

To: All Members of the Council
(Other Members for Information)

When calling please ask for:
Fiona Cameron, Democratic Services Manager

Policy and Governance

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Direct line: 01483 523226

Date: 6 December 2018

Dear Councillors

COUNCIL - 11 DECEMBER 2018

I refer to the agenda for the Council, on Tuesday, 11 December 2018 and now enclose the following item which was marked To Follow in your agenda papers:

5. QUESTIONS FROM MEMBERS OF THE PUBLIC

To answer the following questions from members of the public, received in accordance with Procedure Rule 10.

The deadline for receipt of questions is 5pm on Tuesday 4 December 2018.

The following question has been submitted by:

Gill Leslie and Lynda MacDermott, of Cranleigh

"We are very much aware of the scourge of Modern Slavery today. We are told by Surrey police that all of us in the county live within 3 miles of a modern day slave.

Will Waverley Borough Council sign up and implement the Charter against Modern Slavery, as actively promoted by the Co-operative Group, following the example of Surrey County Council and 50 other councils throughout the country?

The Charter is itemised below.

The Modern Day Slavery Charter

Waverley Borough Council will:

- 1. Train its corporate procurement team to understand modern slavery through the Chartered Institute of Procurement and Supply's (CIPS) online course on Ethical Procurement and Supply.*
- 2. Require its contractors to comply fully with to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.*
- 3. Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery.*

4. *Highlight to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one.*
5. *Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery.*
6. *Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery.*
7. *Review its contractual spending regularly to identify any potential issues with modern slavery.*
8. *Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.*
9. *Refer for investigation via the National Crime Agency's national referral mechanism any of its contractors identified as a cause for concern regarding modern slavery.*
10. *Report publicly on the implementation of this policy annually."*

A response to the question will be provided at the Council meeting.

8. MINUTES OF THE EXECUTIVE (Pages 5 - 52)

To receive the Minutes of the Executive meeting held on 4 December 2018, and to consider the recommendations set out within (*herewith*).

There are five PART 1 recommendations to the Council:

EXE 52/18 Redevelopment of Land Adjacent to 85 Aarons Hill, Godalming and 13 Ryle Road, Farnham (see Appendix 1 of the agenda supplement, page 13)

The Executive RECOMMENDS that the Council approves the allocation of funding from the New Affordable Housing Reserve, as set out in the Exempt Annexe to the report at Appendix 1, for the development of land adjacent to 85 Aarons Hill, Godalming and 13 Ryle Road, Farnham.

EXE 53/18 Community Centre Building and Land, Cranleigh – Transfer from Housing Revenue Account (HRA) to General Fund (see Appendix 2 of the agenda supplement, page 19)

The Executive RECOMMENDS to Council that:

1. **Pursuant to section 122 of the Local Government Act 1972, the land outlined in blue on the Plan at Annexe 1 to the agenda report at Rowland Road, Cranleigh, Surrey be transferred from the Housing Revenue Account to the General Fund;**
2. **The Chief Executive be authorised to execute a memorandum confirming the appropriation; and,**
3. **To cover future liabilities, a one off transfer of £25,000 be made from the Housing Revenue Account to the General Fund at the time of the transfer.**

EXE 54/18 Community Infrastructure Levy (CIL) Governance Arrangements
(see Appendix 3 of the agenda supplement, page 25)

The Executive RECOMMENDS to Council that:

- 1. The governance arrangements for the allocation and spending of Strategic CIL receipts as set out in the report at Appendix 3 be approved.**
- 2. A CIL Advisory Board is established, as set out in paragraph 19 of Appendix 3.**
- 3. Strategic CIL receipts are held in a Strategic CIL Fund, to be allocated to infrastructure identified in the Infrastructure Delivery Plan, in accordance with the Regulation 123 List.**
- 4. Delegated authority is given to the CIL Advisory Board to agree the detailed criteria for the spending of Strategic CIL receipts and any proposals for allocating proportions of the Strategic CIL Fund for specific purposes.**
- 5. Delegated authority is given to the Executive to approve Strategic CIL Fund spending, after consideration of the recommendations from the CIL Advisory Board.**

EXE 55/18 Proposed Public Space Protection Order 1 – Dog Fouling –
Response to Public Consultation (see Appendix 4 of the agenda
supplement, page 31)

**The Executive RECOMMENDS to Council that the Public Space
Protection Order No.1 (Dog Fouling) be approved.**

EXE 56/18 The Animal Welfare (Licensing of Activities Involving Animals)
(England) Regulations 2018 (see Appendix 5 of the agenda
supplement, page 45)

**The Executive RECOMMENDS to Council that the proposed fee structure
be adopted.**

Members of the Council wishing to speak on any Part II matters of report must
give notice to the Democratic Services Team by midday on Tuesday 11
December 2018.

Yours sincerely

Fiona Cameron
Democratic Services Manager

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WAVERLEY BOROUGH COUNCIL

MINUTES OF THE EXECUTIVE - 4 DECEMBER 2018

SUBMITTED TO THE COUNCIL MEETING – 11 DECEMBER 2018

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

Present

Cllr Julia Potts (Chairman)
Cllr Ged Hall (Vice Chairman)
Cllr Andrew Bolton
Cllr Jim Edwards

Cllr Jenny Else
Cllr Carole King
Cllr Chris Storey

Apologies

Cllr Kevin Deanus

EXE 47/18 MINUTES (Agenda item 1)

The Minutes of the Meeting held on 8 October 2018 and the Special Meeting held on 31 October 2018 were confirmed and signed as a correct record.

EXE 48/18 APOLOGIES FOR ABSENCE (Agenda item 2)

Apologies for absence had been received from Cllr Kevin Deanus.

EXE 49/18 DECLARATIONS OF INTERESTS (Agenda item 3)

There were no declarations of interest raised under this heading.

EXE 50/18 QUESTIONS FROM MEMBERS OF THE PUBLIC (Agenda item 4)

There were no questions from Members of the public.

EXE 51/18 QUESTIONS FROM MEMBERS (Agenda item 5)

There were no questions from Members.

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.

EXE 52/18 REDEVELOPMENT OF LAND ADJACENT TO 85 AARONS HILL, GODALMING AND 13 RYLE ROAD, FARNHAM (Agenda item 6)

52.1 Cllr King, Portfolio Holder for Housing, explained that the Council had previously obtained Government funding to deliver Starter Homes on the sites in Godalming and Farnham. There had been a delay in the publication of Starter Homes regulations, and Homes England had allowed the funding to be used by the Council to delivery affordable rented housing on an alternative site.

52.2 It was now proposed to develop the sites to provide 4 one-bedroom flats at Aarons Hill and two one-bedroom flats at Ryle Road, with one being designed for a wheelchair user. A planning application had been submitted for each site and decisions were awaited.

52.3 The development of these sites was an excellent use of the land and the proposals would provide one-bedroom flats for which there was a high demand on the Council's housing register.

52.4 The Executive RESOLVED to

RECOMMEND to Council that approves the allocation of funding from the New Affordable Housing Reserve, as set out in (Exempt) Annexe 1 of the report, for the development of land adjacent to 85 Aarons Hill, Godalming and 13 Ryle Road, Farnham.

[Reason: to enable the Council to progress the development of land to provide affordable homes for rent.]

EXE 53/18 COMMUNITY CENTRE BUILDING AND LAND, CRANLEIGH - TRANSFER FROM HOUSING REVENUE ACCOUNT (HRA) TO GENERAL FUND (Agenda item 7)

53.1 Cllr King introduced the report that proposed the transfer of the Community Centre Building, Cranleigh from the Housing Revenue Account (HRA) to the General Fund. The Community Centre Building was no longer being used for the "housing purposes" for which it was originally acquired under the Housing Act 1985, and the transfer would comply with accounting best practice.

53.2 The General Fund would receive rental income from the property and take on responsibility for managing and maintaining the property. A budget of £25,000 would be transferred from the HRA to the General Fund to allow for any future liabilities.

53.3 The Executive RESOLVED to

RECOMMEND to Council that:

- 1) Pursuant to section 122 of the Local Government Act 1972, the land outlined in blue on the Plan at Annexe 1 to the agenda report at Rowland Road, Cranleigh, Surrey be transferred from the Housing Revenue Account to the General Fund;

- 2) The Chief Executive be authorised to execute a memorandum confirming the appropriation; and,
- 3) To cover future liabilities, a one off transfer of £25,000 be made from the Housing Revenue Account to the General Fund at the time of the transfer.

[Reason: to comply with legislation and best accounting practice.]

EXE 54/18 COMMUNITY INFRASTRUCTURE LEVY (CIL) GOVERNANCE ARRANGEMENTS
(Agenda item 8)

54.1 Cllr Storey advised that following the Council's adoption of the CIL Charging Schedule on 31 October, it was important to start preparing for its implementation from 1 March 2019. Whilst it was not expected that any significant CIL income would be received within the first year of operation, it was important to have in place the arrangements for allocating and spending CIL receipts.

54.2 The proposed CIL Advisory Board would comprise three Executive Members and four non-Executive Members, to ensure wide ownership of the arrangements.

54.3 The Executive RESOLVED to

RECOMMEND to Council that:

1. The governance arrangements for the allocation and spending of Strategic CIL receipts as set out in this report be approved.
2. A CIL Advisory Board is established, as set out in paragraph 19.
3. Strategic CIL receipts are held in a Strategic CIL Fund, to be allocated to infrastructure identified in the Infrastructure Delivery Plan, in accordance with the Regulation 123 List.
4. Delegated authority is given to the CIL Advisory Board to agree the detailed criteria for the spending of Strategic CIL receipts and any proposals for allocating proportions of the Strategic CIL Fund for specific purposes.
5. Delegated authority is given to the Executive to approve Strategic CIL Fund spending, after consideration of the recommendations from the CIL Advisory Board.

[Reason: to establish arrangements for the allocation and spending of the Community Infrastructure Levy in Waverley.]

EXE 55/18 PROPOSED PUBLIC SPACE PROTECTION ORDER - DOG FOULING -
RESPONSE TO PUBLIC CONSULTATION (Agenda item 9)

- 55.1 Cllr Else updated the Executive on the response to the public consultation on the proposed Public Space Protection Order in relation to dog fouling.
- 55.2 Dog fouling had been an issue for residents in Waverley and elsewhere in the country for many years, caused by the irresponsible actions of a minority of dog owners. The Anti-social Behaviour Crime and Policing Act 2014 introduced new powers to deal with a wide range of anti-social behaviour issues using fixed penalty notices as an alternative to court action. The Council had consulted widely with residents, Town, Parish and the County Council and a range of other organisations and received significant numbers of responses. There was a clear indication from the responses that residents regarded failing to clear up after a dog had fouled was a problem in Waverley and that dog owners should clean up after their dog. There was overwhelming support for the introduction of fixed penalty notices for those failing to do so.
- 55.3 It was recognised that there needed to be a balance between the rights of dog owners and other residents and that there should be exemptions for those less able dog owners. Exemptions from the requirement to clean up were therefore included in the report along with a 'reasonable excuse' defence. The Order did however also include a requirement to dispose of dog waste appropriately after it has been cleared up, in response to the problem of bags of dog waste being disposed of indiscriminately.
- 55.4 As with most other civil enforcement legislation, whilst the Order would apply borough wide, enforcement of it would be intelligence led and targeted at areas where the community was reporting that there were problems. Enforcement could be carried out by a range of council officers with an enforcement role and by the Police.
- 55.5 The Executive welcomed the proposals and RESOLVED to note the findings of the public consultation, and

RECOMMEND to Council that the Public Space Protection Order No.1 (Dog Fouling) be approved.

[Reason: to enable the Council to respond to anti-social and offensive dog-fouling, which impacts on residents' enjoyment of public spaces.]

EXE 56/18 THE ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS)
(ENGLAND) REGULATIONS 2018 (Agenda item 10)

- 56.1 Cllr Bolton advised the Executive that the Animal Welfare Act 2006 was introduced to ensure that animals are not mistreated, and is the enabling Act for the updated 2018 Regulations for Licensing of Activities Involving Animals. The Regulations came into effect on 1 October 2018, and replaced a number of previous licensing regimes in relation to animal establishments.
- 56.2 It was anticipated that most operators would be unlikely to have any significant difficulties in complying with the new requirements. Whilst inspections may

initially take longer and in some cases be more frequent, premises of a higher standard would be visited less frequently. Officers would receive further training in order to enforce the new legislation.

56.3 A new fee structure was proposed to that would replace all existing fees and charges for animal licences. The new fee structure was designed to recover the costs of administration, inspection and regulation of the new regime. Officers had worked with colleagues in other Surrey authorities to ensure consistency over the levels of fees charged.

56.4 The Executive RESOLVED to note the new requirements relating to The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and

RECOMMEND to Council that the proposed fee structure be adopted.

[Reason: The new fee structure will recover costs of the Council carrying out its responsibilities under the new Regulations.]

PART II - MATTERS OF REPORT

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

EXE 57/18 HR STRATEGY 2018-2023 (Agenda item 11)

57.1 The Leader introduced the HR Strategy for 2018 – 2023, which outlined the Council's approach to recruit, develop and retain staff, and to support them to work in ways to deliver council services in an effective 21st century council.

57.2 As well as drawing on the ambitions of the new Corporate Strategy, the HR Strategy directly addressed areas for development that had been identified in the recent Investors in People report and the LGA planning peer review.

57.3 The Leader thanked the Value for Money & Customer Service Overview and Scrutiny Committee for their contributions to the HR Strategy and commended the new Strategy to the Executive.

57.4 The Executive RESOLVED that the HR strategy 2018-2023 be approved.

[Reason: to support the recruitment, development and retention of the Council's workforce.]

EXE 58/18 REVIEW OF PARTICULAR POLLING PLACES (Agenda item 12)

58.1 The Leader advised that representations had been received in relation to the continued use of particular polling places. The polling places had been reviewed and where possible alternative sites had been identified and site visits undertaken to assess their suitability as polling stations. The Council was keen to avoid using schools as polling places if at all possible due to the disruption this caused, and it was pleasing the two of the proposals would see polling moved away from school locations.

58.2 The Executive RESOLVED to approve the alternative arrangements for particular polling places as set out below:

1. to the use of Leverton Hall, St. Peter's Church, Beale Lane, Farnham as a polling place instead of St. Peter's Primary School;
2. to the use of Godalming Unitarian Chapel, Meadow, Godalming as a polling place instead of the Red Cross Centre, Wey Court, Godalming;
3. that in the event no part of the United Reformed Church site is available for polling use Farnham Town Council offices, South Street, Farnham be designated as a temporary alternative venue;
4. to the use of Snoxhall Fields Youth Centre, Knowle Lane, Cranleigh as a polling place instead of Cranleigh Band Room, Village Way, Cranleigh
5. that use of Potters Gate School as a temporary polling venue for the Farnham Castle ward cease and that use of Farnham Memorial Hall as the previously designated polling station re-commence.

[Reason: to agree alternative arrangements for particular polling places.]

EXE 59/18 PROPERTY MATTER - BROADWATER PARK GOLF CLUB (Agenda item 13)

59.1 Cllr Hall commended to the Executive the proposal to grant a new lease to Broadwater Park Golf Club, which would enable the Club to invest in the golf course and address health and safety concerns relating to the site and provide a long-term solution to underlying contamination issues.

59.2 The Executive RESOLVED that Officers be authorised to proceed with due legal process to grant a new lease to the Broadwater Park Golf Club on the terms proposed in Exempt Annexe 1 to the report.

[Reason: to grant a new lease to the golf club, which will enable investment in the golf course and mitigate health and safety concerns about the site.]

EXE 60/18 PROPERTY MATTER - EASEMENT OF ACCESS TO RUMBEAMS, HORSHAM ROAD, EWHURST (Agenda item 14)

60.1 The Executive RESOLVED to grant an easement of access to Rumbeams on terms and conditions set out in (Exempt) Annexe 2 to the report, and subject to the owners obtaining Commons consent; other terms and conditions to be agreed with the Estates and Valuation Manager.

[Reason: to provide access for the owners to their property.]

EXE 61/18 EXCLUSION OF PRESS AND PUBLIC (Agenda item 15)

The Executive agreed that it would not be necessary to go into Exempt session to consider the following agenda items.

EXE 62/18 PLANNING MATTER - REQUEST FOR SUPPLEMENTARY ESTIMATE (Agenda item 16)

62.1 The Executive RESOLVED to agree a Supplementary Estimate, of the amount and for the purpose set out in the Exempt report.

[Reason: to agree a Supplementary Estimate in connection with a Planning Matter]

EXE 63/18 PROPERTY MATTER - LEASE EXTENSION (Agenda item 17)

63.1 The Executive RESOLVED that to agree a request for a lease extension in response to a section 42 Notice under the Leasehold Reform, Housing and Urban Development Act (1993) (as amended), as detailed in the Exempt report.

[Reason: to agree a section 42 Notice request for a lease extension, under the Leasehold Reform, Housing and Urban Development Act (1993) (as amended).]

The meeting commenced at 6.45 pm and concluded at 7.05 pm

Chairman

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WAVERLEY BOROUGH COUNCIL

COUNCIL

11 DECEMBER 2018

Title:

**REDEVELOPMENT OF LAND ADJACENT TO 85 AARONS HILL, GODALMING
AND 13 RYLE ROAD, FARNHAM**

[Portfolio Holder: Cllr Carole King]

[Wards Affected: Godalming Central and Ockford and Farnham Firgrove]

Note pursuant to Section 100B (5) of the Local Government Act 1972

Annexe 1 to this report 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 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).

Summary and purpose:

The purpose of this report is to seek approval for a budget to be allocated for the appointment of a professional team and build contractor in compliance with the Council's Contract Procedure Rules, to enable the redevelopment of land adjacent to 85 Aarons Hill, Godalming and adjacent to 13 Ryle Road in Farnham, to provide 6 new affordable homes.

How this report relates to the Council's Corporate Priorities:

Waverley Borough Council Corporate Strategy 2018-2023, Priority Theme 1: People, maximise the supply of affordable homes.

Equality and Diversity Implications:

The impact of the proposal has been assessed, to ensure it does not unlawfully discriminate against any person.

Financial Implications:

Funding for the delivery of 6 new affordable homes can be met from the New Affordable Housing Reserve.

Legal Implications:

The procurement and appointment of any required services or build contractor will be made in compliance with the council's Contract Procedure Rules and OJEU (Official Journal of the European Union) requirements, should the value of the contract be above a certain threshold.

Background

1. The council previously obtained Government funding of £113,912 to deliver Starter Homes on land adjacent to 85 Aarons Hill and 13 Ryle Road, permitting first time buyers under the age of 40 to purchase a property at a minimum discount of 20% below the market value. The council was to prepare each site for development, obtain planning permission and appoint a contractor to construct the homes.
2. The Government noted in March 2018 that a significant number of respondents to a consultation on the housing white paper, including local authorities and the development industry - raised concerns about Starter Homes as a general concept. Starter Homes regulations, which are required to guide developers on implementation, have also not been published.
3. The council has high demand for housing and in the circumstances, Homes England transferred the funding to be used for delivery of much needed affordable rented housing on an alternative site at Nursery Close in Shamley Green that completed in April 2018.
4. Brodie Plant Goddard Architects has developed the design and worked with the Housing Development Team, to seek pre-planning application advice from development and building control officers. This was incorporated into the design. Public consultation has also taken place with adjoining residents and their feedback taken into account.
5. A planning application was submitted for each site in September 2018 and a decision on whether to grant planning permission is pending. 4x 1-bedroom flats are proposed for Aarons Hill and 2x 1-bedroom flats – one designed for a wheelchair user – are proposed for Ryle Road. All homes have been designed in accordance with the emerging design standards for new council homes, contained within a report by the Housing Overview and Scrutiny Committee, where the Executive agreed to accept their recommendations in July 2018.

Housing need

6. Waverley is one of the most expensive places in Surrey to buy a home. In February 2018, house prices in Waverley were well above the average for England and the South East. An average home in Waverley now costs £454,075. Entry level house prices in Waverley are now 12.2 times the typical earnings of younger households, compared to a ratio of 7.8 times nationally.
7. Over the 2001-11 decade, housing costs increased relative to earnings; whilst household formation and home ownership both fell. High demand for housing is also pushing up private rents. This pressure on smaller homes for rent and sale on the open market has driven up property prices beyond the reach of many local households and workers.
8. As at 9 May 2018, there were 1,290 households registered on the council's waiting list, who are unable to access housing to meet their needs in the open market as shown in the table below; alongside the West Surrey Strategic Housing Market Assessment 2015 (SHMA) recommended mix for new affordable housing:

	1 bed	2 bed	3 bed	Total
Number of households on the council's housing register, listed by need for each property type (November 2018)	695	289	132	1116
SHMA recommended affordable mix for new homes in the borough	40%	30%	25%	-
Proposed number of homes by bed size	6	0	0	6

9. Delivery of new affordable housing and turnover of existing homes continues to fall far short of what is required to meet need. Furthermore, 40% 1 bedroom is not achieved across the affordable housing element of all new developments, so an entire development of 1 bed units will make a significant contribution towards meeting the need for smaller affordable homes. Properties will be allocated in accordance with the councils housing allocation scheme.

Finance

10. The pre-development budget has been used for covering the cost of pre-development surveys, architect appointment and planning application fees to date. These costs would be capitalised and paid for from the project budget, which is allocated from the New Affordable Housing Reserve. A financial appraisal of costs has been prepared and is set out in (Exempt) Annexe 1.

Risk Management

11. Pre-development survey reports were submitted as part of the planning application. There are no significant findings that would prevent development taking place, or expose the council to any unforeseen costs. The reports will be made available to contractors tendering for the work and form part of the risk register and associated action plan.

Procurement

12. Subject to planning permission being granted, a professional team will be appointed, in order to prepare a tender for the appointment of a build contractor, manage the resulting build contract and oversee works on site. Procurement of these services and the contractor would be carried out in compliance with the council's Contract Procedure Rules.

Recommendation

The Executive recommends to Council that the allocation of funding from the New Affordable Housing Reserve, as set out in (Exempt) Annexe 1 for the development of land adjacent to 85 Aarons Hill, Godalming and 13 Ryle Road, Farnham be approved.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

Name: Louisa Blundell

Title: Housing Development Manager

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

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WAVERLEY BOROUGH COUNCIL

COUNCIL

11 DECEMBER 2018

Title:

COMMUNITY CENTRE BUILDING AND LAND, CRANLEIGH – TRANSFER FROM HOUSING REVENUE ACCOUNT (HRA) TO GENERAL FUND

**[Portfolio Holders: Cllr Ged Hall and Carole King]
[Wards Affected: All]**

Summary and purpose:

The purpose of this report is to seek approval from the Executive for the transfer of the Community Centre Building, Cranleigh, from the Housing Revenue Account (HRA) to the General Fund (GF). The Community Centre Building is no longer used for the “housing purposes”, for which it was originally acquired under the Housing Act 1985.

How this report relates to the Council’s Corporate Priorities:

This report relates to the “People” and “Prosperity” Corporate Priorities for 2018-2023. Good financial and asset management underpins all of the Council’s priorities.

Legal Implications

Appropriation is the statutory process which allows the Council to transfer property within its ownership from one use to another.

Under s122 of the Local Government Act 1972, a council may appropriate land which it owns and is no longer required for the purpose for which it was initially held.

As the Community Centre Building is no longer used for “housing purposes” and is let out on a commercial lease, the Council intends to use the powers under s122 of the Local Government Act 1972, to transfer the property from the HRA to the General Fund Asset Register.

The Council has the legal authority to undertake the appropriation. The appropriation process does not change the ownership of the building and land.

Financial Implications

Where the purpose of holding a property is not related to the provision of housing under Part II of the Housing Act 1985, the property should be held within the General Fund.

Following the proposed transfer, the General Fund will receive rental income from the property and also take responsibility for managing and maintaining the property. A budget

of £25,000 will be transferred from the HRA to the GF to allow for any future liabilities. No other payments will be made.

Annual maintenance and running costs of the Community Centre building is between £5000 and £10,000 per annum.

The accounting treatment is fairly straightforward. There is no current value for the land on the Asset Register. The property will need to be revalued at the transfer date.

Background

1. The Community Centre Building (known as Rowleys Day Centre) is owned by Waverley Borough Council. The property itself and adjacent car parking spaces are let out on a long term commercial lease. The rest of the surrounding site at Rowland Road, Cranleigh, owned by Waverley Borough Council, is listed on the General Fund Asset Register.
2. International Financial Reporting Standards (IFRS) require that properties are categorised according to the purposes for which the Council holds them. As part of the Council's review of its assets, the Community Centre Building, Cranleigh, has been identified as a building where the Council's reason for holding it has changed since the original acquisition.
3. The proposed Community Centre Building and Land to be transferred from the Housing Revenue Account to the General Fund is shown outlined in blue on the Plan at Annexe 1 to this report. The Community Centre Building, Cranleigh, was formerly part of the Council's sheltered housing scheme (the community lounge and scheme manager's office). It is no longer used for these original "housing purposes" under the Housing Act 1985.

Legal Position

4. Under s122 of the Local Government Act 1972, a council may appropriate land which it owns and is no longer required for the purpose for which it was initially held.
5. As the Community Centre Building is no longer used for "housing purposes" and is let on a commercial lease, it is intended to use the powers under section 122 of the Local Government Act 1972 to transfer the property from the Housing Revenue Account to the General Fund asset register.
6. The Council does not need to seek the Secretary of State's consent for this proposed appropriation of land as the land does not consist of "a house or part of a house" (s19 of the Housing Act 1985). The proposed appropriation of land will not affect the existing commercial tenant or the overall ownership of the property.

Future Maintenance and Running Costs

7. Future maintenance and running costs will fall to the General Fund. £50 000 has recently been spent by the Housing Revenue Account on refurbishment works of the Community Centre Building. The recent refurbishment works included: renovation of the community lounge which was in a poor state; a hairdressing salon; renovation of

the lavatories; refurbished kitchen and a new office space. Some minor works were undertaken to the roof and fire escapes/ramps from building.

8. The Community Centre Building roof needs replacing within the next 2-3 years and a general fund capital bid will be submitted in relation to this work.
9. To cover future liabilities a one off transfer of £25,000 will be made from the Housing Revenue Account to the General Fund at the time of the transfer.

Conclusion:

To comply with legislation and accounting best practice, the Community Centre Building and land shown on the Plan at Annexe 1, should be transferred from the Housing Revenue Account to the General Fund Asset Register.

The proposed transfer will generate a rental income for the General Fund, however maintenance/running costs of the property and future liabilities will fall to the General Fund. The freehold ownership of the Community Centre Building remains with Waverley Borough Council.

Recommendation

The Executive recommends to Council that:

- 1) Pursuant to section 122 of the Local Government Act 1972, the land outlined in blue on the Plan at Annexe 1 at Rowland Road, Cranleigh, Surrey be transferred from the Housing Revenue Account to the General Fund; and
- 2) The Chief Executive be authorised to execute a memorandum confirming the appropriation
- 3) To cover future liabilities a one off transfer of £25,000 will be made from the Housing Revenue Account to the General Fund at the time of the transfer.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICERS:

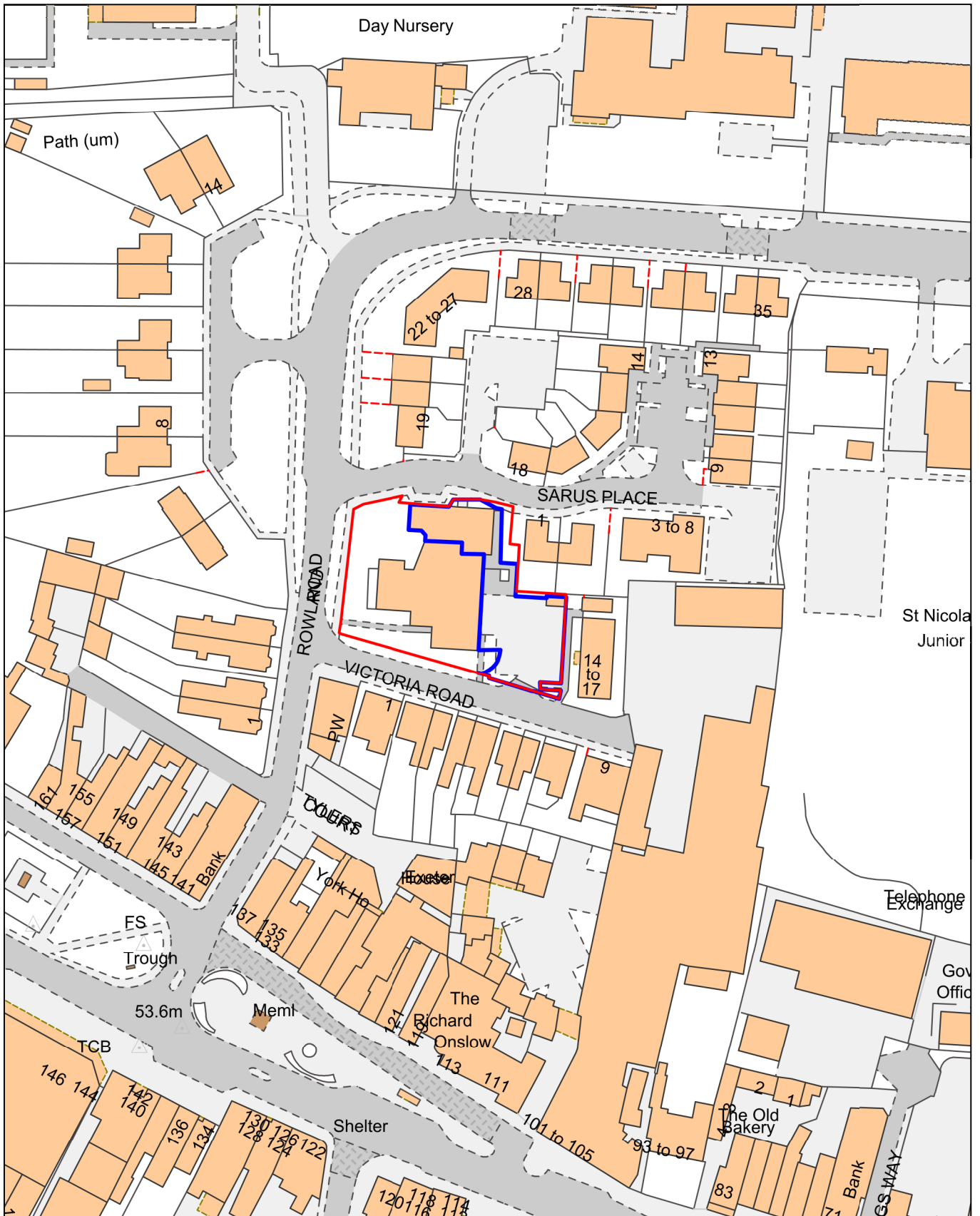
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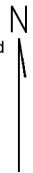
Rowleys, Victoria Road, Cranleigh
Red = Leased Area
Blue = Approx Housing Revenue Land

Scale 1: 1,250

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WAVERLEY BOROUGH COUNCIL

COUNCIL

11 DECEMBER 2018

Title:

COMMUNITY INFRASTRUCTURE LEVY – GOVERNANCE ARRANGEMENTS

**[Portfolio Holder: Cllrs Kevin Deanus & Ged Hall]
[Wards Affected: All]**

Summary and purpose:

The purpose of this report is to seek approval for the proposed governance arrangements for the allocation and spending of the Community Infrastructure Levy (CIL) in Waverley.

How this report relates to the Council's Corporate Priorities:

The adoption of robust CIL Governance Arrangements will contribute to Council's Strategic Priorities of Place and Prosperity, through the allocation of funding to enable provision of infrastructure that supports communities and economic growth in the Borough.

Equality and Diversity Implications:

There are no direct Equality and Diversity Implications arising from the CIL Governance Arrangements. There are no specific equality groups that will be directly affected the proposed arrangements. It is expected that all residents/businesses will benefit from improvements to infrastructure in their local area and the Borough as a whole.

Financial Implications:

During the CIL Examination, it was estimated that CIL has the potential to raise approximately £94m towards infrastructure development in Waverley in the period up to 2032. This report proposes a governance system to determine how to spend the receipts collected from the CIL.

Legal Implications:

The governance arrangements will be implemented in accordance with the CIL Regulations 2010 (as amended) ('the Regulations') and will also take account of Planning Practice Guidance.

Background

1. The Community Infrastructure Levy (CIL) is a charge that local authorities can impose on new development to help raise funds to deliver infrastructure that is required to support the development and growth of their area.
2. Following independent examination, the Waverley Borough Council CIL Charging Schedule ('the CIL Charging Schedule') was adopted by Full Council on 31 October 2018 and will be effective from 1 March 2019.

3. CIL will, in most cases, replace the use Section 106 contributions for securing developer funding for infrastructure investment. However, Section 106 planning obligation will remain for site-specific infrastructure and for the provision of affordable housing. CIL will be a more effective source of infrastructure funding compared with contributions negotiated under S106 agreements as the CIL is non-negotiable and apply to a greater number of developments. This provides greater certainty to both the developer and the Council.
4. Waverley's Regulation 123 List sets out the types of infrastructure that the Council may fund through CIL and those to be funded through Section 106 agreements. The Regulation 123 List, Instalment Policy, and Phasing and CIL-in-kind Policies were also adopted by Council on 31 October 2018.
5. CIL contributions are intended to fill infrastructure funding gaps and are not expected to provide the full costs associated with delivering and maintaining infrastructure. The Council must use the CIL funds for "the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area". The CIL cannot be used to resolve "historical deficits" of infrastructure provision.
6. During the CIL Examination, it was projected that Waverley's CIL income would be £94 million for the remainder of the Plan Period.
7. It should be noted that CIL is payable on the commencement of the development. This factor, alongside Waverley's adopted instalment policy, will mean there is a time lag in receiving CIL receipts and the Council is unlikely to have significant CIL receipts until 2020.
8. In order to ensure a consistent and transparent approach to future spending of CIL, which adheres to the CIL Regulations and has regard to the Infrastructure Delivery Plan (IDP), it is important that the Council adopts clear process of governance for allocating CIL funding.
9. The VFM O&S committee received a report in June 2018 setting out broad principles for spending, including: timely spend based around a periodic bidding/application cycle; decisions on spending the CIL Fund, and transparency of decision-making and reporting.
10. The Committee was keen that spending of CIL had some connection back to the geographical area in which the donor development would take place, and that decision-making was informed by Members from across the Borough, e.g. one from each Area Planning Committee.

Governance Arrangements for the CIL

11. The Regulations state that the CIL is to be allocated as follows:
 - Administrative CIL: 5% of CIL receipts to be retained by Waverley Borough Council (see paragraph 12 below).
 - Neighbourhood CIL: 15%-25% of CIL receipts to be paid to Town and Parish Councils (see paragraphs 13 to 15 below).
 - Strategic CIL: the remaining 70-80% of CIL to be allocated to infrastructure projects by Waverley Borough Council (see paragraphs 16 to 22 below).

Administrative CIL

12. The Regulations allow the Council to retain up to 5% of annual CIL receipts to be spent on the administrative expenses in relation to the administration and collection of the CIL. Administrative expenses have and will include: examination costs (upfront and possible future costs following review), staff, training, IT software and indexation subscriptions. This money is ring-fenced and has to be reported on annually.

Neighbourhood CIL

13. In line with the Regulations, 15% of CIL receipts (capped at £100 per Council tax dwelling per annum in the parish area) will be transferred to Town and Parish Councils twice a year, where development has occurred in their area, rising to 25% of CIL receipts (without any cap) for Town and Parish Councils that have made Neighbourhood Plans.
14. The Neighbourhood CIL may be spent by Town or Parish Councils on a range of infrastructure projects, as long as it meets the requirement to support:
 - the development of the area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - anything else that is concerned with addressing the demands that development places on the area.
15. Town and Parish Councils must produce and publish an annual report detailing CIL receipts, balances and spending for each financial year.

Strategic CIL

16. There are a number of administrative arrangements that will need to be put in place in regards to the allocation and spending of Strategic CIL receipts. Governance arrangements for CIL do not need to be published for consultation or independent examination. The operational aspects of the Strategic CIL governance arrangements will be put in place by the appropriate internal services.
17. Strategic CIL receipts must be spent on infrastructure types identified in the Regulation 123 List. The Infrastructure Delivery Plan (IDP) will act as a framework for allocating Strategic CIL funding, in accordance with the arrangements set out in this report. The IDP sets out specific projects, relating to the identified types of infrastructure in the Regulation 123 List. There is an Environment O&S working group that is currently considering this list.
18. Officers have considered and discussed the CIL governance structures that have been introduced by other Local Authorities and have also met with Surrey County Council (SCC) as the largest value infrastructure provider in the Regulation 123 List.
19. The Council will need to set up a governance system for the allocation and spending of Strategic CIL receipts. It is recommended that a CIL Advisory Board should be established, comprising appropriate Executive Portfolio Holders and non-Executive Members (a total of 7 Members, of which non-Executive Members are in the majority). The proposed initial membership will be the Portfolio Holders for Finance, Operational & Enforcement Services, and Economic & Community Development and four non-Executive Members, to be appointed. The Board will set and review the criteria and approach to spending priorities and consider whether any of the fund should be allocated for a specific purpose. The Board will review all valid funding

applications and make recommendations to the Executive on which projects should be allocated funding.

20. It is recommended that the allocation of Strategic CIL receipts is considered on an annual basis with infrastructure providers submitting applications for an allocation of CIL funding. The allocation process will be based on CIL income from the previous financial year, together with any unallocated funds from the previous financial years, to ensure that investment of funds is timely in relation to when they are received.
21. The following stages and timescales for the Strategic CIL governance process are proposed:

Dates	Process
by 28 February 2019	CIL Advisory Board agrees criteria and spending priorities.
31 March 2020	End of 2019/2020 CIL financial year – CIL receipts totalled.
April–June 2020	Bids can be submitted for applications for an allocation of the Strategic CIL receipts
July – August 2020	Applications will be validated by the CIL officer to ensure that all information required has been provided.
September 2020	All valid applications will be reviewed by the CIL Advisory Board and recommendations for funding submitted to the Executive.
October 2020	Decisions will be made by the Executive, informed by the recommendations of the CIL Advisory Board

22. It is proposed that these governance arrangements be reviewed after 1-2 years of operation to provide an opportunity to reflect on lessons learned. However, if it is found that there is a fundamental problem with the arrangements put in place, the Council will be able to review them at any time.
23. The Council is required to prepare and publish an annual report detailing CIL receipts, balances and spending for each financial year; which will be reported to members as part of the Council’s regular financial monitoring procedures.
24. The Council has also procured a real-time ‘Public Facing Module’, as part of the CIL IT system (Exacom), which will allow the public to see details of CIL collection, management and spending in Waverley.

Comments from Value for Money & Customer Service Overview and Scrutiny Committee

25. The Value for Money and Customer Service O&S Committee considered this report at its meeting on 19 November and made the following observations:
26. The Committee noted that CIL could potentially generate up to £94m towards infrastructure in the period up to 2032 and emphasised the importance of having a robust process and governance structure in place to manage this.

27. The Committee noted that the CIL Regulations did not require CIL money to be allocated to the specific area from where the charge arose. Members recalled that at the Committee's June meeting, where this matter had previously been considered, it was felt that there should be at least some connection between area where development was taking place (causing CIL funding to arise) and where the money would be spent. The Committee recommended that the new CIL Advisory Board be asked to consider the pros and cons of this approach when drafting the allocation criteria.
28. Members also considered the proposed composition of the CIL Advisory Board, and suggested that this be geographically proportionate as far as possible, to ensure that both rural and urban areas were represented.
29. The Committee noted the ability of the Council to retain up to 5% of annual CIL receipts to be spent on administrative expenses and felt that it should be made clear that the Waverley would only spend what was needed in order to effectively and efficiently deliver CIL.
30. The Committee carefully considered the proposed recommendations that the Executive would be recommending to Council. It was felt that while the CIL Advisory Board should draft the detailed criteria for the spending of Strategic CIL receipts, the final approval of the allocation criteria should come to Council. It was also suggested that there should be a financial threshold over which decisions to spend funds would need to be approved by Council (as was currently the case with the Property Investment Strategy).
31. The Committee therefore agreed to recommend the following amendments (in bold type) to recommendations 4 and 5:

It is recommended that the Council:

4. Delegate to the CIL Advisory Board the **drafting** of the detailed criteria for the spending of Strategic CIL receipts and any proposals for allocating proportions of the Strategic CIL Fund for specific purposes, **which will then be subject to Council approval following the usual scrutiny process.**
5. **Subject to an agreed threshold to be approved by Council**, delegate to the Executive the approval of Strategic CIL Fund spending after consideration of the recommendations from the CIL Advisory Board.

Recommendation

The Executive recommends to Council that:

1. The governance arrangements for the allocation and spending of Strategic CIL receipts as set out in this report be approved.
2. A CIL Advisory Board is established, as set out in paragraph 19.
3. Strategic CIL receipts are held in a Strategic CIL Fund, to be allocated to infrastructure identified in the Infrastructure Delivery Plan, in accordance with the Regulation 123 List.

4. Delegated authority is given to the CIL Advisory Board to agree the detailed criteria for the spending of Strategic CIL receipts and any proposals for allocating proportions of the Strategic CIL Fund for specific purposes.
5. Delegated authority is given to the Executive to approve Strategic CIL Fund spending, after consideration of the recommendations from the CIL Advisory Board.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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WAVERLEY BOROUGH COUNCIL

COUNCIL

11 DECEMBER 2018

Title:

**PROPOSED PUBLIC SPACE PROTECTION ORDER – DOG FOULING
RESPONSE TO PUBLIC CONSULTATION**

[Portfolio Holder: Cllr Kevin Deanus, Cllr Jenny Else]

[Wards Affected: All]

Summary and purpose:

This report informs the Executive of the feedback to the public consultation on the proposed Public Space Protection Order (PSPO) in relation to dog fouling and recommends that the Council proceeds to make the Order as proposed.

How this report relates to the Council's Corporate Priorities:

The proposal will contribute to the Council's Place priority theme, enabling the Council to deal with environmental crime which impacts on residents' enjoyment of public spaces.

Equality and Diversity Implications:

An Equalities Impact Assessment has been carried out and it is recognised that the proposed PSPO has to balance the rights and responsibilities of dog owners against those of the rest of the community who do not wish to be adversely affected by indiscriminate dog fouling and the offensive and potential health impacts caused by a minority of irresponsible dog owners.

The Order therefore provides exemptions for those with disabilities such as visual impairment, and other disabilities which affects his/her mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise, move everyday objects or where they have an assistance dog. It also provides for those instances where 'reasonable excuse' can be proved by the person whose dog has fouled.

Financial Implications:

Work undertaken will be carried out within current approved resources. Enforcement will be carried out under the current contract with East Hants DC for litter enforcement at no additional cost to Waverley. A small implementation cost will be incurred for signage which will be met from within existing resources.

Legal Implications:

The legal implications are dealt with in the body of the report.

Background

- 1.1 Members will be aware that the council has consulted on making two Public Space Protection Orders (PSPOs).
 - Firstly in relation to dog fouling
 - Secondly in relation to dog controls including dog exclusion areas, dogs on lead by direction, dogs on lead, dogs on leads seasonal restrictions and limits on the number of dogs one person may be in control of in a public place at one time.
- 1.2 This report confines itself to the first of the proposed PSPOs, dog fouling. A copy of the draft PSPO No.1 is attached as Annexe 1.

Pre – Consultation

- 1.3 Public Space Protection Orders (PSPOs) were introduced under the provisions of the Anti-social Behaviour, Crime and Policing Act 2014, and the previous provisions for controlling dog-fouling were implemented in October 2017. Since then officers have been working with Surrey Police and other colleagues to develop proposals and review the evidence supporting the need for these orders. Draft orders were prepared and pre-consultation with a wide range of agencies and groups was undertaken. In line with formal requirements, comment was invited from the Chief Officer of Surrey Police, the local police and the County Council (as Highways authority).
- 1.4 All Waverley councillors, all town and parish councils, all borough and district councils in Surrey and Surrey County Council were written to along with local Chambers of Commerce, a number of agencies (including the National Trust, Natural England and the Environment Agency) and a number of organisations (including the Kennel Club and Dogs Trust).
- 1.5 Whilst there were some limited concerns raised there was general support from those consulted for controls in relation to dogs. Further work was then carried out on the PSPOs in relation to dog controls in response to the feedback to the pre-consultation in preparation for the public consultation.

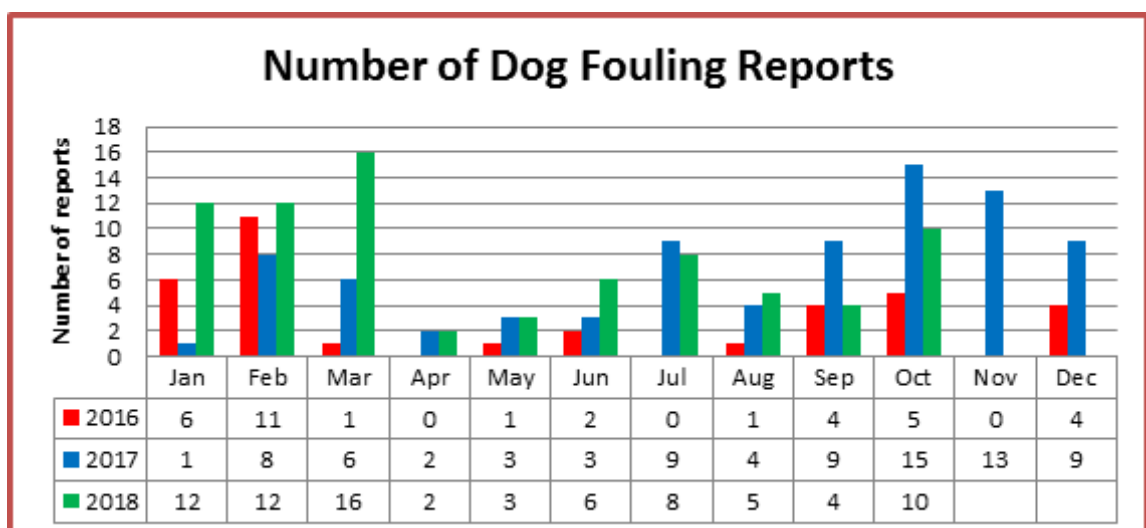
Public Consultation

- 1.6 The public consultation began on 24 June 2018 and ended on 27 July 2018. The revised PSPOs were re-circulated to all those included in the pre-consultation along with media coverage through press releases and the use of social media. Posters were also displayed in parks and public open spaces directing people to the Survey Monkey questionnaire on the Council's website.
- 1.7 A significant number of responses (over 1200 on the website Survey Monkey and over forty letters / emails) were received. During the consultation period the council was approached by some Parish Councils who requested that some of their open spaces be covered by the PSPOs. The council was advised that to add these areas of land to the schedules we should publicise the proposed additions and extend the consultation period for a further four weeks to give people the opportunity to comment.

- 1.8 Given the level of response to the initial consultation period it was also felt this extension to the consultation would give opportunity to others in the community to further comment in relation to the proposed Orders.
- 1.9 The responses to the consultation on the dog fouling PSPO have been analysed but due to the extent of the responses to the consultation on other dog controls that PSPO will be the subject of a future report. The detailed responses to the dog fouling PSPO consultation are set out in [Annexe 2](#).

Incidence of Dog Fouling and failing to clean up

- 1.10 Recorded incidents of dog fouling are indicated in the table below. It is however recognised that there is underreporting of dog fouling and feedback from our street cleaning contractors and from the general public. Indeed the ranger service report in the Quarterly Enforcement Report attached to a separate report on this agenda that there were “Several incidences of dog fouling at Binscombe open space, Mare Hill Common, Lower Hanger woodland, Grayswood Common, Shackleford Common and Woolmer Hill Recreation Ground” and “79 bags of dog waste collected as part of litter picking at Blackheath and Summerlands Estate”.
- 1.11 In the survey 51% agreed or strongly agreed it was a problem compared with only 34% who disagreed or strongly disagreed. Almost 48% also agreed or strongly agreed that fines would be an effective way of dealing with dog fouling compared with almost 36% who disagreed or strongly disagreed.
- 1.12 When asked about cleaning up after a dog has fouled there was an overwhelming 96% who agreed that owners must clean up after their dog immediately and over 76% agreed or strongly agreed that fines of £100 should be issued to persons who failed to clean up after their dog.
- 1.13 It is clear from the consultation that the general public regard the failure to clean up dog fouling as offensive and anti-social as well as expressing concerns about the health risks.



- 1.14 Members will also be aware that the Council is able to introduce orders under the Anti-social Behaviour Crime and Policing Act 2014 where certain conditions have been met.

- 1.15 When making an order the Council must be satisfied on reasonable grounds that the activities that have taken place:
- have had or are likely to have a detrimental effect on the quality of life of those in the locality; and
 - is or is likely to be persistent or continuing in nature;
 - is or is likely to be unreasonable; and
 - justifies the restrictions imposed.
- 1.16 Whilst the majority of dog owners in the borough are responsible owners, and pick up after their dogs there are a minority of dog owners who are not and do not pick up after their dog. Dog fouling has been raised as a concern by residents.
- 1.17 Analysis of complaints received and research undertaken in preparation for this report established that there is a need to address the specific issue of dog fouling within the Borough so that we can make our public places cleaner and safer for everyone to enjoy. In proposing this PSPO it is hoped that Waverley will benefit from a more consistent approach to dealing with these issues and will allow us to deal efficiently with the minority of dog owners who behave irresponsibly whilst also encouraging a culture of responsible dog ownership.

Implementation

- 1.18 Subject to the Executive's approval to make the Order, it will need to be published on the council's website, notices placed on or adjacent to land where the order applies and notification sent to Town and Parish Councils and the County Council. Notifications will also be placed through social media.
- 1.19 Any interested person, someone who regularly works or lives in the area (or a particular interest group) may challenge the making of the Order in the High Court within 6 weeks of it being made.
- 1.20 Guidance from the Local Government Association also supports the 'soft launch' approach when the Order becomes live. The Executive is therefore recommended to agree the making of the Order with effect from 1 January 2019 for a three year period with a three month soft launch period during which warnings would be given to persons failing to clear up after their dog rather than issuing Fixed Penalty Notices.

Conclusion

- 1.22 Based on the evidence of the incidence of dog fouling in the borough and the feedback from the consultation it is evident that there is clear support for the introduction of the PSPO in relation to dog fouling and the Council is recommended to support its introduction.

Recommendation

The Executive recommends to Council that the Public Space Protection Order No.1 (Dog Fouling) be approved.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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Waverley Borough Council
The Anti-Social Behaviour, Crime and Policing Act 2014 - Part 4, Section 59
The Public Spaces Protection Order (No 1) – Waverley Borough Council 2018

Waverley Borough Council ('the Council') in exercise of the power under section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 ('the Act'), being satisfied that the conditions set out in section 59 of the Act have been met, makes the following Order: This Order comes into force on [] and will remain in force for a period of three years from that date unless extended by further order under the Council's statutory powers.

General Provisions

This order applies to all land in the administrative area of Waverley Borough Council ('the Restricted Area') that is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this Order, land which is covered is to be treated as land which is open to the air if it is open to the air on at least one side.

Dog fouling

1. A Person in Charge of a dog shall be guilty of an offence where the dog defecates at any time on land within the Restricted Area and he/she fails to remove the faeces from the land forthwith, and dispose of it in an appropriate receptacle such as a litter or dog waste bin, unless-
 - (i) he/she has a reasonable excuse for failing to do so; or
 - (ii) the owner, occupier or other person or authority having control of the relevant land has consented to his failing to do so.
2. It will be an offence for any Person in Charge of a dog to fail to provide evidence of the means of a suitable device or means to pick up dog faeces when requested to do so by an Authorised Officer.
3. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

Definitions

4. Authorised Officer means an employee of the Council, Police Officer, Police Community Support Officer, or other person who is authorised in writing by the Council.
5. Person in Charge means the person who has the dog in his/her possession, care or company at the time the relevant offence is committed, or the person who habitually has the dog in his/her possession, care or company.

Exemptions

6. Nothing in this order shall apply to a person who –
 - a. is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948;
 - b. has a disability which affects his/her mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise, move everyday objects, in respect of a dog trained by a prescribed charity and upon which he/she relies for assistance; or
 - c. has an accredited assistance dog.

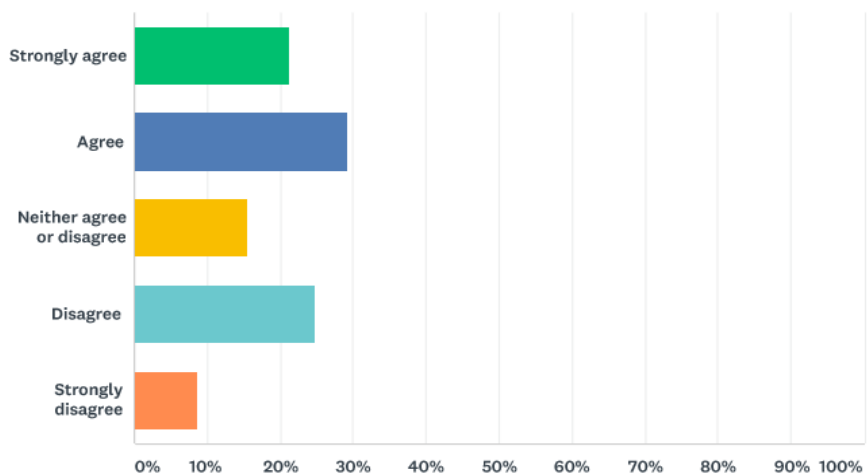
Penalty

7. Any person who without reasonable excuse fails to comply with this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).
8. An Authorised Officer may issue a fixed penalty notice to anyone he/she has reason to believe has committed an offence under section 67 of the Act in relation to this Order.

Feedback on Consultation of Proposed PSPO Order No.1 Dog Fouling

Q1 Do you agree or disagree that dog fouling is a problem where you live or visit in Waverley?

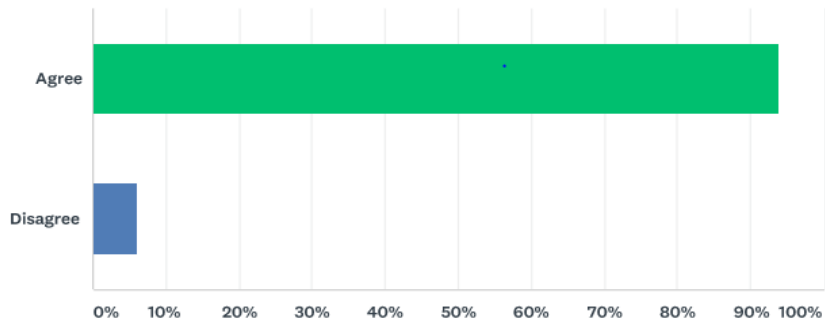
Answered: 1,601 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	21.36%	342
Agree	29.36%	470
Neither agree or disagree	15.43%	247
Disagree	24.98%	400
Strongly disagree	8.87%	142
TOTAL		1,601

Q3 Do you agree or disagree that a person in charge of a dog must clear up after the dog immediately?

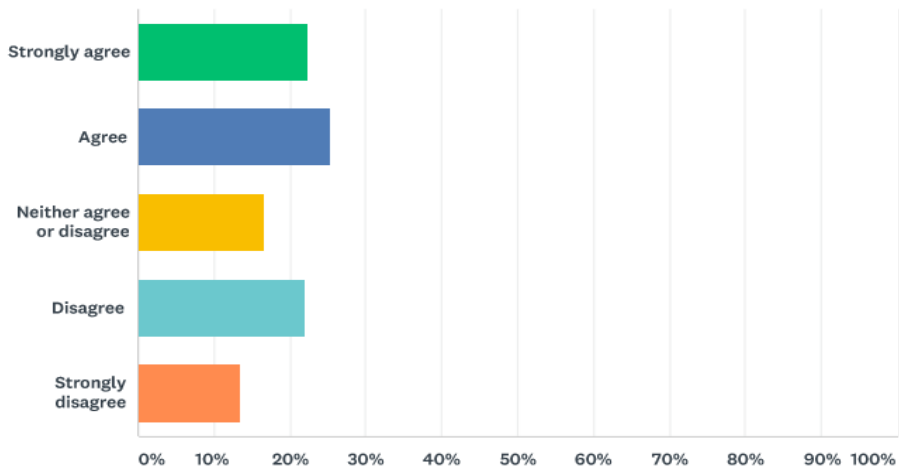
Answered: 1,592 Skipped: 11



ANSWER CHOICES	RESPONSES	
Agree	93.97%	1,496
Disagree	6.03%	96
TOTAL		1,592

Q4 Do you agree or disagree that dog control orders, and/or fines issued by Waverley would be an effective way to tackle dog fouling and dog control problems?

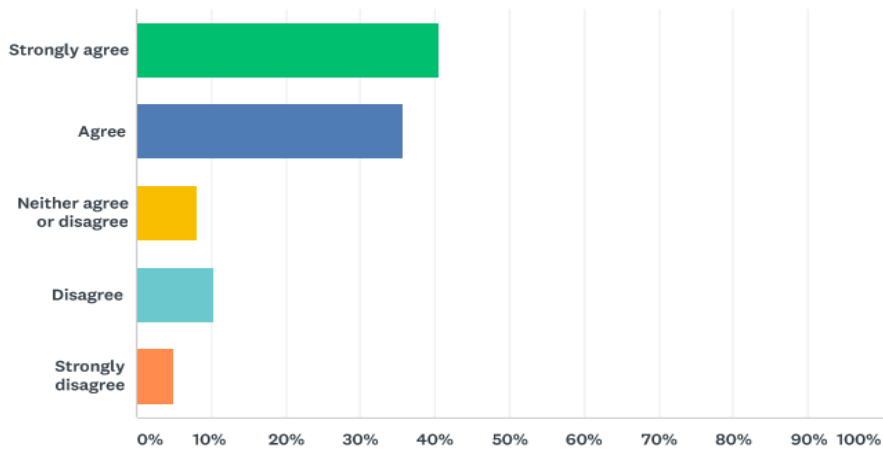
Answered: 1,599 Skipped: 4



ANSWER CHOICES	RESPONSES	
Strongly agree	22.33%	357
Agree	25.39%	406
Neither agree or disagree	16.64%	266
Disagree	22.01%	352
Strongly disagree	13.63%	218
TOTAL		1,599

Q5 Do you agree or disagree that a Fixed Penalty Notice for a £100 fine should be issued to a person who is in charge of a dog and fails to clear up its faeces in a public area?

Answered: 1,598 Skipped: 5

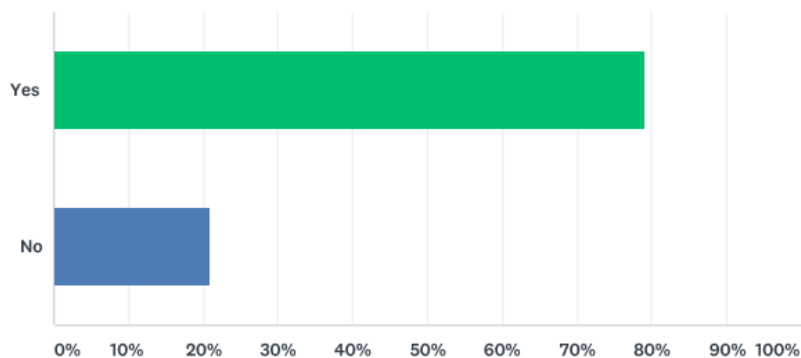


ANSWER CHOICES	RESPONSES	
Strongly agree	40.68%	650
Agree	35.79%	572
Neither agree or disagree	8.07%	129
Disagree	10.45%	167
Strongly disagree	5.01%	80
TOTAL		1,598

The draft order proposed exemptions to the requirement to clean up after your dog and the exemptions are listed in the draft order.

Q24 Do you agree with the above exemptions?

Answered: 1,534 Skipped: 69



ANSWER CHOICES	RESPONSES	
Yes	79.14%	1,214
No	20.86%	320
TOTAL		1,534

Additional comments in respect of these questions.

Absolutely not. The growth of the assistance dog is a scandal. If you own a dog you have to care for it and clean up. If you can't you should be out walking it. I know frail elderly people and they don't allow their dogs to foul. If you're registered blind ok but that is the only exemption.

I think someone who is deaf should still clear up the dog's faeces 9

Not sure why deaf people should be exempt from picking up their dog poo - agree with other exemptions which are practical (mobility issues or visual impairment)

With respect to dog fouling, even if people have a disability one would hope that they would do their best to work out a way round the problem e.g. arm's length pooper scooper.

But the requirement to clear up dog faeces should not be exempt unless blind or unable.

Disabled, etc, persons in charge of a dog should be accompanied by an able-bodied person if there is any likelihood that the dog may foul a public place.

No not all of them there are ways of picking up. The only exception should be blind people

I do not see why a deaf person cannot be expected to pick up dog mess.

Parts of this exclusion are nonsensical - why should a blind/deaf person be allowed to walk more than 4 dogs when an "able" bodied person is forbidden? Ditto letting assistance dogs off the lead.

Totally blind people are clearly exempt but anyone else if physically capable of having a dog should be able to control and clear up it albeit perhaps with the aid of a scoop. Deafness won't stop you controlling or clearing up after your dog

Yes - but perhaps people listed above could carry 'dog poo' bags and be ready to accept assistance from members of the public to clear up their dog's mess when this fouls a public area.

If people aren't capable of picking up after their dog, they shouldn't be allowed to walk them either.

But the individual should still be encouraged to comply and receive training to do so if they are able.

There are various aids that allow you to pick up dog poo, fair enough a blind person cannot see but all others should be encouraged to try.

no exception to cleaning up faeces

Disabled people should still be in control of their dogs. Discretion should be applied and their opportunities protected.

Unfortunately this lends itself to people taking advantage and leaving dog waste because of a fictitious disability and this then affects everyone. Fouling from dogs is unacceptable

regardless and if you have a dog, for whatever reason, then I believe you should be able to clear up after them.

Anyone considered capable of looking after a dog should be capable of clearing up after them

Only for the blind as anyone in charge of a dog should be able to care for it and control it. Picking up poo if you are blind should be exempt however in the countryside a blind person would need to be accompanied anyway so can delegate.

I believe that all people who are not sight impaired and who are otherwise physically capable of clearing up after their dog should do so.

No, a deaf person could still comply with all the above proposed orders.

Dog fouling needs to be cleared up, if someone can walk a dog they can clear up after it unless they are blind/visually impaired

The groups listed are already covered by the Equality Act 2010. The council would act illegally if it infringed their rights.

Exemption shouldn't mean they don't try to comply with fouling clean up if possible.

Exemptions should not apply if people to their abilities are unable to comply eg blind person

Some people own dogs to help with mental health issues such as depression which is unseen disability

This is a hard one to answer - fouling is fouling but where and when possible I am sure many do clear up after their dogs have fouled.

I agree in principle but I am not sure why an otherwise able deaf person can't scoop?

I understand the blind reference and possibly some mobility issues But just because a dog is working dog does not mean they should not be cleared up after 7

The second paragraph appears to be a "get out" clause for the elderly, who in my experience are the most likely not to clean up after their dog. In simple terms, if they can take the dog out, they should clean up after it.

Why should it be not ok for me, but ok for some, why?.....where is the logic? everyone should pick up, clear up. If you can't do what it takes to have a dog, then you should have one, it's like saying the under 5's can drop litter or if you're in a wheelchair you can drop litter. Having an assistance dog should not preclude you from the responsibility of dog ownership.

Anyone who is in charge of a dog in public should be able to clean up after it or make suitable arrangements for someone else to. It is not acceptable to just leave it.

Not deaf. Unless physically unable to see or pick up then the policy should apply to all.

Special licence should be available to those who can't carry out the task.

Disabled people should pick up the poo. Shouldn't have a dog if it's not being looked after and trained properly. (Not including guide dogs) 7

If the person is unable to pick up faeces then they should not have a dog in a public space. Blind yes, as they may not be aware.

If a person is able to see their dog fouling and physically able to pick it up then they should.

I think you should also consider companion dogs for the elderly and mentally challenged or other vulnerable people also, as they provide important support for vulnerable persons and can help reduce their reliance on outside assistance

There are other categories too- some frail or disabled people cannot bend, a mum trying to look after several children may not be able to go searching about because she must keep an eye on her children and the same would apply for an adult with a child with special needs. Also, where someone has several dogs would find it difficult to be aware of each one.

What has being deaf got to do with not picking up dog poo. You don't listen for your dog to go to poo you see it. Deafness doesn't effect your ability to pick up poo. I have a disability being disabled doesn't mean you don't pick up dog poo. If you are able to take a dog in public on your own you need to attend to all you and it's needs. If you are that disabled you can't move or lift everyday items then you should be having a care or support package else how to you manage to eat drink dress use the loo all day. So if it's something you can't do you need to find a carer to do it on your behalf.

All people should be treated equally if they own dogs. Why would a deaf person not be able to pick up poo?

The owner should still carry the means to dispose of their dog's excrement so (in theory) a kind passer-by could assist them.

If dog fouling is the problem, all dogs foul. Just because someone is disabled, does not mean they shouldn't have to do their best to pick up, or take the dog to where any faeces can biodegrade naturally. The VERY worst thing is faeces that has been picked up and bagged, but the bag is then just left hanging in a tree or on a fence. The plastic poo bags don't rot and are disgusting.

People with assistance dogs may need help, but dog faeces are dangerous to human health, and just disgusting, so can never be condoned or allowed.

WAVERLEY BOROUGH COUNCIL

COUNCIL

11 DECEMBER 2018

Title:

The ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

**[Portfolio Holder: Cllr Andrew Bolton]
[Wards Affected: All]**

Summary and purpose:

This report informs the Executive about The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and recommends a proposed fee structure for adoption by the Council.

How this report relates to the Council's Corporate Priorities

The adoption of the schedule of fees will enable the Council to meet the legal requirements of the new regulations, and therefore contributes to the *Prosperity* theme.

Equality and Diversity Implications

There are no equality and diversity implications arising.

Financial Implications

The new licensing regime will necessitate additional work by the Council and accordingly a new fee regime should be implemented to ensure the Council covers its full costs.

Legal Implications

The legal implications are set out within the report.

Background

1. The Animal Welfare Act 2006 aims to ensure that animals are not mistreated, and statutory guidance made under the legislation introduced five welfare needs:
 - For a suitable environment (place to live)
 - For a suitable diet
 - To be housed, with or apart, from other animals (if applicable)
 - To be protected from pain, suffering, injury and disease
 - To exhibit normal behaviour patterns

2. The Animal Welfare Act 2006 is the enabling legislation for the Animal Welfare

(Licensing of Activities Involving Animals) (England) Regulations 2018. These Regulations came into effect on 1st October 2018 and introduce updated practices.

3. These regulations repeal and amend previous regimes for the Council's licensing activities in relation to animal establishments, such as:
 - Animal Boarding Establishments Act 1963
 - Breeding of Dogs Act 1973
 - Breeding of Dogs Act 1991
 - Pet Animals Act 1951
 - Performing Animals (Regulation) Act 1925
 - Riding Establishments Act 1964 Etc.
4. The new regulations provide for licensing by the Council of the following five activities involving animals:
 - a) Selling animals as pets.
 - b) Providing for or arranging for the provision of boarding for cats or dogs (includes boarding kennels or catteries, home boarding for dogs and day care for dogs).
 - c) Hiring out horses.
 - d) Dog breeding.
 - e) Keeping or training animals for exhibition (to be transferred from County Councils to District Councils).
5. 'Zoos' and 'Dangerous Wild Animal' establishments will continue to operate under their current respective licensing regimes, namely the Zoo Licensing Act 1981 and the Dangerous Wild Animals Act 1976 respectively.
6. Local authorities must have regard to guidance issued by the Secretary of State in carrying out their functions under these Regulations.

Main Changes from Current Licensing Arrangements

7. Day care for dogs (doggy day care) will now require a licence, however, dog walking and dog grooming services remain unlicensed activities.
8. All current licences will continue to be subject to the same restrictions until their relative expiry date. Other than current animal exhibition registrations, which will continue to be valid until 1 April 2019, and riding establishments which have unique expiry dates, all current licences affected are due to expire on 31 December 2018.
9. Licences will no longer be issued in accordance with the calendar year but will be issued for 12 months, or longer for a period up to 3 years, except in relation to animals for exhibition where licences are granted for a 3 year period.
10. In considering grant or renewal, a local authority must take account of the applicant's conduct as the operator of the licensable activity, whether the applicant is a 'fit and proper' person and any other relevant circumstances
11. A new risk rating system resulting in a 1-5 star score for the business will be implemented with licence duration determined by the level of compliance and extent

to which they meet or exceed the required standards. Each premises will require an inspection prior to determination of a new or renewal licence application.

12. Those carrying out inspections will be required to be suitably qualified. In addition, inspections of new dog breeding establishments will require a veterinarian to be present. Horse riding establishments will still require a listed veterinarian to carry out an annual inspection.
13. Premises that meet higher standards (as defined within the statutory guidance), and are fully compliant, may be eligible for a licence to be granted for of up to a 3 year duration, with fewer inspections, which provides a financial incentive to attain higher standards.
14. There is an appeal process for aggrieved applicants to appeal against a star rating decision. A person can appeal in writing/email against the risk level determination within 21 days; the appeal must be heard by a party other than the inspecting officer who carried out the risk assessment, such as the Environmental Health Manager or Deputy Environmental Health Manager.
15. Licence holders will be required to display their licence number on their website(s). In addition, the star rating must be added to the licence which should be displayed by the business.
16. Businesses that fail to meet minimum standards in relation to animal welfare (as defined within the statutory guidance) will not be able to renew their licence. An operator who is aggrieved by the Council's decision to grant a licence can appeal to the First Tier Tribunal within 28 days.
17. Licensing Authorities are encouraged to publish a list of licensed business and star ratings on the Council's website.
18. All licences will be subject to new national standard conditions determined by the type of licensable activity. These will replace the Council's current licence conditions for any licence granted after 1st October 2018, including existing operators. Prescribed conditions attached to each licence, include general and relevant specific conditions. The general conditions cover licence display, records, use number and type of animal, staffing, suitable environment, suitable diet, monitoring of behaviour and training of animals, animal handling and interactions, protection from pain suffering injury and disease, and emergencies. The relevant specific conditions vary according to type of activity. For businesses providing multiple licensable activities, only one licence will be required.
19. At anytime the Council may suspend, vary or revoke a licence where licence conditions are not complied with, there is a breach of the regulations, the licence holder has supplied false or misleading information or where it is necessary to protect animal welfare by way of notice. The Council can consider representations from the licence holder submitted within 7days. An operator who is aggrieved by the Council's decision following representation can appeal to the First Tier Tribunal within 28 days.

Enforcement and offences

20. It is an offence for a person without lawful authority or excuse to breach a licence condition or obstruct an inspector in the exercise of their powers, which is punishable by fine. A person who carries on licensable activity without a licence also commits an offence and is liable to imprisonment for up to 6 months, a fine or both.
21. Following conviction a Court may also cancel any licence held, and disqualify a person from holding a licence and or owning or keeping animals.

Fees

22. The new licensing regime will necessitate additional work by the Council and accordingly a new fee regime should be implemented to ensure the Council covers its full costs.
23. Regulation 13 sets out what the Council may charge fees for:
 - a. The costs of considering an application and associated inspections.
 - b. The reasonable anticipated costs associated with considering a licence holders compliance and associated additional inspections.
 - c. The reasonable anticipated costs of enforcement in relation to any licensable activity or an unlicensed operator.
 - d. The reasonable anticipated costs of providing statutory returns.
24. A new fee schedule is proposed (see attached spreadsheet Annexe 1) and reflects the Council's anticipated costs in enforcing legislation and has regard to:
 - Open for business: LGA guidance on locally set licence fees.
 - Compliance with welfare standards.
 - Time spent by officers enforcing legislation.
25. Businesses which do not meet the minimal animal welfare standards will have a 1 year licence and pay considerably more than they do now. Businesses which meet the minimal welfare standards will have a 2 year licence and will generally pay similar or slightly higher fees than they do now. Businesses which meet higher welfare standards will have a 3 year licence and will generally pay less/similar as they do under the current regime.
26. It is intended that fee levels will be regularly reviewed to ensure they are kept to a minimum while ensuring Council costs are met. The Head of Environmental Services has delegated authority to change the fees structure to reflect the Council's costs in the future.
27. It is not proposed to change existing fees for Dangerous Wild Animal or Zoo licences.
28. The legislation does not provide any statutory requirements in terms of consulting on or publishing new fee levels prior to their adoption.

Implications for the Council

29. It is anticipated that most operators are unlikely to have significant difficulties with compliance. However, those that have not updated their facilities could find that the renewal of their licence is refused.
30. Enquiries about the enforcement of the new requirements have increased over the past few weeks. All existing licence holders will also need to be contacted to notify them of these changes, and information will be displayed on the web site.
31. The number of inspections/visits carried out is likely to increase. All premises will continue to require an inspection prior to granting of a licence or renewal of a licence, and a minimum of one unannounced visit during the period of the licence.
32. Inspections are likely to take longer to complete, and time will be required to draft inspection reports and risk the activity.
33. The Council will have to train officers in order to enforce this legislation and carry out inspections. All inspectors must be suitably qualified. Until October 2021 inspectors must have at least one years of experience in licensing and inspecting animal activities businesses. After October 2021 inspectors must hold a level 3 certificate or equivalent in inspecting and licensing animal activities businesses.
34. A review of administrative processes, forms and licence templates is currently being undertaken.

Recommendation

The Executive recommends to Council that the proposed fee structure be adopted.

References

1. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
2. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – Procedural guidance notes for local authorities October 2018
3. Open for business: LGA guidance on locally set licence fees

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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Proposed Fees

Licence Type	Application and Renewal Fee (Part A)	Grant Fee (Part B)	Total Fee	
	Includes receipt and processing of application and one inspection. Fees also cover general enforcement/admin and training costs	Includes writing up inspection notes, determination of rating, issuing licence, unannounced visit and associated administration, ongoing liaison with vet as required	Could be paid all up front or in 2 instalments on application (part A) and when the licence is issued (part B)	
Boarding for Cats and Dogs - Kennels	384	300	684	
Boarding for Dogs - Home Boarding	334	300	634	
Boarding for Dogs - Day Care	384	300	684	
Breeding Dogs (excl vet fee)	334	300	634	
Hiring Horses (excl vet fee)*				
	1 to 8 horses	384	325	709
	9-15 horses	459	325	784
	Over 15 horses	534	325	859
Selling Animals at Pets	334	300	634	
Exhibition of Animals	334	300	634	

Other Fees:

Each additional activity (to the main activity)	Pay half the standard application and grant fee
Each additional inspection/visit	£150.00
Each advisory visit	£150.00
Variation to the licence (inclusive of one visit)	£200.00
Re-evaluation of rating (inclusive of one visit)	£200.00
Variations to reduce licensable activities/numbers of animals	£75.00
Transfer due to death of licensee	£75.00

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