

To: All Members of the EXECUTIVE

When calling please ask for:

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Date: 20 December 2019

Membership of the Executive

Cllr John Ward (Chairman)
Cllr Paul Follows (Vice Chairman)
Cllr David Beaman
Cllr Andy MacLeod
Cllr Mark Merryweather

Cllr John Neale
Cllr Nick Palmer
Cllr Anne-Marie Rosoman
Cllr Steve Williams

Dear Councillors

A meeting of the EXECUTIVE will be held as follows:

DATE: TUESDAY, 7 JANUARY 2020

TIME: 6.00 PM

PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the Meeting is set out below.

Yours sincerely

ROBIN TAYLOR
Head of Policy and Governance

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NOTES FOR MEMBERS

Contact Officers are shown at the end of each report and members are welcome to raise questions, make observations etc. in advance of the meeting with the appropriate officer.

Prior to the commencement of the meeting, the Leader, Deputy Leader or an appropriate Portfolio Holder to respond to any informal questions from members of the public, for a maximum of 15 minutes.

[Questions will be taken in the order in which questioners register with the Democratic Services Officer prior to the start of question time. When read out, each question must be concluded within 2 minutes. In the event that it is not possible to give a verbal response, a written response will be provided following the meeting.]

AGENDA

1. **MINUTES**

To confirm the Minutes of the Meeting held on 3 December 2019.

2. **APOLOGIES FOR ABSENCE**

To receive apologies for absence.

3. **DECLARATIONS OF INTERESTS**

To receive from members, declarations of interest in relation to any items included on the agenda for this meeting, in accordance with the Waverley Code of Local Government Conduct.

4. **QUESTIONS FROM MEMBERS OF THE PUBLIC**

The Chairman to respond to any questions received from members of the public for which notice has been given in accordance with Procedure Rule 10.

The deadline for receipt of questions is 5pm on Tuesday 24 December 2019.

5. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

The Chairman to respond to any questions received from Members in accordance with Procedure Rule 11.

The deadline for receipt of questions is 5pm on Tuesday 24 December 2019.

6. LEADER'S AND PORTFOLIO HOLDERS' UPDATES

To receive any reports from the Leader or Portfolio Holders.

7. BUDGET 2020/21 UPDATE

[Portfolio Holder: Councillor Mark Merryweather]

[Wards Affected: All Wards]

Report *to follow* due to late announcement of the local government finance settlement from the Government.

8. BUDGET MANAGEMENT - REQUEST FOR SUPPLEMENTARY ESTIMATE FOR FARNHAM NEIGHBOURHOOD PLAN REVIEW (Pages 7 - 10)

[Portfolio Holder: Councillor Mark Merryweather]

[Wards Affected: All Farnham Wards]

The purpose of this report is to seek approval for a supplementary estimate to cover the costs of the Farnham Neighbourhood Plan Review. The report sets out that the Council can only claim for £20,000 in funding from the Government for the Neighbourhood Plan Review and the costs are estimated to be £71,000. There is therefore a shortfall of £51,000.

Recommendation

It is recommended that the Executive approves a supplementary estimate for £51,000 to cover the costs of the Farnham Neighbourhood Plan Review.

9. PROPERTY MATTER - THE BURYS INVESTMENT OPPORTUNITY (Pages 11 - 16)

[Portfolio Holder: Councillor Mark Merryweather]

[Wards Affected: Godalming Central and Ockford]

To request the Executive to approve the appointment of specialist advisors to produce a further Options Appraisal assessing the investment opportunities of key Waverley and Surrey owned sites in Godalming, and to request the Executive that budget is allocated from the Property Investment budget.

Recommendation

It is recommended that the Executive approve the use of up to £40K for the completion of the Options Appraisal.

10. HOUSING RESPONSIVE REPAIRS AND VOIDS CONTRACT (Pages 17 - 24)

[Portfolio Holder: Councillor Anne-Marie Rosoman]

[Wards Affected: All Wards]

This report summarises the current position surrounding the Responsive Repairs and Voids contract following the early termination by MPS Housing

Limited on 9 December 2019. The proposal is to appoint an interim alternative contractor and commence procurement for a longer-term contract. The Executive is therefore asked to agree delegated authority to Head of Housing Operations to progress the actions necessary to carry out the procurement exercises.

Recommendation

It is recommended that the Executive:

1. authorises the Council's Section 151 Officer to waive the Council's Contract Procurement Rules in accordance with paragraphs 9.3.1 and 9.3.3 of the CPRs in order for the Council to appoint an interim responsive repairs and voids contractor.
2. delegates authority to the Head of Housing Operations in consultation with the Portfolio Holder for Housing and the Strategic Director (s151 Officer) to:
 - a) appoint consultants to provide advice and undertake such work as is required to achieve an interim contract within agreed budgets and in accordance with the Council's Contract Procedure Rules;
 - b) select and appoint an interim contractor for 12 to 24 months within agreed budgets and in accordance with the Council's Contract Procedure Rules
 - c) appoint consultants to assist with procurement for the permanent contractor, within agreed budgets and in accordance with the Council's Contract Procedure Rules and;
 - d) draw down up to £200,000 from the HRA contingency reserve to achieve these recommendations.
3. notes that officers will report performance and procurement progress to the Housing Overview and Scrutiny Committee and the Executive.

11. POLICY ON CONSENT FOR THE USE OF COMMON LAND AND COUNCIL OWNED LAND AND PROPERTY (Pages 25 - 32)

[Portfolio Holder: Councillor Mark Merryweather]

[Wards Affected: All Wards]

The Council has responsibilities as guardian for common land and as land- and property-owner. The Council receives approaches for granting consent to use land within the Borough for a variety of purposes, and having a formal policy will ensure that proper consideration is given to all impacts that granting consent for use could cause.

Recommendation

It is recommended that the Executive approves the Land Use Consent Policy.

12. TAX STRATEGY 2020 - 2022 (Pages 33 - 42)
[Portfolio Holder: Councillor Mark Merryweather]
[Wards Affected: All Wards]

The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for them, or on their behalf, from criminally facilitating tax evasion. In order to demonstrate that the Council acknowledges its responsibilities with regard to tax it undertakes to prepare an annual Tax Strategy. The revised Tax Strategy 2020-2022 is attached at Annexe 1.

Recommendation

It is recommended that the Executive approves the attached revised Tax Strategy 2020-22.

13. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:-

Recommendation

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(s) on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during these items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

14. ANY OTHER ISSUES TO BE CONSIDERED IN EXEMPT SESSION

To consider matters (if any) relating to aspects of any reports on this agenda which, it is felt, may need to be considered in Exempt session.

**For further information or assistance, please telephone
Fiona Cameron, Democratic Services Manager & Deputy Monitoring
Officer, on 01483 523226 or by email at
fiona.cameron@waverley.gov.uk**

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WAVERLEY BOROUGH COUNCIL

EXECUTIVE

7 JANUARY 2020

Title:

Request for supplementary estimate for Farnham Neighbourhood Plan Review

Portfolio Holder: Cllr Mark Merryweather, Portfolio Holder for Finance, Assets and Commercial

Head of Service: Zac Ellwood, Head of Planning and Economic Development

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 The purpose of this report is to seek approval for a supplementary estimate to cover the costs of the Farnham Neighbourhood Plan Review. The report sets out that the Council can only claim for £20,000 in funding from the Government for the Neighbourhood Plan Review and the costs are estimated to be £71,000. There is therefore a shortfall of £51,000.

2. Recommendation

- 2.1 It is recommended that the Executive approves a supplementary estimate for £51,000 to cover the costs of the Farnham Neighbourhood Plan Review.

3. Reason for the recommendation

- 3.1 The costs of a neighbourhood plan for designating the neighbourhood plan area and the stages from the submission of the neighbourhood plan by the town/parish council to Waverley Borough Council through to the 'making' (adoption) of the plan, must be paid for by Waverley Borough Council. The Council can claim £5,000 from the Government on the designation of a neighbourhood plan area (although the Council can now only claim for the first five areas designated) and £20,000 from the Government once the date for a referendum on the neighbourhood plan has been set. The cost of a neighbourhood plan examination varies depending on the complexity of the plan and the cost of the referendum varies depending on the size of the Parish, however the funding available from the Government is the same for all neighbourhood plans. In the case of the Farnham Neighbourhood Plan Review, the plan covers some complex issues requiring a hearing and covers a large parish and therefore the examination and referendum costs are high.
- 3.2 Whilst we estimate that the £20,000/£25,000 of available funding will be sufficient to cover the costs of the majority of neighbourhood plans, this is not sufficient to cover the cost of the Farnham Neighbourhood Plan Review. The Farnham Neighbourhood

Plan area was designated as part of the process for the 'made' Farnham Neighbourhood Plan and so only £20,000 funding can be claimed for the Farnham Neighbourhood Plan Review. The expected costs for the Farnham Neighbourhood Plan Review are set out in the table below.

Costs	
Public notices	£1,000
Examination	£20,000
Referendum	£45,000
Legal and other costs	£5,000
Total	£71,000
Grant available from Government	
When referendum has been agreed	£20,000
Shortfall	£51,000

3.3 There is a shortfall of £51,000 and therefore a supplementary estimate is requested for this amount.

4. Relationship to the Corporate Strategy and Service Plan

4.1 The Corporate Strategy supports place shaping and local engagement in planning policy and the Service Plan for Planning includes support for Neighbourhood Planning.

5. Implications of decision

5.1 Resource (Finance, procurement, staffing, IT)

The financial implications are set out in the report. The supplementary estimate will need to be met from the Revenue Reserve Fund which current stands at £73,000.

5.2 Risk management

No issues identified.

5.3 Legal

There are no relevant issues arising from this report.

5.4 Equality, diversity and inclusion

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

5.5 Climate emergency declaration

There are no relevant issues arising from this report.

6. Consultation and engagement

6.1 There are no comments from committees or other consultees.

7. **Other options considered**

7.1 The officers have not identified any other options for dealing with this matter.

8. **Governance journey**

8.1 This decision will be made by the Executive.

Background Papers

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

CONTACT OFFICER:

Name: Alice Knowles
Position: Planning Officer (Policy)
Telephone: 0148 3523527
Email: alice.knowles@waverley.gov.uk

Agreed and signed off by:

Legal Services: 20 December 2019

Head of Finance: 20 December 2019

Strategic Director: 20 December 2019

Portfolio Holder: Informed 17 December 2019

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WAVERLEY BOROUGH COUNCIL

EXECUTIVE

7 JANUARY 2020

Title:

Property Matter - The Burys Investment Opportunity
Request for funding an Options Appraisal

Portfolio Holder: Cllr M Merryweather, Portfolio Holder for Finance, Assets and Commercial

Head of Service: David Allum, Head of Business Transformation

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 To request the Executive to approve the appointment of specialist advisors to produce a further Options Appraisal assessing the investment opportunities of key Waverley and Surrey owned sites in Godalming, and to request the Executive that budget is allocated from the Property Investment budget.

2. Recommendation

It is recommended that the Executive approve the use of up to £40K for the completion of the Options Appraisal.

3. Reason for the recommendation

A previous outline Options Appraisal on the key sites indicated a significant return could be generated and a major improvement to customer experience can be achieved by developing the sites sympathetically. Such a return on investment would support the projected budget shortfall in the future.

4. Relationship to the Corporate Strategy and Service Plan(s)

- 4.1 The Burys has been identified in the Business Transformation Service Plan and sits within the element of the Corporate Strategy where we aim to be a financially sound authority. It is expected that this project will see a long-term return on investment to support the financial deficit – the best option from the previous Options Appraisal showed a 12 year payback over a 40 year borrowing period. The return will arise from reduced running costs and more effective use of the sites. This project is also an opportunity to develop a public service hub with more flexible, efficient office space and joined up service delivery.

5. Implications of decision(s)

5.1 Resource (Finance, procurement, staffing, IT)

This budget would fully utilise the remaining unspent property costs budget in 2019/20. Waverley secured funding from the One Public Estate (OPE) pot previously which paid for the interim outline appraisal undertaken in 2018. Officers have sought further funding from OPE but have not been successful so far. Despite this, the Property Investment Advisory Board recommend that the further appraisal should commence in January, with the cost underwritten from existing budgets, but with officers continuing to pursue OPE funds.

Staff resource will be spent on drafting tender documents and assessing the returns. These documents will be drafted by the Development Programme Manager and reviewed by the Procurement Officer and Business Transformation Manager. It is expected that this process, and the reviewing of tender submissions will take approximately 4 working days.

Once an appointment has been made, further work will need to be done to manage the contractor and respond to their queries during the process. There will also be a period of review of the submitted appraisal. It is expected that this will be completed by March/April if the tender is advertised in January and will be averaged at approximately 1 day per week over the 4-week tender period, with further input from key members of the Project Working Group set up.

A review of the land in relation to legal clarifications will be required. This has mostly been completed already but will need to be reviewed.

The current site plan includes the wider scope of the Burys and Crown Court Car Park site, which has various lease arrangements in place with a number of organisations. These leases will be considered in line with each specific arrangement and re-provision of the service if required.

Once an Options Appraisal has been received, Member and Officer time will be required to review the appraisal and depending on the outcome, work up a project initiation document, business case and project plan, including an assessment of resources and financing.

5.2 Risk management

The most relevant risk at this stage is the expenditure of money that does not return a viable options approach. To mitigate this risk, the following has been put in place:

- Within the Invitation to Tender and Request for Quotation documents – viable options are requested as part of the agreed works, however there is a risk that no viable options may be produced
- A qualitative outcomes approach, rather than just cost, will be our criteria for scoring, ensuring that the appointed contractor will be able to deliver viable options

A significant project will result from these proposals that will have long-term revenue and capital resourcing implications and deliverables (determined within the project objectives). There will be a high level of risk during the project execution in respect of business continuity, staff and public engagement and financial impact.

5.3 Legal

Legal Services will continue to advise officers and Members in respect of the legal mechanics required to take the project forward, including ongoing examinations of the land covered by the appraisal (as set out above). External legal advice may be required in due course and officers will consult with the Legal Services team in order to manage those arrangements in a pro-active manner and to budget accordingly.

5.4 Equality, diversity and inclusion

At this stage of the project, there are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010. Should the project to progress to the next stage, a full equality and impacts assessment will be made and this has been included in the tender proposals

5.5 Climate emergency declaration

This project will contribute to the Council's commitment to become carbon neutral by re-developing the main office accommodation for Waverley Borough Council and reduce the carbon emissions from the current building significantly. This will be a key factor in the tender documentation for the Options Appraisal and any scheme progressed will have this element incorporated. It is proposed that any subsequent buildings within the scheme will also be procured in line with zero emissions / passive housing standards.

6. Consultation and engagement

6.1 A previous report detailing some options were discussed with key members of staff, Management Board and the relevant portfolio holders. This is the first stage of the proposal and therefore no formal consultation has taken place as yet. A communication for staff is being drafted for circulation once this approval has been given.

6.2 Surrey County Council have been engaged in the project to include the library site in the Options Appraisal – they have confirmed that there is no change to the library service in the short term and any long term plans will implement outcomes of the co-design (happening in the coming months), the Library and Cultural Services 2020-2025 strategy and needs of residents.

7. Other options considered

7. Other options considered

- 7.1 A previous interim outline Options Appraisal had been commissioned and a do nothing approach to the opportunity was considered to be the least acceptable way forward.

8. Governance journey

- 8.1 This proposal was recommended for approval at the Property Investment Advisory Board on 17th December 2019 and will now be considered by the Executive.

Annexes:

Annexe A – plan of potential sites

Background Papers

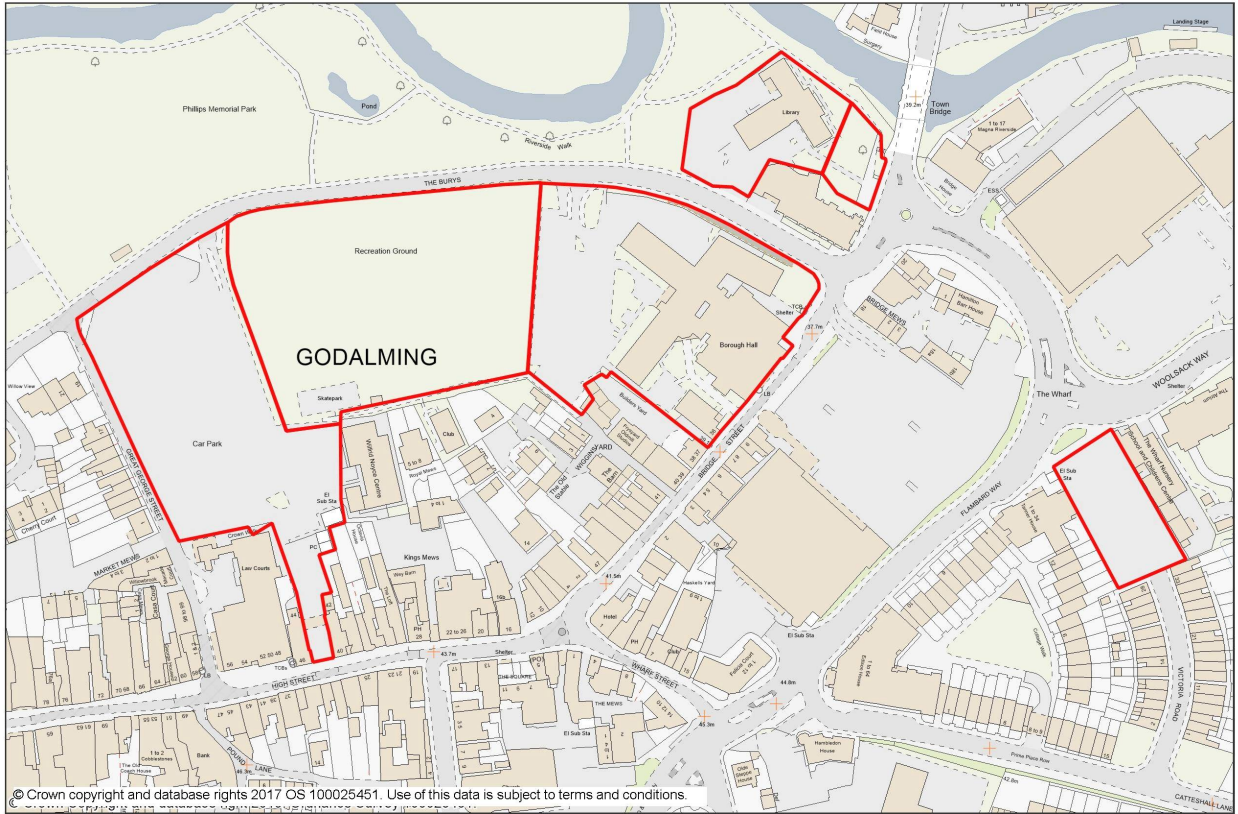
There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

CONTACT OFFICER:

Name: Debbie Smith
Position: Development Programme Manager
Telephone: 01483 523434
Email: Debbie.smith@waverley.gov.uk

Agreed and signed off by:

Legal Services: 19/12/2019
Head of Finance: 19/12/2019
Strategic Director: 19/12/2019
Portfolio Holder: 19/12/2019



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WAVERLEY BOROUGH COUNCIL

EXECUTIVE

7 JANUARY 2020

Title:

Housing Responsive Repairs and Voids Contract

Portfolio Holder: Cllr Anne-Marie Rosoman, Portfolio Holder for Housing & Community Safety

Head of Service: Hugh Wagstaff, Head of Housing Operations

Key decision: Yes

Access: Part Exempt

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

An Annexe 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).

1. Purpose and summary

This report summarises the current position surrounding the Responsive Repairs and Voids contract following the early termination by MPS Housing Limited on 9 December 2019. The proposal is to appoint an interim alternative contractor and commence procurement for a longer-term contract. The Executive is therefore asked to agree delegated authority to Head of Housing Operations to progress the actions necessary to carry out the procurement exercises.

2 Recommendation

It is recommended that the Executive:

1. authorises the Council's Section 151 Officer to waive the Council's Contract Procurement Rules in accordance with paragraphs 9.3.1 and 9.3.3 of the CPRs in order for the Council to appoint an interim responsive repairs and voids contractor.
2. delegates authority to the Head of Housing Operations in consultation with the Portfolio Holder for Housing and the Strategic Director (s151 Officer) to:

- a) appoint consultants to provide advice and undertake such work as is required to achieve an interim contract within agreed budgets and in accordance with the Council's Contract Procedure Rules;
 - b) select and appoint an interim contractor for 12 to 24 months within agreed budgets and in accordance with the Council's Contract Procedure Rules
 - c) appoint consultants to assist with procurement for the permanent contractor, within agreed budgets and in accordance with the Council's Contract Procedure Rules; and
 - d) draw down up to £200,000 from the HRA contingency reserve to achieve these recommendations.
3. notes that officers will report performance and procurement progress to the Housing Overview and Scrutiny Committee and the Executive.

3. Reason for the recommendation

- 3.1 To provide the essential responsive repair and voids service whilst a full procurement project can be developed and implemented.

4. Background

- 4.1 On 1 April 2019 a new £23m responsive repairs and voids (standard JCT) contract with Mitie commenced following a comprehensive procurement programme. MPS Housing Limited deliver the contract on behalf of Mitie following the sale of the Mitie Group's social housing business in November 2019.
- 4.2 On 10 December 2019 the Council received notice of termination from Mitie giving 13 weeks' notice that the contract would terminate with effect from 9 March 2020. Exempt Annexe 1 includes details of events leading up to the termination.

Emergency Interim Arrangements

- 4.3 The officer team has carefully considered all options to appoint an emergency interim contractor to provide the essential responsive repair and voids service whilst a full procurement project can be developed and implemented. A full procurement to meet the required legal process will take over 12 months to complete.
- 4.4 The team has explored options to either appoint from an existing framework agreement or to make a direct award accompanied by a notice to the market advertising the intention to let a contract without opening it up to formal competition. Two of the previous tenderers have been approached, to establish estimated costs and expected service delivery standards.
- 4.5 There are provisions within the Council's Contract Procurement Rules (CPRs) and procurement legislation to serve an emergency notice to procure expediently to ensure a continuous service and ultimately the safety of tenants. Section 9 of

the CPRs states as follows, with section 9.3.3 being particularly relevant and requiring the approval for the Executive:

9. EXCEPTIONS, WAIVERS AND JOINT COMMISSIONING

9.1 The CPRs will not apply in the circumstances set out in CPRs 9.2 (Exceptions) 9.3 (Waivers), or 9.4 (Joint Commissioning) provided that the S151 Officer has given his prior approval to the exception, waiver or joint commissioning before the Contract is entered into.

Waivers –*the CPRs may be waived only in exceptional circumstances where:*

9.3.1 there is a demonstrable and justifiable need to waive or vary one or more of the CPRs on the grounds of urgency; and

9.3.2 if the estimated value of the Contract falls below the EU threshold the prior written approval of the S151 Officer has been obtained; or

9.3.3 if the estimated value of the Contract falls within the relevant EU threshold the S151 Officer has obtained the prior written approval of the Executive.

- 4.6 A 12 to 24 month interim contract would be sought to provide services whilst a full procurement exercise would be undertaken for a longer-term contract.

Future Procurement

- 4.7 An interim contract will ensure service provision while a further longer-term year contract is procured. The Housing team will review the 2018 tender documentation and complete an options appraisal for a future responsive repairs and voids contract. The findings will be shared with the Housing Overview and Scrutiny Committee and recommendations will be made to Executive.
- 4.8 The Executive is therefore asked to agree delegated authority to Head of Housing Operations to progress the actions necessary to carry out the procurement exercises.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 This report relates to the Council's vision to promote and sustain a financially sound Waverley and high quality public services.
- 5.2 The responsive repairs and voids contract is a key housing service. A comprehensive procurement exercise was undertaken during 2017/18 to deliver value for money and quality services.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are anticipated costs arising from entering into an interim contract with another party. These costs cover additional staffing, procurement and legal advice. The 2020/21 budget allows for £200,000 and will be payable from an HRA contingency reserve.

6.2 Risk management

A responsive repairs service is essential to meet statutory landlord responsibilities and ensure the health and safety of tenants.

6.3 Legal

The legal position is set out within the body of the report, as are the relevant procurement rules and implications.

6.4 Equality, diversity and inclusion

Equality and Diversity issues were considered in the development of the tender documentation regarding how tenants will access and receive services. This formed part of the evaluation and assessment process. This Equality Impact Assessment will be replicated in any future procurement

6.5 Climate emergency declaration

Well maintained energy efficient homes will support a reduction in CO2. Efficient appointment scheduling and route planning will reduce ad hoc journeys.

7. Consultation and engagement

7.1 The Housing Overview and Scrutiny Committee and Tenants Panel were involved in the 2018 procurement exercises. To be replicated on longer-term procurement.

8. Other options considered

8.1 Options considered are explained in section 4.

9. Governance journey

9.1 Decision with the Executive. Officers will report performance and procurement progress to the Housing Overview and Scrutiny Committee and the Executive.

Annexes:

Exempt Annexe 1 – Information regarding contract management and areas of concern regarding the contract.

Background Papers

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

CONTACT OFFICER(S):

Name: Hugh Wagstaff
Position: Head of Housing Operations
Telephone: 01483 523363

Email: hugh.wagstaff@waverley.gov.uk

Agreed and signed off by:

Legal Services: 18 December 2019

Head of Finance: 18 December 2019

Strategic Director: 18 December 2019

Portfolio Holder: 19 December 2019

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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

EXECUTIVE

7 JANUARY 2020

Title:

**Policy on consent for the use of Common Land
and Council-owned and and property**

Portfolio Holder: Cllr Mark Merryweather, Portfolio Holder for Finance, Assets and Commercial

Head of Service: Peter Vickers, Head of Finance and Property

Key decision: No

Access: Public

1. Purpose and summary

1.1 The Council has responsibilities as guardian for common land and as land- and property-owner. The Council receives approaches for granting consent to use land within the Borough for a variety of purposes, and having a formal policy will ensure that proper consideration is given to all impacts that granting consent for use could cause.

2. Recommendation

It is recommended that the Executive approves the Land Use Consent Policy.

3. Reason for the recommendation

The Council has responsibilities as guardian for common land and as land and property owner and in seeking to protect its interests in all land and property assets within the Borough. The Policy is to ensure consideration is taken of all impacts granting consent could cause.

4. Background

4.1 The Council has responsibilities as guardian for common land and as land- and property-owner, and in seeking to protect its interests in all land and property assets within the Borough. The Council receives approaches for granting consent to use land within the Borough for a variety of purposes. Therefore, it is appropriate to put a formal policy in place to enable the Council to take decisions on whether granting consent is appropriate. The proposed Policy is detailed in Annexe 1.

- 4.2 The Policy is to ensure consideration is taken of all impacts granting consent could cause. The policy does not seek to prohibit use but to ensure each application is assessed on its own merits and decisions taken on whether or not to grant consent are taken the best interests of all those concerned.
- 4.3 The Policy will apply to all applications for consent for the use of common land and Council-owned land and property.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 This report relates to the Council's Corporate Strategy as it supports the promotion of responsible planning and development and protecting the environment of the Borough, and open and transparent decision-making.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are no direct financial implications to this report.

6.2 Risk management

The adoption of the Land Use Consent Policy will mitigate against the risk of the impacts of granting consent for land use not being considered fully before consent is granted.

6.3 Legal

The Policy will enable the Council to establish an objective policy framework against which to consider and determine applications for consent for the use of the land and property it owns, and that common land where it operates a guardianship role.

6.4 Equality, diversity and inclusion

This policy supports the promotion of accessible open space for all.

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

6.5 Climate emergency declaration

The adoption of the Policy will ensure that applications for use of land will be considered in relation to the potential harm from social, environmental and economic perspectives and with reference to the Council's Corporate Strategy, Capital Strategy and the Council's declared Climate Emergency.

7 Consultation and engagement

- 7.1 The Policy was considered by the Council's Management Board on 7 November

2019.

8. Other options considered

- 8.1 To not have a policy for consent of use of common land or council-owned land or property. This presents a risk of the impacts of granting consent for land use not being considered fully before consent is granted.

9. Governance journey

- 9.1 The Policy is for approval by the Executive.

Annexes:

Annexe 1 – Policy on Consent for use of Common Land and Council-owned land

Background Papers

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

CONTACT OFFICER:

Name: Vicki Basley
Position: Senior Accountant, Finance and Property
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Email: vicki.basley@waverley.gov.uk

Agreed and signed off by:
Legal Services: 15 November 2019
Head of Finance: 3 November 2019
Strategic Director: 7 November 2019
Portfolio Holder: 19 November 2019

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Waverley Borough Council

Policy on Consent for use of Common Land and Council- owned Land

Unique document number:

Latest version number:

Latest publication date:

Document Information & Governance

Version Control History:

Version	Version Status <i>(Draft, Approved /Published Internally or Externally)</i>	Date	Version Comment
V0.1	Approved Draft	07/11/2019	Approved by Management Board
V0.2	Final Approval		Approved by the Executive
V1	Published		1 st Publication

Consent for use of Common land and Council owned land

This policy governs the Council's consideration of applications for consent for the use of common land and Council-owned land and property.

The Council will carry out its responsibilities as guardian for common land and as owner by seeking to protect its interests in all land and property assets within the Borough, however small, when considering whether to grant consent for the use of that land.

Common land (Unregistered land)

The regulation of commons is contained in the Commons Act 2006, which protects common land and town or village greens. The Act enables a local authority to protect unregistered common land where the owner cannot be identified, by conferring some powers akin to ownership. This includes reinforcing existing protections against abuse, encroachment and unauthorised development.

The Council recognises that the protection of common land has to be proportionate to the harm caused. The Council will assess harm from social, environmental and economic perspectives and with reference to its Corporate Strategy, Capital Strategy and the Council's declared Climate Emergency, and taking into account the effect on the enjoyment of the land by users.

The Council recognises that some specified works can be carried out without the need for consent. The Council will follow the guidance set out by the Government for the use of common land:

<https://www.gov.uk/guidance/carrying-out-works-on-common-land>

The Commons Act 2006 also provides a mechanism for seeking consent from the Planning Inspectorate rather than the Council for works over any land which is registered as common land.

As detailed in the Common Land Consent Policy, the objectives of the Government in the consent process administered by the Planning Inspectorate are to seek to achieve the following outcomes:

- the stock of common land and greens is not diminished so that any deregistration of registered land is balanced by the registration of other land of at least equal benefit;
- any use of common land or green is consistent with its status (as common land or green), so that
- works take place on common land only where they maintain or improve the condition of the common or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact.

The Common Land Consent Policy can be found via the following link:

The Council as owner

This policy applies to land and property assets.

In accordance with the Council's Corporate Strategy 2019-2023 the Council has a sense of responsibility for its environment and stewardship of the Borough.

Anyone wishing to have access over a Council asset will have to apply for consent. Consent may be granted by means of access agreement in the form of a Wayleave or Easement.

- Wayleave – a licence to access land and/or property in return for a specified payment.
- Easement – a contractual agreement in which the owner of the property grants a right to use the property for a specified period of time in return for a specified payment.

Decisions to allow consent over Council-owned land will follow the objectives sought by the Government for the use of common land as detailed above.

The Council will take into account the following factors when considering all applications:

- the future use of the asset and whether granting consent over would restrict the Council from fulfilling the potential of the asset
- maintaining the integrity of the asset
- consideration of the surrounding community
- alignment with the Corporate Strategy
- subsequent owners and any constraints
- balancing against interests of local tax payers (residents)

Applications will be considered on a application-by-application basis and decisions will be referred to the Executive (and full Council, if necessary) for approval where appropriate. Permission may be granted, with or without conditions, or refused at the discretion of the Council.

WAVERLEY BOROUGH COUNCIL

EXECUTIVE

7 JANUARY 2019

Title:

Tax Strategy 2020 - 2022

Portfolio Holder: Cllr Mark Merryweather, Portfolio Holder for Finance, Assets and Commercial

Head of Service: Peter Vickers, Head of Finance and Property

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for them, or on their behalf, from criminally facilitating tax evasion. In order to demonstrate that the Council acknowledges its responsibilities with regard to tax it undertakes to prepare an annual Tax Strategy. The revised Tax Strategy 2020-2022 is attached at Annexe 1.

2. Recommendation

It is recommended that the Executive approves the attached revised Tax Strategy 2020-22.

3. Reason for the recommendation

The Council is required to have in place a Tax Strategy to fulfil its responsibilities under the Legislation in Criminal Finances Act 2017, and to respond appropriately to the Corporate Criminal Offence guidance from HMRC issued September 2017.

4. Background

- 4.1 The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for them, or on their behalf, from criminally facilitating tax evasion. HM Revenue and Customers (HMRC) issued guidance in September 2017 on the legislation for corporate offences of failure to prevent the criminal facilitation of tax evasion. In order to demonstrate that the Council acknowledges its responsibilities with regard to tax it undertakes to prepare an annual Tax Strategy.

- 4.2 The guidance issued by HMRC focuses on the failure to prevent crimes with regard to tax of those who act for or on behalf of the Council and determines that it should be easier to hold to account and attribute criminal liability to the relevant body (the Council) for the criminal acts of employees, agents or those that provide services for it or on its behalf.
- 4.3 The guidance has six principles to help relevant bodies understand the processes and procedures that can be put in place to prevent criminal activity with regard to tax. These principles are addressed in the Tax Strategy and are to be applied proportionately to the perceived risk of the offence.
- 4.4 The Tax Strategy details the perceived risk of tax irregularities and documents the Council's relevant policies and procedures to be complied with, which are applicable to all those involved in financial transaction for the Council, to prevent offences occurring.
- 4.5 The Tax Strategy was first approved in October 2018 and has been reviewed and revised. The draft Tax Strategy 2020 – 2022 is attached at Annexe 1, and shows tracked changes from the 2018 Strategy. The main change is to propose a two-yearly approval cycle, reflecting the council's relatively simple tax arrangements.

5. Relationship to the Corporate Strategy and Service Plan(s)

- 5.1 The Tax Strategy is part of the Council's governance framework.

6 Implications of decision(s)

6.1 Resource (Finance, procurement, staffing, IT)

The requirements of the Tax Strategy will be met within existing budgets and resources.

6.2 Risk management

The Council is accountable for the correct treatment of tax with regard to all financial transactions undertaken. It has to have in place appropriate policies and procedures to *mitigate the risk of tax evasion*.

6.3 Legal

The Council has to comply with the Legislation in Criminal Finances Act 2017 and to respond appropriately to the Corporate Criminal Offence guidance from HMRC issued in September 2017.

6.4 Equality, diversity and inclusion

The Tax Strategy supports the delivery of strategic objectives through the prevention of criminal activity from tax evasion. There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

6.5 Climate emergency declaration

The Tax Strategy supports the delivery of strategic objectives through the prevention of criminal activity from tax evasion. There are no direct climate change implications relating to the adoption of the Tax Strategy.

7. Consultation and engagement

7.1 The Audit Committee reviewed the revised Tax Strategy at its meeting on 26 November 2019, and recommends it to the Executive for approval.

8. Other options considered

8.1 The Council is required to have in place a Tax Strategy, therefore there is no alternative option.

9. Governance journey

9.1 The Tax Strategy has been reviewed by the Audit Committee and is recommended for approval by the Executive.

Annexes:

Annexe 1 Revised Tax Strategy

Background Papers

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

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Agreed and signed off by:
Legal Services: 13 November 2019
Head of Finance: 13 November 2019
Strategic Director: 13 November 2109
Portfolio Holder: 3 December 2019

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Waverley Borough Council **Tax Strategy**

Latest version number: V2 (draft)
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Document Information & Governance

Version Control History:

Version	Version Status (Draft, Approved /Published Internally or Externally)	Date	Version Comment
V0.1	Approved Draft	25/09/2018	Approved by Audit Committee
V0.2	Final Approval	16/10/2018	Approved by the Council
V1	Published	16/10/2018	1 st Publication
V1.1	Approved Draft	26/11/2019	Annual Review – Audit Committee
V1.2	Final Approval		Annual Review – Approved by the Executive

Waverley Borough Council

Tax Strategy ~~2018/19~~ 2020 - 2022

1. Introduction

1.1. Waverley Borough Council is a Local Authority regulated by statute – largely the Local Government Act 1972 as amended. As a Local Authority, Waverley’s ability to generate income in competition with the Private Sector is very limited. As a consequence, its taxable activities are relatively few.

1.2. Nevertheless, as a designated ‘relevant body’ under the Legislation in Criminal Finances Act 2017, Waverley acknowledges its responsibilities under this legislation and undertakes to respond appropriately to the Corporate Criminal Offence guidance from HMRC in September 2017. The Legislation in Criminal Finances Act 2017 requires the annual preparation of a Tax Strategy demonstrating:

- Waverley’s tax motives
- its compliance with all legal requirements in respect of its tax activities
- its general approach to its tax activities
- its commitment to minimising opportunities for tax evasion within its activities

through six guiding principles:

- Risk assessment
- Proportionality of risk-based prevention procedures
- Top level commitment
- Due diligence
- Communication (including training)
- Monitoring and review

2. Waverley’s Tax Motives

2.1. As a Local Authority, Waverley is not a profit making organisation. Its tax motives are therefore to account properly, and in timely fashion, for all its taxable activities consistent with its primary responsibilities for the wellbeing of its community. Waverley is accountable through its elected Councillors and is committed to the transparency of its financial affairs including Freedom of Information (FOI), transparency disclosure and public inspection of its accounts. Waverley seeks to minimise the tax cost of conducting its business, for the benefit of its community, while ensuring that any such action is not contradictory to the intent of the legislation. Waverley will not enter into artificial transactions designed to evade tax consequences.

- 2.2. Waverley applies professional care and diligence in the management of its own tax risk and applies appropriate levels of diligence to the activities of its staff, partners and contractors. Waverley operates in an accurate, timely and transparent manner, in respect of its tax activities, and manages its contact with HMRC in an open and collaborative manner.
- 2.3. In respect of its responsibilities under the Legislation in Criminal Finances Act 2017 Waverley is committed to minimising the opportunity for tax fraud by itself, its staff, partners and contractors whether that fraud be:
- by way of evasion, false accounting, fraudulent charging or recovery of tax - whether corporate or personal, and
 - in a manner proportional to its level of tax risk and impact.
- 2.4. Waverley, therefore, has in place reasonable prevention measures to avoid tax evasion, and will prepare and publish its Tax Strategy annually to demonstrate its commitment.

3. Risk Assessment

- 3.1. As a Local Authority operating under statute, Waverley believes there is a low level of incentive or opportunity to perpetrate or facilitate tax fraud on a corporate basis. Similarly it believes there is little opportunity for its staff to perpetrate or facilitate tax fraud on a personal basis to a significant level due to its control framework including segregation of duties and robust internal and external audit arrangements. Generally there is a low level of complexity involved in Waverley's transactions, a high level of regulation and, consequently, a low level of opportunity for deliberate tax fraud.
- 3.2. Waverley is not affected by Corporation Tax, is a net receiver of VAT and its VATable activities typically represent as little as 0.5% (by value) of income. Waverley is involved in few Stamp Duty Land Tax (SDLT) transactions and operates no cash transactions. As an employer Waverley is involved in PAYE transactions, contractor payments and Construction Industry Scheme (CIS) transactions but does not regard itself as responsible for actively assessing the tax compliance of other bodies/individuals.
- 3.3. The likelihood of changes in legislation in respect of tax affecting Local Government on a scale to have any significant impact on Waverley's finances is seen as low, for example changes to tax rates would have virtually no financial impact on Waverley. Waverley maintains tax awareness through a retained external tax consultancy.
- 3.4. Waverley, therefore, regards itself as a 'low risk' organisation and, additionally, regards the potential impact of tax risks also as 'low'.

4. Proportionality or risk-based prevention procedures

- 4.1. Waverley considers the total elimination of tax risk is impossible. It believes its current level of risk management is reasonable and proportionate to the level of risk and scale. Waverley operates internal procedures and systems designed to mitigate risk – these most notably take the form of published Contract ~~Procedure-Procurement~~ Rules (CPRs) and Financial Regulations (FRs). Its standard forms of contract include the requirement for contractor tax compliance.

5. Top Level (Senior Management) Commitment

- 5.1. Section 151 of the Local Government Act 1972 requires that “the Council makes arrangements for the proper administration of its financial affairs.” Financial regulations are the means by which the Council meets this requirement by setting out a clear regulatory and accountability framework for the use of its resources.
- 5.2. Section 114 of the Local Government Act 1988 requires “the Section 151 Officer to report to Full Council and external audit if the Council or one of its officers:
- has made or is about to make a decision which involves the Council incurring expenditure which is unlawful
 - has taken or is about to take an unlawful decision which has resulted or would result in a loss or deficiency to the Council; or
 - is about to make an unlawful entry in the Council’s accounts.”
- 5.3. ~~Waverley’s Tax Strategy is received annually by the Audit Committee.~~

6. Due Diligence

- 6.1. Waverley applies due diligence procedures, taking an appropriate risk based approach, to the mass of transactions it undertakes through its internal procedures and systems and in respect to persons who perform or will perform services on behalf of the Council with regard to tax.
- 6.2. Where transactions are planned which are significant in terms of financial and tax value, additional levels of diligence and scrutiny occur. This additional diligence may take the form of external professional advice, reports to Elected Members, external and/or internal audits etc.

7. Communication (including training)

- 7.1. Prevention policies and procedures are communicated, embedded and understood throughout the Council.
- 7.2. Financial transactions are conducted in accordance with the Financial Regulations and Contract Procurement Rules.

- 7.3. Waverley operates a Whistle blowing and Money Laundering policy and has a Money Laundering Officer.
- 7.4. Appropriate tax training and awareness is provided for staff and members.

8. Monitoring and Review

- 8.1. The Tax Strategy is subject ~~periodic~~ annual –review by Officers and submitted to the Audit Committee and Executive every 2 years or when a significant change in policy is proposed if that is sooner. Regular Internal and External Audits of all systems and policies takes place. Improvements to policies and procedures are made where necessary and, if significant, are always submitted to the Audit Committee and Executive.