

To: All Members of the EXECUTIVE

When calling please ask for:
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Date: 26 February 2024

Membership of the Executive

Cllr Paul Follows (Chair)
Cllr Tony Fairclough (Vice Chair)
Cllr Victoria Kiehl
Cllr Mark Merryweather
Cllr Kika Mirylees

Cllr George Murray
Cllr Nick Palmer
Cllr Paul Rivers
Cllr Liz Townsend
Cllr Steve Williams

Dear Councillors

A meeting of the EXECUTIVE will be held as follows:

DATE: TUESDAY, 5 MARCH 2024

TIME: 6.00 PM

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

The Agenda for the Meeting is set out below.

Yours sincerely

Susan Sale
Executive Head of Legal & Democratic Services & Monitoring Officer

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Notes for members

Contact Officers are shown on 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. APOLOGIES FOR ABSENCE
To receive apologies for absence.
2. MINUTES (Pages 5 - 14)
To confirm the Minutes of the Meeting held on 6 February 2024.
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 27 February 2024.

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 27 February 2024.

6. LEADER'S AND PORTFOLIO HOLDERS' UPDATES

7. RECOMMENDATIONS FROM THE OVERVIEW AND SCRUTINY COMMITTEES

The Overview and Scrutiny Committees are scheduled to meet on 19 March and 26 March 2024.

8. COMMUNITY INFRASTRUCTURE LEVY (CIL) BIDDING CYCLE 2023/2024
(Pages 15 - 30)

The Executive are recommended to make the resolutions set out in the report at agenda item 8.

Co-Portfolio Holder for Housing (Delivery)

9. MUSEUM OF FARNHAM MEND PROGRAMME: REPORT TO TENDER MAIN CONTRACTOR (Pages 31 - 48)

The Executive are recommended to make the resolutions set out in the report at agenda item 9.

Portfolio Holder for Community Services, Leisure and EDI together with Portfolio Holder for Finance and Assets.

10. OFF-STREET PARKING ENFORCEMENT CONTRACT (Pages 49 - 56)

The Executive are recommended to make the resolutions set out in the report at agenda item 10.

Deputy Leader of the Council and Portfolio Holder for Enforcement and Regulatory Services.

11. BRIGHTWELLS YARD DEVELOPMENT PROJECT (Pages 57 - 78)

The Executive are recommended to make the resolutions set out in the report at agenda item 11.

Deputy Leader of the Council and Portfolio Holder for Enforcement and Regulatory Services.

12. 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 which a Motion to exclude the press and public will be moved by the Leader.

**For further information or assistance, please telephone
Ben Bix, Democratic Services Manager, on 01483 523354 or by email
at ben.bix@waverley.gov.uk**

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE EXECUTIVE - 6 FEBRUARY 2024

SUBMITTED TO THE COUNCIL MEETING – 23 APRIL 2024

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

Present

Cllr Paul Follows (Chair)	Cllr George Murray
Cllr Tony Fairclough (Vice Chair)	Cllr Nick Palmer
Cllr Victoria Kiehl	Cllr Paul Rivers
Cllr Mark Merryweather	Cllr Liz Townsend
Cllr Kika Mirylees	Cllr Steve Williams

Also Present

Cllr Crowe (present in the Chamber) and Cllr Weldon (in remote attendance)

EXE 130/23 MINUTES (Agenda item 2)

The minutes of the Meeting held on 9 January 2024 were confirmed and signed as a correct record.

EXE 131/23 DECLARATIONS OF INTERESTS (Agenda item 3)

There were no declarations of interest.

EXE 132/23 QUESTIONS FROM MEMBERS OF THE PUBLIC (Agenda item 4)

There were no questions from Members of the Public.

EXE 133/23 QUESTIONS FROM MEMBERS OF THE COUNCIL (Agenda item 5)

Councillor Weldon, Haslemere East Ward gave due notice of the following question to the Executive:

- 1. What is the Waverley response to perceptions of bias arising from the Planning Inspector and Head of Planning responses to the social media post by the lead advisor to the Red Court developer?*
- 2. Is it correct that Haslemere Town Council were also not informed of the inquiry dates?*
- 3. Is it correct that the Haslemere Town Clerk did not get a reply to her email about the inquiry failure?*

At the invitation of the Leader Councillor Liz Townsend, Portfolio Holder for Planning and Economic responded as follows:

- 1. 'Both the Executive Head of Planning and the Planning Inspector liked a post that was posted by counsel acting on behalf of the promoter of Red Court.'*

The Post showed a picture of 2 signs within the Waverley Borough Council offices directing to either the Public Inquiry or the Informal Hearing both of which were taking place on the same day. The Planning Inspector, at the first day of the Inquiry, had commented on how unusual it was to have two Hearings running on the same day and commented positively that the Council had been able to make all the arrangements necessary to run these concurrently. I am not able to make comment on behalf of the Inspector and I am aware that he has issued a separate response, but I feel that it is quite reasonable that others who were looking at the pictures and had no awareness of this background might have felt surprised and quite legitimately have expressed this direct to me and to the head of planning, particularly, as what would later become apparent, there had also been an IT issue regarding the neighbour notification letters which had not been issued electronically on the 18 December 2023 to the majority of those who had submitted comments against the application. The Planning Authority refused planning permission for Red Court and this council has put considerable time and commitment into defending the appeal. If residents and members have taken this 'like' as an indication that the Executive Head of Planning Development was positive about the refused planning application the Executive Head sincerely apologises for this.'

2. *'It is not correct that Haslemere Town Council were not informed of the inquiry. The Deputy Clerk was emailed on 18 December 2023 notifying of the Inquiry arrangements, this was a second notification the first having been sent in September. Furthermore, the Council created a webpage displaying a full timetable for the Inquiry this went live on the 15 December 2023. The Council has been made aware that Haslemere Town Council displayed details of the Inquiry on its Website in the period running into the Inquiry though these details were taken down before the Inquiry commenced.'*
3. *'A detailed response has now been sent to the Clerk outlining the chronology of events and again providing a sincere apology.'*

EXE 134/23 LEADER'S AND PORTFOLIO HOLDERS' UPDATES (Agenda item 6)

The Leader of the Council stated that he had attended:

- A meeting of Guildford Borough Council's Overview and Scrutiny Committee, at which Thames Water were present. He noted that concerns about compensation, sewage and a lack of understanding how the water network functioned were raised. He added that together with the Portfolio Holder for Planning and Economic Development a letter had been sent to Thames Water on 7 February 2024 on the matter of sewage; and
- The Surrey County Council Budget Setting meeting, where the budget was passed without unanimity on the morning of 6 February 2024, and expressed concern about pressures on borough services after referrals from under-pressure services provided or enabled by the County Council.

The Deputy Leader of the Council and Portfolio Holder for Enforcement and Regulatory Services acknowledged the multiple difficult projects currently being undertaken by the Enforcement Team, and thanked them for their work.

The Portfolio Holder for Community Services, Leisure and EDI stated that facilities at The Edge Leisure Centre, including two artificial training pitches, one of which was 3G, had opened for community use. Woolmer Hill Sports Association were facilitating bookings on behalf of Waverley Borough Council. There has been broad uptake among girls', pan-disability, and veterans' football groups.

The Co-Portfolio Holder for Housing (Operations and Services) reminded the Executive that the Housing Ombudsman's new Spotlight Report on attitude, respect and rights in social housing has just been published, addressing the meaning of vulnerability for social housing tenants and how landlords should respond.

The Portfolio Holder for Planning and Economic Development spoke to:

- Thank outgoing Chief Executive Tom Horwood for his guidance and service during his tenure;
- Inform the Executive of the 'Good' rating achieved by Waverley Training Services in their recent Ofsted assessment, thanking her fellow governors for their support and guidance;
- Thank the Overview and Scrutiny Committee – Services for their scrutiny and praise of the draft Economic Development Strategy and Action Plan, which was now out for consultation with stakeholders before returning for progression through Executive and Council meetings; and
- Give thanks to the Executive Head of Planning Development for her hard work maintaining the performance of the service in the face of some difficult challenges.

The Portfolio Holder for Environment and Sustainability gave his update, noting that:

- He had recently attended a meeting with the local charity Water Rangers following the recent water outage and discussions over performance with Thames Water; and
- Work continued to identify the top ten key contributors to the council's carbon footprint and actions to reduce them, enabling the journey towards net zero carbon. These include decarbonisation of the waste fleet, leisure centres, council offices and housing & green spaces contractors.

EXE 135/23 RECOMMENDATIONS FROM THE OVERVIEW AND SCRUTINY COMMITTEES (Agenda item 7)

The Leader reported that there were no formal recommendations on the matters for decision at the meeting from the January meetings of the Overview and Scrutiny Committees. The Leader again urged that the Committees produced recommendations for the Executive to consider.

EXE 136/23 GENERAL FUND BUDGET 2024/25 (Agenda item 8)

Cllr Merryweather, Portfolio Holder for Finance and Assets, introduced the General Fund Budget 2024/25 and summarised:

- That the report addressed the significant budget shortfall that would accumulate over the MTFP period and beyond
- Government funding support had fallen further behind cost inflation and represented only a small fraction of the business rates collected
- A structural deficit existed where costs were inflating faster than the Council's ability to increase funding, and would remain once inflation had decelerated
- Additional gross service cost pressures had been identified totalling £2.8m per year from 2024 rising to £5.3m per year by 2028
- Inflation would add £1.6m per annum to costs from 2025, rising to £4.3m per annum over the medium-term financial plan period
- The Council tax hardship fund which had been funded from central government had now reverted back to the Council
- Whilst some of the cost measures were close to exhaustion others like the collaboration with Guilford were on target to deliver their expected recurring annual savings
- Fees, charges and other income excluding council tax fees and charges had been reviewed as part of the budget process and general inflationary increases had been proposed where appropriate, with some exceptions such as in the new contract for Leisure centres
- In 2021, the council had approved a new car park pricing strategy which was based on the individual characteristics of and demands on the Council's car parks. This allowed specific site rates to be increased or decreased to respond to the market as appropriate as car park usage rebounded. The Council had approved revised car park tariffs which took effect from November 2021 but further increases had been resisted, which was now unsustainable
- An inflationary rate increase together with a limited pilot of evening charges in specific central car parks were proposed but the implementation of Sunday car park charging had been resisted, unlike many of the authorities in surrounding areas
- Inflation would fall over the plan period, government funding support would decrease, and reductions in the new homes bonus and business rates were anticipated
- Overall, a balanced budget was proposed with a below inflation increase of 2.99% in Waverley's band D council tax charge for 2024/25; and
- Officers were commended for their work in preparing the budget.

The Leader advised of an alteration to the recommendations to include recommendation viii, duly supported by the Executive.

Executive Members' statements in support of the recommendations included:

- Expressing disappointment in the Governments' approach to the funding of local government which meant that Councils were having to be creative in

- finding options, including potential exploration of a voluntary Council Tax contribution scheme, to balance their budgets due to continued uncertainty
- That the Business Rates and Council Tax funding mechanisms created systemic inequality; and
 - The Budget was aligned to Council's priorities including street cleaning, recycling and support for the maintenance of assets and green spaces.

The Executive resolved unanimously to **RECOMMEND** that Council:

- i. **Agree a 2.99% increase in Waverley's Band D Council Tax Charge for 2024/25 with resultant increases to the other council tax bands;**
- ii. **Agree to continue the Council's existing Council Tax Support Scheme at the current levels;**
- iii. **Agree (a) to a general inflationary increase to Fees and Charges for 2024/25 except for car parking charges and some limited other exceptions as proposed in Annexe 4.1, (b) agree the increase to car parking charges as proposed in Annexe 4.2, and (c) agree the specific other increases to the fees and charges as proposed in Annexe 4.3;**
- iv. **Approve a general inflationary increase of 4.5% to the weekly charge for all garages from 1 April 2024;**
- v. **Approve the General Fund Budget for 2024/25 as summarised in Annexe 2, incorporating the baseline net service cost variations detailed at Annexe 1 and Annexe 3;**
- vi. **Approve the General Fund Capital Programme as detailed in Annexe 5;**
- vii. **Approve the reserve movements as set out in Annexe 6 and to agree a delegation to the S151 officer to agree draw down from the reserves if the use is in line with the approved purpose; and**
- viii. **Approve an increase in inflation provision proposed within the General Fund budget of £111,252 to be funded by the £159,459 increase in funding guarantee grant as confirmed by the Department of Levelling Up, Housing and Communities on 5 February 2024.**

Reasons:

The General Fund Budget is a major decision for the Council and setting a balanced budget is a statutory requirement. Scrutiny of these MTFP and Budget proposals demonstrate transparency and good governance. The impacts of macroeconomic conditions and government policies are reflected in this budget proposal:

- on the demand side, the cost-of-living crisis is increasing residents' demands for our services while affecting their ability to pay for them;
- supply side cost inflation is driving up the costs of maintaining our existing services "as is". The higher costs for supplies, labour and capital also affect the delivery of new investment projects, including those that have revenue benefits;
- structural conditions in the skilled labour market affect our ability to retain and recruit permanent staff at any price, and
- government control and regulation over our funding streams – be they direct or indirect – continue to limit our ability to take measures to address our core structural deficit.

While the council has managed to respond to these challenges in recent years, the latest MTFP for the years ending 2027/28 continues to project future financial pressures. The council is taking action to ensure sufficient funding is in place to deliver and maintain services for 2024/25 but this report explains the conditions and uncertainties that threaten its ability to continue to do so for the following years.

EXE 137/23 HRA BUDGET 2024/25 (Agenda item 9)

Cllr Merryweather, Portfolio Holder for Finance and Assets, advised that a replacement Annexe 5 had been circulated, and introduced the HRA Budget 2024/25 by summarising:

- That the HRA operated in highly a regulated environment which governed how resources could be used
- Inflationary cost pressures were apparent together with growth pressures including the need to invest in maintaining an adequate housing management IT system specific to the HRA
- Funding for the entire service came from the rents and service charges paid by tenants
- In 2019 the Government announced that providers of social housing would be permitted to increase average weekly rents by the previous September Consumer Price Index (CPI) plus an additional 1% for five years from April 2020.
- For 2023/24 a CPI+1% rise would have been 11.1% which the government capped at 7%, and the Council contained to 4% in recognition of the economic situation to help protect tenants.
- CPI in September 2023 was 6.7% plus the additional 1% which resulted in a maximum allowable rent increase of 7.7% for 2024/25 as proposed
- Alternative scenarios of 1%, 4% and 6% increases had been tested
- 2024/25 would be a 53 week rent year, for tenants not in receipt of Universal Credit (UC) there would be no adverse impact. However, those receiving Universal Credit would be impacted

Councillor Paul Rivers, Co-Portfolio Holder for Housing, spoke to thank the Tenants Panel and Landlord Services Advisory Board for their engagement with the Budget setting process. Cllr Rivers said that the Tenants Panel was right to have highlighted the decline in tenant satisfaction from 83% in 2017 to 68% in 2023; and concurred that tenants were not responsible for macro-economic conditions. Cllr Rivers endorsed the recommendations with a heavy-heart and emphasised that the Council was committed to providing an improved housing service.

The Leader advised of an alteration to the recommendations to include recommendation X, duly supported by the Executive.

Executive Members' statements in support of the recommendations included:

- That the 4% rise in the previous year was to shield residents during an inflationary peak
- The Council was committed to improving the service, particularly repairs and maintenance

- Communications to tenants would be improved to encourage awareness and take-up of available support, including discretionary relief; and
- Acknowledgment of pressure on the supply of social housing stock, and that the Council was building high quality energy efficient homes for the future.

The Executive resolved unanimously to **RECOMMEND** that the Council approves:

- I. **The weekly rent for Council dwellings to be increased by up to 7.7% from the 2023/24 weekly rent charges, effective from 1 April 2024, within the permitted guidelines contained within the Government's rent setting policy**
- II. **That service charges and utility charges at non senior living accommodation be increased by 7.7% per week**
- III. **That the heating charges in senior living accommodation be increased by 20% per week from 1 April 2024 to £31.20**
- IV. **The Service Charge in senior living accommodation be increased by 15% per week from 1 April 2024 to £24.04**
- V. **The revised HRA Business Plan for 2024/25 to 2053/54 as set out in Annexe 1**
- VI. **The approved change to the fees and charges as set out in Annexe 4 is noted;**
- VII. **The HRA capital programmes as show in Annexe 5 and 6;**
- VIII. **The financing of the capital programmes in line with the resources as shown in Annexe 7**
- IX. **To deliver the works identified in the maintenance budgets it is recommended that authority is delegated to the Executive Head of Housing, in consultation with the s151 Officer, to procure and enter contracts valued over £100,000 show in Annexe 8**
- X. **An increase in inflation provision proposed within the Housing Revenue Account budget of £48,207 to be funded by the £159,459 increase in funding guarantee grant as confirmed by the Department of Levelling Up, Housing and Communities on 5 February 2024.**

Reasons:

In order to approve the use of reserves and resources to fund Waverley Borough Councils Landlord Services, the 30 year maintenance programme, and to deliver proposals for building new affordable homes and stock remodelling.

EXE 138/23 CAPITAL STRATEGY 2024/25 (Agenda item 10)

Cllr Merryweather, Portfolio Holder for Finance and Assets, introduced the Capital Strategy 2024/25 and summarised:

- That the strategy was a statutory requirement for local authorities
- A contextual map had been developed to illustrate the linkages between treasury and non-treasury matters
- Two enhancements on previous years had been made a) Annexe 2 covered the charging of interest on internal borrowing and repayment of HRA internal borrowing; and b) Annexe A3 appended to the Asset Investment Strategy

outlined the principles of appraisals and viability assessments that the Council would follow.

There being no further discussion, the Executive resolved unanimously to **RECOMMEND** that the Council approves:

- I. **The five-year Capital Strategy for 2024/2029, incorporating the Treasury Management Strategy, Prudential Indicators and Asset Investment Strategy, for approval.**
- II. **That Full Council delegate authority to the Executive for the financial year 2024/25, subject to a positive recommendation from the Asset Investment Advisory Board and agreement from the Chief Executive and Strategic Director:**
 - a) **to bid, negotiate and complete on property acquisitions and investments in land and buildings with a total individual cost of up to £10m, subject to the decision fully satisfying all criteria and process requirements set out in this Strategy; and**
 - b) **to determine a funding strategy for the acquisition or investment in line with the Treasury Management Strategy; and**
 - c) **to appoint advisors and undertake appropriate due diligence for each property acquisition and investment proposal as necessary; and**
 - d) **to complete the legal matters and signing of contracts to execute the transactions referred to above.**

Reasons:

The Capital Strategy is a whole organisation approach to capital investments (expenditure) and overall strategic planning. It has historically been seen as a finance responsibility but should be steered by the leadership of the Council and is a responsibility of all.

EXE 139/23 LEASEHOLDER BUILDINGS INSURANCE COVER 2024/25 (Agenda item 11)

Councillor Paul Rivers introduced the report, and explained that it was the Council's responsibility to provide building insurance to its 480 Right to Buy leaseholders. The council's current policy, held with Proctor Insurance, would expire in April 2024, and Officers had been advised by the Council's insurance broker of the difficulty in sourcing alternatives. The Leader concurred and was of the view that the proposal was reasonable.

There being no further discussion, the Executive **RESOLVED** unanimously to:

- I. **Approve the renewal of the right to buy leasehold insurance policy with Proctor Insurance for one year (April 2024 – March 2025) at the estimated value of £105K.**

Reasons:

The Council is responsible for providing building insurance for the 480 Right to Buy leaseholders who are recharged for the service.

EXE 140/23 SOCIAL HOUSING DECARBONISATION FUND (Agenda item 12)

Councillor Paul Rivers introduced the report, noting that Officers had made a bid for funding from the Social Housing Decarbonisation Fund; and explained that a competent partner was required to aid in delivery of energy efficiency works. E.ON had been selected as the partner.

Cllr Rivers stated that the report sought the necessary delegations to the Executive Head of Housing Services, in consultation with the Borough Solicitor, to award directly a works contract to E.ON for the value of £560k if the Council was successful in its bid. It was noted that officers would know if the bid had been successful by the end of March 2024.

Executive members' statements in support of the proposal included:

- Constraints on the Council's ability to fund social housing decarbonisation made the proposal attractive;
- There was a lack of clarity from central government regarding other funding mechanisms; and
- The Council had learned from the bidding process, and that learning would be beneficial to residents in the long term.

Subject to there being a successful application by the Council in obtaining grant from the Social Housing Decarbonisation Fund, The Executive **RESOLVED** unanimously to:

- I. **Approve, in consultation with the Borough Solicitor, delegation of authority to the Executive Head of Housing Services to:**
 - a. **Award directly a contract to E.ON to deliver energy efficiency works to council homes through a public sector framework (Fusion 21) for the value of £560K.**
 - b. **enter into a Grant Funding Agreement (GFA), Grant Offer Letter (GOL), Data Sharing Agreement (DSA) and associated documents with the Department of Energy, Security and Net Zero (DESNZ).**
- II. **Approve expenditure of £280,000 as allocated by the Council as part of the match funding.**

Reasons:

To help progress decarbonisation of the borough's social housing, as one means of progressing towards the Council's objective of achieving Net Zero by 2030.

EXE 141/23 PAY POLICY STATEMENT 2024-25 (Agenda item 13)

The Leader briefing introduced the report which recommended the discharge of the Council's duty to publish a Pay Policy Statement.

There being no further discussion, the Executive resolved unanimously to **RECOMMEND** to Council **that the Pay Policy Statement for the 2024/25 financial year, attached at Appendix 1, be approved.**

Executive 10
06.02.24

Reason:

To comply with the Localism Act 2011 (Sections 38 and 39).

The meeting commenced at 6.00 pm and concluded at 7.36 pm

Chairman

Waverley Borough Council

Report to: Executive

Date: 5 March 2024

Ward(s) affected: All Wards

Report of Director: Place

Author: Sarah Ball (Infrastructure & Implementation Consultant)

Tel: 01483 523149

Email: sarah.ball@waverley.gov.uk

Executive Portfolio Holder/ Lead Councillor responsible: Cllr Nick Palmer,
Portfolio Holder for Housing (Delivery)

Email: nick.palmer@waverley.gov.uk

Report Status: Open

Key Decision: Yes

Community Infrastructure Levy (CIL) Bidding Cycle 2023-2024

1. Executive Summary

As per the approved CIL governance arrangements, the Executive is delegated to approve bids for the allocation of Strategic CIL Funding, on the recommendation of the CIL Executive Working Group, subject to an upper limit of £2.5million per individual award, above which approval reverts to Full Council.

This report seeks to gain approval from the Executive for the allocation of Strategic CIL funding to the projects recommended for funding by the CIL

Executive Working Group in relation to the Strategic CIL Bidding Cycle 2023/24.

2. Recommendation to Executive

That the Executive approves:

- 1) The recommendations of the CIL Executive Working Group and approves the allocation of Strategic CIL funding to the projects as set out in paragraph 7.24 of this report. This is subject to the completion of the final relevant checks and the signing of funding agreements, the details of which are delegated to the Strategic Director in consultation with the Portfolio Holder for Housing (Delivery).

The Executive is asked to **recommend** to Council:

That the Council approves:

- 1) The recommendation of the CIL Executive Working Group to award £3,253,726.00 CIL funding to Surrey County Council for the Farnham Infrastructure Programme (Town Centre Improvement Scheme) to Council, split equally across the financial year 2023/24 and 2024/25 (£1,626,863.00).

3. Reason(s) for Recommendation:

- 3.1 In order to ensure robust and effective expenditure, in line with the CIL Regulations 2010 (as amended), and in accordance with the Council's approved CIL governance arrangements which include detailed eligibility and assessment criteria.

4. Exemption from publication

Not exempt from publication

5. Purpose of Report

- 5.1 This report seeks to gain approval from the Executive for the allocation of Strategic CIL funding to the projects recommended for funding by the CIL Executive Working Group in relation to the Strategic CIL Bidding Cycle 2023/24.

6. Strategic Priorities

- 6.1 The CIL helps to deliver infrastructure across all the priority themes and ambitions set out in the Corporate Strategy. This report supports the Corporate Strategy and Service Plan by ensuring that the Community Infrastructure Levy is spent fairly and transparently and delivers the strategic and local community infrastructure necessary to support growth.

7. Background

- 7.1 In accordance with the CIL Regulations 2010 (as amended), Strategic CIL must be spent on *“the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area”*.
- 7.2 ‘Infrastructure’ is defined within the Planning Act 2008. It includes: roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces.
- 7.3 CIL should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.
- 7.4 The Council has approved the CIL governance arrangements to allow for an annual bidding cycle for the allocation of Strategic CIL receipts to enable the delivery of specific infrastructure projects that will

support development in the Borough. This approval also included the use of a scoring criteria for evaluating bids for infrastructure from the Strategic CIL Fund. These governance arrangements were considered by Overview and Scrutiny prior to approval. Under delegated powers, the CIL Executive Working Group made minor amendments to the Scoring Criteria, to reflect updated circumstances, and this was used for the 2023/24 CIL Bidding Cycle.

- 7.5 Infrastructure providers were invited to submit bids to the 2023/24 Strategic CIL Bidding Cycle between the 3 of July 2023 to the 30 of October 2023 (this included a two week extension).
- 7.6 In accordance with the agreed CIL governance arrangements, the Executive is delegated to approve bids for the allocation of Strategic CIL Funding, on the recommendation of the CIL Advisory Board, subject to an upper limit of £2.5m per individual award, above which approval reverts to Full Council.

Available Strategic CIL

- 7.7 As of 1 January 2024, the amount of Strategic CIL available was **£8,570,791.24**.
- 7.8 In accordance with the CIL Regulations 2010 (as amended), the Council agreed that it will only award Strategic CIL up to the value of actual amounts received. CIL receipts whereby a Demand Notice has been raised but the amount is yet to be received will be subject to allocation at future bidding rounds.
- 7.9 It is not necessary for the Council to allocate all the Strategic CIL funds available each bidding round, if submitted bids are not deemed high priority, the CIL shall not be allocated and will be reserved for the next bidding cycle.

'Community CIL'

7.10 The Council agreed the detailed governance arrangements for the expenditure of Strategic CIL, prior to the implementation of CIL in March 2019. As part of this, it was decided that the Strategic CIL should be 'bottom-sliced' to create a 'Community CIL' fund of 10% of the Strategic CIL receipts available within each CIL bidding cycle. Following Executive on 7 March 2023, it was agreed to amend the governance arrangements and not to 'bottom slice' Strategic CIL for each bidding cycle. Originally this was required to create a Community CIL Fund of 10% of the Strategic CIL Fund receipts, for funding low-value but desirable community infrastructure projects. The Executive Report recommended that the Community Fund, which had been created within the Strategic CIL Fund, be removed from future CIL bidding cycles, as experience showed that there was not the need for it that had been anticipated when the CIL governance arrangements were being developed. It was therefore resolved that:

2. *the 'Community CIL' element be removed from future Strategic CIL Bidding Cycles.*

Reason: In order to ensure robust and effective expenditure, in line with CIL Regulations 2010 (as amended) and in accordance with the Council's approved CIL governance arrangements which include detailed eligibility and assessment criteria.

7.11 In line with the Regulations, 15% of CIL receipts (capped at £100 per Council tax dwelling per annum in the parish area) or 25% where there is a 'made' Neighbourhood Plan are transferred to the relevant Town and Parish Councils twice a year, where development has occurred in their area.

7.12 This approach now allows for Strategic CIL funds to be available for 'strategic' infrastructure projects, whilst Neighbourhood CIL is utilised for projects with more localised impacts. The removal of the 'Community CIL' fund does not prevent community infrastructure projects from submitting a Strategic CIL bid.

2023/2024 CIL Bid Cycle

- 7.13 The 2023/24 CIL Bidding Cycle received 22 bid submissions.
- 7.14 The total value of the projects submitted was £64.8 million and the total CIL requested was £11.8 million. These values represent figures significantly higher than previous Strategic CIL bidding cycles: for example the total value of projects submitted in 2022/23 was £24 million, with £9 million requested from CIL.
- 7.15 As per the previous bidding cycle, the quality and detail provided within the submitted bids varied greatly.

Invalid CIL Bids

- 7.16 As per the agreed governance arrangements for a CIL bid to be valid it must meet the mandatory criteria specified in the agreed CIL Bid Scoring Criteria.
- 7.17 Two of the bids have been assessed as invalid, as the submissions have failed to meet the mandatory requirements for the following reasons:

Applicant	Project	Reason
All Saints CoE School Tilford	Daily Mile Track	No evidence to suggest that the project is needed to support the development in its area: no evidence to suggest that the new track will accommodate more people and therefore it appears to be a "like for like" replacement. In addition to this, no land owner's consent was submitted.
Waverley Abbey	Sports Pavilion	2 separate projects included within the bid - 1) Resurfacing of car park - this would be classed as remedying pre-existing deficiencies in infrastructure and is therefore invalid. 2) New pavilion - this is also invalid as there is no evidence to suggest it is needed to support the development in its area.

Applicant	Project	Reason
		In addition to this, no landowner's consent was submitted.

CIL Executive Working Group

- 7.18 In total there were 20 valid CIL bid submissions. The total value of the valid projects submitted is £63.9 million and the total CIL requested was £11 million.
- 7.19 All valid bids were scored using the agreed CIL Scoring Criteria. Six officers independently scored all the valid bids, following which an average score was taken for each criterion. This scoring matrix was presented to the CIL Executive Working Group, which helped to inform recommendations.
- 7.20 The CIL Executive Working Group met at three meetings, on the 25 and 30 January 2024 and 7 February 2024 to discuss the merits of each of the valid bid. Taking into account the scoring, the Members of the CIL Executive Working Group discussed and considered the bids against the available Strategic CIL, and the potential strategic impact of each project.
- 7.21 During the meetings, the potential of ‘top slicing’ future Strategic CIL was discussed. The CIL Executive Working Group confirmed that the terms of reference lead to a requirement to make recommendations to the Executive on the basis of the current governance arrangements (as amended by Executive on 7 March 2023). As referred to in paragraph 7.10, at this Executive meeting in 2023, following a recommendation by the Working Group, it was resolved to remove the ‘Community CIL’ element from future Strategic CIL Bidding Cycles. The CIL Executive Working Group proposed that the Executive may therefore wish to consider further revised governance arrangement which would ‘ring fence’ specific infrastructure projects and programmes which are of particular significance to the Council and

that may be sensitive to medium and long-term funding and implementation arrangements.

7.22 As a result of the three meetings, the CIL Executive Working Group unanimously agreed to recommend to the Executive that the 10 projects detailed within the next section of this report are allocated Strategic CIL funding.

Recommendations of the CIL Executive Working Group

7.23 As previously referenced, as of 1st January 2024, the value of the Strategic CIL is **£8,570,791.24**.

7.24 Following detailed consideration, the CIL Executive Working Group recommended that the following bids are allocated Strategic CIL funding:

Applicant	Project	Recommended CIL Allocation
Surrey County Council (3)	Farnham Infrastructure Programme (FIP) – Town Centre Improvement Scheme	£3,253,726.00 (split over the financial years 2023/24 and 2024/25) subject to Council approval)
Binscombe Medical Practice (4)	Extension, alterations and improvement to Binscombe Medical Centre	£205,812* *Please note that on 7 February 2024, the applicant requested that the bid was reduced from £347,480.00 to £205,812 following a formal tender process
The Ridgeway School (7)	Ridgeway playground	£100,000.00
Haslemere Parochial Church Council (PCC) (8)	The Linkway Hub	£400,000.00 (contingent upon the inclusion of a ‘safeguard’ (or overreach clause) related to the future ownership of the site in perpetuity. Officers to confirm this with legal and consult the Guildford Diocesan Board of Finance (landowner) and include a suitable clause into the terms & conditions)

Rowledge Village Hall (11)	New Rowledge Village Hall	£650,000.00 (assuming that the scheme can be carried out/delivered with the allocated funds & liquidated assets)
Surrey County Council (12)	Cranleigh Local Street Improvement Scheme	£347,049.00
Surrey County Council (13)	Farncombe Local Streets Improvements Scheme	£362,467.00
The Wey and Arun Canal Trust Limited	Upgrade of the towpath at Bonfire Hanger	£45,779.00
Treloar's (16)	Electric bus for Treloar's	£9,822.00
Waverley Borough Council (22)	Cranleigh Leisure Centre	£2,000,000.00 (phased over years 2023/24 and 2024/25, subject to Executive approval)
Total		£7,374,655.00*
		*Adjusted to account for Bid 4 (Binscombe Medical Practice)

- 7.25 CIL cannot be used to retrospectively fund infrastructure and therefore if the bid is allocated funding, it may be that when terms and conditions are agreed that the amount of CIL funding is reduced to ensure compliance with the CIL Regulations.
- 7.26 In relation to Bid number 3 (Surrey County Council – Farnham Infrastructure Programme (FIP) – Town Centre Improvement Scheme), and subject to Council approval given the bid amount is over £2.5million, the Executive Working Group are recommending that the CIL funds requested is split over the financial years 2023/24 and 2024/25).
- 7.27 Similarly, in relation to Bid number 22 (Waverley Borough Council – Cranleigh Leisure Centre) the Executive Working Group are recommending that the CIL funds requested is split over the financial years 2023/24 and 2024/25). In both cases this is to take into account the project implementation timetable.
- 7.28 For all projects approved for funding, to ensure that CIL expenditure remains in accordance with the CIL Regulations, all applicants will be

required to accept the terms and conditions and sign a funding agreement. Where relevant, the CIL funding will also be conditional upon the applicant obtaining any necessary building regulations and/or planning permission and any other consents or permissions that may be required. Funding agreements may specify that a project is expected to be delivered within a specific timescale. Payments will be made to successful submissions after completion of the project (or agreed major stages if appropriate) to the satisfaction of the Council and after submission of verifiable invoices, as proof of expenditure. Following the completion of the project, any unspent allocated monies (e.g. unspent contingency funds) will be returned to the Strategic CIL fund.

7.29 The Council has an obligation to report on how CIL funding is used in its Infrastructure Funding Statement (IFS) which is published annually in December. The latest IFS was published 22 December 2023 and covers the period 1 April 2023-31 March 2023.

Bids not recommended for funding

7.30 Following the assessment of the valid bids by the CIL Executive Working Group, the following projects are not recommended for the allocation of CIL funding:

Applicant	Project	CIL Requested	Reason for not recommending funding
The Bourne Club (1)	Tennis and Padel Development – Phase 1 Padel	£98,000.00	No wider community benefit demonstrated compared to other bids; not in the IDP.
Waverley Hoppa Community Transport (2)	Growing Community Transport in Waverley	£70,000.00	No business plan. Uncertainties regarding the commercial element of proposed scheme.

Applicant	Project	CIL Requested	Reason for not recommending funding
Potters Gate Primary School (5)	New multi-use school hall	£840,208.00	S106 funding had previously been allocated to address an identified need for increased pupil capacity driven by development in the area. The EWG was concerned about the evidence associated with 'additionality' (how the scheme relates to growth in the area). The scheme is not in the IDP, and has no links to the Corporate Strategy.
Cranleigh Parish Council (6)	Multi-use Games Area (MUGA) at Snoxhall Fields	£109,995.00	Planning permission still pending; parish has received s106 monies but as funding is contingent upon planning approval, concerns about deliverability.
Godalming District Scouts (9)	White Beeches Woodland Scout Campsite Toilet Facilities	£2,300.00	Project is more suited to Neighbourhood funding
Cranleigh Cricket Club (10)	Cranleigh Cricket Club clubroom improvement	£1,775,000.00	No match funding. Not in IDP and not included in Corporate Strategy; no support under climate change. No demonstration of need presented for Strategic CIL. Suggest that the applicant applies for sport funding streams i.e. Sports England.
Waverley Borough Council (18)	Expansion and refurbishment of Sandy Hill play area in Farnham	£100,000.00	Executive working group sympathetic. Bid needs further justification and more detail/evidence in relation to the projected allocation of funding, quotes, and community support for the proposal.
Waverley Borough Council (19)	Expansion and refurbishment of Border Road and Oak Cottages play areas	£100,000.00	Executive working group sympathetic. Bid needs further justification and more detail/evidence in relation to the projected allocation of funding, quotes, and community support for the proposal.

Applicant	Project	CIL Requested	Reason for not recommending funding
All Hallows Catholic School (20)	All Weather Sports Hall	£324,678.08	Lack of evidence provided; no match funding; not in IDP; no link to Corporate Strategy and no support under climate change.
Hambledon FC (21)	Creation of a new sports pitch	£100,000.00	Planning permission required and the land has been leased for 15 years only therefore limited evidence of deliverability. Not in IDP; does not support climate emergency.

8. Consultations

- 8.1 Officers have engaged with infrastructure providers throughout this process.

9. Key Risks

- 9.1 The Council will ensure it spends CIL correctly in accordance with the CIL Regulations by completing final relevant checks on all bids allocated funding and ensuring that funding agreements address all relevant matters.

10. Financial Implications

- 10.1 The CIL amounts proposed for allocation have been received and there is no impact on Waverley's budget as a result of the proposals in this report.

11. Legal Implications

- 11.1 Money raised through CIL can only be spent on supporting development by funding the provision, improvement, replacement,

operation, or maintenance of infrastructure. The definition of infrastructure in section 216(2) of the PA 2008 is sufficiently wide to give the Council flexibility to choose what infrastructure it needs to deliver. Legal services will support the Council in order to ensure ongoing compliance with the Regulations.

- 11.2 Legal services will also support the process of preparing and agreeing funding agreements with third parties to ensure that funding is properly administered and safeguarded.

12. Human Resource Implications

- 12.1 No implications.

13. Equality and Diversity Implications

- 13.1 The signed funding agreements will ensure that matters of equality, diversity and inclusion are addressed for each infrastructure project.

14. Climate Change/Sustainability Implications

- 14.1 The CIL Scoring Criteria included a component of assessing how the bid supported the aims and targets of the Council's Climate Emergency. Many of the recommended bids will have significant positive impacts on the environment including the support of sustainable forms of transport, improved pedestrian and cycle routes, open space improvements and investment in social infrastructure to enable health and well-being of its residents.

15. Suggested issues for overview and scrutiny

- 16.1 The Executive is delegated to approve bids for allocation of Strategic CIL Funding, on the recommendation of the CIL Executive Working Group is subject to an upper limit of £2.5m per individual award. The Council originally approved its outline CIL Governance arrangements

on 11 December 2018 and the detailed criteria and financial thresholds were considered by Value for Money O&S Committee on 18 February 2019 and approved by Council 19 March 2019.

16. Summary of Options

17.1 The CIL Executive Working Group have given thorough consideration to each successful and unsuccessful bid throughout this process.

17. Conclusion

17.1 If the Executive approves some or all the recommended projects, officers will then work with the bidders to formally confirm the CIL funding arrangements, including any terms and conditions.

17.2 The CIL Executive Working Group will meet after 5 March 2024 to reflect upon the 2023/24 Strategic CIL bidding round; review the process (if found necessary); and finalise the dates for the next Strategic CIL bidding round (2024/2025).

18. Background Papers

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

19. Appendices

19.1 There are no appendices to this report.

Please ensure the following service areas have signed off your report.
Please complete this box, and do not delete.

Service	Sign off date
Finance / S.151 Officer	20.02.24
Legal / Governance	20.02.24
HR	20.02.24
Equalities	20.02.24
Lead Councillor	20.02.24
CMB	13.02.24
Executive Briefing/Liaison	20.02.24
Committee Services	23.02.24

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Waverley Borough Council

Report to: Executive

Date: 5 March 2024

Ward(s) affected: All Farnham Wards

Report of Director: Community Wellbeing

Author: Charlotte Hall, Arts and Cultural Services Manager

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Executive Portfolio Holder/ Lead Councillor responsible: Cllr Kika Mirylees and Cllr Mark Merryweather

Email: kika.mirylees@waverley.gov.uk and mark.merryweather@waverley.gov.uk

Report Status: Open

Key Decision: Yes

Museum of Farnham MEND project: Approval to go to tender for a main contractor for the repair and conservation works and an update on programme activities.

1. Executive Summary

- 1.1 At a Full Council meeting on 18 July 2023 Members agreed to accept the terms of a capital grant from Arts Council England's MEND fund to deliver a programme of essential conservation and repairs to the brickwork façade of the Grade 1 Listed Museum of Farnham. Members also resolved to fund a potential budget gap of up to

£275,000 if efforts to obtain additional external funding are unsuccessful or the costs of completing the project are higher than estimated.

- 1.2 This report updates Members on the status of the MEND project and asks the Executive for approval to issue a tender for a main contractor for the conservation and repair contract.

2. Recommendation to Executive

That the Executive approves:

- I. to go to tender for the main contractor for the repair contract through a competitive tender process with the brickwork conservator, Simpson Brickwork Conservation Limited being a named sub-contractor.
- II. to issue the invitation to tender prior to obtaining listed building consent.
- III. a delegation of authority to the Strategic Director for Community Wellbeing in consultation with the Joint Head of Legal and Democratic Support Services to award the contract to the successful bidder. This will be dependent upon listed building consent being granted prior to entering a contract with the recommended contractor.

3. Reason(s) for Recommendation:

3.1 Details of the tender for a main contractor

The Council intends to select the main contractor for the repair contract through a competitive tender process with Simpson Brickwork Conservation Limited being a named sub-contractor within the tender package. The Council will enter a JCT Intermediate Building Contract with Contractor Design Portion 2016 with the successful main contractor and the named specialist brickwork conservator being employed by the successful bidder. The price for the specialist brickwork package will be negotiated with Simpson

- Brickwork Conservation Limited in advance, so that the agreed sum can be included as a fixed cost within the tender. The overall contract value is estimated to be approximately £900,000 plus VAT which includes the cost of the brickwork conservator and the procurement of the handmade bricks.
- 3.2 The Lead Conservation Consultant for the project recommends a single action tender for the specialist brickwork conservator based on his extensive knowledge of the UK's heritage industry.
 - 3.3 Firstly, procuring a brickwork conservator to complete the façade repair is problematic as there is an acute national shortage of suitably qualified brickwork conservators who have experience of large-scale historic brickwork repair. Buildings with highly embellished brickwork facades such as Willmer House are rare, hence the grade 1 listing and consequently there is little demand for this type of work. Simpson Brickwork Conservation is the only company in the UK which is large enough and has sufficient skill, capacity, and experience in-house to deliver a contract of this complexity.
 - 3.4 An alternative option would be to employ a different, smaller company to do the work through an open tender process, and then employ Simpson Brickwork Conservation Limited to train the selected company up. However, the project timescale and budget does not allow for a significant training element. The consultant does not recommend allowing the main contractor to tender the works to a domestic subcontractor as they would not have sufficient experience in working with historic and gauged brickwork. This approach would create a false sense of how much the works will cost and how long it will take. It is also likely to deliver a poor-quality result which is inappropriate and harmful to the long-term conservation of the building.
 - 3.5 The procurement process has been discussed with the Arts Council's Procurement Team. They have agreed in writing to waive the requirement for a competitive tendering process for the specialist

brickwork conservator on the grounds that only one company is able to deliver the required service.

- 3.6 The procurement approach maintains a competitive element as the requirements of the tender package for the main contractor will include: Project management, supervision, administration, planning, site establishment, demobilisation, scaffold design, highway licenses, traffic management, security, the provision of welfare facilities, labour and staff, insurance and health and safety.
- 3.7 As part of the brickwork package Simpson Brickwork Conservation Limited will place a direct order for the handmade bricks with the supplier Bulmer Manufacturer. The bricks will be delivered directly to their workshop and any unused bricks can be repurchased by Simpson's for their ongoing work.

3.8 Listed Building Consent

The Lead Consultant has consulted Waverley's Principal Conservation Officer and Historic England for pre-application advice and is finalising the Conservation RIBA Stage 4 specification and drawings. Neither organisation has expressed any concerns regarding the preliminary plans or brick samples presented so far. The application is on course for submission in early February, but the outcome can take up to three months to be agreed. As Waverley is the applicant, we are advised that the application will need to go to the Council's Full Planning Committee.

- 3.9 In view of the project timescales, it is strongly recommended that we go forward with a parallel approach in issuing the invitation to tender while the listed building consent is being considered. If the tender process is delayed until listed building consent is granted in June, we are at risk of losing the specialist brickwork conservator (Simpson Brickwork Conservation Limited) to other work and the commencement of the project will be pushed into autumn 2024. This would be highly problematic as the rebuilding of the parapet wall cannot take place in colder winter months due to the extensive use of lime putty mortars. The use of lime putty is not advocated when

the temperature is below 5 degrees and falling and external work should therefore be scheduled to avoid the period from October to March. This scenario would force the postponement of the project to Spring 2025, placing the MEND grant in jeopardy as the project must be completed in full by March 2026.

3.10 It is therefore recommended that we go to tender for a main contractor in parallel with the decision-making process for the listed building consent. To lessen the risk of a failure to obtain the consent the Council will defer entering a contract with a successful bidder until the consent is granted. If deemed necessary, it may be appropriate to issue a letter of intent to the contractor until such a time when the consent is in place and the project can proceed.

3.11 Progress with the MEND2 Security Requirements

As of 17 January 2023, Arts Council England confirmed their approval that the security conditions for the grant have been met and that the following documents can proceed to signature:

- The Certificate of Title
- Deed of Covenant
- Letter of undertaking.

3.12 Members are advised that the main document is the Deed of Covenant to be secured against Willmer House, 38 West Street, Farnham (Farnham Museum). The Deed of Covenant will be registered against the property title at the Land Registry and includes a restriction which prevents the sale of the property or the granting of a lease or license to a third party or change of use without the Arts Council's prior written consent. The term of the restriction is 15 years, and the Deed of Covenant is to be executed under seal.

3.13 The Deed of Covenant contains schedule 1 "The Capital Funding Agreement". This schedule includes the terms and conditions of the grant; the agreed use of the grant monies; the duration of the agreement which is 15 years from the date of the funding agreement in April 2023 to March 2037 and the programme date which is April

2023 to March 2026. The Capital Funding Agreement also contains a strict monitoring regime and compliance obligations for the purposes of both the Public Contracts Regulations 2015 and the Subsidy Control Act 2022. Due to the length of time taken to complete the grant security requirements the monitoring and payment schedule is now out of step with the project programme. Officers have therefore advised ACE that the payment profile is updated as follows:

1. First payment due on the 1 February 2024
2. Second payment due on the 31 July 2024
3. Third payment due 31 October 2024
4. Final payment due on the 31 May 2025.

3.14 The Strategic Director for Community and Wellbeing has delegated authority to complete, date and officiate the seal of the Deed of Covenant on behalf of the Council.

3.15 Consultants update report on the Repair Programme

Programme activities delivered to date include:

- Digital survey completed on 8.11.23.
- Drawings issued 1.12.23.
- High level survey completed on 14.12.23.
- Poor condition of windows noted.
- Brick samples matched and 1st batch ordered at risk.
- Scaffold designed and initial contact made with SCC Highways
- WBC and Historic England consulted for Pre-application advice for Listed Building Consent 15.1.2024.
- Procurement and Legal meeting held with WBC.

3.16 The consultant in charge has issued a revised activity schedule for the repair programme dated January 2024. Key dates include:

Activity	Action	Date
RIBA Stage 4 conservation and specification	Issued to WBC for review	9.2.2024
Draft tender documents: Preliminaries Pass/fail requirements. ITT Contractors' welfare	Issued to WBC and workshop with the Council's procurement and legal teams. Details TBC by WBC	9.2.2024
Construction (Design and Management) 2015	Pre-construction information issued to WBC's legal team.	9.2.2024
Listed Building Consent	Application submitted	16.2.2024
Invitation to Tender for Main contractor works	Revised date	1.4.2024
Named sub-contractor (Simpson Brickwork Conservation Limited)	Negotiated price for brickwork package	15.3.2024
Tender return date		3.5.2024
Tender review and agreement Engrossment of contract	Issued to WBC for review by Director for Community Wellbeing, Joint Head of Legal and Democratic Services, Legal, Procurement and project officers	6.5.2024 – 24.5.2024 14.6.2024
Revised start date		15.7.2024
Revised completion date		19.9.2025

3.17 Progress with External Funding

At the Full Council meeting on 18 July 2023 officers reported a gap in the MEND project budget of approximately £275,000. The Council

- agreed to underwrite this sum if efforts to secure additional funding from other sources are unsuccessful.
- 3.18 To reduce the budget shortfall officers have identified several funding bodies that local authorities can apply to. The Pilgrim Trust distributes grants to preserve and conserve significant historic buildings across the UK. Following a successful application to stage one Waverley was invited to make a full application for £25,000 which was submitted in November 2023. The application will be considered by the grants panel in March 2024.
- 3.19 The Heritage Fund is the UK's largest funder for heritage, providing National Lottery Grants for projects ranging from £3000 to £250,000. In 2023 the Heritage Fund published a new 10-year strategy, Heritage 2033, which includes details about its four investment principles. The MEND Project is clearly aligned to the investment principles of *'Saving Heritage'*, *'Inclusion, Access and Participation'* and *'Organisational Sustainability'*. Applications for National Lottery Grants are currently closed but will re-open in February with new guidance and application forms. Based upon a positive consultation with a funding officer based in the London and South office, officers will submit a project enquiry form so that any feedback can be addressed in the application. We envisage applying for a grant in the region of £190,000 as this will help to reduce Waverley's contribution to £135,000 and cover the additional cost of repairing and redecorating the front façade windows, transporting, and storing part of the museum collection off site during the works and the funding of community engagement activities.
- 3.20 The MEND Project Board are also exploring the idea of a 'Buy a Brick' campaign to be fronted by Waverley's Mayor. The Board are advised by the consultants that it would be viable for a benefactor to have their initials engraved onto a new brick which will be installed on the building's façade in perpetuity. The benefactors could also be listed on a plaque that is installed in the garden and be recorded in the museum's archives. The Executive are asked to consider whether it is appropriate for the Council to lead such a campaign or whether it

would be better to invite Farnham Maltings to propose a fee for running a fundraising campaign, which covers their marketing and administrative costs.

3.21 Community Engagement Activities

The Project Board have produced a community engagement plan for the MEND project which aims to allay concerns; increase awareness of the historical and architectural importance of Willmer House; explain the conservation methods and materials deployed; explain role of the brickwork conservator and the skills involved in working with gauged brickwork; the importance of preserving the historic environment in perpetuity and ways of involving the community as much as possible in the conservation journey. Delivering the community engagement plan will require additional funding to support activities such as talks, family open days, demonstrations, displays and workshops plus a local and social media campaign, webpage, and filming.

- 3.22 The project board are hosting a public meeting for neighbouring residents and Farnham councillors on 8th February 2024 at 6pm in the museum's garden gallery. The meeting will explain the conservation proposal and how the repairs will be carried out. Residents will be able to meet the team and to ask questions.

4. Exemption from publication

- 4.1 The report is not exempt from publication.

5. Purpose of Report

- 5.1 The purpose of the report is to obtain the Executive's approval to go to tender for a main contractor to carry out the repair and conservation works to Farnham Museum.
- 5.2 It also updates the Executive on all aspects of the MEND project so far including an explanation of the procurement process, the

application for listed building consent, the status of the grant approval process, progress in applying for external funding, the activity schedule for the building works and opportunities to inform and involve the wider community.

6. Strategic Priorities

- 6.1 Culture contributes to the wellbeing of Waverley's communities. This project will ultimately lead to the delivery of a high-quality public service accessible for all.
- 6.2 The MEND grant delivers value for money and creates future opportunities to achieve a more sustainable future for the museum through a gradual transition to Farnham Maltings. The project aims to reduce the council's future costs and liabilities associated with the ownership of a Grade 1 Listed building.

7. Background

- 7.1 The total cost of the repair project is estimated to be £1029,145 excluding VAT; this includes a sizeable contingency for inflation and to offset other risks associated with the condition and structure of the building. The value of the MEND grant is £734,335 and a further £20,500 of external funding is in place. In April 2023 the council carried out an open tender process to procure a professional project team to design, coordinate and administer the delivery of the project. Drake and Kannemeyer, with associate sub-contractors from Ingram Consultancy and the Morton Partnership were awarded the contract.
- 7.2 The activity schedule for the repairs is fully aligned with the MEND application and cost plan approved by Arts Council England. There is a PID and Project Board in place to provide project management, governance, and oversight.
- 7.3 Key project milestones achieved to date include the appointment of the professional project team; the completion of a digital survey, a

high-level brick survey to prepare the brick templates; the completion of conservation stage 4 RIBA drawings and design, mortar analysis and the matching of brick samples, the preparation of an application for Listed Building Consent and a preliminary design for the scaffolding. Next steps include the preparation of the tender documents and the issuing of the ITT on the Council's procurement portal. Consultation with key stakeholders and residents and has begun and efforts to attract additional external funding are underway.

8. Consultations

- 8.1 Local residents, Farnham councillors, representatives of civic societies and museum volunteers and stakeholders have been invited to a public meeting taking place on 8 February at 6pm. This will be an opportunity for them to hear more about the project and for Waverley to address any concerns they may have.
- 8.2 The project board have developed an exciting community engagement and local media plan but some of its implementation will require additional funding and resources.

9. Key Risks

- 9.1 There is a costed risk register which is regularly reviewed by the professional project team and the project board. The key risks include:
- A funding shortfall should costs be higher than predicted due to inflation being above the forecast rate.
 - A funding shortfall if external funding applications are not successful.
 - The loss of the Specialist Brickwork Contractor to other work if the award of the contract is delayed.
 - Loss of the MEND grant/monies if contract and programme delays go beyond the MEND deadline of March 2026.

- Risks of winter working on the use of lime mortars, exceptional weather, and sickness.
- Reputational damage caused by a failure to inform and involve the local community.

10. Financial Implications

10.1 The budget situation for the MEND project remains unchanged since it was last reported to Full Council on 18 July 2023. The project funding is as follows:

Cost of the project: 1,029,145

Funding:

MEND Grant 734,335

External funding secured 20,500

Budget gap on 6/2/2024 274,310

The budget gap of £274,310 if required will be funded from £50k of general fund working balances with the remainder to be met from capital receipts.

Pending

External funding applied 25,000 (Pilgrim Trust – decision March’ 24)

External funding sought 190,000 (UK Heritage Fund)

Provisional extra expenditure 75,000 window joinery

If the additional expenditure of £75,000 is required a report will be taken to executive to request additional funding.

11. Legal Implications

- 11.1 The report is seeking approval of a procurement strategy and delegation of authority to award the resultant contracts. The value of the proposed works is estimated at circa £900,000. This value places the proposed works out of the scope of Part 2 Public Contracts Regulations 2015 (PCR 2015). There is, however, a requirement to comply with Chapter 8 PCR (below threshold procurement).
- 11.2 It is proposed that the main works contract be procured through an open tender process. This will ensure compliance with Chapter 8 PCR 2015.
- 11.3 It is further proposed that a subcontractor, Simpson Brickwork Conservation Limited, be named, as part of the main works contract award. This approach is akin to a direct award of contract to Simpson Brickwork Conservation Limited. This requires a waiver to be granted by the section 151 officer.
- 11.4 The report outlines the process and procedures to be followed for the purposes of compliance with planning laws and listed building consents.
- 11.5 The funding agreement imposes certain obligations on the Council that must be complied with, and these include amongst other things, compliance with planning laws, listed building requirements and PCR 2015. Officers must, therefore, ensure full compliance.
- 11.6 The proposed works must and can only be undertaken in full compliance with the requirements of the Town and Country Planning Act 1990 (planning) and (Listed Buildings and Conservation Areas) Act 1990 (listed building consents).
- 11.7 Finally, legal must be consulted for the purposes of drafting, preparation of procurement documents, contract documents and endorsements thereof. The proposed works contract will be in the form of the Council's Schedule of Amendments incorporating, JCT Intermediate Building Contract with Contractor Design Portion 2016.

Consultancy appointments will also be in the form of JCT Consultancy Agreement 2016.

12. Human Resource Implications

- 12.1 An increase in officer time is required to project manage the MEND programme, apply for funding, and fulfil the Arts Council's grant monitoring regime.

13. Equality and Diversity Implications

- 13.1 The Museum of Farnham has an Equality, Diversity and Inclusion statement and follow the Farnham Maltings Equality and Dignity at Work policy which all staff and volunteers are required to read and understand. The museum also operates within the context of Waverley's Equality, Diversity, and Inclusion Action Plan 2022/23 which focuses on the following priority outcomes:

- Engage with and understand our communities to ensure our services are accessible and focused on greatest need.
- Use feedback to identify unfair treatment and take steps to correct this, taking a zero-tolerance approach to bullying, discrimination, and harassment.
- A culture in which the contribution everyone makes is valued, recognised and celebrated and everyone feels comfortable to be themselves.
- Provide an accessible and inclusive working environment and practices where we are all treated fairly, consistently and with respect.
- Providing an effective equality impact assessment process to ensure our services and policies do not discriminate or unfairly impact our residents or staff.

14. Climate Change/Sustainability Implications

- 14.1 The repair works seek to achieve a long-term sustainable conservation which will minimise the impact on the environment because it will ultimately reduce the amount of repair materials used and will conserve the historic building in perpetuity.
- 14.2 The bricks will be manufactured by traditional brick makers where many of the processes are still completed by hand rather than machine.
- 14.3 As part of the proposed joinery repair replaceable brush pile draft excluders will be installed into the window sashes and entrance doors to reduce energy loss through drafts.

15. Summary of Options

- 15.1 Option 1: The Council agrees to progress the tender for a main contractor in parallel with the Listed Building Consent to ensure that the activity programme for the essential repair and conservation work remains on track to complete the project by March 2026 (the MEND deadline). The Council expects to hear the outcome of external funding bids and to obtain the Listed Building Consent by June/July 2024 which should coincide with the preparation of the contract for the works.
- 15.2 Option 2: The Council waits until the Listed Building Consent is granted before issuing a tender. This runs the risk of losing the specialist brickwork contractor to other work, delaying the repair schedule to autumn 2024, which will push the works into the winter months or delaying until Spring 2025 which runs the risk of the project not completing in time for the MEND deadline. Additional costs will also be incurred if the contract over runs.

16. Conclusion

16.1 The MEND grant is vital for the essential repair and conservation of Willmer House. An award of this value is a significant achievement for Waverley, and we are keen to include and involve the local community in as much as possible. The Council is in a good position to raise more funding from other sources and to draw a long and difficult chapter in the museum's history to a positive end.

17. Background Papers

17.1 None

18. Appendices

18.1 None

Please ensure the following service areas have signed off your report.
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Service	Sign off date
Finance / S.151 Officer	25/01/2024
Legal / Governance	24/01/2024
HR	N/A
Equalities	N/A
Lead Councillor	24/01/2024
CMB	31/01/24
Executive Briefing/Liaison	6.2.24
Committee Services	13/02/2024

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Waverley Borough Council

Report to: Executive

Date: 5 March 2024

Ward(s) affected: All Wards in Waverley

Report of Director: Dawn Hudd, Strategic Director for Place

Author: Kelvin Mills – Executive Head Commercial Services

Tel: 01483 523432

Email: kelvin.mills@waverley.gov.uk

Executive Portfolio Holder/ Lead Councillor responsible: Cllr Fairclough

Email: Tony.fairclough@waverley.gov.uk

Report Status: Open

Key Decision: Yes

Off Street Parking Enforcement Contract

Executive Summary

- 1.1. Waverley's current contract with Marston Group, NSL, for off-street car park enforcement ends on the 31st of March 2024.
- 1.2. The Council is currently in the process of developing a business case for the long-term provision of car parking enforcement. To allow time for the development of business case and to explore service options including any tender and TUPE requirements, the current NSL Contract needs to effectively be extended for six months.

- 1.3. Advice has been received from both legal and procurement that this short contract is possible under the procurement rules as the value is under £214,904.

2. Recommendation to Executive

- 2.1 That the Executive approves:
 - I. the segregation of cash collection and enforcement services.
 - II. a short term six-month contract with Marston Group Ltd, NSL, for the provision of enforcement services only at a quoted value of £163,320, to allow time for the development of a business case for a long-term solution.
 - III. to delegate authority to the joint executive head of Commercial services to agree the final terms of cash collection services as long as the value of such contract falls below the key decision and non key decision threshold and subject to there being a waiver granted by the s151 officer.

3. Reason(s) for Recommendation:

- 3.1 The current contract expires on the 31st of March 2024 and the procurement timelines are too tight to achieve an effective tender.
- 3.2 The proposed six-month contract allows sufficient time for the Council to develop a business case which includes exploration of the potential to collaborate with Guildford Borough Council who currently run their off-street enforcement service in house.
- 3.3 The contract for cash collection will be under assessment and awarded upon grant of waiver by section 151 officer. The estimated value of the contract for cash collection services on its own is 65K per year.

4. Exemption from publication

- 4.1 Not exempt from publication

5. Purpose of Report

- 5.1 To agree to effectively a six-month extension of the current off street enforcement contract with NSL to allow the opportunity for a full tender exercise to take place whilst also enabling Waverley to explore the collaboration opportunity with Guildford Borough Council.

6. Strategic Priorities

- 6.1 Car parking is an integral service for the council offering facilities that are widely used by the residents of Waverley and beyond. It generates a significant income stream for the Council which requires enforcement officers to ensure compliance with parking rules in Waverley's car parks.
- 6.2 Collaboration with Guildford Borough Council is a strategic priority of the Council.

7. Background

- 7.1 The service is based on a team of 8 (7 FTE) Compliance Enforcement Officers (CEOs) who work an ad-hoc rota around the Borough to monitor and enforce compliance when parking in Waverley's car parks. To encourage compliance, they issue a Penalty Charge Notice (PCN).
- 7.2 NSL have delivered the contract on behalf of Waverley Borough Council since March 2014, which the contractor has operated effectively throughout this period.
- 7.3 The contract with NSL ends on the 31st of March 2024.

8. Consultations

- 8.1 Consultation will be required with the current NSL enforcement officers and NSL.

9. Key Risks

- 9.1 That NSL do not agree to a short-term contract to allow the tender of a longer-term contract. The arrangement with NSL would then cease on the 31 March 2024. This has been mitigated by meeting NSL regularly to update them on the process and they understand the reasoning for a short-term contract. They are also keen to tender for the new longer-term contract so want to work with Waverley.
- 9.2 The short-term contract with NSL is challenged. We will ensure that the value of the contract sits below the PCR procurement threshold so cannot legally be challenged.
- 9.3 If contracts are allowed to expire this would directly affect the Council's income of approximately £1.5m per annum.
- 9.4 Potential risk of cash being left in machines longer than previously expected time frames. Finance have been made aware and this risk will continue to be reviewed as the contract progresses.

10. Financial Implications

- 10.1 The current contract costs for both enforcement and cash collection £388,728 per annum, or £32,393.54 per month.
- 10.2 The contract, because of its short-term nature, comes at a cost of £163,620. This is more expensive than the current contract (for the enforcement part only) reflecting the short-term as well as the increased cost on service since original tender and the nature of the arrangement.

- 10.3 Although more expensive than the current contract it does allow time for an effective procurement exercise to be undertaken. This will ensure the most competitive financial arrangement for the longer-term contract.
- 10.4 As this is over the current budget for six months, we would look to make savings on the long-term contract or with collaboration to balance the loss. The business case will look fully into the costs of the service and will be covered in the future report.

11. Legal Implications

- 11.1 The current contract is dated 6th March 2014 commencing on the 31st of March 2014 for a period of 5 years. There was an option to extend the original contract for a further period of 5 years. That option has since been exercised with the expiry date being March 2024. There is no provision to extend further.
- 11.2 The report is seeking approval for a short-term award of contract to NSL for the provision of enforcement services only. The value of the proposed contract is quoted at circa £163,620. This value places the proposed contract out of scope of Part 2 Public Contracts Regulations 2015 (PCR 2015) (currently, £214,904 for services). There is, however, an obligation on the Council to comply with Chapter 8 PCR 2015 (below threshold procurement). That obligation can be complied by following the procedure set out in the Council's Procurement Regulations (CPR). The CPR provides that in certain circumstances, a waiver of the rules can be granted, thereby, allowing, direct award of contract. Therefore, to proceed with a direct award to NSL, a waiver must be obtained from section 151 to that effect.

The decision to award is therefore, a key decision.

Legal must be consulted for the purposes of preparation and issue of the deed of extension.

11.4 The value of the proposed contract for cash collection is estimated at circa £65k per year. This value places the proposed contract out of scope of Part 2 PCR 2015. The value of the proposed contract also places it out of scope of key decision threshold. Award of the contract for cash collection must be in full compliance with CPR in order to meet the requirements of Chapter 8 PCR 2015. Again, the CPR allows for grant of waiver in certain circumstances. Section 151 can grant such a waiver where conditions for such grant is met.

This is therefore, not a key decision.

Legal must be consulted for the purposes of preparation and issue of such contract to GBC.

12. Human Resource Implications

12.1 Waverley's HR team confirmed on the 22nd of January 2024 that, other than potential TUPE [of NSL staff] there is nothing further from an HR perspective.

13. Equality and Diversity Implications

13.1 N/A

14. Climate Change/Sustainability Implications

14.1 N/A

15. Overview & Scrutiny comments

15.1 N/A

16. Suggested issues for overview and scrutiny

16.1 N/A

17. Summary of Options

17.1 The options are to either approve the recommendations within this report, or to try and find alternative arrangements for the cash collection and car parking enforcement from 1st April 2024 until the longer-term contract can be retendered.

18. Conclusion

18.1 We ask that the Executive approves: a short six-month contract with Marston Group Ltd, NSL, to allow time for the development of a business case for a long-term solution.

18.2 Remove the cash collection from the current contract with NSL and collaborate with GBC.

19. Background Papers

19.1 None

20. Appendices

20.1 None

Please ensure the following service areas have signed off your report.
Please complete this box, and do not delete.

Service	Sign off date
Finance / S.151 Officer	13/02/24 – NSL enforcement 13/02/24 – Cash collection (conditional)
Legal / Governance	01/02/24
HR	22/01/24
Equalities	N/A
Lead Councillor	19/1/24
CMB	1/02/24 report deadline 06/02/24 sign-off
Executive Briefing/Liaison	15/02/24 5pm report deadline 20/02/24 briefing
Executive Decision	22/02/24 report deadline 05/03/24 decision date
Committee Services	26/2/2024

Waverley Borough Council

Report to: Executive

Date: 5 March 2024

Ward(s) affected: Farnham Castle Ward

Report of Director: Dawn Hudd, Strategic Director, Place

Author: Debbie Smith, Development Programme Manager

Tel: 01483 523443

Email: Debbie.Smith@waverley.gov.uk

Executive Portfolio Holders responsible: Cllr Tony Fairclough

Tel: 01483 523 443

Email: Tony.Fairclough@waverley.gov.uk

Report Status: Part Exempt

Key Decision: No

Brightwells Yard Development Project

1. Executive Summary

- 1.1 This report sets out the options available to the Council in response to a request from Crest Nicholson (Crest) to change some aspects of the Development Agreement (DA) the Council has with them for the Brightwells Yard development in Farnham (the Development).

2. Recommendation to Executive

- 2.1. That the terms of the Brightwells Yard Development Agreement (“the DA” further defined below) are varied as follows:
 - i. The ultimate long-stop date for Practical Completion to change from 15 August 2024 to 28 February 2025.

- ii. Developer obligations to deliver the Borelli Bridge (“the Bridge”) be removed from the DA and a separate agreement entered into obliging the developer to deliver the bridge by 31 August 2025.
- iii. That the full and final set of drawings, plans and specifications comprising the Works and agreed between the parties since the Development began, be appended to the Development Agreement thereby superseding the original documents included.
- iv. That the previous form of Car Park Underlease be removed and replaced with a new revised version of the Car Park Underlease which takes account of agreed changes to the service charge provisions which WBC’s officers have in principle agreed.
- v. Authority be delegated to the Strategic Director - Place, to settle the terms upon which these changes will be documented and to authorise execution of any deeds and documents required to give effect to those changes in consultation with the Portfolio Holder for Finance, Assets and Property, the Portfolio Holder for Brightwells and Executive Head of Legal and Democratic Services.

3. Reason(s) for Recommendation:

- 3.1. The developer, Crest Nicholson, has approached the Council and explained that there are certain delivery complications which will mean that they will be unable to deliver the scheme in accordance with the original timeline. They have therefore asked for more time to deliver the scheme. The impact of this will have implications for those businesses who want to invest time and money into the development and this is expanded upon in paragraph 3.3 below. For the reasons below officers consider it to be in the best interests of the Council to agree to delay completion of the scheme.
- 3.2. Crest is committed to (and close to) building out the remainder of the development and have provided a programme of works to indicate the development’s completion.
- 3.3. Tenants under agreements for lease for commercial units at the development need comfort that their lease position is secure, which an extension to the long-stop date will support. Similarly prospective tenants who may be considering taking a unit would also require more certainty. Unless the long-stop date is extended, the Council would have the option to terminate the DA and thereby undermine the leasing structure for the site (and remove Crest as developer). A new long-stop date therefore removes this threat and provide certainty to leaseholders, Crest, the Council and Surrey County Council.
- 3.4. Removing the completion of the Bridge from what is required for the overall Development to reach Practical Completion will allow the scheme to open and

potential tenants to take occupation earlier. This will support the regeneration of the area and bring the development to life.

- 3.5. The tidying up of plans referred to in the DA to allow the most recent and as built drawings to be reflected and allow for a smooth Practical Completion process.
- 3.6. A revised underlease of the car park is envisaged as the car park comes close to completion and opening, that allows the Council to have properly considered the implications of the service charge and running costs and ensure best value for money.

4. Exemption from publication

- 4.1. Part Exempt: The Annexes to the Report contain exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A).
- 4.2. The exempt content is to be treated as exempt from the Access to Information publication rules because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

5. Purpose of Report

- 5.1. To ask Members to note the legal advice received from Sharpe Pritchard LLP regarding requested changes to the Brightwells DA (“SP Legal Advice”) and approve the recommendations to make changes in the form of a Deed of Variation (DoV) to the DA to secure a new long-stop date and allow the opening of the commercial scheme as soon as possible by varying the provisions as to the Bridge Works.
- 5.2. Provide authority for the Strategic Director – Place to deal with how these changes will be documented and to execute those deeds and documents as required.

6. Strategic Priorities

- 6.1. The Project supports the [Corporate Strategy 2020-25](#) priorities of ‘Supporting a strong, resilient local economy’ and ‘Effective strategic planning and development management to meet the needs of our communities’ through regeneration of the site in Farnham.
- 6.2. The Project also supports the [Corporate Strategy 2020-25](#) priority of housing to buy and to rent, for those at all income levels. The development is providing 239 homes and a third are shared ownership with Thames Valley Metropolitan Housing as the Registered Provider.

7. Background

- 7.1 Brightwells Yard is being developed by the Council in partnership with Crest Nicholson, governed by the DA, in order to regenerate land at East Street in Farnham. The Development consists of 239 homes (72 or 30% shared ownership with Metropolitan Thames Valley Housing), 25 commercial units, a 6-screen cinema, a multi-storey car park and landscaped public open space.
- 7.2 The Development is being carried out pursuant to a DA dated 22 April 2003 made between (1) The Council (2) Crest Nicholson Developments Limited (now known as Crest Nicholson Regeneration Limited) ("Crest") and Sainsbury's Supermarkets Ltd and (3) Crest Nicholson Operations Limited ("CNOL") which was subsequently varied on 22 December 2006, 9 September 2008, 6 August 2009, 31 August 2010 and 16 February 2018 ("the Development Agreement").
- 7.3 At the same time as signing the DA, the Council entered into a 150-year Head Lease with Surrey County Council (SCC) for the site. This was granted pursuant to SCC entering into a funding agreement / agreement for lease with Crest whereby SCC became the Funder for the purposes of the DA.
- 7.4 Officers have obtained the SP Legal Advice on the extension of the long-stop date, the removal of the Bridge Works from what is currently required in order to achieve Practical Completion of the Development and advice regarding the updates required to the car park underlease. The SP Legal Advice is annexed at Exempt Annexe 1 (pages 1-5 on the long-stop date and pages 6-8 on the Bridge) and also sets out more background to these issues.
- 7.5 The DA provides for various long stop dates but there is an ultimate long-stop date (or date when all works must be complete) that is 15 August 2024. Crest approached the Council to ask that the Council agree to remove the long-stop date from the DA as potential tenants of the commercial units are concerned about how close this date now is, and that it is understood that not all works will be completed by this date. Having taken legal advice, officers support a new long-stop date being agreed of 28th February 2025. This is on the basis that Crest are nearing completion (currently on site most of the commercial units are complete (save for Brightwells House) and the Cinema is fitted out, complete and was opened on 2nd February 2024) and as outlined at paragraph 3.3 above, this removes uncertainty for all parties.
- 7.6 With regard to the Bridge Works, the Cinema can open due to the terms of its Agreement for Lease with SCC. However, no other commercial units can open until a defined list of works are complete this includes the installation of the new foot Bridge from Borelli Walk into the Development.

- 7.7 The new Bridge has been significantly delayed for a number of reasons, and it does not yet have all the conditions of the original planning permission agreed. Once conditions have been approved by the Local Planning Authority, it will take several months to manufacture and then install. It is anticipated that this will not be in place until November 2024 as long as all planning permissions are agreed in early March.
- 7.8 Crest have asked that the Bridge therefore be removed from the Practical Completion of the Development to allow the commercial units to open before its installation. Officers are agreeable to this on the basis that the Bridge Works still have to be delivered by Crest under the terms of the DA (which shall be further varied) with a new long stop date being set for the Bridge Works.
- 7.9 The new long stop date for the Bridge Works is 31st August 2025.
- 7.10 Financial provision will be in place to support the delivery of the bridge should Crest not deliver within this timeline. Should this take place, the Council would be responsible for delivering the bridge.
- 7.11 The car park underlease has been considered by the Executive Head of Commercial Services and assessed against the proposed service charge arrangements for the scheme. External legal advice has been sought, and as a result the Council will pay a contribution to the wider Brightwells estates costs but will lose the sole responsibility for the Green Wall (that covers 3 of the sides of the car park) that had previously been placed on the Council, reducing the long-term risks and costs associated with the Green Wall.

8. Consultations

- 8.1. Engagement with the Portfolio Holder for Brightwells and the Chair of the Brightwells Programme Board has been carried out who support the proposals to make the changes.
- 8.2. Officers have also engaged with SCC officers to determine whether in principle these requests are supported by SCC as they will also have to make changes to their agreements with Crest Nicholson. We have been informed that in principle they will approve the requested changes, subject to the Council's approval.

9. Key Risks

- 9.1. In considering the key risks for the Council on both issues, Officers have considered the options available. These options and the risks are explored and set out clearly in

the SP Legal Advice note at Exempt Annexe 1 (pages 3&4), and from Crest's perspective in the CMS advice note (Annexe 2) and at section 15 of this paper.

9.2 Re delivery date for the scheme generally - The key risk with regards to the long-stop date is that If the Council were not to enter into a new DoV to provide for a revised long-stop date, interested tenants will not be able to sign their lease agreements and it will delay the scheme opening and could hinder the success of the scheme. Further risk analysis is contained within the appended legal advice at paragraph B.

9.3 Bridge Works

- a) Bridge Risk No1 – by not completing the deed of variation to removing the bridge works from the Practical Completion is that this will have a knock-on impact on the overall opening of the commercial parts of the Development and will delay leases being granted.
- b) Bridge Risk No 2 – by pushing the date for delivery of the bridge to beyond that of the rest of the scheme increases the risk profile around this particular aspect of the development. At this time it is difficult to gauge and so, by way of mitigation, a guarantee in the form of a bond will be put in place at the time these changes are documented. In the absence of developer fulfilling its obligation then the council would be responsible for building the bridge. The [bond] [guarantee] arrangement is intended to ensure that the finances are available in order that the Council has the financial ability to deliver in the event of developer default.

9.4 Car park underlease updates - the risk to not completing these changes is that the Council will be responsible for the Green Wall that covers the car park. The quotes to maintain the green wall are substantive and by allowing the whole of the Brightwells estate to contribute to it, it brings down the cost of the overall liability for the Council.

10. Financial Implications

- 10.1. Allowing uncertainty with regard to the long-stop date and delaying the Development's opening by not supporting these changes to the DA could jeopardise lettings. As the Council shares in the income which SCC receive, such lost lettings / unlet units and delays to leases being granted would have knock on consequences for the Council (the Council retains 5-10% of the commercial income (guaranteed at £100K per annum for the first 2 years)).
- 10.2. In agreeing to any such DoV, the Council have insisted that the Council's legal fees are payable by Crest, which has been agreed.

10.3. The car park underlease updates reduce the councils financial liabilities which will reduce any potential ongoing revenue and capital costs.

11. Legal Implications

11.1. These are set out in the legal advice appended to the Report (exempt).

12. Human Resource Implications

12.1. Development Programme Manager and Asset Manager working with Strategic Director to manage the legal process with external lawyers.

13. Equality and Diversity Implications

13.1 This report has no Equality and Diversity Implications.

14. Climate Change/Sustainability Implications

14.1. This report has no Climate Change / Sustainability Implications.

15. Summary of Options

15.1 Extension of Long Stop date

15.1.1 There are 3 possible options that the Council has in the response to removing the Long-Stop Date:

Option 1	Do not remove the date, and instead initiate the termination process under the DA
Option 2	Do nothing – let the long-stop date come and go with Crest still delivering the scheme
Option 3	Agree to amend the long-stop date (not remove it all together)

Option 1 – Termination - for the reasons set out in the SP Legal advice note, termination of the DA has implications for the Council that are not in the best interests of the Council or the development. It is therefore not recommended that Option 1, to terminate the DA is progressed.

Option 2 - Do nothing – for the reasons set out in the SP Legal advice note this option comes with risks. It creates uncertainty mostly for Crest, SCC and tenants and may jeopardise future lettings which will have knock on effects for the Council's income. For

these reasons this option is not recommended.

Option 3 - Agree to amend the long-stop date (not remove it all together)

Amending the long-stop date in the form of a DoV to the DA gives certainty to Crest, SCC (as head leaseholder) and tenants that the Council will not terminate the DA once the long-stop date has passed. Legal advice confirms that the long-stop date should not be removed all together, but that a new date should be agreed that is appropriate to the completion of the works outstanding.

15.1.2 It is therefore recommended that **Option 3, amending the long-stop date is progressed.**

15.2 Removal of Bridge from Centre Practical Completion

15.2.1 Crest has requested the removal of the Bridge from Practical Completion as it is apparent that all commercial works will be completed considerably sooner than the Bridge installation.

15.2.2 There are two options:

Option 1	The Council do not allow the removal of the Bridge Works from what is required for Practical Completion of the Development
Option 2	The Council (with SCC) allow a change to the DA to remove the Bridge Works from the overall works to allow Practical Completion of the Development to be achieved without the Bridge being completed. The completion of the Bridge would be secured by the delivery of the Bridge Works continuing to be required under the newly varied DA with a new long stop date for these works being imposed, and a financial penalty should it not be achieved.

15.2.3 Option 1 – do not allow removal of the bridge from the rest of the Development - If the Council does not allow this change to the DA, we have been informed by Crest and SCC that the Cinema would be the only commercial trading unit on the Development until the Bridge is in place. This will impact on the overall early success of the Development as it largely remains built out but not filled with commercial tenants. Furthermore, the absence of filled units has created some areas of anti-social behaviour. which is exacerbated by the lack of shops and activity. This option is therefore not recommended.

15.2.4 Option 2 – allow the change so that the Development can open ahead of the Bridge completion. The legal implications for this option have been set out in the SP Advice Note (Annexe 1 at Para. C).

15.2.5 If the Council proceed with this option there must be adequate provision made in the DoV to ensure that the Bridge is delivered. In particular consideration must be given to ensuring that Crest deliver the Bridge in a timely manner. This will be addressed through a new long-stop date with relevant rights to terminate, security under the planning permissions that Crest has obligations to comply with, and the financial surety from Crest that can be passed to the Council for the Council to deliver the bridge itself if the longstop date is not met.

15.3 Update of Car Park underlease

15.3.1 SCC is responsible for the commercial elements of the scheme, and they have employed a managing agent to manage the scheme and be responsible for all shared elements of the scheme, such as external lighting, bins, signage, CCTV etc.

15.3.2 Council officers have met with the appointed agent who has set out the proposed budget for the service charge, officers have been able to analyse this against the following options.

Option 1	The Council retain the existing underlease arrangements which gives full responsibility to the Council for the green wall with significant cost for maintenance to be borne only by the Council.
Option 2	The Council approve the updating of the underlease which allows for the green wall maintenance and costs to be shared amongst the wider commercial estate, as long as the Council contribute to the overall charge.

15.3.3 the risk to the Council is considered to be less when taking the risk with the other commercial tenants as well, and therefore Option 2 is recommended for approval.

16. Conclusion

16.1 Completion of a DoV to the Brightwells Yard DA will allow the commercial part of the development to be opened sooner and all parties will have certainty as to new timescales. Furthermore, it should ensure that no prospective tenants are lost due to any concerns with timescales / the potential termination of the DA. There is anticipated to be little cost (if any) cost to the Council for this as the legal costs for the work to complete the DoV will be met by Crest.

17. Background Papers

17.1 [Report to and Minutes of the Executive Meeting of 24 May 2016](#)

17.2 [Minutes of the Council meeting of 24 May 2016](#)

18. Appendices and Annexes

18.1 Exempt Annexe 1 – Legal Advice Note commissioned by the Council (Sharpe Pritchard) (SP Advice Note)

18.2 Exempt Annexe 2 – CMS Legal Advice from Crest

Please ensure the following service areas have signed off your report. Please complete this box, and do not delete.

Service	Sign off date
Finance / S.151 Officer	23/02/2024
Legal / Governance	16/02/24
HR	23/02/2024
Equalities	23/02/2024
Lead Councillor	24/02/2024
CMB	16/01/2024
Executive Briefing/Liaison	20/02/2024
Committee Services	23/02/2024

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