, Glendale, who provide grounds maintenance and also facilities maintenance services to the Council. There would be additional charges from the contractor if they were requested to clean and service the Farncombe Toilets and there is no longer any budget provision for this in 2017/18.

- vii. from Martin Sandford of The Oval, Farncombe

“I am concerned about the closure of public toilets locally; in Godalming, because these are conveniences I have needed to use, and especially in Farncombe, because it is my local village and visitors have been deprived of this facility with no alternative provision.

Cost savings have been cited as the reason for closure and, superficially, these are equal to the outgoings against the facility. This, however, is a simplistic and somewhat naive assessment which does not take account of the costs of closure. Buildings absorb cost even when not in specific use. Closures reduce economy of scale so other related provisions start to cost more. (Ironically, individual facilities may cost less to operate by opening more of them.) New costs emerge such as street cleaning and hygiene where people, in desperation, relieve themselves on the streets. The vibrancy of a locality is compromised making it less attractive and ultimately impacting business rates.

Which costs of closure have been considered in the context of the public toilets in Godalming and Farncombe and what figures have been placed against these?"

Answer

As the number of public toilets managed by Waverley was already at a low level, benefits from economy of scale were already difficult to achieve. The low usage of the Farncombe toilets came with a cost of nearing £5 per use and approximately £50 per day, excluding the estimated cost required to refurbish the building and raise the aesthetic standard of the facilities. Occasional cleaning of the adjacent area to sanitize any external public use will be significantly less than the cost of cleansing the toilets themselves. The low level of usage and relatively small high street area that the public toilets supported, suggests that this is unlikely to be a great issue. In terms of the Godalming public toilets, alternate provision has been arranged within the high street area.

viii. From Sheila Smith of Farncombe

"I refer to the article on the front page of the Surrey Advertiser on 30 June 2017 which detailed a charitable organisation offering funding to pay for the reopening of the public toilets in Farncombe in return for permission to display a banner promoting its cause. Please could I ask the Executive whether they are intending to discuss this proposal with the charity?"

Answer

In February the Council set its budget for 2017/18 against a backdrop of unprecedented financial pressure arising from cuts in government grant. The Council had some difficult decisions to take to protect vital services to Waverley's residents. One of those decisions was to close the public conveniences in Godalming and Haslemere subject to alternative provision being available. There is no budget provision in 2017/18 for public conveniences and there are therefore no plans to reopen the toilet in Farncombe. It is considered very unlikely that the income from the display of the banner would be sufficient to cover the operating costs and there will be issues around advertising consent to address.

PART I - RECOMMENDATIONS TO THE COUNCIL

Background Papers

Unless specified under an individual item, there are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to the reports in Part I of these minutes.

26. BUDGET REVIEW 2017/2018 (Agenda item 7)

26.1 The Executive considered a report setting out the latest position on the Budget Review 2017/18 and the proposed changes to the Medium Term Financial Plan in the light of the Strategic Review and other emerging issues. The Customer Service and Value for Money O&S Committee considered the Financial Plan at its meeting on 26 June and its comments were provided in the report. The 2017/18 budget will continue to be reviewed during the year, particularly if any changes are made to the Corporate Plan later in the year and if the new Government make announcements affecting Waverley's finances.

26.2 The Executive RESOLVED that

1. the interim budget review process set out in this report be noted and asked officers to report further changes to Members following the review of the Corporate Plan and priorities;
2. the updated Medium Term Financial Plan document be approved, as attached at Annexe 1;
3. a cross-cutting efficiency group be set up that develops a programme of efficiency reviews and monitors their delivery, overseen by the Strategic Director of Finance and Resources and the Portfolio Holder for Finance;
4. the working assumption of a cap in the annual revenue contribution to the General Fund capital programme of £0.9m be agreed;
5. the implementation of a new, more rigorous bidding and monitoring process for General Fund Capital Schemes be agreed, as set out in paragraph 4;
6. the transfer of an amount equivalent to the New Homes Bonus funding from the General Fund revenue budget each year to the Investment Fund be approved;
7. the HRA capital reserves set out in Annexe 5 be noted and the Housing Delivery Board be asked to identify additional capital projects in the next 4-years up to the value of £8m and report back to Council for approval; and
8. officers be asked to make arrangements for a series of budget awareness sessions for councillors, to take place in the early Autumn.

- 26.3 The Housing Revenue Account was subject to a comprehensive review during 2016 which resulted in a realignment of revenue and capital budgets and funding to meet current demands, this was approved by Council in February 2017. The financial outturn position in 2016/2017 was positive with a relatively small overall underspend against the £30m budget.
- 26.4 The New Homes and Stock Remodelling capital programmes were the subject of a significant amount of rescheduling in the last few years, particularly in 2016/2017, mainly due to budgets not being profiled across years accurately and start on sites on some large schemes being delayed. This budget review process has led to a revised capital programme being prepared which is more realistic and deliverable and this is included at Annexe 1 for approval.
- 26.5 The Executive therefore

RECOMMENDS that

- 8. the revised HRA new homes capital programme as set out in Annexe 1 be approved.**

[Reason: to receive the latest position on the budget review for 2017/2018 and the changes to the medium term financial plan]

27. CREATION OF A PROPERTY COMPANY (Agenda item 10)

- 27.1 The Investment Advisory Board is exploring the advantages and opportunities that would be offered should the Council set up a property company. Most important amongst these is the ability of a company to pursue opportunities to acquire commercial properties that are beyond the Council's powers i.e. solely for income generation purposes.
- 27.2 The primary objective of the Council's Investment Strategy, and therefore of the Investment Advisory Board, is to contribute to offsetting the overall budget deficit. The Council is currently constrained under s.1 of the Localism Act 2011 when it comes to acquiring property for investment purposes.
- 27.3 Should the Council wish to do so it has the ability to establish a 'Local Authority Trading Company' via section 95 of the Local Government Act 2003. Such a company would in effect be a subsidiary company of the local authority and as such the shareholder (i.e the Council) would have ultimate control over activity and operational matters.
- 27.4 The company as a property vehicle would target a specified minimum return with funding either from loans from the Council or commercial sources. The aim would be to maximise the opportunities within the existing portfolio where there is a clear business case and an acceptable level of risk, and to bring in new opportunities to increase the assets the Council already owns in cases where this falls outside of the Council's legal powers. Every property option would be looked at on its own merits to decide whether to purchase through the Council or the Company dependent upon the business case and legal implications of the opportunity concerned.

- 27.5 It is the intention that the company has enough flexibility to acquire and work on a commercial basis across a range of activities if appropriate. This may include joint ventures, special purpose vehicles, operating existing council assets and possibly the development of management agreements.
- 27.6 Initially, the focus of the company would be to concentrate on property investment and development work both inside and outside of the Borough which is needed to provide a valuable income stream to the Council. The company would mainly operate in situations where the Council can't or where there is a need to respond more quickly and effectively to market opportunities where the Council is more disadvantaged by the regulations on decision making which affect speeds of response.
- 27.7 The detailed legal implications are included at Annexe 2 which was the information reported to the recent Investment Advisory Board Meeting. A summary of the main points is below.
1. An appropriate governance structure will be needed to ensure sound and robust management alongside protection of the Council's financial and reputational investment. The Council as shareholder would control the company and delegate operational matters via a Shareholder's Agreement.
 2. The company would be subject to the Local Authorities (Companies) Order 1995. The order sets out regulations that are specific to controlled companies and start from the basis that the public should be aware that the company they are dealing with is controlled by the local authority. It should be noted that the company would be liable to corporation tax in the normal manner on profits, and would need to charge VAT.
 3. The Council would also need to consider how the support services required by the company will be contracted out. This would include legal services for property acquisition and accounting services provided by local authority staff (and re-charged to the company).
 4. The following documentation is required to complete the establishment of a company and associated governance arrangements.
 - Articles of Association
 - Shareholder Agreement.
 - Loan Agreements
 - Director Appointments
 - Appointment of Company Secretary and an Auditor.
 - Business Plan
- 27.8 The company would need significant funding to purchase property in the open market. Therefore, as well as the Council having the powers to form the company it would also need to be able to provide it with the necessary loans (which it can do via the Localism Act 2011 and also s24 of the Local Government Act 1988) and equity funding. The company would also need working capital and this is likely to be provided by way of short term loans from the Council.

27.9 The creation and operation of a company by a local authority is a complex matter. It is however, an action that a number of other local authorities have taken successfully. To ensure that the council maximises the opportunities from having a company and manager the associated risks effectively to safeguard the council's finances, and it will be necessary to seek specialist advice. This advice will aim to cover Waverley's specific aspirations and include advice on:

- Structure, including subsidiaries if appropriate.
- Tax.
- Raising finance, including borrowing from the Council.
- Support costs and other overheads.
- Investment criteria.
- Further scope for the company's activities in future.

27.10 The creation of a Company presents opportunities to the Council that could otherwise not be realised. Subject to the Council approving the creation of the company, the following matters will be resolved by the Investment Advisory Board after taking specialist external advice.

- Governance arrangements
- Structure
- Authorisation
- Scope of activity and types of investments
- HRA interface (in particular the use of revenue from disposals to the company for affordable housing)
- On-lending (i.e. any restrictions around the Council's ability to loan money to the company).

27.11 The Value for Money and Customer Service Overview and Scrutiny Committee was supportive of the proposal for creating a property company as it would provide more flexibility for the Council. However Members felt that a clear system of monitoring and reporting needed to be put in place so that the Members could be updated on progress with property acquisitions.

27.12 It was noted that the matters set out in paragraph 27.10 of the report would be delegated to the Investment Advisory Board for final approval and the Committee requested to have sight of the precise details of this delegation.

27.13 The Executive thanked the Overview and Scrutiny Committee for their consideration and comments and agreed that once finalised by the Investment Advisory Board, the governance arrangements for a company would be reported back to the Executive. The Executive therefore

RECOMMENDS that

- 9. a company be created as described in this report, after the consideration of detailed legal advice; and**

- 10. the Council agree to delegate the final details of the matters set out in paragraph 27.10 above, in relation to the initial set up of the company, to the Investment Advisory Board, after consideration by the Value for Money and Customer Service Overview and Scrutiny Committee.**

[Reason: to give consideration to setting up a company to pursue commercial opportunities that are beyond the Council's powers]

28. EXCLUSION OF PRESS AND PUBLIC (Agenda item 17)

At 8.14 pm it was

RESOLVED that, pursuant to Procedure Rule 20, and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it is likely, in view of the nature of the business to be transacted, that if members of the public were present during the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 3 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

29. BUILDING CONTROL OPTIONS APPRAISAL/BUSINESS PLAN (Agenda item 19)

The Executive has considered a report on this matter, attached as (Exempt) Annexe 3 and

RECOMMENDS that

- 11. the recommendations set out in (Exempt) Annexe 3 be approved.**

PART II - MATTERS OF REPORT

The background papers relating to the following items are as set out in the reports included in the original agenda papers.

30. FORWARD PROGRAMME (Agenda item 5)

[Cllr Hyman attended the meeting and spoke on this item]

RESOLVED that the forward programme of decisions for Waverley Borough Council be agreed, subject to amending the date for adoption of the Local Plan to December 2017.

31. FINANCIAL OUTTURN REPORT 2016/2017 (Agenda item 6)

RESOLVED that

1. the outturn position on revenue and capital for 2016/17 be noted;
2. the revenue carry forward to 2017/18, as detailed in paragraph 9 of the report, be approved; and
3. the capital rescheduling to 2017/18, as detailed in Appendices 2, 4 and 5, be approved.

[Reason: to receive a summary of the 2016/17 revenue outturn against the budget for the General Fund and Housing Revenue Account]

32. BUDGET MANAGEMENT REPORT (Agenda item 8)

[Cllrs Nick Williams and Ross Welland attended the meeting and spoke on this item]

RESOLVED that

1. the latest position against budget in 2017/18 be noted;
2. the criteria for the business rate relief scheme as set out in paragraphs 6-10 of the report and the awarding of relief under the Council's discretionary rate relief policy be approved, and the completion of the final detailed scheme, following the receipt of Government guidance, be delegated to the Strategic Director of Finance and Resources in consultation with the Finance Portfolio Holder; and
3. the award of business rate discounts to public houses be awarded as set out in paragraph 6-11 under the Council's discretionary rate relief policy.

[Reason: to review the 2017/18 budget for the General Fund and Housing Review Account against the forecast].

33. SPRINGBOK PLANNING APPLICATION PUBLIC INQUIRY - REQUEST FOR SUPPLEMENTARY ESTIMATE (Agenda item 9)

RESOLVED that a supplementary estimate of £100,000 be approved to meet the costs of the Council defending its decision to refuse the planning application at the Springbok Estate, Sachel Court Drive, Alfold to be met from the Revenue Reserve Fund.

[Reason: to agree a supplementary estimate to defend the Council's decision]

34. WEYDON LANE FORMER LANDFILL SITE - FUTURE USE AND SITE MANAGEMENT (Agenda item 11)

[Cllr Jerry Hyman attended the meeting and spoke on this item]

RESOLVED that

1. in view of the Council's current financial position and the decision taken by the Council regarding capital projects in the 2017/18 budget, option f, in paragraph 6, be agreed as the way forward; and
2. the necessary monitoring and maintenance works during 2017/18 be confirmed.

[Reason: to take a decision on the future of the site]

35. BRIGHTWELLS SITE SECURITY (Agenda item 12)

[Cllr Jerry Hyman was in attendance at the meeting and spoke on this item]

RESOLVED that the additional security measures set out in the report be approved, namely daily security patrols during priority times at the Brightwells site, and a supplementary estimate of £7,700 be agreed to enable these arrangements to continue until they are reviewed again in mid-September 2017.

[Reason: to agree measures to be put in place to prevent antisocial behaviour taking place on the Brightwells site]

36. PERFORMANCE MANAGEMENT REPORT Q4 (JAN - MAR 2017) 2016/2017 (Agenda item 13)

RESOLVED that the Overview and Scrutiny Committees be thanked for their observations and the target change for HR2 [average working days lost due to sickness absence per employee] from 5.5 days to 6.5 days per year (1.63 days per quarter) be approved.

[Reason: to receive an analysis of the outturn of performance and service plans for 2016/17]

37. OUTCOME OF O AND S REVIEW: LEISURE CENTRE MANAGEMENT (Agenda item 14)

The Executive received a presentation from Cllrs Wyatt Ramsdale and Richard Seaborne on behalf of the Sub-Committee that had conducted the review into Leisure Centre Management in Waverley.

The Executive thanked the Overview and Scrutiny Sub-Committee and complimented the members and officers involved on producing an excellent and comprehensive report.

RESOLVED that the report and the recommendations contained within the final report be endorsed as a way forward and that the item be added to the Executive's forward programme to ensure that an update was brought forward in due course.

[Reason: to consider the findings of the O and S Review into this area of work]

38. ROWLEDGE TENNIS CLUB - GRANT OF NEW LEASE (Agenda item 15)

[This item contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in paragraph 3 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information)]

RESOLVED that a new 40 year lease be granted to Rowledge Tennis Club on the terms and conditions set out in the (Exempt) Annexe, with other terms and conditions to be agreed by the Estates and Valuation Manager.

[Reason: to consider the property matter]

39. EXCLUSION OF PRESS AND PUBLIC (Agenda item)

At 8.14 pm it was

RESOLVED that, pursuant to Procedure Rule 20, and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it is likely, in view of the nature of the business to be transacted, that if members of the public were present during the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 3 of the revised Part I of Schedule 12A to the Local Government Act 1972, namely:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

40. SERVICE REVIEW IN HOUSING OPERATIONS (Agenda item 18)

RESOLVED that the recommendation set out in the (Exempt) Annexe to these minutes be agreed.

41. DISCRETIONARY COUNCIL TAX REDUCTION APPEAL (Agenda item 20)

RESOLVED that the recommendation set out in the (Exempt) Annexe to these minutes be agreed.

The meeting commenced at 6.45 pm and concluded at 8.31 pm

Chairman

This page is intentionally left blank

Cost Code	Project	Opening Budget 2017/18	Approved Rescheduling from 2016/17	Requested rescheduling (not yet approved)	Current Budget 2017/18	Forecast Outturn	Budget Remaining	Reschedule	Saving / (Overspend)	2018/19 Revised Estimate	2019/20 Revised Estimate	2020/21 Revised Estimate
New Affordable Homes Projects												
	Development Staff Costs	363,920			363,920	363,920	0			400,000	400,000	
K5412	Pre-development costs for 2016/17	83,500			83,500	83,500	61,992			83,500	83,500	
K5422/3	Starter Homes - grant funded			79,849	79,849	79,849	79,849					
COMMITTED DEVELOPMENT SCHEMES												
K5407	Ockford Ridge - utility			1,418,275	1,418,275	418,275	417,407	1,000,000		750,000	1,000,000	
K5407	Ockford Ridge - Show homes	12,150			12,150	12,150	12,150					
K5425	Ockford Ridge - Site A	4,628,440			4,628,440	628,440	583,337	4,000,000		3,650,630	5,360,560	269,920
K5428	Ockford Ridge - Site D	1,504,740			1,504,740	2,900,000	2,899,195	-1,395,260		404,740	152,860	
K5411	Wey Court, Godalming	2,964,840	1,000,000	734,707	4,699,547	4,171,757	3,670,637	527,790		527,790		
K5418	Weyhill, Haslemere		700,000		700,000	0	0	700,000		700,000		
K5414	Middlefield, Farnham			262,698	262,698	112,698	112,698		150,000			
K5416	Bridge Road, Haslemere			222,386	222,386	72,386	71,594		150,000			
K5415	Nursery Hill, Shamley Green	371,030	1,000,000	27,597	1,398,627	1,398,627	1,276,335					
K5405	Station Road			44,744	44,744	79,744	59,137		(35,000)			
K5410/3	Ladymead & Hullmead			46,812	46,812	46,812	46,812					
K5417	Land adj 75 Sherrydon	347,500		65,845	413,345	348,345	348,345	15,000	50,000	15,000		
OTHER SCHEMES IDENTIFIED BUT NOT APPROVED*												
	Chilton Close, Alfold		360,965		360,965	0	0		360,965			
K5426	Ockford Ridge - Site B			60,398	60,398	60,398	60,398					
K5427	Ockford Ridge - Site C			80,504	80,504	80,504	80,504					
LAND AND ASSET PURCHASE												
K5000	Buy Backs			406,500	406,500	541,380	405,714		(134,880)			
Total New Affordable Homes Projects		10,276,120	3,060,965	3,450,315	16,787,400	11,398,785	10,186,104	4,847,530	541,085	6,531,660	6,996,920	269,920

New Affordable Homes Funding												
	HRA funding	9,976,120	2,760,965	3,370,466	16,107,551	10,718,936	9,506,255	4,847,530	541,085	6,531,660	6,996,920	269,920
	External funding											
	- HCA - Wey Court	300,000	300,000		600,000	600,000	600,000					
	- HCA - starter homes			79,849	79,849	79,849	79,849					
Total Funding		10,276,120	3,060,965	3,450,315	16,787,400	11,398,785	10,186,104	4,847,530	541,085	6,531,660	6,996,920	269,920

Cost Code	Project	Opening Budget 2017/18	Approved Rescheduling from 2016/17	Requested rescheduling (not yet approved)	Current Budget 2017/18	Forecast Outturn	Budget Remaining	Reschedule	Saving / (Overspend)	2018/19 Revised Estimate	2019/20 Revised Estimate	2020/21 Revised Estimate
Stock Remodelling												
COMMITTED DEVELOPMENT SCHEMES												
K5009/10	Conversion of former staff accommodation			14,502	14,502	14,502	14,502					
K5015	Former Police Houses	9,000		6,881	15,881	15,881	14,224					
	Ockford Ridge Refurbishment - pilot			155,368	155,368	155,368	155,368					
K5016	Ockford Ridge Refurbishment - Phase 1			750,839	750,839	750,839	747,723					
K5017	Ockford Ridge Refurbishment - Phase 2 - external works	315,000	800,000	72,928	1,187,928	1,187,928	1,185,328					
	Ockford Ridge Refurbishment - Phase 3				0	0	0			485,000		
	Ockford Ridge Refurbishment - Future phases			682,569	682,569	0	0	682,569			4,432,569	
OTHER SCHEMES IDENTIFIED BUT NOT APPROVED*												
K5011	Community Rooms, Borough Wide			613,034	613,034	613,034	613,034					
K5012	Cranleigh Day Centre	50,000	50,000		100,000	50,000	50,000		50,000			
Total Stock Remodelling		374,000	850,000	2,296,121	3,520,121	2,787,552	2,780,179	682,569	50,000	485,000	4,432,569	-
Stock Remodelling Funding												
	HRA funding	374,000	850,000	2,296,121	3,520,121	2,787,552	2,780,179	682,569	50,000	485,000	4,432,569	-
	External Funding	0	0		0	0	0	0	0	-	-	-
Total Funding		374,000	850,000	2,296,121	3,520,121	2,787,552	2,780,179	682,569	50,000	485,000	4,432,569	-

**Creation of a Property Company – Information provided to Investment
Advisory Board May 2017**

1. As previously advised by its external legal advisors, under section 120 of the Local Government Act 1972 the Council may acquire by agreement any land inside or outside its area for the purpose of (a) any of its statutory functions or (b) the benefit, improvement or development of its area.
2. The Council has a number of statutory functions in relation to its financial affairs. For example, sections 25 to 29 of the Local Government Act 2003 impose a statutory responsibility on the Council to set and arrange its affairs to remain within prudential limits for borrowing and capital investment. These provisions also require the Council to make prudent allowance for the risk and uncertainties in its budget and regularly monitor its finances during the year, leaving it to the Council's discretion as to the allowances to be made and action to be taken. In particular, section 28 of the LGA 2003 requires the Council, upon reviewing its budget, to take any action it considers necessary to deal with any deterioration in its financial position.
3. The objective of the Council's Investment Strategy is to offset the budget deficit that has been identified by the Council. To the extent that the purpose of acquiring any property is to deal with the deterioration in the Council's financial position by way of income generation, the Council could rely on section 120 LGA 1972 on the basis that the acquisition is for the purpose of fulfilling its statutory functions. This will need to be documented and it should be explained how an acquisition will specifically help remedy that deterioration.
4. Similarly, when justifying any property investment within its area on the basis of "the benefit, improvement or development of its area", the Council will need to clearly document the specific benefits (economic or otherwise) that the Council area will benefit from as a result of purchasing property.
5. External advice has also confirmed that it is likely the acquisition of the property in order to generate income will constitute an activity for a commercial purpose. The Council will therefore be unable to rely on the general power of competence under s.1 of the Localism Act 2011 in acquiring the property, unless it forms a company for the purposes of property investment. The Council may be able to rely on the section 1 Local Government Act 2003 power to borrow. However, the Council should be mindful that borrowing purely to invest at a profit is likely to be considered unlawful. In order to rely on this power the Council will need to clearly document how the acquisition is for the purpose of the prudent management of its financial affairs, explaining how it forms part of a range of financial management measures and why the acquisition of the Centre is necessary for that purpose. Borrowing under section 1 of the 2003 Act may also be possible

on the basis that the acquisition is for the purpose of dealing with the deterioration of the Council's financial position. Again, this will need to be clearly documented with reasons. When assessing the suitability of the Centre and the acquisition in more detail, the Council should consider whether the acquisition would meet any other statutory functions (for example, development or regeneration duties).

6. The position therefore is that a company is not required in order to invest in property outside of the Borough, provided that the Council can justify the investment as falling within one of the Council's statutory powers, and the most appropriate of these would be the preservation of the Council's financial position.
7. Having said that, should the Council wish to set up a company in order to invest in property, then the Council is able to establish a 'Local Authority Trading Company' (LATC) through the powers in section 95 of the Local Government Act 2003. A local authority is permitted to trade in anything that it is authorised to do under its ordinary functions.
8. Such a company would likely be a controlled company as defined in the Local Government and Housing Act 1989 as it would be a subsidiary company of a local authority and as such the shareholder (the Council) would have ultimate control over the activities and operational matters of the company.
9. Typically, property investment and development acquisitions within the scope of the proposed company are expected to be high, and will include a diverse range of use types. The property vehicle would normally target a specified minimum return with funding from Council's reserves, Public Works Loan Board or commercial sources. The aim would be to maximise the opportunities within the existing portfolio and bring in new opportunities to increase the mixed and balanced portfolio the Council already owns.
10. It is important that the company has enough flexibility to buy considered opportunities and work on a commercial basis. This may include joint ventures, special purpose vehicles and possibly development management agreements. A LATC could enter into and have subsidiary companies to be able to trade effectively in the property market place e.g. special purpose vehicles for particular projects.

Company Structure and Governance

11. The purpose of the company would be to concentrate on property investment and development work both inside and outside of the Borough which is needed to provide a valuable income stream to the Council. Its focus would be on responding more quickly and effectively to market opportunities where the Council is more disadvantaged by the regulations on decision making which affect speeds of response.

12. As a company wholly-owned by the Council, it would be imperative for an appropriate governance structure to be put in place to ensure the sound and robust management of the company alongside protection of the Council's financial and reputational investment in the company.

Shareholder Function

13. The company shareholder would have ultimate control over the company and would control the company in a variety of ways, including the appointment of directors, provision of funding and the Articles of Association, but operational matters could also be included in a Shareholder's Agreement as described below.
14. The most appropriate avenue would be for the Shareholder function of the Council to primarily be executed through a dedicated Sub-Committee of the Executive comprising members appointed by the Leader, with a minimum of three Members. If further appointments were required these will be made by the Leader.
15. The Shareholder will, through a Shareholder Agreement, set out the performance levels required for the company and the tolerances (e.g. financial and decision making) within which the Company may operate.
16. The Council as Shareholder can change the make-up of the Board of Directors and can change the Company Secretary in the same way.
17. The Articles of Association can make provision for the Shareholder to appoint Directors by serving notice in writing to the company and to appoint any other person to be a Director in place of a Director who leaves office by whatever means. This can take immediate effect on service to the Company Secretary.
18. As stated above, the company would be a 'controlled company' as defined by the Local Authority Government and Housing Act 1989 and as a result would be subject to the Local Authorities (Companies) Order 1995. The order sets out regulations that are specific to controlled companies and start from the basis that the public should be aware that the company they are dealing with is controlled by the local authority. The Council must provide information about the affairs of the company to any Member of the local authority as they shall reasonably require for the proper discharge of the Member's responsibilities, and they must also provide information required by the Council's auditors.

Board of Directors

19. The Board of Directors would be responsible for delivery of the expected outcomes within the Business Plan. They would have oversight of the performance, financial and operational management of the company within the parameters agreed with the Shareholder.

20. The Board would usually be comprised of senior Council officers, and whether any Councillors would also be appointed as Directors would be for the Council to decide. Both Officers and Councillors would be unpaid. Some local authorities appoint Councillors onto the Board, but this is not a requirement and there are no hard rules governing this. The Articles of Association would need to be drafted in such a way as to ensure that a Councillor's appointment would terminate should they be disqualified or fail to be returned at an election.
21. Some local authorities have appointed an independent non-executive director to each company, with that director being chairman of the Board. The non-executive director would be remunerated, and would be recruited following an advertisement and interview. This would also bring commercial experience to the Board.
22. A Company Secretary would be appointed but would not be a Director. Many local authorities have appointed their senior legal officer or monitoring officer to this position.
23. The typical areas for the Directors to consider and approve include:
- Specific investment transactions – acquisitions, sales, letting, agreement for leases, surrenders, borrowing and other key transactions.
 - Appointment of service providers – accountants, solicitors, agents, valuers, architects, property managers, and other professionals as deemed appropriate.
 - Reporting – reporting arrangements to an Executive Sub-Committee (annexe 1) and the appropriate Overview and Scrutiny Committee.
24. In making appointments to the Board, the Council would need to be extremely mindful of, and put in place measures to eliminate, any conflicts that could arise between the duties of the statutory Council officers, such as the Section 151 Officer and the Monitoring Officer, in providing their advice to the Council as the Shareholder, and the duties of the Directors to the company.
25. The statutory duties for directors of a company are set out in sections 171 – 177 of the Companies Act 2006. Those duties are, in summary:
- The duty to act within powers
 - The duty to promote the success of the company
 - The duty to exercise independent judgement
26. The Council would need to consider how the support services which will be required by the company will be contracted out to the company. This would include legal services for property acquisition and accounting services provided by local authority staff (and re-charged to the company).

Documentation required to establish a company

27. The following documentation is required to complete the establishment of a LATC and associated governance arrangements.

- Articles of Association – the company constitution setting out the rules governing the running of the company
- Shareholder Agreement – this will be a key document as it will capture how the Council as Shareholder will exercise its control over the Company and the expectations for performance delivery.
- Loan Agreements – these set out the details of the funding arrangements between the Council and the company.
- Director Appointments – the terms upon which Council officers who will be appointed as directors to the Company will need to be agreed.
- Appointment of Company Secretary and an Auditor.
- Business Plan – the business plan would be developed to cover a rolling 20 year period of investment activity and would outline the company's planned operations. The Business Plan would be reviewed and agreed annually and would cover the following:
 - Company objectives (as established in the Shareholder Agreement) but these are expected to develop over time.
 - Governance arrangements - sufficiency of the arrangements and any planned changes to the Board.
 - Operational plans.
 - Financial model and assumptions.
 - Investment strategy.
 - Rents, sales and development assumptions.
 - Distribution Policy – is all trading profit to be returned to the shareholder or is any retained for future investment and/or running capital.
 - Fees, on-costs and tax.
 - Funding profile and sensitivity analysis.

Articles of Association

28. The Articles of Association would be agreed by the Executive Sub-Committee but would likely comprise the following:

- The articles are for a company limited by shares
- There will be one shareholder – the Council
- The liability of the Council is limited to the nominal value of its share
- If a Director ceases to be employed by the Council then he will ordinarily cease to be a Director of the company and a replacement sought
- Quorum for a meeting of the Directors and to be able to vote on the decisions of the company.
- Some decisions can only be taken at a general meeting by the Council as Shareholder. For example, to allocate extra shares, to reappoint the directors, to declare a dividend, to change the articles of association, etc.

- Requirements to sign documents on behalf of the Company
- The Company is obliged to comply with all the requirements that form part of it being a wholly owned subsidiary of a Local Authority.
- The Company needs to make arrangements to have the accounts audited.

Objects

29. Since 2009 most companies do not have objects clauses relying on the fact that the objects of the Company are generally unrestricted. The Company can then reflect the wide powers granted to the Council under the Localism Act 2011 to use a company to do anything commercially that individuals may generally do.

Shareholder Agreement

30. A Shareholder Agreement would operate in addition to the Articles of Association. The Shareholder Agreement would regulate the actions of the company and give rights to the Council that would not be appropriate to be included in the Articles. It represents a finer level of detail and control:

- The setting of investment targets each year and the associated budget
- Approving and / or removing auditors
- Agreement of any borrowing arrangement and giving security in respect of borrowing
- Considerations before making a planning application or lodging an appeal
- Any matter that the Council shall advise the company of in writing.

Tax liability

31. The Company would be liable to corporation tax in the normal manner on profits, and would need to charge VAT.

32. Every property opportunity would be looked at on its own merits to decide whether to purchase through the Council or the Company dependent upon the taxation and legal implications of the opportunity concerned.

Risks

33. Councillors will be concerned to ensure that all risks of operating in a new way have been thoroughly considered.

34. Each acquisition would be considered in the light of investment and development appraisals, the overriding economic conditions prevailing, occupational and investment demand as well as the associated due diligence. These appraisals would be provided to members of the Executive Sub-Committee. Each acquisition would be subject to these assessments as well as the normal legal and survey due diligence required. Therefore each acquisition would be considered in light of this information.

35. Certain checks and balances are built into the above structure so as to ensure that the company operates within agreed parameters and can assure Councillors that there is no greater financial risk to the Council than at present:

- The Articles of Association would set out the powers available to Directors.
- The Shareholder Agreement would set out further controls around dealings with properties.
- The Executive Sub-Committee would hold the Directors accountable for delivery of the business plan. This is no different to the current arrangement whereby officers are held to account by Councillors.
- Funding provided by the Council and properties to be subject to development by the Council would need to be agreed by the Executive Sub-Committee. Funding from the capital programme and/ or funding from prudential borrowing would need to be agreed by Council.
- Any asset transferred to the company by the Council would be subject to the usual requirements of best value and section 123 of the Local Government Act 1972. The Council would need to obtain up-to-date valuation advice before any transaction were to proceed.
- Assets transferred to the company by the Council would also be subject of charge by way of legal mortgage to protect the Council's interests should the company face financial difficulties.
- There will be ongoing liaison (as exists at present) between officers and councillors to ensure there are clear channels of communication and that councillors remain comfortable at all times with proposed deals.
- The Executive Sub-Committee would be scrutinised by the appropriate Overview and Scrutiny Committee in the same way as any other Executive function.
- Any project which poses more of a commercial risk, for instance an out of borough joint venture, can be contained in a subsidiary company (if appropriate) so as not to risk the company. This is a normal way of containing risk in property transactions and it applies here as it would in the general property market
- The company will have its own auditors and will be subject to the requirements of company law and filing at Companies House

State Aid

36. EU regulations ensure that the company could not be subsidised by the Council. This means the Council must recover the costs of any accommodation, goods, services, employees or any other support it supplies to the company. State Aid would also include loans to the company and the rate of interest that loans to the company would need to be charged. This would be reviewed on an ongoing basis. Specialist advice would need to be sought when making acquisitions or receiving loans from the Council in order to ensure that State Aid regulations are complied with.

Company Loan Facilities

37. As set out above the company would seek loans from the Council that comply with State Aid requirements. Loans would include draw-down provisions that meet the need of the business case. Where property acquisitions are made by the company, loans from the Council would be secured against the property by way of a legal charge (or mortgage) in favour of the Council.
38. Loans could be sourced from the Council's capital reserves - where the Council would loan some equity – and/or from the banking sector or through Public Works Loan Board.

Powers to fund the Company

39. The company would need significant funding to purchase property in the open market. Therefore, as well as the Council having the powers to form the company it would also need to be able to provide it with the necessary loan and equity funding.
40. The Council has the power to borrow under the Local Government Act 2003 for the purposes of the prudent management of their financial affairs, or in connection with any of their functions. The borrowing would need to be prudent and comply with the Prudential Code.
41. The Council could borrow monies and in turn support the company through the provision of loans and subscription to share capital. This would be permitted by virtue of the Localism Act 2011. In addition the Council has a power to provide financial assistance to a company providing privately-let accommodation under section 24 of the Local Government Act 1988.
42. Where it were appropriate for the company to develop Council-owned land, the Council would be entitled to dispose of land to the Company provided it complied with Section 123 of the Local Government Act 1972, which is the duty to obtain best value for property disposals.

Procurement

43. In the above circumstances the Council would be establishing the company for a commercial purpose. It would be funded from a variety of sources, including Council money, other public money and private funding. It would be intended that the company would have a commercial character so as not to count as “a body governed by public law” for the purposes of the Public Contract Regulations. This would mean that the requirements of the Regulations would not apply to the company.

Executive Sub-Committee

Background

The Council would establish an Executive Sub-Committee specifically to discharge the functions of the Council as regards its corporate shareholding in the company. The Sub-Committee would meet once a year to receive an annual report and annual accounts from the company, but otherwise meetings would be called on an 'as and when required' basis to deal with company business.

Membership

To be determined by the Leader of the Council from time to time. Only members of the Executive would be able to sit and vote on the Committee. A minimum number of three Executive Members would be needed to undertake the shareholder function. Substitutes would be permitted at the discretion of the Leader.

Purpose

To exercise the function of the Council as a shareholder in relation to the Council's property company.

Remit

To undertake all functions of the Council as a shareholder under the Company Act 2006 in relation to the Council's company, which would include without limitation:

- To determine the Shareholder Agreement between the Council and the company including the Business Plan
- To appoint and dismiss directors of the company (where power is reserved to the Shareholder)
- To agree any Directors' Service Agreements (if required)
- Appointment and removal of a Company Secretary and Auditor
- To agree any Resourcing Agreement between the Council and company for the use of Council staff and facilities and reimbursement for the same
- To agree any loan agreements or draw-down of Council financing (subject to funds being made available by Council)
- To agree any reserved matter required by the Articles of Association or Shareholder Agreement
- To agree the Articles of Association or any amendment thereof.

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank