

Public Document Pack

Legal and Democratic Services



STRATEGY AND RESOURCES COMMITTEE

Tuesday 17 April 2018 at 7.30 pm

Council Chamber - Epsom Town Hall

The members listed below are summoned to attend the Strategy and Resources Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Eber Kington (Chairman)
Councillor Clive Smitheram (Vice-Chairman)
Councillor Tony Axelrod
Councillor Kate Chinn
Councillor Neil Dallen

Councillor Hannah Dalton
Councillor Omer Kokou-Tchri
Councillor Humphrey Reynolds
Councillor Mike Teasdale
Councillor Clive Woodbridge

Yours sincerely

Chief Executive

For further information, please contact Fiona Cotter, 01372 732124 or fcotter@epsom-ewell.gov.uk

AGENDA

1. QUESTION TIME

To take any questions from members of the Public

Please Note: Members of the Public are requested to inform the Democratic Services Officer before the meeting begins if they wish to ask a verbal question at the meeting

2. DECLARATIONS OF INTEREST

Members are asked to declare the existence and nature of any Disclosable Pecuniary Interests in respect of any item of business to be considered at the meeting.

3. EXTERNAL AUDIT PLAN FOR 2017/18 (Pages 5 - 24)

This report sets out the approach being taken by the Council's external auditors, Grant Thornton, to the audit of the accounts for 2017/18.

4. EPSOM CEMETERY EXTENSION (Pages 25 - 40)

This report provides an update on the current position of the Epsom Cemetery extension and seeks approval for the Council to exercise its compulsory purchase making powers ('CPO') to acquire land to extend Epsom cemetery.

5. PLANNED MAINTENANCE 2018-19 (Pages 41 - 48)

The report notes progress and changes to the current planned maintenance programme and seeks approval for 2018/19 programme of proposed works

6. INCOME GENERATION AND ENTERPRISE PLAN (Pages 49 - 56)

This report sets out a new Income Generation and Enterprise Plan for the Council. It has been prepared in the context of significant continued cuts in Government funding and will have a key role in enabling the Council to be more financially self-sufficient.

7. ALLOCATION OF LOCAL SPENDING ELEMENT OF THE COMMUNITY INFRASTRUCTURE LEVY (CIL 15%) (Pages 57 - 66)

This report proposes a process to determine the governance system for allocating the local spending element of the Community Infrastructure Levy (CIL 15%).

8. UTILISATION OF CIL BALANCES (Pages 67 - 72)

This report seeks approval of the use of Community Infrastructure Levy (CIL) funding to finance two infrastructure projects; the expansion of Epsom Cemetery and extending the life of Lower Mill Pond Weir (completed in 2016/17).

9. FUNDING FOR PAVING IN FRONT OF THE PLAYHOUSE (Pages 73 - 78)

That the Committee approve the allocation of £60,000 of Community Infrastructure Levy funding for the paving of the Playhouse forecourt and adjacent footway (the area indicated on the attached plan) to a specification matching that in South Street and around the Playhouse Junction.

10. COMMUNITY SAFETY AND ENFORCEMENT PLAN (Pages 79 - 86)

This report sets out a proposal for a more effective and coordinated approach to the Council's community safety role, including tackling antisocial behaviour and environmental crime in the Borough.

11. REGISTRATION OF COUNCILLORS AS DATA CONTROLLERS (Pages 87 - 98)

The Information Commissioner's Office (ICO) has advised that the nature of work undertaken by Councillors is such that they need consider whether they should be registered individually as Data Controllers. This report is recommending registration for all Councillors and for the Council to meet the cost of such registration as appropriate.

12. RIPA POLICY (Pages 99 - 134)

To implement the changes to the Council's Policy and Guidance on Lawful Surveillance.

13. HORTON COUNTRY PARK - CHANGE OF USE (Pages 135 - 148)

This report considers a proposal from the Gauntlett Boxing Club (an existing Council tenant at the Harrier Centre, Poole Recreation Ground) to open an additional facility at Horton Country Park.

A planning application has been submitted by the Gauntlett Boxing Club for a change of use and is awaiting decision.

Any proposed change of use to a Council owned property must be exercised by the Strategy and Resources Committee (Appendix 5: Delegation of Property Functions – Asset Management Plan).

14. INTERIM HOMELESSNESS STRATEGY (Pages 149 - 158)

The proposed Interim Homelessness Strategy is intended to meet our legal duty to publish a Homelessness Strategy as set out in the Homelessness Act 2002. This interim strategy will satisfy this legal requirement until a more detailed strategy can be developed later in 2018.

15. MINUTES OF PREVIOUS MEETING (Pages 159 - 168)

The Committee is asked to confirm as a true record the Minutes of the meeting of the Strategy and Resources Committee held on 1 February 2018 and to authorise the Chairman to sign them.

16. EXCLUSION OF PRESS AND PUBLIC (Pages 169 - 170)

The Committee is asked to consider whether it wishes to pass a resolution to exclude the Press and Public from the meeting in accordance with Section 100A (4) of the Local Government Act 1972 on the grounds that the business involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act (as amended) and that pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

17. RENT SETTING FRAMEWORK FOR PRIVATE SECTOR LEASING (PSL) SCHEME (Pages 171 - 178)

This report has not been published because the meeting is likely to be closed to the press and public in view of the nature of the business to be transacted/nature of the proceedings. The report deals with information relating to the business affairs of the Council and the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

18. PROPERTY DISPOSAL UPDATE (Pages 179 - 190)

This report has not been published because the meeting is likely to be closed to the press and public in view of the nature of the business to be transacted/nature of the proceedings. The report deals with information relating to the business affairs of the Council and the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

External Audit Plan for 2017/18

Report of the:	Chief Finance Officer
Contact:	Lee Duffy
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annexe 1: The Audit Plan Year Ended 31 March 2018
Other available papers (not attached):	None

Report Summary

This report sets out the approach being taken by the Council's external auditors, Grant Thornton, to the audit of the accounts for 2017/18.

Recommendation (s)

That the Committee endorses the External Audit Plan

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

1.1 This report supports the Council's Key Priority Managing Resources.

2 Background

2.1 Grant Thornton are the Council's current independent external auditors, appointed by the Audit Commission.

2.2 The Council's wholly-owned subsidiary, Epsom & Ewell Property Investment Company, has a separate external auditor; Epsom-based firm, Williams & Co.

2.3 The Council's 2017/18 Statement of Accounts will incorporate, for the first time, disclosures that show the combined financial position of the Council and Epsom & Ewell Property Investment Company. These disclosures are known as group accounts.

2.4 As part of their Statement of Accounts audit, Grant Thornton will perform sufficient work to gain assurance that the group accounts are materially accurate.

- 2.5 Grant Thornton have prepared an audit plan for the 2017/18 accounts as shown in **Annexe 1**. Grant Thornton staff are in attendance at this meeting to present the plan and answer any questions.

3 Proposals

- 3.1 Officers are satisfied that the Audit Plan addresses the key financial and governance issues.
- 3.2 The Committee is asked to endorse the External Audit Plan

4 Financial and Manpower Implications

- 4.1 Grant Thornton's audit fees are provisionally estimated at £44,708 (excluding VAT) for the main audit and £8,976 for the housing benefit subsidy certification, as set out in the Audit Plan. Grant Thornton expect to discuss and agree a small additional fee with the Chief Finance Officer to cover work relating to the group accounts, prior to the start of the audit.
- 4.2 The Finance Team have plans in place to ensure that the accounts are closed by the required deadlines.
- 4.3 The Finance Team will have regular contact with Grant Thornton during the process.
- 4.4 **Chief Finance Officer's comments:** *The annual audit plan sets out the key stages for the audit process for the 2017/18 accounts. The Council has budgeted for the audit fee and has a plan in place to achieve its financial year end and closing of accounts deadlines.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 Grant Thornton has confirmed that the Audit Plan has been prepared in line with the Local Audit and Accountability Act 2014 and in accordance with the latest Code of Practice issued by the National Audit Office.
- 5.2 **Monitoring Officer's comments:** *There are no legal implications arising directly from this report. External Audit reports certification and opinions form a key part of the Council's governance arrangements.*

6 Sustainability Policy and Community Safety Implications; Partnerships

- 6.1 There are no implications for the purpose of this report.

7 Risk Assessment

- 7.1 The audit of the Council's financial statements compromise a key element of the Council's governance arrangements.

8 Conclusion and Recommendations

- 8.1 The Committee is asked to endorse the Audit Plan.

Ward(s) Affected: (All);

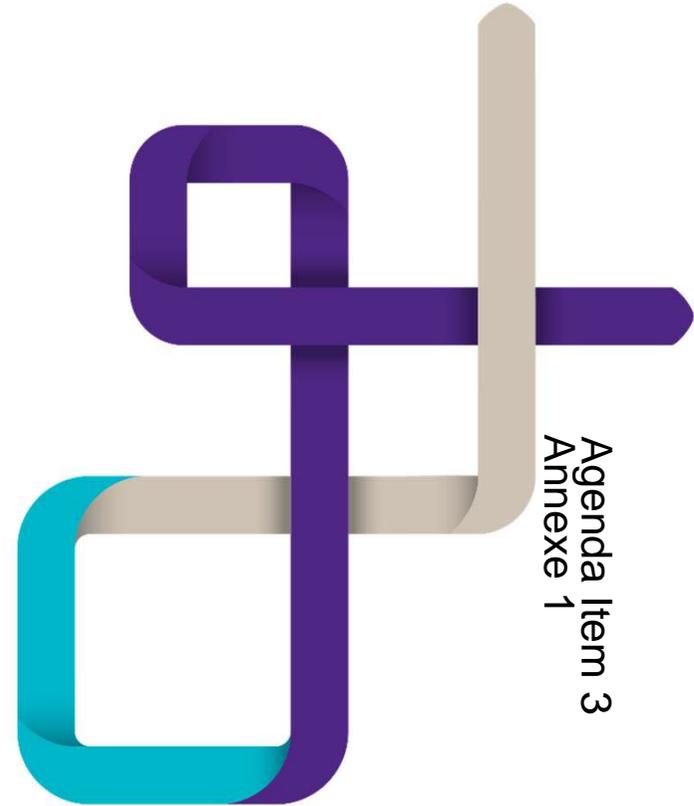
External Audit Plan

Year ending 31 March 2018

Epsom and Ewell Borough Council

19 March 2018

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Annexe 1

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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. This is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Introduction & headlines

Purpose

This document provides an overview of the planned scope and timing of the statutory audit of Epsom and Ewell Borough Council ('the Council') for those charged with governance.

Respective responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of Epsom and Ewell Borough Council. We draw your attention to both of these documents on the [PSAA website](#).

Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the:

- financial statements (including the Annual Governance Statement) that have been prepared by management with the oversight of those charged with governance (the Strategy and Resources committee); and
- Value for Money arrangements in place at the Council for securing economy, efficiency and effectiveness in your use of resources.

The audit of the financial statements does not relieve management or the Strategy and Resources Committee of your responsibilities. It is the responsibility of the Council to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Council is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the Council's business and is risk based.

Significant risks

Those risks requiring specific audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:

- revenue cycle includes fraudulent transactions
- management override of controls
- valuation of property, plant and equipment
- valuation of pension fund net liability

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.

Materiality

We have determined planning materiality to be £0.8 million (PY £0.89 million), which equates to 2% of your forecast gross expenditure for the year. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £0.04 million (PY £0.04 million). We will update our planning materiality for the group on receipt of the draft financial statements.

Value for Money arrangements

Our risk assessment regarding your arrangements to secure value for money identified the following VFM significant risk:

- Investment acquisitions via wholly owned company.

Audit logistics

Our interim visit will take place in March and our final visit will take place during June and July. Our key deliverables are this Audit Plan and our Audit Findings Report.

Our fee for the audit will be no less than £44,708 (PY PSAA set fee: £44,708) for the Council.

Independence

We have complied with the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements

Deep business understanding

Changes to service delivery	Changes to financial reporting requirements	Key challenges
<p>Commercialisation</p> <p>The scale of investment activity, primarily in commercial property, has increased as local authorities seek to maximise income generation. These investments are often discharged through a company, partnership or other investment vehicle. Local authorities need to ensure that their commercial activities are presented appropriately, in compliance with the CIPFA Code of Practice and statutory framework, such as the Capital Finance Regulations. Where borrowing to finance these activities, local authorities need to comply with CIPFA's Prudential Code. A new version was published in December 2017.</p>	<p>Business rates</p> <p>In September 2017, the government launched a prospectus inviting local authorities to submit proposals to pilot 100% business rates retention in 2018/19. Surrey councils worked together to submit a bid. It was announced in December 2017 that Surrey will be one of the 10 new pilots. The overall benefit to Surrey is in excess of £20 million and anticipated benefit to the Council would be in the order of £500k.</p> <p>Accounts and Audit Regulations 2015 (the Regulations)</p> <p>The Ministry of Housing, Communities and Local Government (MHCLG) is currently undertaking a review of the Regulations, which may be subject to change. The date for any proposed changes has yet to be confirmed, so it is not yet clear or whether they will apply to the 2017/18 financial statements.</p> <p>Under the 2015 Regulations local authorities are required to publish their accounts along with the auditors opinion by 31 July 2018.</p>	<p>Financial pressures</p> <p>Epsom and Ewell has consistently been in a strong financial position than most other authorities and this is not expected to change in 2017/18. As at December 2017, the revenue forecast outturn projects a slight overspend of £21k which will be covered by an equal amount of contributions from the general fund reserves. Unsurprisingly, pressures are not likely to ease in coming years, particularly as further reductions in government funding impacts on the medium term financial strategy. The Council must continue to adapt to the impacts that this has on service provision within the local economy.</p> <p>Property investment company</p> <p>The Council set up a wholly owned property investment company in accordance with the approved Property Investment Strategy 2017-20. During the same period, a £300 million borrowing limit was approved by full Council for capital investment property acquisitions. During 2017/18, capital investment acquisitions of £60 million were undertaken by the Property Investment Company. A shareholder sub committee of the Strategy and Resources Committee has been delegated to oversee the Council's functions as sole shareholder of the Company. The Council will prepare group accounts for the first time in 2017/18 as the value of transactions of the wholly owned company is material.</p>

Our response

- We will consider your arrangements for managing and reporting your financial resources, including your use of investment vehicles as part of our work in reaching our Value for Money conclusion.
- We will consider whether your financial position leads to uncertainty about the going concern assumption and will review any related disclosures in the financial statements.
- We will keep you informed of changes to the Regulations and any associated changes to financial reporting or public inspection requirements for 2017/18 through on-going discussions and invitations to our technical update workshops.
- As part of our opinion on your group financial statements, we will consider whether your group financial statements reflect the financial reporting changes in the 2017/18 CIPFA Code and the impact of impairment assessments and the adequacy of provisions in relation to business rates appeals..

Significant risks identified

Significant risks are defined by professional standards as risks that, in the judgement of the auditor, require special audit consideration because they have a higher risk of material misstatement. Such risks often relate to significant non-routine transactions and judgmental matters. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood.

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
The revenue cycle includes fraudulent transactions	<p>Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue. This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition.</p>	<p>Having considered the risk factors set out in ISA240 and the nature of the revenue streams at the Council, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because:</p> <ul style="list-style-type: none"> • there is little incentive to manipulate revenue recognition; • opportunities to manipulate revenue recognition are very limited; • the culture and ethical frameworks of local authorities, including Epsom and Ewell Borough Council, mean that all forms of fraud are seen as unacceptable. <p>Therefore we do not consider this to be a significant risk for Epsom and Ewell Borough Council.</p>
Management over-ride of controls	<p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities. . Council faces external scrutiny of its spending, and this could potentially place management under undue pressure in terms of how they report performance.</p> <p>Management over-ride of controls is a risk requiring special audit consideration.</p>	<p>We will:</p> <ul style="list-style-type: none"> • gain an understanding of the accounting estimates, judgements applied and decisions made by management and consider their reasonableness; • obtain a full listing of journal entries, identify and test unusual journal entries for appropriateness; • evaluate the rationale for any changes in accounting policies or significant unusual transactions.

Significant risks identified

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of property, plant and equipment	<p>The Council revalues its land and buildings on a rolling basis over a five year period to ensure that carrying value is not materially different from fair value. This represents a significant estimate by management in the financial statements.</p> <p>We identified the valuation of land and buildings revaluations and impairments as a risk requiring special audit consideration.</p>	<p>We will:</p> <ul style="list-style-type: none"> • review management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work; • consider the competence, expertise and objectivity of any management experts used; • discuss with the valuer about the basis on which the valuation is carried out and challenge of the key assumptions; • review and challenge the information used by the valuer to ensure it is robust and consistent with our understanding; • test a sample of revaluations made during the year to ensure they are input correctly into the Council's asset register; • evaluate the assumptions made by management for those assets not revalued during the year and how management has satisfied themselves that these are not materially different to current value.
Valuation of pension fund net liability	<p>The Council's pension fund asset and liability as reflected in its balance sheet represent a significant estimate in the financial statements.</p> <p>We identified the valuation of the pension fund net liability as a risk requiring special audit consideration.</p>	<p>We will:</p> <ul style="list-style-type: none"> • Identify the controls put in place by management to ensure that the pension fund liability is not materially misstated. We will also assess whether these controls were implemented as expected and whether they are sufficient to mitigate the risk of material misstatement; • consider the competence, expertise and objectivity of the actuary who carried out your pension fund valuation. We will gain an understanding of the basis on which the valuation is carried out; • undertake procedures to confirm the reasonableness of the actuarial assumptions made; • check the consistency of the pension fund asset and liability and disclosures in notes to the financial statements with the actuarial report from your actuary.

Reasonably possible risks identified

Reasonably possible risks (RPRs) are, in the auditor's judgment, other risk areas which the auditor has identified as an area where the likelihood of material misstatement cannot be reduced to remote, without the need for gaining an understanding of the associated control environment, along with the performance of an appropriate level of substantive work. The risk of misstatement for an RPR is lower than that for a significant risk, and they are not considered to be areas that are highly judgmental, or unusual in relation to the day to day activities of the business.

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
Employee remuneration	<p>Payroll expenditure represents a significant proportion of the Council's operating expenses.</p> <p>As the payroll expenditure comes from a number of individual transactions and an interface with sub-systems there is a risk that payroll expenditure in the accounts could be understated. We therefore identified completeness of payroll expenses as a risk requiring particular audit attention.</p>	<p>We will</p> <ul style="list-style-type: none"> • evaluate the Council's accounting policy for recognition of payroll expenditure for appropriateness; • gain an understanding of the Council's system for accounting for payroll expenditure and evaluate the design of the associated controls; • undertake substantive analytical procedures on payroll data; • review year end reconciliations of the payroll to the ledger.
Operating expenses	<p>Non-pay expenses on other goods and services also represents a significant proportion of the Council's operating expenses. Management uses judgement to estimate accruals of un-invoiced costs.</p> <p>We identified completeness of non- pay expenses as a risk requiring particular audit attention:</p>	<p>We will</p> <ul style="list-style-type: none"> • evaluate the Council's accounting policy for recognition of non-pay expenditure for appropriateness; • gain an understanding of the Council's system for accounting for non-pay expenditure and evaluate the design of the associated controls; • review control account reconciliations; • sample test operating expenditure; • test year end creditor payments; • test for unrecorded liabilities and manual accruals.

Other matters

Other work

In addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities, as follows:

- We carry out work to satisfy ourselves that disclosures made in your Annual Governance Statement are in line with the guidance issued and consistent with our knowledge of the Council.
- We will read your Narrative Statement and check that it is consistent with the financial statements on which we give an opinion and that the disclosures included in it are in line with the requirements of the CIPFA Code of Practice.
- We carry out work on your consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- We consider our other duties under the Act and the Code, as and when required, including:
 - giving electors the opportunity to raise questions about your 2017/18 financial statements, consider and decide upon any objections received in relation to the 2017/18 financial statements;
 - issue of a report in the public interest; and
 - making a written recommendation to the Council, copied to the Secretary of State.
- We certify completion of our audit.

Other material balances and transactions

Under International Standards on Auditing, "irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure". All other material balances and transaction streams will therefore be audited. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.

Going concern

As auditors, we are required to "obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation and presentation of the financial statements and to conclude whether there is a material uncertainty about the entity's ability to continue as a going concern" (ISA (UK) 570). We will review management's assessment of the going concern assumption and evaluate the disclosures in the financial statements.

Materiality

The concept of materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law. Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

Materiality for planning purposes

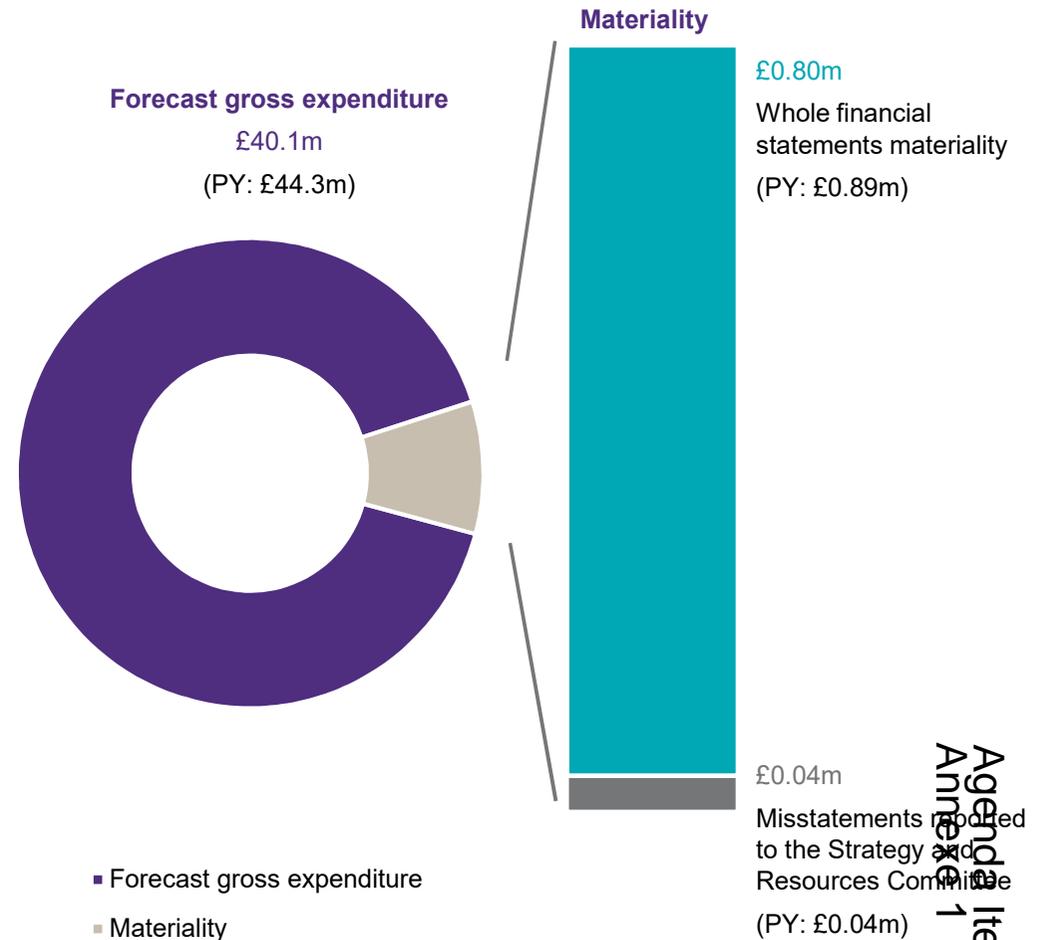
We propose to calculate financial statement materiality based on a proportion of the gross expenditure of the Council for the financial year. In the prior year we used the same benchmark. We have determined planning materiality (the financial statements materiality determined at the planning stage of the audit) to be £0.80m (PY £0.89m), which equates to 2% of your forecast gross expenditure for the year. We design our procedures to detect errors in specific accounts at a lower level of precision.

We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of planning materiality

Matters we will report to the Strategy and Resources Committee

Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Strategy and Resources Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work. Under ISA 260 (UK) 'Communication with those charged with governance', we are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. ISA 260 (UK) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria. In the context of the Council, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £0.04m (PY £0.04m).

If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Strategy and Resources Committee to assist it in fulfilling its governance responsibilities.



Group audit scope and risk assessment

In accordance with ISA (UK) 600, as group auditor we are required to obtain sufficient appropriate audit evidence regarding the financial information of the components and the consolidation process to express an opinion on whether the group financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework.

Component	Significant?	Level of response required under ISA (UK and Ireland) 600	Risks identified	Planned audit approach
Epsom and Ewell Property Investment Company (EEPIC)	Yes	Targeted	<p>EEPIC constitutes a significant component of the Council's group, and is wholly owned by the Council.</p> <p>Elements of the financial statements of EEPIC Homes including the PPE investment is material to the financial statements of the Council.</p>	<p>The audit of EEPIC will be delivered by a separate auditor.</p> <p>We will perform sufficient work to enable us to gain assurance that the Council's group financial statements are not materially misstated.</p>

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Audit scope:

Comprehensive – the component is of such significance to the group as a whole that an audit of the components financial statements is required
Targeted – the component is significant to the Group, audit evidence will be obtained by performing targeted audit procedures rather than a full audit
Analytical – the component is not significant to the Group and audit risks can be addressed sufficiently by applying analytical procedures at the Group level

Involvement in the work of component auditors

The nature, time and extent of our involvement in the work of EEPIC auditor will begin with a discussion on risks, guidance on designing procedures, participation in meetings, followed by the review of relevant aspects of the EEPIC auditor audit documentation and meeting with appropriate members of management.

Agenda Item 3
Annexe 1

Value for Money arrangements

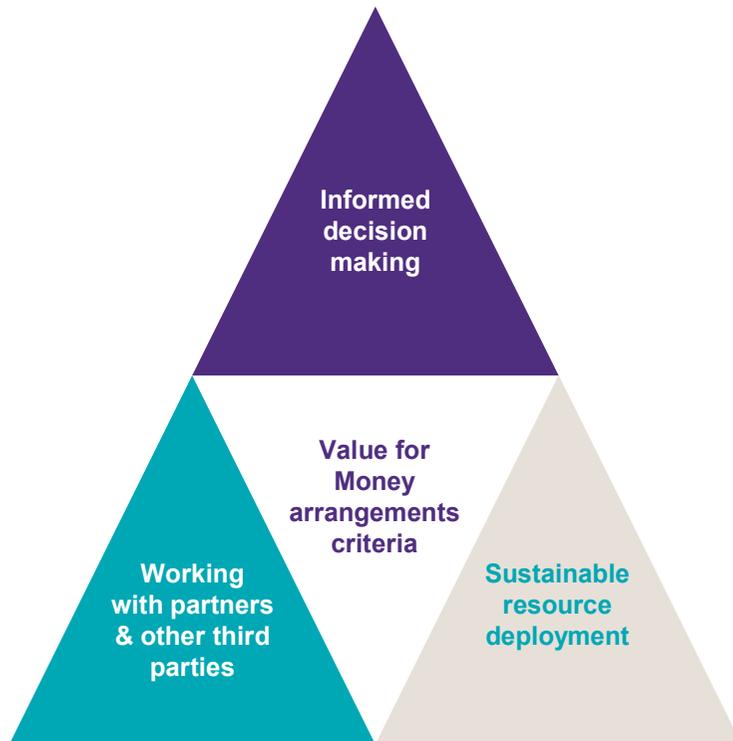
Background to our VFM approach

The NAO issued its guidance for auditors on Value for Money work for 2017/18 in November 2017. The guidance states that for local government bodies, auditors are required to give a conclusion on whether the Council has proper arrangements in place.

The guidance identifies one single criterion for auditors to evaluate:

“In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people.”

This is supported by three sub-criteria, as set out below:



Significant VFM risks

Those risks requiring specific audit consideration and procedures to address the likelihood that proper arrangements are not in place at the Council to deliver value for money.



Investment acquisitions via wholly owned company

As part of the Council's four year Corporate Plan and Medium Term Financial Strategy, for the first time made material property investment acquisitions via a wholly owned property trading company. The Council made a loan to, and invested in the Company to enable the purchase of the investment properties. The Council funded the investment in the wholly owned Company through a combination of loans and use of reserves.

Planned response

We will update our understanding of the Council's governance and financing arrangements to ensure proper informed decisions and deployed resources achieve planned outcomes for taxpayers and local people.

Audit logistics, team & audit fees



Sarah Ironmonger, Engagement Lead

Sarah will be the main point of contact for the Chief Executive and the Chief Finance Officer. Sarah will share her wealth of knowledge and experience across the sector providing challenge, sharing good practice, providing pragmatic solutions and acting as a sounding board with Senior Management Team and the Strategy and Resources Committee. Sarah will ensure our audit is tailored specifically to you and is delivered efficiently. Sarah will review all reports and the team's work focussing her time on the key risk areas of your audit.



Ade Oyerinde, Audit Manager

Ade will work with the Chief Finance Officer and senior members of the finance team, ensuring early delivery of testing and agreement of accounting issues on a timely basis. Ade will attend Strategy and Resources Committees, undertake reviews of the team's work and draft reports, ensuring they remain clear, concise and understandable to all. Ade will work with Internal Audit to secure efficiencies and avoid duplication, providing assurance for your Annual Governance Statement and Narrative report.

Audit fees

The planned audit fees are no less than £44,708 (PY PSAA set: £44,708) for the financial statements audit and £8,976 for the grant certification (PY PSAA set: £9,773). Our fees for grant certification cover only housing benefit subsidy certification, which falls under the remit of Public Sector Audit Appointments Limited Fees in respect of other grant work, such as reasonable assurance reports, are shown under 'Fees for other services'.

In setting your fee, we have assumed that the scope of the audit, and the Council and its activities, do not significantly change. Preparation and audit of group accounts is deemed a significant change. We will discuss and agree with Chief Finance Officer the additional fee prior to the start of the audit.

Our requirements

To ensure the audit is delivered on time and to avoid any additional fees, we have detailed our expectations and requirements in the following section 'Early Close'. If the requirements detailed overleaf are not met, we reserve the right to postpone our audit and charge fees to reimburse us for any additional costs incurred.

Early close

Meeting the early close timeframe

Bringing forward the statutory date for publication of audited local government accounts to 31 July this year, across the whole sector, is a significant challenge for local authorities and auditors alike. For authorities, the time available to prepare the accounts is curtailed, while, as auditors we have a shorter period to complete our work and face an even more significant peak in our workload than previously.

We have carefully planned how we can make the best use of the resources available to us during the final accounts period. As well as increasing the overall level of resources available to deliver audits, we have focused on:

- bringing forward as much work as possible to interim audits
- starting work on final accounts audits as early as possible, by agreeing which authorities will have accounts prepared significantly before the end of May
- seeking further efficiencies in the way we carry out our audits
- working with you to agree detailed plans to make the audits run smoothly, including early agreement of audit dates, working paper and data requirements and early discussions on potentially contentious items.

We are satisfied that, if all these plans are implemented, we will be able to complete your audit and those of our other local government clients in sufficient time to meet the earlier deadline.

Client responsibilities

Achieving the earlier deadline requires a joint effort from audit and finance teams. Where individual clients do not deliver to the timetable agreed, we need to ensure that this does not impact on audit quality or absorb a disproportionate amount of time, thereby disadvantaging other clients. We will therefore conduct audits in line with the timetable set out in audit plans (as detailed on page 11). Where the elapsed time to complete an audit exceeds that agreed due to a client not meeting its obligations we will not be able to maintain a team on site. Similarly, where additional resources are needed to complete the audit due to a client not meeting their obligations we are not able to guarantee the delivery of the audit by the statutory deadline. Such audits are unlikely to be re-started until very close to, or after the statutory deadline. In addition, it is highly likely that these audits will incur additional audit fees.

Our requirements

As we have previously agreed with you, our expectations of your finance team is you will:

- produce draft financial statements of good quality by the deadline you have agreed with us, including all notes, the narrative report and the Annual Governance Statement
- ensure that good quality working papers are available at the start of the audit, in accordance with the working paper requirements schedule that we have shared with you
- ensure that the agreed data reports are available to us at the start of the audit and are reconciled to the values in the accounts, in order to facilitate our selection of samples
- ensure that all appropriate staff are available on site throughout (or as otherwise agreed) the planned period of the audit
- respond promptly and adequately to audit queries.

In return, we will ensure that:

- the audit runs smoothly with the minimum disruption to your staff
- you are kept informed of progress through the use of an issues tracker and weekly meetings during the audit
- we are available to discuss issues with you prior to and during your preparation of the financial statements.

Independence & non-audit services

Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons, relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in December 2016 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

We confirm that we have implemented policies and procedures to meet the requirements of the Ethical Standard. For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council.

Non-audit services

The following audit services was identified, no non-audit services was identified.

Service	Fees £	Threats	Safeguards
Audit related			
Certification of Housing Benefit grant	8,976	Self-Interest (because this is a recurring fee)	The level of this recurring fee taken on its own is not considered a significant threat to independence as the fee for this work is £8,976 in comparison to the total fee for the audit of £44,708 and in particular relative to Grant Thornton UK LLP's turnover overall. Further, it is a fixed fee and there is no contingent element to it. These factors mitigate the perceived self-interest threat to an acceptable level.
Non-audit related			
None			

The amounts detailed are fees agreed to-date for audit related and non-audit services to be undertaken by Grant Thornton UK LLP in the current financial year. These services are consistent with the Council's policy on the allotment of non-audit work to your auditors. Any changes and full details of all fees charged for audit related and non-audit related services by Grant Thornton UK LLP and by Grant Thornton International Limited network member Firms will be included in our Audit Findings report at the conclusion of the audit.

None of the services provided are subject to contingent fees.

Appendix

A. Revised ISAs

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Appendix A: Revised ISAs

Detailed below is a summary of the key changes impacting the auditor's report for audits of financial statement for periods commencing on or after 17 June 2016.

Section of the auditor's report	Description of the requirements
Conclusions relating to going concern	We will be required to conclude and report whether: <ul style="list-style-type: none">the directors use of the going concern basis of accounting is appropriatethe directors have disclosed identified material uncertainties that may cast significant doubt about the Council's ability to continue as a going concern.
Material uncertainty related to going concern	We will need to include a brief description of the events or conditions identified that may cast significant doubt on the Council's ability to continue as a going concern when a material uncertainty has been identified and adequately disclosed in the financial statements. Going concern material uncertainties are no longer reported in an Emphasis of Matter section in our audit report.
Other information	We will be required to include a section on other information which includes: <ul style="list-style-type: none">responsibilities of management and auditors regarding other informationa statement that the opinion on the financial statements does not cover the other information unless required by law or regulationreporting inconsistencies or misstatements where identified
Additional responsibilities for directors and the auditor	We will be required to include the respective responsibilities for directors and us, as auditors, regarding going concern.
Format of the report	The opinion section appears first followed by the basis of opinion section.



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Epsom Cemetery Extension

Report of the:	Head of Housing & Community
Contact:	Rod Brown
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annexe 1: Plan detailing previous extension in 1995 and proposed future site for further extension. Annexe 2 (considered exempt from publication: paragraph 3 Schedule 12A LGA 1972): Financial Information relating to the Cemetery Extension
Other available papers (not attached):	Capital Project Appraisal Form reported to Social Committee on 28 January 2016

Report summary

This report provides an update on the current position of the Epsom Cemetery extension and seeks approval for the Council to exercise its compulsory purchase making powers ('CPO') to acquire land to extend Epsom cemetery.

Recommendation (s)

That the Committee:

- (1) Note the progress to date;
- (2) Agree the submission of a planning application for the proposed extension of Epsom Cemetery prior to the completion of the purchase of the land;
- (3) Approve the appointment of a specialist consultant to:
 - i. undertake the necessary works to enable a planning application to be submitted.
 - ii. complete the tender process for the build contractor and oversee the completion of the works.;
- (4) Agree that the costs of the Planning Consultant are met from the current capital allocation for this project;

- (5) Authorise , if necessary, the use of compulsory purchase making powers pursuant to section 121 Local Government Act 1972 to acquire land shown edged on plan at Annexe 1 ('order land') for the purposes of extending the Epsom Cemetery for burials ('the scheme').
- (6) Delegate to the Chief Operating Officer, in consultation with the Chief Legal Officer, authority to take all steps to secure the making, confirmation and implementation of the Compulsory Purchase Order ('the Order') including the publication and service of all notices and the promotion of the Council's case at any public inquiry, including but not limited to the following steps:
- i. take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of all relevant notices and to support the presentation of the Council's case at any local public inquiry
 - ii. serve a new requisition for information (in accordance with section 16 Local Government Act 1972) on the reputed owner and other parties that may have an interest in the land as part of the preparatory steps associated with the making and promotion of a CPO;
 - iii. approve terms for the acquisition of legal interests by agreement, including for the purposes of resolving any objections to the CPO;
 - iv. take all necessary steps to resolve any compulsory purchase compensation claims, including, if necessary, by way of making (or responding to) a reference to the Upper Tribunal (Lands Chamber);
 - v. to retain and/or appoint external professional advisers and consultants to assist in facilitating the promotion, confirmation and implementation of the Order, the settlement of compensation and any other claims or disputes.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Managing our Resources - Identifying new sources of revenue and maximising our existing income.
- 1.2 The expansion of the Epsom Cemetery is essential to maintaining the current burial service and will ensure current revenue receipts are continued.

2 Background

- 2.1 The cemetery in Epsom is situated between Ashley Road and Downs Road.

- 2.2 In 1995 the Council completed a purchase of adjacent farmland for the purpose of cemetery expansion. This land was duly enclosed and became part of the cemetery.
- 2.3 At the time of purchase in 1995, there was an agreement with the land owner that the Council was to have the option to purchase the remaining 3.69 acres as shown at Annexe 1, at the open market value of the land at the time of any later purchase.
- 2.4 At the current rate of burial, the existing available space for Lawn Graves will be used up by spring 2019 so there is a pressing need to acquire new land to expand the existing cemetery.
- 2.5 The 3.69 acres of land referred to in 2.3 and shown in red at Annexe 1 is currently used for grazing horses and so can readily be converted for use as a cemetery.
- 2.6 In July 2015, Officers approached the land owner to advise that the Council was interested in acquiring the same parcel of land comprising 1.49 hectares (3.69 acres) adjacent to the existing cemetery and shown coloured red on the attached plan at Annexe 1. The land owner advised that it had instructed consultants to carry out a review of its whole estate including this land. The outcome of this review was expected in the autumn of 2015 and so the land owner would not be in a position to discuss this matter until the report had been published.
- 2.7 As of January 2016, this report had not been finalised and Officers therefore served a requisition notice on the land owner. This notice advised that compulsory purchase powers were being considered by the Council to acquire land in order to carry out the council's function in providing burial space in an expanded cemetery.
- 2.8 At the meeting on 5 April 2016, this Committee confirmed that in principle, the Council intended to use compulsory purchase powers to acquire land adjacent to Epsom Cemetery for the purpose of expansion of the cemetery. The Committee authorised Officers to advise the land owner of the Committee's decision and endeavour to progress acquisition by negotiation.
- 2.9 Negotiations between the parties were postponed as a result of the land being identified as located in a Groundwater Protection Zone. Officers felt that it was prudent to obtain the results of a Tier 2 and Tier 3 quantitative Groundwater Risk Assessment before progressing with further negotiations and incurring cost.
- 2.10 In August 2017 the results of the Groundwater risk assessment identified no significant concerns with the land and so the Council's agents were instructed to negotiate the purchase of the land.

3 Current Position

- 3.1 In order to decide if the land was suitable and therefore viable to purchase as a site for the extension, various key surveys have been carried out. The Ground Water Protection survey was a critical piece of work and was completed in August 2017.
- 3.2 The following surveys have also been completed between November 2017 and March 2018:
 - 3.2.1 Archaeological Desk Study
 - 3.2.2 Contaminated Land Desk Study
 - 3.2.3 Topographical Survey
- 3.3 None of the results so far have indicated any concern for the viability of the land use as a cemetery.
- 3.4 As a result of the complexity of the project and its specialist nature there is a need to appoint a planning consultant with specialist skills and expertise to prepare the planning application and the associated documents, undertake remaining surveys, discharge planning conditions, procure the build contractor, and oversee the works. To minimise delay, a fee tender was requested to five interested specialist agencies and two have been returned.
- 3.5 The Planning Consultant will be expected to pull together all the information required in order to submit a full planning application. This will include undertaking all outstanding surveys and consultations as required by the planning process. They will also prepare the specification, design drawings and documents ready for construction phase tender, analyse the tender returns and provide a summary and recommendations. They will act as Principal Designer under the construction design and will ensure the project is delivered on time and within budget.
- 3.6 Two tender returns were received by the deadline. The financial information is set out in **Annexe 2 (Part A) (considered exempt from publication at this time)**. There were a number of questions to be clarified and officers are awaiting responses from both consultants before final prices can be confirmed for each. Officers will seek to award the tender in two phases: Phase 1 will include everything required to submit a full planning application, Phase 2 will only be awarded if Planning Permission is obtained.
- 3.7 Under a call for sites, the land has been put forward as cemetery land for inclusion in the new Local Plan.
- 3.8 To date the Council has been unable to acquire the land despite continuing negotiations over a period of more than a year. The parties have been unable to agree the basis on how the land is to be valued. Given this, the Council may need to make use of compulsory purchase

powers to secure the land in order to meet the need for burial space in the borough.

4 Proposals

- 4.1 A valuer has been appointed by the Council to restart negotiations with the land owner. A copy of a letter from the appointed valuer detailing a recent meeting with the land owner's agent, is set out in **Annexe 2 (Part B) (considered exempt from publication at this time)**.
- 4.2 Officers will continue to seek a negotiated outcome for the purchase of the land, however, given the risks that this may not be successful, authority is now required to concurrently pursue the compulsory purchase of the land should this be necessary.
- 4.3 In order to be able to progress with a CPO, the Council must first obtain Planning Permission for the land in order to demonstrate that there is a viable and good justification for applying such powers. The Council is also required to identify the necessary funding to purchase the land and deliver the development.
- 4.4 The cost of the planning consultant can initially be met from the existing agreed budget as set out in **Annexe 2 (Part C) (considered exempt from publication at this time)**. However, this cost was not originally itemised in the original budget. It is therefore anticipated that a request to increase the budget will need to be brought to members once all additional costs are known. This will include the legal costs of pursuing a CPO, the costs for the planning consultant and remaining surveys, and the cost of the land and conveyancing fees.

5 Compulsory Purchase Order Process

- 5.1 A general power to acquisition is contained in section 121 Local Government Act 1972. The power is often used in relation to cemeteries, public conveniences, recreational facilities, refuse site and land drainage.
- 5.2 The use of the compulsory purchase powers is one of last resort and there must be a compelling case in the public interest to use the powers. The Council is required to demonstrate to the Secretary of State that compulsory purchase is the most appropriate action to achieve the extension to the Cemetery.
- 5.3 In promoting a CPO a council should be sure that the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected. A council must also take into account its public sector equality duty contained in the Equality Act 2010.
- 5.4 In order to confirm a CPO the Secretary of State must be satisfied, in particular, that:

- 5.4.1 the acquiring authority has a clear idea of how it intends to use the land that it is proposing to acquire;
 - 5.4.2 the acquiring authority can show that it has all of the necessary resources to achieve the objective of acquiring the land; and
 - 5.4.3 the reasons for acquiring the land will not be blocked by any physical or legal impediments to implementation.
- 5.5 As a part of this process the Council is required to submit a planning application for use of the Order Land as a cemetery. All the initial surveys have confirmed there is no impediment to the grant of permission.
- 5.6 It may still be that the land in question can be purchased by agreement, in which case it would not be necessary to proceed with the CPO.
- 5.7 In outline, the main steps in the CPO process are:
- 5.7.1 Making the Order
 - 5.7.2 Notification of the persons affected and the publicity for the making of the Order and the Council's intention to submit it to the Secretary of State for confirmation
 - 5.7.3 Submission of the Order to the Secretary of State
 - 5.7.4 Objections
 - 5.7.5 Public local inquiry if objections are not resolved
 - 5.7.6 Inspectors report to the Secretary of State
 - 5.7.7 Secretary of State decision on confirmation
 - 5.7.8 Notification and publicity for the Secretary of State decisions
 - 5.7.9 Six week challenge period
 - 5.7.10 Taking possession if the CPO is confirmed
 - 5.7.11 Compensation process if CPO is confirmed

6 Financial and Manpower Implications

- 6.1 The Capital Programme includes an existing budget of £654,000 for the extension of the cemetery, agreed by members in February 2016, to be funded from capital receipts.
- 6.2 A separate report on this Committee agenda requests approval to switch the funding source from capital receipts to Community Infrastructure Levy, with no impact on the overall budget.

- 6.3 The £654,000 budget is detailed at **Annexe 2 (Part C) (considered exempt from publication at this time)**. It was based on 2014 building estimates that had been uplifted to 2015 prices by RICS Building Index. Since this time, prices are likely to have increased further.
- 6.4 The budget did not include provision for conveyancing fees nor for obtaining planning permission and associated surveys.
- 6.5 A fee tender request for a specialist planning consultant has been obtained although this will involve spending a significant amount from the existing budget, as shown in Annexe 2 (Part A), without any guarantee that planning permission will be agreed.
- 6.6 The land value is still to be negotiated and agreed. Previously, an open market value was expected on the basis of the land being used for grazing. However, the owner is currently seeking valuation on the basis of the land being a commercial graveyard. Whichever valuation basis is accepted will impact the purchase price; if it is commercial graveyard, the current budget will be insufficient.
- 6.7 Once all known costs have been confirmed, a further report will be presented to this committee to assess whether the project is still financially viable.
- 6.8 Should the Council need to implement its compulsory purchase powers it is estimated that it could take up to 18 months to complete.
- 6.9 **Chief Finance Officer's comments:** *The Council's 2018/19 revenue budget includes £451,000 expected annual income from the cemetery. The extension is thus an important project to safeguard this level of income for future years.*
- 6.10 *The 2016/17 Capital Programme included a £654,000 budget to undertake the project. An external planning consultant could initially be funded from this budget. There is a risk that should the extension subsequently become financially unviable or planning permission be refused, resulting in a decision to abort the scheme, the cost of the consultant would have to be written-off to revenue.*
- 6.11 *Once all projected costs of the scheme can be accurately established, a further report should be presented to this Committee accordingly.*

7 Legal Implications (including implications for matters relating to equality)

- 7.1 An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. In making this assessment an acquiring authority should have regard, in particular, to the provisions of Article 1 of the First Protocol and Article 6 of the European Convention on Human Rights ("the Convention"), and Article 1 states that:

“...Every natural or legal person is entitled to peaceful enjoyment of his possessions... no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law...”

7.2 Although the owner of the land will be deprived of their property if the CPO is confirmed, this will be in accordance with the law and appropriate financial recompense will be made. The CPO is being pursued in the public interest as required by Article 1 of the First Protocol. The Council considers that the proposed CPO strikes a fair balance between the public interest underpinning the reasons for which it is being sought (i.e. securing more land for burial plots) and the private rights affected.

7.3 Article 6 of the Convention provides that:

“In determining his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.” Case law makes clear that the opportunity of objecting, including attending at an inquiry into the CPO, means that this requirement is satisfied in this instance.”

7.4 Government guidance also provides that acquiring authorities are expected to provide *“...evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted”*. The report sets out the extent to which the Council has attempted to negotiate the acquisition of the land from the owner.

7.5 The Council, in making a CPO under these powers, is required to have regard to the extent of land held in the neighbourhood by an owner and to the convenience of other property belonging to the same owner and shall, as far as practicable, avoid taking undue or inconvenient quantity of land from any one owner.

7.6 The loss of part of the Order Land will not impact on the Owner's ability to access the balance of their land.

7.7 If an agreed value for the land can be achieved through negotiations then there will be conveyancing procedures to follow once the purchase has been approved by the Council.

8 Sustainability Policy and Community Safety Implications

8.1 None for the purpose of this report

9 Partnerships

9.1 None for the purpose of this report

10 Risk Assessment

- 10.1 Due to the size and complexity of this extension project, there are a number of risks associated with it.
- 10.2 The land identified for the extension is not owned by the Council and the current land owner is seeking an inflated value. There is a risk that the final negotiated value for the land is not affordable.
- 10.3 In order to exercise the Council's compulsory purchasing powers it must first obtain Planning Permission on the land. There is a risk that planning may not be granted although there is no obvious reason to suggest that planning would not be allowed and this will be mitigated by the appointment of a specialist consultant.
- 10.4 Any delay in obtaining Planning Permission would result in the further delay in acquiring the land if a CPO was being pursued.
- 10.5 Officers feel that there are not sufficient resources or expertise in-house to be able to successfully deliver the project. However, the appointment of a planning consultant would require a significant spend on the existing budget although there is no guarantee that planning permission will be granted or that negotiations for the land value will be agreed.
- 10.6 Any planning permission would be subject to the completion of a trench evaluation. Negotiations would need to take place with the land owner in order to carry out the trench evaluation survey. If the land was purchased by the Council following planning permission, then there would be a risk that the trench evaluation survey may find something significant that delays the project further whilst any archaeological finds were excavated.
- 10.7 The current capacity in the existing cemetery for Lawn Graves is likely to be full by Spring 2019. This will mean that people will not be able to be buried with their families unless further capacity is found.
- 10.8 The reduction in burial capacity will have a significant impact on future revenue income for the Council.
- 10.9 Any further delay in obtaining planning permission and acquiring the land will result in the project delivery programme being delayed, which will have a significant detrimental impact on the Council's ability to continue to provide a burial service.
- 10.10 The inability to continue to provide a burial service is likely to cause adverse negative publicity towards the Council.

11 Conclusion and Recommendations

- 11.1 It is now necessary for officers to pursue the compulsory purchase order alongside continued negotiations with the land owners. In the event officers are able to negotiate a purchase, a further report will be brought back to this Committee to seek authority for the purchase.
- 11.2 In order to progress a compulsory purchase order, the Council needs to have secured planning permission for the cemetery extension.
- 11.3 Given the specialist nature of the works, a planning consultant needs to be appointed to complete remaining surveys, prepare the planning application and oversee the delivery of the development.
- 11.4 A revised budget will need to be approved in due course once the full costs of the development are known.

Ward(s) affected (All Wards);



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Planned Maintenance 2018-19

Report of the:	Head of Property and Regeneration
Contact:	Mark Shephard
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annexe 1: 2017/18 current position Annexe 2: 2018/19 Proposed works
Other available papers (not attached):	

Report summary

The report notes progress and changes to the current planned maintenance programme and seeks approval for 2018/19 programme of proposed works

Recommendation (s)

- (1) Notes the current position/progress on the planned maintenance programme**
- (2) Notes the changes made to the programme under officer delegated authority**
- (3) Requests that remainder of unspent budget in 2017/18 be carried forward**
- (4) Requests authorisation to proceed with 2018/19 proposed planned maintenance works**
- (5) Requests authorisation to vire from the property reserve to fund shortfall for 2018/19**

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Ensuring that assets are protected and enhanced supports the delivery of the Council's key priorities
- 1.2 The programme supports a number of specific key priorities including measures to enhance sustainability and combat the impact of climate change
- 1.3 There is no specific key service priority for this programme

2 Background

- 2.1 The 2017/18 budget for prioritised planned maintenance repairs was agreed at Strategy and Resources Committee on 4 April 2017 and was set at £210k. The £210k consisted of a base maintenance budget of £175k and £35k for regulatory and legislative works.
- 2.2 A further £24k was agreed at April's Committee to support the 2017/18 programme, £102k was carried forward from 2016/17 for works still in progress at last year-end and £2.7k was drawn down from reserves in-year.
- 2.3 Total resources available for 2017/18 therefore amounted to £339k.

3 Current Position

- 3.1 **Annexe 1** sets out the forecast expenditure against each scheme at the end of March 2018.
- 3.2 The changes carried out under delegated authority are set out within **Annexe 1**.
- 3.3 The end of year forecast predicts an underspend of £27k.
- 3.4 Members are asked to note the progress on schemes and the changes to the programme

4 Proposed schemes for 2018/19

- 4.1 The proposed schemes are set out in **Annexe 2** and authority is sought to approve these for 2018/19
- 4.2 In the event that the monies are not spent before the end of the financial year 2018/19, it is proposed that the remainder of the unspent budget is carried over to the following year.
- 4.3 The proposed schemes will cost a projected £280k, which exceeds the £210k base budget by £70k. Approval is sought to fund this deficit with the £27k projected 2017/18 underspend and £43k from the property reserve.

5 Financial and Manpower Implications

- 5.1 The resources are available within the Projects team to accommodate the proposed works for 2018/19.
- 5.2 Under S33 of the VAT Act 1994, the Council is permitted to recover VAT on expenditure related to exempt income, provided that the amount does not exceed 5% of total VAT recovered from HMRC in any one year. The most significant exempt income to the Council is generated by rents and lettings.

- 5.3 As reported to this Committee in November 2017, the Council breached this 5% limit in 2016/17. To mitigate the risk of having to repay over £176k to HMRC, Officers requested HMRC's permission to use a seven-year average method of calculating the 5%. HMRC agreed to this which means that if EEBC can average below 5% across years 2012/13 – 2018/19, the £176k repayment will not fall due.
- 5.4 To avoid breaching the 5% limit, at least until April 2019, expenditure on buildings generating exempt income should be carefully scheduled. Currently, it is anticipated that the schedule of planned maintenance for 2018/19 at **Annex 2** can be undertaken without causing a breach. Quarterly forecast calculations will be produced to monitor the ongoing position throughout the year.
- 5.5 **Chief Finance Officer's comments:** *The Property Maintenance Reserve stood at £402,000 at 1 April 2017. During 2017/18, a sum of £129,000 was released from the reserve principally to fund completion of outstanding items from the 2016/17 programme. Annex 1 identifies a forecast underspend of £27,000 for 2017/18, giving a projected reserve balance of £300,000 at 31 March 2018.*
- 5.6 *There is provision of £210,000 for planned maintenance within the approved 2018/19 revenue budget. The proposed schemes for 2018/19 collectively exceed the approved 2018/19 budget by £70,000. If Members approve the £70,000 additional funding from the Property Maintenance Reserve, this would reduce the projected reserve balance to £230,000.*

6 Legal Implications (including implications for matters relating to equality)

- 6.1 It is important that maintenance activities are planned and undertaken in such a way so as to ensure compliance with the Council's statutory duties in respect of, for example, health and safety. It is also important to ensure that we meet our legal obligations to our landlords (where applicable), and to our tenants.
- 6.2 **Monitoring Officer's comments:** *Planning our maintenance activities is key to ensuring that our legal obligations are met in order to manage the legal risks the Council faces.*

7 Sustainability Policy and Community Safety Implications

- 7.1 The programme includes several schemes that will contribute to improving energy efficiency including energy and water conservation for smaller initiatives

8 Risk Assessment

- 8.1 The risks associated with completion of the programme are judged to be manageable and are set out within the body of the report.

9 Conclusion and Recommendations

- 9.1 Receives end of year position and changes and requests authority to proceed with 2018/19 proposed planned maintenance works.
- 9.2 Requests authorisation to vire from planned maintenance reserves to fund shortfall.
- 9.3 Requests that remainder of unspent budget in 2017/18 be carried forward.
- 9.4 Requests authorisation to proceed with 2018/19 proposed planned maintenance works

Ward(s) affected: (All Wards);

Backlog maintenance and regulatory works monitor

Site	Works	2017/18 base budget	Allocation of base budget 17/18	Drawdown from reserve	2017/18 Total available budget	Q1 Virements	Revised Budget Q1	Revised Budget Q2	Revised budget Q3	Q4 Virements	Revised budget Q4	Actuals year to date	Outstanding commitments	Total actuals and commitments	Expend. Forecast	Notes
Unallocated		175,000						0	0		0					
Bourne Hall Lodge	Additional works requested by Building control to insulate roof		7,000		7,000		7,000	7,000	7,000		7,000	10,010		10,010	10,010	Works completed
Bourne Hall	Provide & fit air conditioning to office		7,000		7,000	-4,000	3,000	3,000	3,000		3,000	3,901		3,901	3,901	works completed
Ewell High Street car park	Resurfacing			35,000	35,000		35,000	35,000	35,000		35,000	37,842		37,842	37,842	works completed
Ashley Centre	Works to address healthy & safety risks		20,000		20,000		20,000	20,000	20,000	-10,000	10,000			0	0	No spend as works included in Capital bid for 18/19
Cemetery Chapel	External decoration to entrance		5,000		5,000		5,000	5,000	5,000		5,000	2,893		2,893	2,893	Works completed
Cox Lane	External decoration & window replacement		20,000	7,000	27,000		27,000	27,000	27,000		27,000	22,596		22,596	22,596	Works completed
Longmead Depot	Refurbishment of WC			15,000	15,000	6,000	21,000	21,000	21,000		21,000	21,090		21,090	21,090	Works completed
Various	Hard Surfaces- repairs to car parks, parks paving walkways etc		20,000		20,000		20,000	20,000	20,000		20,000	10,940	1,660	12,600	12,600	In progress
Various	Emergency repairs to walls and fences		5,000		5,000		5,000	5,000	5,000		5,000	725		725	725	In progress
Alex Rec main pavilion	Damp proofing works		30,000	10,000	40,000		40,000	40,000	40,000		40,000	32,675	0	32,675	32,675	Works completed
Auriol Pav	New boiler & associated works		20,000	15,000	35,000		35,000	35,000	35,000	10,000	45,000	17,467	29,735	47,202	47,202	Emergency boiler works needed
Harriers Centre	Redecoration - internal & external		15,000	10,000	25,000		25,000	25,000	25,000		25,000	20,535		20,535	20,535	Works completed
Town Hall	Upgrade controllers to BMS management system		10,000		10,000		10,000	10,000	10,000		10,000	10,333		10,333	10,333	Works completed
		175,000	159,000	92,000	251,000	2,000	253,000	253,000	253,000	0	253,000	191,008	31,395	222,403	222,402	
Asbestos	Reinspections	15,150	-5,150		10,000		10,000	10,000	10,000	0	10,000	900	6,830	7,730	7,730	In progress
Fire risk assessments	Remedial works	10,100	-5,100	10,000	15,000		15,000	15,000	15,000	0	15,000	12,958	0	12,958	12,958	In progress
Remedial electrical works	Remedial works/5 yearly inspections	5,050	15,950	24,000	45,000		45,000	45,000	45,000	0	45,000	34,095	9,824	43,919	43,919	In progress
Energy efficiency	Various improvements and repairs/renewals to meters		5,000		5,000		5,000	5,000	5,000		5,000	1,497	10,226	11,723	11,723	Order raised revised scope of works prior to commencement
Water efficiency	Minor improvements		10,000		10,000		10,000	10,000	10,000		10,000	7,822	210	8,032	8,107	In progress
Water courses		5,000	-4,700		300	700	1,000	1,000	1,000	0	1,000	4,675		4,675	4,675	Works completed
		35,300	16,000	34,000	85,300	700	86,000	86,000	86,000	0	86,000	61,947	27,090	89,037	89,112	
TOTALS		210,300	175,000	126,000	336,300	2,700	339,000	339,000	339,000	0	339,000	252,955	58,485	311,439	311,514	

FORECAST SPEND	311,514
BASE BUDGET 1718	210,300
Drawdown from reserve re C/f works	126,000
Potential drawdown from S106	0
Other drawdowns in year	2,700
Total available budget 17/18	339,000
Forecast over / (under) spend	-27,486
Balance per property reserve (61227) as at 010417	401,533
Changes to reserve in year:	
Less drawdown from reserve re c/f works	-128,700
Calculated (overspend) / underspend for year	27,486
Revised total 61227	300,319

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ANNEXE 2: PLANNED MAINTENANCE PROGRAMME 2018-19

Location	Proposed Works	£000's	Comment/Justification
Town Hall	The existing Building Management Software (BMS) is out of date, using Java that is no longer supported. These are essential works to heating controls with provision of new software for Building Management System, including new graphics and updates	13	New operating system is required before total system failure occurs. The current system allows control to the Town Hall and Bourne Hall.
Town Hall	External lights to be changed at side of building	2	Existing lights old and breaking, new LED's to be installed
Town Hall	Replacement of 20 year old radiators	10	Leaking and rusty radiators require replacement throughout Town Hall
Longmead Centre	Control panel in boiler room out of date, faults occurring,	15	Controls failing to heating
Longmead centre	Specialist bath requires replacing over 10 years old	15	Parts no longer available, require bath to continue providing service for elderly
Longmead Depot	Kitchen Refurbishment	15	Poor condition general wear & tear
West park cottages	Damp Proof Course, plastering and decorations	5	Issues raised by tenants
Hogs mill	Replace defective wooden bridge, carry out repairs to other bridges	15	Replace rotten timber bridge with metal construction and carry out repairs to other bridges
Hard surfaces	Health & Safety repairs to hard surfaces	30	Resurfacing, pot holes trip hazards and defective surfaces

Location	Proposed Works	£000's	Comment/Justification
Walls and fences	Emergency repairs to walls and fences	20	Emergency works to walls and fences
Longmead Centre	External decorations to gutters, fascia's, downpipes ,metal doors etc.	10	Over 10 years since last decorated.
Various(to all buildings)	Legionella risk assessments required to all buildings	5	Should be carried out every 2 years.
Cemetery	Repairs to internal roadways	10	Resurfacing defective areas
Clock tower	Brickwork & Stonework repairs & external decorations, roof coverings	30	General repairs to external envelope

Regulatory works			
Asbestos	Surveys, inspections, labelling, removal & encapsulation	10	Legislative must be carried out annually
Fire Risk Assessments	Repairs and upgrades following Inspections	10	Legislative must be carried out annually
Remedial Electrical works	Condition inspections and remedial works	40	Legislative must be carried out every 5 years
Energy efficiency	Replacement meters, repairs and upgrades to reduce carbon foot print	10	Monitoring via meters helps determine high usage and issues with plant
Water efficiency	Replacement meters, repairs and upgrades to reduce usage and repair leaks	10	Monitoring highlights leakages and high usage
Watercourses	Emergency clearances of streams and waterways	5	These works prevent flooding an ensure free flowing waterways
	Total	280	

Income Generation and Enterprise Plan

Report of the:	Chief Operating Officer
Contact:	Damian Roberts
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	None
Other available papers (not attached):	None

Report Summary

This report sets out a new Income Generation and Enterprise Plan for the Council. It has been prepared in the context of significant continued cuts in Government funding and will have a key role in enabling the Council to be more financially self-sufficient.

Recommendation (s)

That the Committee approve the approach to income generation and enterprise set out in this report.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 This plan directly contributes to one of the key priorities of the Council's Corporate Plan - Managing Our Resources, which includes a commitment to, "identify new sources of revenue and maximising existing income".

2 Background

- 2.1 The impact of changes to central government funding to local government including the introduction of a negative subsidy (ie the Government taking money from local Councils and local Council Tax payers which has been earmarked to fund local services, and spending this elsewhere) offers increased risks to the Council, particularly one of this size. It is therefore vital that the Council explores alternative sources of funding, particularly where this goes hand in hand with the Council providing additional value to customers that they are willing to pay for.
- 2.2 Epsom and Ewell Borough Council acknowledges the challenges that it faces, but also views the current funding picture as an opportunity to bring about more fundamental changes in the way the Council operates, introducing updated policies and procedures and more commercial and

customer focused thinking that is aligned to the Council's strong public service ethos.

3 What Commercialisation means to Epsom and Ewell Borough Council

3.1 The Capita report, 'Creating council commercialism – A conversation' November 2013, recognises that each organisation will need to define its own approach to commercialisation,

'Commercialism means different things to different people, and is being implemented in different ways all over the country. This is a good thing – local government is enjoying a flowering of diverse approaches to problems as well as more freedom to act than previously. There is not – and there shouldn't be – one right approach to commercialism, nor just one useful definition.'

3.2 Epsom and Ewell's approach to commercialisation seeks to build on the positive commercial thinking and practice that already exists within the Council along-side reinforcing the strong public service ethos that characterises the borough and which continues to put the borough's residents first.

3.3 Four specific work streams have been identified:

- Understanding the needs of residents, businesses and visitors and the market in which the Council operates. This would involve undertaking some analysis of demographic and business trends to help form a borough profile that would identify market opportunities in both the short and medium term.
- Income Generation – by providing services which customers are prepared to pay for which generates revenue that can be reinvested back into Council services.
- Reviewing key policies and processes to identify opportunities to enable the Council to respond more quickly and efficiently to market opportunities in a way that reflects the realities of operating in a more commercial market. This includes enabling staffing and procurement decisions to be made more quickly to enable the service to respond more effectively in a competitive environment.
- Creating a more enterprising culture – building the skills, policies and processes to enable staff to embrace a more commercial approach in their work drawing on the best examples of high performing customer focused commercial organisations.

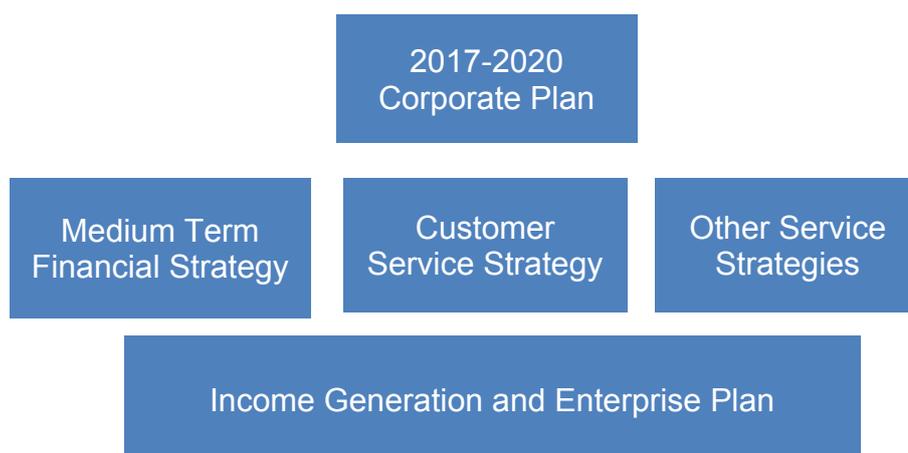
3.4 The delivery of these work streams will be overseen by an officer board chaired by the Chief Operating Officer and vice-chaired by the Chief Finance Officer. The officer board will report through to the Strategy and Resources Committee.

4 Building on existing knowledge and skills

- 4.1 There is an opportunity to build on the strong commercial thinking that already exists in a number of areas within the Council where the Council is already operating within the market, selling services that residents want to buy or working in partnership with organisations with particular expertise in their market. This includes:
 - 4.1.1 The Playhouse Theatre
 - 4.1.2 The Rainbow Leisure Centre
 - 4.1.3 Building control service
 - 4.1.4 Higher needs services delivered from the Community and Wellbeing Centre
 - 4.1.5 Telecare services
 - 4.1.6 Trade Waste collection
 - 4.1.7 The leasing of property including oversight of the Council's arms-length property company.
 - 4.1.8 Wedding and other bookings (e.g. at Ewell Court House and Nonsuch House)

5 Strategic fit

- 5.1 The Income Generation and Commercialisation Plan fits into the Council's other key (current and future) strategies and plans as follows:



6 Key aims and objectives

- 6.1 The overarching aim of this strategy is to deliver value to customers while generating a financial return which contributes to the Council's efficiencies and additional income targets, helping to safeguard core frontline services.
- 6.2 The Medium Term Financial Strategy shows that the Council will face a projected budget gap of £0.6m by 2020/21. Additional income generation will contribute towards addressing this gap.
- 6.3 There will be a need to understand and carefully manage and control the risks associated with the implementation of this plan including timing, competition and the impact of cyclical changes in demand which can result in large variations in income over time. Some up-front investment will be needed for the successful implementation of this plan as well as appropriate provision for contingencies to mitigate some of the risks. This includes spend on marketing, business planning, publicity, web design etc. However, it is expected to be at least self-financing in the short/medium term.
- 6.4 It is important to note that the benefits of pursuing a more commercial approach are not purely financial. Becoming a more commercially focused organisation means putting the customer at the heart of everything the Council does, and doing so in a financially sustainable way. It is about actively encouraging creative thinking to develop more effective ways to deliver services that residents, businesses and visitors need and want.
- 6.5 Key to the success of this approach will be how we support and empower our staff to take innovative business-like decisions, manage risk and seize new opportunities. This will require ways to improve the quality and speed of decision making, enabling the Council to be more flexible and agile in responding to market opportunities and to make better use of evidence, industry best practice and local market intelligence.
- 6.6 Working in a more commercial way has the potential to make Epsom and Ewell more attractive as an employer, providing staff with more development opportunities, and increase the Council's ability to attract and retain talented staff.

7 Action plan - service focus

- 7.1 The following table sets out the services which will be targeted in this plan. To ensure maximum impact from the available staff capacity, not all services will be progressed in year one, but instead phased in over the next four years.

Commercial area	Overview	Focus	Yr1	Yr2	Yr3	Yr4
Property investment	Opportunities to generate more funding for the Council from commercial property investments	In-borough linked to regeneration and place shaping opportunities	X	X	X	X
Regulatory Services	Selling advice and guidance to businesses to support them through regulation (eg Environmental Health), licencing and better business	Small scale to begin with to develop a one stop shop service offer based around businesses not services		X	X	X
Regulatory Services	Primary Authority opportunities	Identified a few businesses with HQs in the area and offer a small-scale service		X	X	X
Planning pre-app advice & planning performance agreements	Provide greater added value to developers in shaping proposals that meet Council policy and aspirations	Creating a menu of added value services for developers that align with Council priorities	X	X	X	X
Higher Needs	Development of a holistic higher needs offer based around the Wellbeing Centre	Increase the capacity of the building, increase usage and then develop wrap around services		X	X	X
Parks	Leasing for events and shows and licencing for fitness, use for filming etc	Understanding the market of large scale event operators and developing relationships		X	X	X
Advertising	Increasing the number of available advertising spaces and increasing yield from them	Direct selling to local businesses		X	X	X
House clearances	House clearance and removal of bulky items from inside	Service currently asked for and would use existing civic amenity collection vans	X	X	X	X

Commercial area	Overview	Focus	Yr1	Yr2	Yr3	Yr4
	house as well as from outside					
Grounds Maintenance	Commercial grounds maintenance	Win one commercial contract and build from there	X	X	X	X
Building Control	Increasing income and market share	Assertive marketing and updated working practices to increase and retain market share	X	X	X	X
Trade Waste	Increasing market share	Assertive marketing to increase market share and better understanding of the business case	X	X	X	X
Existing Council property assets	Review the most effective use of assets	Increase income and decrease costs including working with partners who have particular commercial expertise.			X	X
Car Parks	Identify space for new or expanded car parks	Business case for new commuter car park and business case for expansion of existing car parks.		X	X	X
Venues	Maximise utilisation of existing venues	Effective marketing, sales and web site development as well as exploring more partnership opportunities	X	X	X	X

8 Action Plan - supporting actions for 2018/19

- 8.1 Take a report to Strategy and Resources Committee to seek approval to the overall approach.
- 8.2 Establish a project board, chaired by the Chief Operating Officer and supported by the Chief Finance Officer to oversee delivery of each element of the work programme.

- 8.3 Recruit to the marketing post proposed in the 2018/19 budget to underpin the work needed to maximise current and future market opportunities described above.
- 8.4 Begin work on the market analysis that will inform the borough profile and future market opportunities.
- 8.5 Begin the process of reviewing key policies including the scheme of delegation, financial regulations, procurement regulations etc, to ensure that they enable the Council to operate more effectively in a commercial environment, while providing the appropriate safeguards and governance.
- 8.6 Develop the commercial knowledge and skills of staff through a programme of training and workshops, targeting those services that could benefit most.
- 8.7 Develop business cases for each opportunity including an analysis of the market and identification of any skills or knowledge issues that need to be addressed
- 8.8 Build in prudent and measured assumptions regarding income growth into the Council's Medium Term Financial Strategy taking into account appropriate contingencies. .
- 8.9 Embed the Councils income generation and enterprise plan into the Councils performance management and service delivery arrangements ensuring that there are positive expectations expressed in learning and development plans and individual staff appraisals.

9 Partnerships

- 9.1 The Council will draw on best practice from other parts of local government and from the private sector, and will explore more formal partnership and commissioning arrangements as appropriate.

10 Financial and Manpower Implications

- 10.1 **Chief Finance Officer's comments:** *The proposed Income Generation and Enterprise Plan is the outcome of workshops held in December 2017 between EEBC officers and a consultant from the Local Government Association (funded by the LGA).*
- 10.2 *The Medium Term Financial Strategy shows that the Council will face a projected budget gap of £0.6m by 2020/21. The Income Generation and Enterprise Plan is an important step to addressing this gap.*

11 Legal Implications (including implications for matters relating to equality)

- 11.1 There are no legal implications arising from the contents of this report.

- 11.2 **Monitoring Officer's comments:** *There are no comments arising from the contents of this report.*

12 Sustainability Policy and Community Safety Implications

- 12.1 The positive and pragmatic approach to income generation and enterprise, is all about making the Council's operations more sustainable and generating enough resources to enable the Council to better deliver what residents and Members want. This includes being able to do more to ensure that Epsom and Ewell remains one of the safest places in the country.

13 Risk Assessment

- 13.1 There are inevitable risks associated with taking a more enterprising approach, seeking to embed this within the culture of the organisation and where the delivery of day to day services will have to rely more and more on external income sources. However, all of these risks can be effectively managed and mitigated.
- 13.2 Avoiding taking a "big bang approach", but instead progressing pragmatically and progressively, learning from each opportunity and being realistic from the outset that not every commercial opportunity that is progressed will automatically be successful.
- 13.3 Building on the knowledge, skills and passion of staff, rather than imposing something completely new or alien and recognising that the vast majority of Council staff are motivated by delivering value to customers and making a difference in the local community, rather than being focused on income generation alone. This is why the approach set out in this paper deliberately contributes to core public service values and provides an opportunity to provide more of what customers want and need.
- 13.4 The approach set out in this paper also recognises that unlike traditional sources of income, commercial income can be variable over time, increasing some years and decreasing in other years. To mitigate this risk, it is important that the Council does not become over-reliant on any one source of income, and that it builds in sufficient contingencies to smooth out the ups and downs in demand and income, and would provide enough time for the Council to respond effectively to such changes.

Ward(s) Affected: (All);

Allocation of Local Spending Element of the Community Infrastructure Levy (CIL 15%)

Report of the:	Head of Corporate Governance
Contact:	Gillian McTaggart
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annexe 1 – Draft CIL 15% Criteria Scoring Matrix
Other available papers (not attached):	Regulation 123 List

Report summary

This report proposes a process to determine the governance system for allocating the local spending element of the Community Infrastructure Levy (CIL 15%).

Recommendation (s)

That the Committee agree:-

- (1) An interim proposal for the governance arrangements of the CIL 15% (local spend) for 2018/2019 through two funds, Community Infrastructure Fund and the Borough Investment Fund as outlined in section 3 of this report.**
- (2) To the establishment of a Panel to evaluate and agree bids comprising of the Chairman of Strategy & Resources Committee, Chairman of Community & Wellbeing Committee and one additional member from the Strategy & Resources Committee and to agree substitutes.**
- (3) That authority be delegated to the Head of Corporate Governance to agree the projects to be awarded funding from the Community Infrastructure Fund based on the recommendations from the Panel**
- (4) That a further report be brought back to the Committee by April 2019 to determine a permanent scheme for the governance arrangements of CIL 15%.**

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 The monies collected from the Community Infrastructure Levy supports the delivery of strategic and community infrastructure across the Borough

to support sustainable growth as set out in planning policies with benefits to the community.

2 Background

- 2.1 The Community Infrastructure Levy (CIL) is a tariff in the form of a standard charge for developments. It is based on floor space to reflect the size, type and location of a new development to help fund infrastructure.
- 2.2 CIL replaces some of the previous S106 agreements however those will still exist to deal with the provision of affordable housing. The Council adopted a CIL charging policy on 1 July 2014. The Council have responsibility as both the charging and collecting authority for developments taking place in the Borough. The CIL regulations require us to allocate an element of the CIL to local projects for infrastructure.
- 2.3 Within the Council the distribution of CIL funding is broken down as follows:-
 - 80% infrastructure
 - 15% local spending
 - 5% administrative costs
- 2.4 Guidance provides that local authorities must allocate at least 15% of levy receipts to spend on priorities that should be agreed with the local community in areas where development is taking place. This 15% is often referred to as the 'neighbourhood portion' of the levy. The government does not prescribe a specific process for agreeing how the neighbourhood portion should be spent, but will expect a process of engagement with the communities where development has taken place and to agree with them on how best to spend neighbourhood funding.
- 2.5 Charging authorities are required to set out clearly and transparently their approach to allocation of funding and these should match priorities that have been identified. They are expected to use existing community consultation and engagement processes such as neighbourhood groups and networks already in place by its members.
- 2.6 5% of the total CIL receipt can be used for administrative purposes. The CIL regulations allow for a "rolling cap" on administration expenditure for the first three years of operation. This will be used to fund the post of an administrator for the process. This will initially be a fixed term contract for two years.
- 2.7 The Council have a growing balance of the 15% element and there is now an opportunity to allocate this funding in the coming year to deliver highly valued, key capital projects to the community.

- 2.8 As at the 31 March 2018, the Council has received £5,232,084. The unallocated balance for local spend is £784,813
- 2.9 The Council will continue to incorporate the spend of the 80% of the CIL collected through the annual capital programme and the Joint Infrastructure Group (JIG) to agree priorities of spend as identified in the Regulations 123 List.

3 Borough Investment Fund

- 3.1 It is proposed to reactivate and expand the former Civic Investment Fund (CIF), to be renamed the Borough Investment Fund (BIF).
- 3.2 The Civic Investment Fund was initially established in 2014 after the Council secured money from the government for high street innovation. The fund finished in early 2016. A new Borough Investment Fund will be established and the current guidance will be adapted for funding projects. This fund will be run along similar lines to the previous fund and will focus on smaller public realm improvements.
- 3.3 £100,000 will be allocated to the Borough Investment Fund.
- 3.4 Requests to this fund can be made throughout the year.
- 3.5 The minimum bid will be £10,000.

4 Community Infrastructure Fund

- 4.1 It is proposed to introduce a new Community Infrastructure Fund, eventually enabling communities, supported by Councillors to bid for funding for projects in their area.
- 4.2 As the funds within the local spend element are growing there is a need to commence the process. Following initial discussions, the preferred approach was to have an interim arrangement in place for 2018/19 in order that some key projects could be commenced and the community could benefit from some of the funds collected. Further work could then be undertaken to assess the most appropriate mechanism to allocate the CIL 15% in future years.
- 4.3 A simplified protocol will be operated in 2018/19 that will be enhanced in year 2. This will enable the Council to have a positive impact on the community by allocating monies to the agreed schemes through a process that is easy to administer and govern.
- 4.4 £250,000 will be allocated for priority projects in 2018/19. These will be allocated based on priority as set out in the attached Matrix (**Annexe1**). Additional guidance notes, application forms and a business case template will be available.

- 4.5 In the interim year, bids may be made by Councillors and must be a minimum bid level of £10,000.
- 4.6 The monies must be spent on infrastructure. Infrastructure has a broad definition and includes transport, flood defences, schools, health facilities, sporting & recreational facilities and open spaces. The Council has defined its spend within the Regulation 123 List.
- 4.7 Bids must be received no later than 15 June.
- 4.8 For 2018/19 a Member Panel will review all bids against the matrix and determine the agreed projects (paragraph 4.12 refers)
- 4.9 With the benefit of information learnt from the interim year, a report will be brought back to the committee in April 2019 to outline future arrangements and recommend a permanent approach. This will provide time to review the methodology and recommend a scheme which includes bids from the community.
- 4.10 A CIL Co-ordinator post will be funded from the CIL 5 % administrative costs budget. Going forward the CIL Co-ordinator will co-ordinate and review all bids for submission to the Panel
- 4.11 There will be a briefing session for members on how the system will operate and what the money can be spent on. Councillors may ask for advice in putting together a bid but they cannot ask officers to complete the business case or complete the paperwork.
- 4.12 For 2018/19, the decision making Panel will comprise the Chairman of Strategy & Resources, Chairman of Community & Wellbeing and an additional member from Strategy & Resources Committee. If a member of the Panel is unavailable, or has submitted a funding bid, a substitute will attend. Substitutes will be the Vice Chairman of Strategy & Resources and another member of the Strategy & Resources Committee.

5 Financial and Manpower Implications

- 5.1 5% of the CIL receipts will be used to fund a CIL Co-ordinator post for a fixed two-year period.
- 5.2 **Chief Finance Officer's comments:** *A CIL Co-ordinator post has been created to assist in the administration and support of the proposed arrangements for CIL, the post has been funded for 2 years from the 5% admin element of CIL receipts.*
- 5.3 *The uncommitted balance of the administration element of CIL available to fund this post stands at £76,846. The Co-ordinator post will cost up to £60,000 for the 2-year period and can be met from these funds.*

- 5.4 Applying these funds to finance this post complies with the 5% admin element as already mentioned earlier in this report, which is provided to assist the Council in administering CIL.

6 Legal Implications and Monitoring Officers comments

- 6.1 The Localism Act (2011) and the CIL regulations set out how the levy must be spent and accounted for, how much can be retained for administration and the procedures for enforcement.
- 6.2 The Council are required to annually publish:-
- 6.2.1 CIL receipts
 - 6.2.2 The spend on any strategic funding, allocation to any neighbourhoods and the amounts allocated to cover administration costs.
 - 6.2.3 Any balances unspent to be carried forward into the following year.

7 Sustainability Policy and Community Safety Implications

- 7.1 There are no specific issues for the purposes in this report.

8 Partnerships

- 8.1 There are no specific issues for the purposes in this report.

9 Risk Assessment

- 9.1 If a mechanism is not agreed for allocating CIL monies, they cannot be spent on providing community benefits.
- 9.2 A correct mechanism will ensure that there is adequate governance in place and that monies can be allocated fairly for the greatest benefit on infrastructure projects. This will also ensure there is a monitoring process in place to track progress and monitor what is spent.

10 Conclusion and Recommendations

That the Committee agree to:-

- 10.1 An interim arrangement for the allocation of CIL local spending, delivering £100,000 into the Borough Investment Fund and £250,000 into the Civic Infrastructure Fund in 2018/19
- 10.2 The use of the 5% administrative fee to fund the post of a CIL Co-ordinator.
- 10.3 The establishment of a Member Panel consisting of Chair of S&R, Chair of Community & Wellbeing and an additional member of S&R.
- 10.4 That the Head of Corporate Governance be delegated authority to award funding from the Community Infrastructure Fund.

- 10.5 A report being brought back to the Committee in April 2019 with details of the permanent methodology for future years and an update of the monies spent in 2018/19.

Ward(s) affected: (All Wards);

CIL 15% Criteria Scoring Matrix

CIL 15% EVALUATION CRITERIA			
APPLICANT			
LOCATION OF THE PROJECT			
AMOUNT OF CIL FUNDING REQUESTED			
TOTAL COST OF THE PROJECT			
	Y	N	Pass/Fail
Is the project within the Borough?			
Does the project have a defined business case?			
Is the amount requested for infrastructure costs and meets Council criteria?			
Does the project clearly specify benefits to the wider community in Epsom & Ewell?			
Does the project contribute to Council priorities?			
Has the application been correctly signed?			
Does the scheme have planning permission or is it in a position to apply immediately?			
Does the project meet the infrastructure Delivery Plan requirements?			
If the project have any on-going revenue costs, do the documents clearly show how these will be met?			
DECISION MADE TO PROGRESS TO FULL EVALUATION			

CIL 15% Criteria Scoring Matrix

Criteria	Weighted Score	Excellent	Good	Acceptable	Marginal	Poor
		5	4	3	2	1
Contribution to Council's key priorities	20	Strong link to the delivery of the council's priorities	Good overall link to the delivery of council priorities	Acceptable link to the Council priorities	Very little direct link to key priorities	No contribution to the Council's key priorities
What are the initial benefits to the community	20	There are clear robust defined benefits that are provided and can be measured	There are good defined benefits to the community	There are specified and defined benefits to the community	The benefits are limited	No benefit identified or evidenced to the community
What are the wider benefits to the community	15	There are several defined /measureable benefits to the wider community that have been provided	There are some defined /measureable benefits to the wider community that have been provided	There are limited defined /measureable benefits to the wider community that have been provided	There are some benefits but they have not been defined	There appears to be no wider benefits to the community
Can the project be delivered within 2018/19	10	Extremely likely	Highly likely	Likely	Likely with some potential issues	Not likely

CIL 15% Criteria Scoring Matrix

Criteria	Weighted Score	Excellent	Good	Acceptable	Marginal	Poor
		5	4	3	2	1
Does the project have a clear business case which is fully completed	20	Robust business case with all information submitted	Good business case with no information missing	Acceptable business case but some limitations	Business Case missing key elements	Business case unacceptable
% of the funding applied (other sources must be confirmed)	5	Less than 50% of the funding the project is required and the other % fully confirmed	50 to 99% of funding requested but all additional funding in place and confirmed	100% of the funding is required	50-99% Part funding is required but the other sources are not confirmed or agreed	Other sources of funding not confirmed or not clear
Has the project received any previous CIL funding	5	No previous funding sought. Clearly specified	n/a	Some CIL funding received but not significant amount / relates to another element of the project	n/a	Previous funding achieved and t not considered eligible

CIL 15% Criteria Scoring Matrix

Criteria	Weighted Score	Excellent	Good	Acceptable	Marginal	Poor
		5	4	3	2	1
Have the revenue costs been calculated and money available to support the project on-going	5	No on-going revenue costs or All ongoing revenue costs are clearly mapped and funding obtained. No concerns	Minimal revenue costs / Clear funding shown in the business case Little concern	Some revenue costs but they appear minimal and will not fall to the council Some concerns	Lack of clarity about ongoing costs/ Revenue costs appear incorrect Major concerns	The revenue costs are unknown and have not been considered Significant concerns
Maximum Weighted Score	100					

Utilisation of CIL Balances

Report of the:	Chief Finance Officer
Contact:	Sue Emmons
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annexe 1: Regulation 123 List of Infrastructure Types
Other available papers (not attached):	Report to Council February 2015 Report to Council February 2016 Report to Financial Policy Panel December 2017 Report to Strategy & Resources February 2018 Infrastructure Delivery Plan April 2013

Report Summary

This report seeks approval of the use of Community Infrastructure Levy (CIL) funding to finance two infrastructure projects; the expansion of Epsom Cemetery and extending the life of Lower Mill Pond Weir (completed in 2016/17).

Recommendation (s)

That the Committee approves the use of CIL funds to finance the projects detailed in this report.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

1.1 The Council's Medium Term Financial Strategy includes the following in regards to investment in services:-

- Maximise the use of external funding opportunities to deliver improvements to the community infrastructure, including affordable housing.
- Maintain a minimum uncommitted level of capital reserves of £1 million at 31 March 2018.

2 Background

- 2.1 The Council introduced the Community Infrastructure Levy (CIL) on 1 July 2014. The Council has convened the Joint Infrastructure Group (JIG), comprised of Borough Council Members, Surrey County Council Members, Borough Council Officers and representatives from our infrastructure partners to help determine how funds collected through CIL should be distributed.
- 2.2 The Capital Programme 2018/19 report to the Strategy & Resources Committee in February 2018 confirms that once the commitments in the 2018/19 to 2019/20 Programme have been financed, the balance of capital receipts reserve will stand at £2.16m. In order to protect the level of capital receipts available to fund future needs, where legitimate infrastructure projects are prioritised within the Capital Programme, the use of CIL funding to finance these schemes should be investigated.
- 2.3 The Council has received funds from CIL totalling £5.23 million as at 31 March 2018. This is divided into three pots, 80% for strategic local infrastructure projects; 15% as a Local Fund; and a 5% monitoring fee. £476k of the strategic infrastructure pot has been committed to Plan E, leaving a balance of uncommitted funds of £3.71m.
- 2.4 The Joint Infrastructure Group met on 6 February 2018 and supported the use of £771k of CIL monies to fund two strategic infrastructure projects, Epsom Cemetery Extension and Lower Mill Weir. Both schemes are in accordance with the Council's Regulation 123 list, which details which types of infrastructure can be funded by CIL, and detailed within the local Infrastructure Delivery Plan.

3 Epsom Cemetery Extension

- 3.1 The Cemetery Extension project was agreed by Full Council in February 2016 as a priority and included in the Capital Programme, as recommended by Capital Members Group. A sum of £654k from capital receipts was agreed to fund the project. The prioritisation of this project has therefore already taken place, this report is seeking agreement to swap the funding source to CIL monies to preserve the capital receipts balance and therefore the capacity of the Council to undertake future capital works.
- 3.2 There is an update report on the Cemetery Extension project on the same agenda as this report.

4 Lower Mill Weir Improvements

- 4.1 In February 2015 Full Council agreed the Lower Mill Weir Improvements project as a priority and included it within the Capital Programme. The project was completed in 2016/17 and funded by £117k from capital receipts. This report seeks agreement to swap the funding source to CIL monies to preserve the capital receipts balance and therefore the capacity of the Council to undertake future capital works.

5 Financial and Manpower Implications

- 5.1 The current balance of uncommitted funds held for local infrastructure is £3.71 million. This report is recommending the utilisation of a total of £771k of CIL monies which would reduce the balance to £2.94 million. Another report on the same agenda is seeking an additional £60k of CIL funding for additional paving works which complement Plan E. If the allocation of that sum is agreed the balance of uncommitted funds will stand at £2.88m.
- 5.2 The forecast balance of uncommitted capital receipts as at 31 March 2018 is £3.1 million. After financing the projects in the Capital Programme 2018/19 and £250k committed to date for 2019/20, the balance will stand at £2.16 million. Further projects identified as priorities for the 2019/20 Capital Programme will reduce this balance further. The Medium Term Financial Strategy requires the Council to maintain a minimum balance of uncommitted capital receipts of £1 million.
- 5.3 In February 2018 the Joint Infrastructure Group supported the proposal to use CIL funding for these schemes.
- 5.4 Both infrastructure projects detailed within this report will have ongoing maintenance requirements the cost of which will be met from existing Council revenue budgets.
- 5.5 **Chief Finance Officer's comments:** *All financial implications have been included within the body of this report.*

6 Legal Implications (including implications for matters relating to equality)

- 6.1 The community infrastructure levy is a tool for local authorities to help deliver needed infrastructure within their area. The money can be used to fund a wide range of infrastructure needed to support new development within the Borough, and is not restricted to the location where the money is raised.
- 6.2 Government guidance states "Charging authorities should think strategically in their use of the levy to ensure that key infrastructure priorities are delivered to facilitate growth and the economic benefit of the wider area."
- 6.3 **Monitoring Officer's comments:** The CIL Regulations require CIL monies to be used to fund strategic infrastructure. Although the CIL regulations broadly define 'infrastructure', they do not specify the type of infrastructure the planning authority can fund.

7 Risk Assessment

- 7.1 The main risk is that if CIL funds are not used to finance these projects the balance of capital receipts will be £771k lower. This would limit the Council's ability to fund future investment in its assets.

- 7.2 There is a risk that using CIL to fund these two infrastructure improvements will reduce the CIL available for potentially larger, higher priority infrastructure improvements that may arise in future, as the population rises and the emerging Local Plan is implemented. Current growth projections are likely to require significant investment in transport and education infrastructure. Separate funding streams are available to deliver these improvements, but are likely to be dependent upon the deployment of CIL to match or lever them in.

8 Conclusion and Recommendations

- 8.1 The Joint Infrastructure Group has supported the substitution of CIL monies for capital receipt funding of these two projects. They fall within the definition of infrastructure and are in accordance with the Council's Regulation 123 list and Local Infrastructure Plan. The use of CIL monies to fund these schemes protects the Council's capital receipts balance and therefore enables future capital investment to support Council priorities.

Ward(S) Affected: (All Wards);

Regulation 123 List of Infrastructure Types to be funded by CIL

Types of Infrastructure to be funded in whole or in part by CIL

Transport improvements –excepting site specific matters needed to make a development proposal acceptable in planning terms. These site specific matters can include but are not limited to highway crossovers to access the site and local road junctions, deceleration and turning lanes, measures to facilitate pedestrian and cyclist access, and lighting and street furniture. This may also include additional mitigation measures remote from the development site where the need for such work is identified and supported in a Transport Impact Assessment.

Green Infrastructure including but not limited to improvements and provision of public open space (including buildings and facilities ancillary to that open space use); allotments; tree, hedgerow and other landscape planting; biodiversity enhancements; and flood risk mitigations measures –excepting site specific matters needed to make a development proposal acceptable in planning terms. These site specific matters can include but are not limited to site specific landscaping, flood mitigation/ SuDS, sustainable design features such as green/ brown roofs, and site specific biodiversity enhancements such as bird/ bat bricks.

Public realm improvements (including but not limited to Town and Local Centre improvements)

Community facilities (community centres and meeting places but excluding places of worship; voluntary sector meeting places and privately operated cultural facilities)

Leisure facilities

Education facilities

Library services

Healthcare facilities

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Funding for Paving in front of The Playhouse

Report of the:	Interim Head of Planning
Contact:	Viv Evans
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annexe 1: Plan of proposed area to be paved – Surrey County Council Drawing no. SP0007-0006 – “Construction Drawings Playhouse Junction – Playhouse Footway Area”
Other available papers (not attached):	Report to, and Minutes of, Strategy and Resources Committee, 27 June 2017.

Report summary

This report seeks approval for an additional contribution of £60,000 to extend new paving across the Borough Council owned forecourt to the Playhouse and the adjacent footway in order to improve the quality and appearance of the public realm in this area and enhance the approach to the theatre.

Recommendation (s)

That the Committee approve the allocation of £60,000 of Community Infrastructure Levy funding for the paving of the Playhouse forecourt and adjacent footway (the area indicated on the attached plan) to a specification matching that in South Street and around the Playhouse Junction.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Delivery of the Plan E highways scheme is a key part of the Borough Council's Plan E Town Centre Area Action Plan. It supports the Council's key priorities.
- 1.2 It will deliver substantive operational, safety and visual improvements to the Western part of the town centre and thereby enhance the vitality and viability of the town centre in a period of uncertainty in the retail sector nationally.

- 1.3 Additional investment in the area of the Playhouse will further enhance the town centre and specifically improve the approach to the building and its appearance to passers-by.

2 Background

- 2.1 The background to funding for the Plan E highway and public realm improvements is set out in the Strategy and Resources Committee report and minutes from the meeting held on 27 June 2017.
- 2.2 There are no changes to the funding of the scheme since that report was considered and Members decided not to make any additional contribution at that time.
- 2.3 The area in front of the Playhouse is mostly in Borough Council ownership although the footway adjacent to the road is part of the public highway. Inclusion of this area in the Plan E highway and public realm improvements was not part of the original Surrey County Council scheme.
- 2.4 The existing paving is in a poor state and has become uneven and cracked. The falls are no longer as originally laid and this results in puddling. The overall appearance is “tired” and does not set-off the theatre in the best light at a time when the Playhouse is likely to be in the spotlight with the Satisfied Eye International Film Festival set to take place there in October. There is an opportunity, whilst contractors are on site improving the public highway, to rebuild the forecourt in a specification consistent with the new highway works and to continue this up to the kerb-line to achieve a “seamless” appearance.

3 Proposals

- 3.1 The proposal is to use the same materials and specification as agreed for the rest of the town centre works, using concrete blockwork laid on sand and constructed with a sub-base sufficient to withstand use over a long period.
- 3.2 The area proposed to be added is shown on the attached plan. At present it is agreed that the Plan E works would come up to and include the new Ashley Avenue crossing point. It was not, however, envisaged that it would continue along Ashley Avenue whereas the extent now shown on the attached drawing carries the paving of the highway along to the pedestrian entrance to the Ashley Centre car park and “washes” right up to the façade of the Playhouse.
- 3.3 The existing uneven concrete slabs would be entirely removed, the sub-based re-laid and the surface finished in concrete blockwork using the “Woburn Original” rustic red blend agreed for the rest of the town centre and already partly laid in South Street. Brass studs would be fixed to delineate the boundary between the public highway and the Borough Council’s land.

- 3.4 The proposed works would be laid to fall correctly to gullies that will carry surface water away and the patterning of the blockwork would be laid in a pattern indicated on the attached drawing.
- 3.5 The design will respect, retain and work around the existing sculpture and tree.
- 3.6 In view of the pending film festival, Surrey County Council would be requested to undertake the works prior to this event.

4 Financial and Manpower Implications

- 4.1 There are existing uncommitted funds available from the Community Infrastructure Levy (CIL). However, given the scale of infrastructure demand in the Borough, the funding should be carefully allocated according to the priorities identified in the Infrastructure Delivery Plan. Plan E is already a commitment from CIL and the highway and public realm works associated with the Borough's Town Centre Area Action Plan are among the top priorities already identified.
- 4.2 The allocation of an additional £60,000 to Plan E would not significantly prejudice the delivery of any other priorities and would enable a significant improvement to a scheme that already qualifies for the use of CIL.
- 4.3 **Chief Finance Officer's comments:** *The Council holds funds from CIL totalling £5.23 million as at 31 March 2018. This is divided into three pots, 80% for strategic local infrastructure projects; 15% as a Local Fund; and a 5% monitoring fee. £476k of the strategic infrastructure pot is already committed to Plan E; allocating an additional £60,000 would leave an uncommitted balance in the strategic infrastructure pot of £3.65m.*
- 4.4 *Another report on this agenda is seeking approval to use £771k of CIL funding for two further infrastructure schemes, Epsom Cemetery Extension and Lower Mill Weir. If that funding is agreed, this will further reduce the uncommitted fund balance to £2.88m.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The County Council will need to secure the Borough Council's consent to undertake work on the Borough Council's land.
- 5.2 **Monitoring Officer's comments:** *The funding for the proposal meets the CIL requirements. Consent to carry out works will need to be granted to the County before works are carried out.*

6 Sustainability Policy and Community Safety Implications

- 6.1 None for the purposes of this report

7 Partnerships

- 7.1 The overall Plan E highway and public realm improvements have been conceived and designed in partnership with Surrey County Council who are the principal partners and responsible for delivering the scheme. Funding has been provided by Coast to Capital Local Enterprise Partnership.
- 7.2 The works to the town centre have been developed as part of Plan E Town Centre Area Action Plan in consultation with the local business community and all key stakeholders in the town centre. They are part of the Borough Council's commitment to improving the town centre for the benefit of all.

8 Risk Assessment

- 8.1 The consequence of not proceeding with the re-paving are that the poor quality of the existing paving may eventually harm the prospects for the Playhouse, impair the reputation of the Council and result in safety hazards to users.
- 8.2 The implementation of the works could cause minor disruption to the operation of the Playhouse in the short-term but this can be managed and any low-level harm to the business will be greatly outweighed by the longer-term benefits.

9 Conclusion and Recommendations

- 9.1 The Playhouse forecourt needs to be re-paved at some time in the near future and this has been brought into sharper focus with the film festival set to take place there in October. There is sense in carrying out the work whilst contractors are engaged on the adjacent highway and designing it to blend with the new refreshed public realm in the town centre. The funding is available from CIL and commitment of £60,000 for this purpose would be a sound investment in the fabric of the town and in the future of the Playhouse; a valued community asset.

Ward(s) affected: Town Ward;

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Community Safety and Enforcement Plan

Report of the:	Chief Operating Officer
Contact:	Damian Roberts
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	None
Other available papers (not attached):	None

Report Summary

This report sets out a proposal for a more effective and coordinated approach to the Council's community safety role, including tackling antisocial behaviour and environmental crime in the borough.

Recommendation (s)

- (1) To approve the approach set out in this paper to deliver a more effective and coordinated approach to the Council's community safety role.
- (2) To delegate to the Chief Operating Officer in consultation with the Chair of Strategy and Resources authority to seek external funding on behalf of the Council to help underpin this work.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 The proposals set out in this report will contribute to the delivery of the Council's corporate priorities including helping to protect the local environment and providing a more effective response to environmental crime and antisocial behaviour that will enhance public confidence. It also contributes to achieving greater value for money.

2 Background

- 2.1 As one of the safest places to live in the country, Epsom and Ewell enjoys relatively low levels of crime and antisocial behaviour. However, when these issues do occur, they are usually highly visible, create significant public concern and if not addressed at an early stage, can attract further, more serious problems.

- 2.2 These concerns can include litter, flytipping, environmental nuisance such as damage to communal green spaces, poorly maintained front gardens, and the use of some premises for inappropriate activities that cause anti social behaviour.
- 2.3 The Council already had an important role in dealing with antisocial behaviour and environmental nuisance and has the opportunity to draw on a range of statutory powers to help tackle this.
- 2.4 It is interesting to note how many different Council functions have an important enforcement role, these include:
- 2.4.1 Environmental Health (statutory nuisance)
 - 2.4.2 Food Safety
 - 2.4.3 Licencing
 - 2.4.4 Private Sector Housing
 - 2.4.5 Planning Enforcement
 - 2.4.6 Community Safety
 - 2.4.7 Operations (environmental street scene including dealing with litter)
 - 2.4.8 Rangers
 - 2.4.9 On-street and off-street Parking Enforcement
 - 2.4.10 Building Control (building structures)
 - 2.4.11 Legal team
- 2.5 It is proposed that the Council takes an evidence based approach to shaping its enforcement and community safety role. This includes accessing local intelligence and making the most of the significant local knowledge and community contacts that both staff and members have across the borough. This will ensure that the Council's actions are proportionate, are targeted in the right area, and reflect the genuine concerns of the local community.
- 2.6 The following table sets out some initial analysis of just 5 areas of environmental crime/anti-social behaviour in the borough. This highlights in particular the significant increase in concerns about flytipping and noise complaints.

Year	Fly tips	Litter reports	Dog Fouling	Noise complaints	Graffiti
2014-2015	401	602	64	489	148
2015-2016	758	705	106	319	110
2016-2017	920	486	59	334	124

- 2.7 Although the analysis necessarily highlights each concern separately, in many cases these different types of anti-social behaviour and environmental crime happen simultaneously in the same location. For example, a licensing issue related to drinking, may also be linked to increased concerns about food hygiene, and further concerns about noise and litter outside the premises. Each of these would rely on input from separate functions within the Council and could be much more effective if properly co-ordinated.

3 Proposal

- 3.1 There is an opportunity to strengthen the Council's existing enforcement and community safety role in a number of ways. This would enable the Council to:
- 3.1.1 Ensure that staff are properly trained and have the right processes in place to make use of the enforcement powers available to them, and to use them appropriately and effectively
 - 3.1.2 Identify additional powers that the Council may wish to utilise, including extending the use of Public Space Protection Orders and extending the use of Fixed Penalty Notices.
 - 3.1.3 Take a more coordinated approach to the Council's enforcement role, drawing on the input of relevant services, the Police and other statutory agencies in order to deliver a more effective and targeted approach.
 - 3.1.4 Consider how the Council may wish to improve its positive visibility within the community when undertaking enforcement activities, including the use of high visibility clothing with Council's branding, which is consistent across all enforcement functions.
 - 3.1.5 Help reduce the incidence of litter, flytipping, graffiti, and environmental nuisance such as poorly maintained gardens, damage to public green spaces, and use of premises for anti-social related activities etc
 - 3.1.6 Make greater use of local intelligence to identify current and emerging hot spots, including making more of the local knowledge of Ward Councillors, enabling earlier and better targeted enforcement activity and greater alignment to concerns felt in the community.
 - 3.1.7 Promote the Council's enforcement successes, including successful prosecutions, to help grow public confidence and deter future offenders.
 - 3.1.8 Identify any gaps in resources or access to specific enforcement powers, and access external funding where possible to help underpin the Council's approach.

4 Benefits of this approach

- 4.1 There are significant additional benefits of taking a more coordinated and targeted approach to enforcement and community safety, namely:
- 4.1.1 Better value achieved from the Council's existing enforcement functions by taking a more joined up approach.
 - 4.1.2 Greater knowledge and skills of officers in utilising existing and new environmental and anti-social behaviour legislation.
 - 4.1.3 More targeted, intelligence led approach – maximising the impact that can be achieved from the resources available.
 - 4.1.4 More confident and stronger engagement with the Police and other agencies about the Council's expectations.
 - 4.1.5 Higher visibility of the Council in keeping Epsom and Ewell "clean and green", "supporting our community", and supporting businesses and our economy".
 - 4.1.6 Increased enforcement action being taken and associated income which can be reinvested back into Council services.
 - 4.1.7 Successful reduction in incidents of anti-social behaviour and environmental offending, particularly in those hotspots where intervention by the Council has not succeeded in the past.
 - 4.1.8 Better trained staff, with greater multi skilling and greater scope to contribute across a wider range of areas.
 - 4.1.9 Higher satisfaction from local residents and businesses.

5 Formal arrangements for multi-agency working

- 5.1 There is an existing arrangement for carrying out the Council's statutory functions in relation to community safety and enforcement. This includes the **Community Safety Partnership for Epsom and Ewell**, operated across the East Surrey Councils attended by the Council, the Police and other statutory agencies. This group maintains an overview of crime and disorder, anti-social behaviour across the wider area and engages in the development of future policy.
- 5.2 There is also an existing operational arrangement, the **Joint Action Group (JAG)** which has an important role in coordinating a multi agency response to complex cases.
- 5.3 In seeking to strengthen the Council's approach to both these groups the following is proposed:

- 5.3.1 A formal member appointment is made to the East Surrey Community Safety Partnership as part of the appointments agreed each year at the Annual Council meeting.
- 5.3.2 The Council will take greater ownership of the **Joint Action Group**, ensuring that its operational focus reflects Council priorities and ensuring that the Council is formally represented at Head of Service level to ensure that there is proper coordination of the Council's input from across all relevant enforcement functions.
- 5.3.3 To develop proposals for a Joint Enforcement Team (JET) type approach that reflects the priorities for Epsom and Ewell which are set out in this report.

Opportunity for external funding

- 5.4 A lot of progress can be made without the need for additional resources. However, some up-front investment would certainly help in accelerating what can be achieved. For example, additional funding could be utilised for:
 - 5.4.1 Training and the development of procedure guides for staff
 - 5.4.2 Uniforms with consistent high visibility corporate branding
 - 5.4.3 Equipment such as upgrading existing CCTV cameras, purchasing new portable CCTV cameras, noise monitoring equipment and appropriate signage etc
 - 5.4.4 Printing of warning and enforcement notices
 - 5.4.5 Vehicle livery to increase the visibility and branding on vehicles used on enforcement activities.
 - 5.4.6 Extending the use of body worn cameras (currently being piloted by carparking enforcement)
- 5.5 From discussions with the Borough Inspector, it appears that there may be some one-off funding available from the Police and Crime Commissioner's Office for **Joint Enforcement** work that could be used to help pump prime the Council's new approach. A funding application, aligned to Members' aspirations, could be made based on the approach to strengthening enforcement and community safety set out in this report.

6 Proposed actions for 2018/19

Governance

- 6.1 On-going committee ownership of the community safety and enforcement plan will be determined through a piece of work being coordinated by the Council's Chief Legal Officer. It is expected that this will be resolved in May this year.

- 6.2 Nominate the Council's formal representative on the East Surrey Community Safety Partnership at the forthcoming Annual Council meeting.
- 6.3 Nominate the Head of Housing & Community Services be the Council's lead officer on the local Joint Action Group.
- 6.4 An officer board is established to coordinate the operational delivery of this plan chaired by the Chief Operating Officer with representation from relevant enforcement services

Resources

- 6.5 Work is underway to explore how available resources could be used more effectively to underpin and support this work.
- 6.6 Prepare an application to access potential one off funding from the Police and Crime Commissioners Office.

Intelligence

- 6.7 Undertake a base line study of anti social behaviour and environmental crime in the borough to identify trends and hot spots that can be used as evidence base to guide this work
- 6.8 Work with the police and other relevant statutory agencies to facilitate a greater sharing of information and intelligence to facilitate the more effective targeting and response to anti social behaviour and environmental crime in the borough.

New powers and processes and tools

- 6.9 Review the range of powers available to the Council and bring forward proposals eg for Public Space Protection Orders and any other additional enforcement tools that Council services wish to make use of in tackling anti-social behaviour and environmental crime..
- 6.10 Bring forward a new protocol for ensuring that there is an effective response to unauthorised encampments.
- 6.11 Develop the internal knowledge and capacity to better enforce penalties for breaches of legislation.
- 6.12 Review existing CCTV strategy and identify opportunities for further improvement.

Training

- 6.13 Bring forward new training plans for Officers and for Members that underpin the use of the Council's enforcement powers, but also includes the Council's key role in relation to Safeguarding, tackling Modern Day Slavery, Child Sexual Exploitation and engaging in Prevent (to tackle the risks of radicalisation).

Communications

- 6.14 Promote the Council's enforcement successes internally and externally through press releases, use of existing print and on-line channels and through targeted campaigns.

7 Financial and Manpower Implications

- 7.1 The Council's 2018/19 budget was agreed by members in February 2018. Any additional financial resources for the proposed approach will be included in a funding application to the Police and Crime Commissioner's Office. Should the application be unsuccessful, Officers will work within existing resources.

8 Legal Implications (including implications for matters relating to equality)

- 8.1 There are no direct legal implications arising from the recommendations of the report.

9 Sustainability Policy and Community Safety Implications

- 9.1 Sustainable communities are communities that feel safe and are able to get on with their lives. This report sets out proposals to strengthen the Council's contribution to community safety within the borough.

10 Partnerships

- 10.1 The Council will draw on best practice from other parts of local government and will seek to build stronger working relations with a range of statutory agencies including the Police, Housing Associations, Adult and Children Services, and Mental Services, to help ensure that the Council is able to progress and robust and effective approach.

11 Risk Assessment

- 11.1 There are risks of not doing anything, as the Council would be vulnerable to criticism for not using its statutory powers and service functions effectively to address public concerns about anti social behaviour and environmental crime such as flytipping.
- 11.2 There is a risk that the Police may begin to over rely on the action that the Council is taking, rather than taking the required action themselves. However, it is much easier for a Council that understands its own powers and is already delivering on them, to hold other partners to account for their delivery.
- 11.3 The Council may not be successful in any funding bids. In this case, the Council will proceed at the pace that current resources allow, but still seeking to maximise the impact from these existing resources.

- 11.4 There is a risk that the Council may be perceived as going too far with its enforcement responsibilities, and only “doing it for the money” it can generate from spot fines etc. There are examples of this perception in some parts of the country where one or two Councils have taken a more commercial approach to enforcement where a primary objective has been to maximise income. However, in Epsom and Ewell, the approach is grounded in responding to the priorities of residents, and taking a robust but sensitive approach to enforcement that inspires public confidence.

Ward(s) Affected: (All);

Registration of Councillors as Data Controllers

<u>Report of the:</u>	Chief Legal Officer
<u>Contact:</u>	Amardip Healy
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
<u>Annexes/Appendices (attached):</u>	Annexe 1
<u>Other available papers (not attached):</u>	None

Report summary

The Information Commissioner's Office (ICO) has advised that the nature of work undertaken by Councillors is such that they need consider whether they should be registered individually as Data Controllers. This report is recommending registration for all Councillors and for the Council to meet the cost of such registration as appropriate.

Recommendation (s)

- (1) That all Councillors should register as Data Controllers;
- (2) The registration fee for individual registration should be met from Council funds if a Councillor is not already registered as a Data Controller in a capacity other than as a Councillor or if they cease being a dual hatted member.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 N/A as a decision is required to comply with legislation.

2 Background

- 2.1 The Council is registered in its own right as a Data Controller and this protects Councillors in relation to work they carry in relation to the Council.
- 2.2 In the course of their work, Councillors may process personal information on behalf of their constituents. It is an offence under the Data Protection Act 1988 to process personal data without being registered to do so with the Information Commissioner's Office (the 'ICO')

- 2.3 As a result of the heightened awareness and profile of public data and its use, Councillors are now increasingly registered with ICO as Data Controllers.
- 2.4 The ICO's "Advice for elected and prospective councillors" (Annexe 1) (<https://ico.org.uk/media/for-organisations/documents/1432067/advice-for-elected-and-prospective-councillors.pdf>) provides guidance on how best they should manage information which comes into their possession during the course of their duties.

3 Proposals

- 3.1 It is therefore felt that all Councillors should be registered as Data Controllers to mitigate any risk of a data breach, in relation to work they undertake on behalf of their Wards.
- 3.2 There are four dual hatted Borough and County Councillors and the costs and responsibility for registration are met by the County. Some Councillors may be registered individually as data controllers for their work outside the Council. In these cases, those Councillors will need to add to their Nature of Work details to include 'Councillor'. It is not proposed the fees of those in this category will be met by the Council, as the fees are dependent on the nature of their main registration. Should anything change which no longer requires such Councillors to be registered as data controllers in their own right, the Council will meet the costs of such registration.
- 3.3 It is proposed that a block application for those Councillors who are not registered is undertaken. For those Councillors who are already registered as data controllers, assistance will be provided to ensure their registration covers their role as a Councillor.
- 3.4 The current fee for individual registration is £35.00. This is an annual fee. It appears this fee is likely to increase to £40.00 next year as a result of GDPR. There was an intention in 2015, following a ministerial statement by Kris Hopkins on 'cutting red tape on councillors', to take steps to remove the annual fee that many councillors were required to pay to register as data controllers. Instead, it was suggested "local authorities will undertake the notification process itself as part of their local authority-wide registration, and individual councillors will be exempt from the fee. This will remove an effective 'tax on volunteering' setting up a notification process". (<https://www.gov.uk/government/speeches/local-government-update--2>) However, these recommendations appear never to have been implemented.

4 Financial and Manpower Implications

- 4.1 The financial implications arising from this report are limited to the registration fee, which will be met from within the council's budget envelope.

4.2 **Chief Finance Officer's comments:** Based on a £40 annual fee for 38 councillors, the maximum, annual cost to the Council would be £1,520, which can be met from existing budgets.

5 Legal Implications (including implications for matters relating to equality)

5.1 The Legal implications are contained in the body of this report.

6 Sustainability Policy and Community Safety Implications

6.1 Not applicable for the purposes of this report.

7 Partnerships

7.1 Not applicable for the purposes of this report.

8 Risk Assessment

8.1 Registration will address the risk of potentially unlawfully processing personal data.

9 Conclusion and Recommendations

9.1 All Councillors are registered as Data Controllers and the costs of such are met by the Council as appropriate depending on individual circumstances.

Ward(s) affected: (All Wards);

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Advice for elected and prospective councillors

Data Protection Act

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Introduction

1. The Data Protection Act 1998 (DPA) is based around eight principles of good information handling. These give people specific rights in relation to their personal information and place certain obligations on those organisations that are responsible for processing it
2. An overview of the main provisions of the DPA can be found in [The Guide to Data Protection](#).
3. This is part of a series of guidance, which goes into more detail than the Guide, to help data controllers to fully understand their obligations and promote good practice.
4. This guidance aims to provide elected and prospective councillors with advice on how the DPA applies to them.

The role of the councillor

5. Councillors are likely to have three different roles:
 - As a member of the council, for example, as a cabinet member or a member of a committee.
 - A representative of residents of their ward, for example, in dealing with complaints.
 - They may represent a political party, particularly at election time.

Use of personal information

6. When councillors consider using personal information, they should take into account the context in which that information was collected to decide whether their use of the information will be fair and lawful, as required by principle 1 of the DPA:
 - Where a councillor is representing an individual resident who has made a complaint, the councillor will usually have the implied consent of the resident to retain relevant personal data provided and to disclose it as appropriate. The resident will also expect that the organisations (including the local authority) who are the subject of the complaint will disclose personal data to the councillor. If

there is any uncertainty regarding the resident's wishes, it would be appropriate to make direct contact with the resident to confirm the position.

- Sensitive personal information is treated differently; for example, where consent is being relied on this should be explicit in nature. However, in the context of a complaint, councillors – and organisations making disclosures to them - will usually be able to rely on the [Data Protection \(Processing of Sensitive Personal Data\)\(Elected Representatives\) Order 2002](#) as a condition for processing.
- Personal information held by the local authority should not be used for political purposes unless both the local authority and the individuals concerned agree. It would not be possible to use a list of the users of a particular local authority service for electioneering purposes without their consent. An example would be using a local authority list of library users to canvass for re-election on the grounds that the councillor had previously opposed the closure of local libraries.
- When campaigning for election as the representative of a political party, candidates can use personal information, such as mailing lists, legitimately held by their parties. However, personal information they hold in their role as representative of local residents, such as complaints casework, should not be used without the consent of the individual.
- When campaigning for election to an office in a political party, councillors should only use personal information controlled by the party if its rules allow this. It would be wrong, for instance, to use personal information which the candidate might have in their capacity as the local membership secretary, unless the party itself had sanctioned this.
- Candidates for election should be aware that political campaigning falls within the definition of direct marketing. Consequently, they should have regard to the requirements of the DPA (in particular section 11) and the Privacy and Electronic Communication (EC Directive) Regulations 2003 which set out specific rules that must be complied with for each type of marketing communication. For further information on this, the Information

Commissioner has produced [Guidance on Political Campaigning](#) which is available on our website.

Multi-member wards

7. In some types of local authority, councillors are elected under a multi-member system where more than one councillor represents a particular ward.
8. As a result, there may be situations where a councillor who represents a resident may need to pass on that particular individual's personal information to another councillor in the same ward. The councillor will only be allowed to disclose to the other ward councillor the personal information that is necessary:
 - to address the resident's concerns;
 - where the particular issue raises a matter which concerns other elected members in the same ward; or
 - where the resident has been made aware that this is going to take place and why it is necessary.

If a resident objects to a use or disclosure of their information, their objection should normally be honoured.

9. The councillor should not pass on personal information which is not connected to the resident's case.

Example

A resident asks one of the councillors in a multi-member ward for help about teenagers acting in an intimidating way in the area. The councillor wishes to share the resident's complaint with the other ward councillors because it is an issue of general concern.

The councillor lets the resident know that he wants to give the details of their complaint to the other ward councillors and why he wants to do that, rather than giving a general description of the complaint to other ward councillors.

If the resident objects, then his wishes are respected and only the general nature of the complaint is shared.

Notification

10. In considering whether they need to register their processing with the Commissioner, councillors must first decide in which role they are processing personal information:

- **As a member of the council**

Councillors may have access to, and process, personal information in the same way as employees. In this case it is the council rather than the councillor that determines what personal information is used for and how it is processed. For example, if a member of a housing committee has access to tenancy files to consider whether the local authority should proceed with an eviction, the councillor is carrying out the local authority's functions and so does not need to register in their own right.

- **As a representative of the residents of their ward**

When councillors represent residents of their ward, they are likely to have to register in their own right. For example, if they use personal information to timetable surgery appointments or take forward complaints made by local residents.

- **As a representative of a political party**

When acting on behalf of a political party, for instance as an office holder, councillors are entitled to rely upon the registration made by the party.

When individuals campaign on behalf of political parties to be the councillor for a particular ward, they can rely on the parties' registration if the party determines how and why the personal information is processed for the purpose of their individual campaigns.

If a prospective councillor is not part of any political party but campaigning to be an independent councillor for a particular ward, they need to have their own registration.

11. There is an exemption from registration where the only personal information which is processed takes the form of paper records.

12. A standard form for registration by councillors has been created to simplify the procedure.

Offences

13. The DPA contains a number of criminal offences, including:
 - Failure to register when required to do so. For example, a councillor who holds computerised records of residents' details for casework purposes would commit an offence if they had not registered this use of personal information.
 - Making unauthorised disclosures of personal information. For example, a councillor who discloses personal information held by the council to their party for electioneering purposes without the council's consent could commit an offence.
 - Procuring unauthorised disclosures of personal information. For example, a councillor who obtains a copy of personal information apparently for council purposes, but in reality for their own personal use (or the use of their party), is likely to have committed an offence.

Security

14. Councillors should be aware that they need to arrange for appropriate security to protect personal information. They must take into account the nature of the information and the harm that can result. They should consider what technical and organisational measures, such as use of passwords, computer access privileges, procedures and staff training, are appropriate to keep the information safe. Councils should also take appropriate measures in the same way.

More information

15. Additional guidance is available on [our guidance pages](#) if you need further information on other parts of the DPA.
16. If you need any more information about this or any other aspect of data protection, please [contact us](#), or visit our website at www.ico.org.uk.

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Lawful Surveillance Policy & Guidance

Report of the:	Chief Legal Officer
Contact:	Amardip Healy
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annex 1: Draft Policy & Guidance on Lawful Surveillance
Other available papers (not attached):	None stated

Report summary

To implement the changes to the Council's Policy and Guidance on Lawful Surveillance

Recommendation (s)

To approve the amended "Policy and Guidance on Lawful Surveillance"

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 To ensure that any covert surveillance activity carried out by the Council remains proportionate and in line with current legislation and good practice. Compliance with this legislation will contribute to keeping the Borough clean and green, safe and vibrant, and supporting our community and businesses.

2 Background

- 2.1 Following a desktop review by an Inspector at the Office of Surveillance Commissioners, a set of recommendations were put to the Council in order to 'improve upon what is already sound guidance'.

3 Proposals

- 3.1 The recommendations made to the Council were:
 - 3.1.1 Enhancement of guidance relating to necessity;
 - 3.1.2 Revision of one paragraph;

- 3.1.3 To appoint a CHIS (covert human intelligence source) handler and Controller
 - 3.1.4 To add further detail on the type of investigative activity the Council are permitted or prohibited from undertaking;
 - 3.1.5 If the Council is to permit use of covert online identities to facilitate research to put in control measures;
 - 3.1.6 A refresher training program on the use of powers for authorising officers
- 3.2 The Council's 'Policy and Guidance on Lawful Surveillance' has been refreshed and updated to incorporate these recommendations. Members are asked to approve the updated Policy, as shown at Annexe 1.

4 Financial and Manpower Implications

- 4.1 There are no financial implications to this report.
- 4.2 **Chief Finance Officer's comments:** *None for the purposes of this report.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The Council must comply with the Regulation of Investigatory Powers Act 2000 and associated legislation such as the Protection of Freedoms Act 2012.

6 Sustainability Policy and Community Safety Implications

- 6.1 The RIPA Policy is part of the Council's regulatory toolkit. Updating the Policy helps to maintain public confidence in the Council's position on community safety.

7 Partnerships

- 7.1 Not applicable for the purposes of this report.

8 Risk Assessment

- 8.1 It is important to ensure regulatory investigative procedures are kept up to date in line with current good practice. The desktop review by the Office of Surveillance Commissioners is a part of this process.

9 Conclusion and Recommendations

- 9.1 Addressing the recommendations made by the Surveillance Commissioner's Inspector will help the Council to remain compliant with up to date practice.

Ward(s) affected: (All Wards);



~~POLICY AND GUIDANCE~~

~~LAWFUL SURVEILLANCE~~

~~REGULATION OF INVESTIGATORY POWERS
ACT 2000~~

Policy & Guidance on Lawful
Surveillance ~~POLICY AND GUIDANCE~~

Regulation of Investigatory Powers Act 2000

March 2018

4 April

~~2017~~ TBC

~~Responsible Officer: Head of Legal & Democratic Services~~

~~Review Period: Annual~~

Review and Amendment

Review Period:— Annual

Responsible Officer:— Chief Legal Officer

Date	Review or Amendment?	Review Comments/ Summary of Amendment	Review/Amendment Made by
<u>18/10/2017</u>	<u>Amendment</u>	<u>Various amendments made in response to OSC/PCO Inspection Report</u>	<u>Simon Young</u>
<u>16/3/2018</u>	<u>Amendment</u>	<u>Various amendments in response to annual review</u>	<u>A Healy</u>

Epsom & Ewell Borough Council
Town Hall,
The Parade
Epsom, Surrey
KT18 5BY

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A. INTRODUCTION

~~AND~~ SUMMARY

1. In September 2000, the Regulation of Investigatory Powers Act 2000 (“RIPA”) came into force in England and Wales. The Act sets out in detail the type of surveillance work, and certain other investigatory work, the Council may lawfully undertake and the circumstances in which it may be undertaken. The Act provides a regulatory framework with which the Council must comply. In simple terms, the Act requires the Council to have procedures in place, which ensure that surveillance, and/or other regulated activities are: necessary, on specified grounds; proportionate to what is sought to be achieved; and are properly authorised.
2. The Council takes its statutory responsibilities seriously and will, at all times, act in accordance with the law and take necessary and proportionate action in these matters. The Council has various powers and duties in connection with the detection of crime, including environmental enforcement work, licensing and other regulatory work, and the detection of benefit fraud.
3. The Chief Legal Officer ~~Head of Legal and Democratic Services~~ is duly authorised by the Council to keep this policy up to date and accurate and maintain a central record of authorisations for the purpose of RIPA. This policy should be read in conjunction with the codes of practice, ~~hard copies of which are held in the Legal Department and~~ which can be viewed at <https://www.gov.uk/government/collections/ripa-codes>

4.4. This version replaces version 2.4 of the Policy and Guidance documents approved in 2010. The current version of the policy and forms are those saved in O:\Common\SharedData\RIPA. If a hard copy has been printed, reference should first be made to the electronic copy of the policy, to check for any revisions. Forms should not be saved locally; the relevant form on the Home Office website should be used on each occasion. The forms are available at

<https://www.gov.uk/government/collections/ripa-forms--2>.

If the forms or website are unavailable for any reason, the forms in the above folder may be used instead.

2.5. **If you are in any doubt about RIPA or any related legislative provisions, please consult the ~~Head of Legal and Democratic Services~~ Chief Legal Officer at the earliest possible opportunity.**

A.B. BACKGROUND

3.6. Article 8 of the European Convention on Human Right is enshrined in UK law by the Human Rights Act 1998. Article 8 requires the Council and any organisations working on its behalf to respect the private and family life of citizens. The European Convention made this a qualified right and not an absolute right and as such the Council may interfere in a citizens rights mentioned above if the interference is, a) in accordance with the law, b) necessary, and c) proportionate. RIPA was passed to ensure that law enforcement and other operations are consistent with the duties imposed upon public authorities by the Human Rights Act.

4.7. RIPA sets out a statutory mechanism for authorising certain regulated activities. It seeks to ensure that any interference with an individual's Article 8 rights is necessary and proportionate and there is a balance between the public interest and the human rights of individuals. Covert surveillance, and other regulated activities will only be undertaken where there is no reasonable and effective alternative means of achieving the desired objective. No activity shall be undertaken by the Council or its officers within the definition of intrusive surveillance.

~~5.8.~~ Significant changes came into force pursuant to the Protection of Freedoms Act 2012, and amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010.

~~6.9.~~ Investigatory activities are controlled by a system of authorisation, which requires a senior officer to consider the purpose for which action is to be undertaken and the arrangements for ensuring that it is undertaken in accordance with the requirements of Guidance issued by the Office of the Surveillance Commissioners. Authorisations can only be given effect once an order approving the authorisation or notice has been granted by a Justice of the Peace.

~~7.10.~~ Any evidence gathered by activities subject to RIPA but not properly authorised may be ruled inadmissible in court, jeopardising the case and potentially rendering the Council liable to pay court costs. Such activities being undertaken without proper authorisation could also lead to a challenge and/or claim for compensation under the Human Rights Act.

~~8.11.~~ The Council is committed to using the RIPA framework in accordance with the Guidance issued by the Office of the Surveillance Commissioners and the Codes of Practice issued by the Home Office.

Necessity

~~9.12.~~ The Council must consider whether the information ~~that~~^{which} it is thought necessary to obtain by the authorised conduct could reasonably be obtained by other overt means and why it is necessary to use covert methods in the investigation. Prior to considering the “necessity” of a particular regulated activity, it is important to consider the scope of a local authority’s powers to engage in that activity. For example, there is now the crime threshold referred to in paragraph 21, which restricts the Council’s ability to authorise directed surveillance.

Proportionality

~~10.13.~~ The following should be borne in mind when assessing proportionality:

- The means should not be excessive compared to the gravity of the alleged offence
- The least intrusive covert methods should be chosen
- Collateral intrusion should be minimised
- Whether all other reasonable methods have been considered and discounted

C. SURVEILLANCE

~~11.14.~~ Surveillance includes:

- Monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications.
- Recording any of the above in the course of authorised surveillance.
- Surveillance by or with the assistance of appropriate surveillance devices.

~~12.15.~~ Surveillance can be overt or covert. Most surveillance carried out by the Council will be overt (open) and not hidden or secretive. Any surveillance ~~which~~that is undertaken where the subject is aware of it, for example, where a noisy resident has been warned that they are going to be recorded for noise, comes under the definition of overt surveillance. In many cases, officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly.

~~13.16.~~ Overt Surveillance does not require RIPA authorisation.

~~14.17.~~ Covert surveillance enables public bodies to detect and prevent crime and obtain information about an individual's or organisation's activities.

~~45-18.~~ The Home Office Code of Practice on Covert Surveillance and Property Interference states that surveillance will be covert where it is carried out in a manner calculated to ensure that the subject is unaware that it is or may be taking place.

~~46-19.~~ RIPA regulates surveillance that is 'directed surveillance', and/or 'intrusive surveillance'. Surveillance is "**Directed surveillance**" if the following are all true:

- It is covert but not intrusive.
- It is carried out for the purposes of a specific investigation or operation
- It is likely to result in the obtaining of private information about a person (information relating to his/her private and family life, home and correspondence and aspects of business and professional life)
- It is not conducted by way of an immediate response to events or circumstances where it would not be reasonably practicable to seek authorisation.

~~47-20.~~ Examples of "directed surveillance" have in the past included, for example, the surveillance of individuals in respect of possible fly tipping, benefit fraud, anti-social behaviour, or planning contraventions. Since 1 November 2012, it has only been possible for directed surveillance to be authorised where the authority is investigating particular types of criminal offences. These are criminal offences, which attract a maximum custodial sentence of six months, or more, or criminal offences relating to the underage sale of alcohol or tobacco.

~~48-21.~~ The key element of "directed surveillance" is the targeting of an individual with the likelihood of gaining private information.

~~49-22.~~ "**Intrusive surveillance**" is defined as covert surveillance that:

- is carried out in relation to anything taking place on any residential premises or in any private vehicle; and

- involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

20-23. Intrusive surveillance can only be carried out by the police and other law enforcement agencies. Council Officers must **not** carry out intrusive surveillance. If the surveillance may become, or if there is a risk of it becoming, intrusive the surveillance should stop and the officer should seek advice from the [Chief Legal Officer](#)~~Head of Legal and Democratic Services~~. Officers need to give careful consideration to their chosen methods of surveillance and/or devices to be used to ensure that there is no unwitting intrusive surveillance.

21-24. **CCTV** - The provisions of RIPA or the Code of Practice do not cover the overt use of CCTV surveillance systems. Members of the public are aware that such systems are in use for their protection and to prevent crime. However, if CCTV is targeted at an individual, a RIPA situation could arise.

22-25. **Collateral Intrusion** – Authorising officers should take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation. Measures should be taken to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

D. CONDUCT AND USE OF A COVERT HUMAN INTELLIGENCE SOURCE

23-26. A Covert Human Intelligence Source (CHIS) is a person who establishes or maintains a personal or other relationship with another person for the covert purpose of:

- using such relationship to obtain information or to provide access to any information to another person, or
- covertly disclosing information obtained by the use of such a relationship or as a result of the existence of such a relationship,

- where the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of its purpose or (in the case of disclosure of information) it is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the disclosure in question.

24-27. A CHIS may be an undercover officer or controlled informant. An informant can be considered to be “controlled” where a Council officer is directing the informant’s activities or enquiries.

25-28. **Other types of informants** – RIPA does not apply to members of the public who volunteer information as part of their civic duties, or members of staff who report information in accordance with their contract of employment, or under the Council’s Whistleblowing Policy.

26-29. The Council is involved in many of the everyday functions of law enforcement. For example, Enforcement Officers might use an informer (CHIS) as part of their enforcement function. The Council’s Internal Auditors might use an informer to see if there is an abuse of someone’s official position, (e.g. stealing money).

27-30. The Council can only use a CHIS if RIPA procedures are followed. The conduct or use of a CHIS requires **prior authorisation**. All authorised officers should consult the Chief Legal Officer ~~Head of Legal and Democratic Services~~ for further information regarding procedure prior to authorising a CHIS. It will be important for an authorising officer to follow the requirements of Section 29 of RIPA. So, for example, the authorising officers’ needs to be satisfied that there will be a Handler for the CHIS – with day-to-day responsibility for the dealing with the CHIS, and for the CHIS’ welfare and security; there also needs to be a separate Controller, with general oversight of the use made of the CHIS.

28-31. “Test Purchasing” usually involves a council officer or other volunteer, who attempts to buy a product or use a service, where the seller/provider is not authorised in the circumstances to sell the product or provide the service. Most usually, this is organised/undertaken by licensing officers. This will not normally require authorisation, as no relationship is established between the test purchaser and the “target” of the operation. However, this will be fact sensitive. It is recommended that a summary of the proposed operation is written down and a judgment taken and recorded as to whether authorisation is required. This should be sent to the [Chief Legal Officer](#)~~Head of Legal & Democratic Services~~.

29-32. The Regulation of Investigatory Powers (Source Records) Regulations 2000 contain mandatory arrangements for using a CHIS. Adequate arrangements must be in place to ensure that records are kept which relate to the source and that these records contain particulars of certain matters. The particulars are listed below:

- The identity of the source
- The identity, where known, used by the source
- Any relevant investigating authority other than the authority maintaining the records
- The means by which the source is referred to within each relevant investigating authority
- Any other significant information connected with the security and welfare of the source
- Any confirmation made by a person granting or renewing an authorisation that the information above has been considered and that any identified risks have been explained to and understood by the source
- The date when, and the circumstances in which, the source was recruited
- The identities of the persons who, in relation to the source, are discharging or have discharged the functions

- The periods during which those persons have discharged those responsibilities
- The tasks given to the source and the demands made of him in relation to his activities as a source
- All contacts or communications between the source and a person acting on behalf of any relevant investigating authority
- The information obtained by each relevant investigating authority by the conduct or use of the source
- Any dissemination by that authority of information obtained in that way, and
- In the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

E CONFIDENTIAL INFORMATION, VULNERABLE PERSONS AND JUVENILES

30-33. There are special safeguards which apply when either:

- a. Knowledge of confidential information is likely to be acquired;
- b. When a vulnerable individual is used as a source;
- c. When a juvenile, being a person under the age of 18, is used as a source.

31-34. In all three instances at a), b) and c) above only the Chief Executive or in her absence the person acting as Chief Executive can grant authorisation, save that in no circumstances can a juvenile under the age of 16 be authorised to give information that can be used against his or her parents.

32-35. Confidential information consists of matters subject to legal privilege, confidential personal information, communications between a Member of Parliament and another person or confidential journalistic material. This is further particularised in the revised Code of Practice.

33-36. A vulnerable person is a person in need of community care services because of illness, age, mental or other disability, or, is unable to take care of himself or herself, or is unable to protect himself or herself against significant exploitation or harm.

F. EXAMPLES OF DIFFERENT TYPES OF SURVEILLANCE

Type of surveillance	Examples
<p><u>Overt</u> Not requiring prior authorisation</p>	<ul style="list-style-type: none"> • Police Officer or Wardens on patrol; • Signposted Town Centre CCTV cameras (in normal use); • Recording noise from outside the premises after the occupier has been warned that this will occur if the noise persists (in most cases).
<p><u>Covert</u> But not requiring prior authorisation</p>	<ul style="list-style-type: none"> • CCTV cameras providing general traffic, crime or public safety information.
<p><u>Directed</u> Must be RIPA authorised</p>	<ul style="list-style-type: none"> • Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or on long-term sick leave. • Test purchasers where the officer has a hidden camera or other recording device to record information which might include information about the private life of a shop-owner, e.g. where s/he is suspected of running a business in an unlawful manner. • Can only be used for offences, which meet the crime threshold.
<p><u>Intrusive</u> Council Officers cannot do this</p>	<ul style="list-style-type: none"> • Planting a listening or other device (bug) in a person's home or in their private vehicle.

G. ANTI-SOCIAL BEHAVIOUR (ASB) ACTIVITIES (e.g. noise, violence, etc.)

~~34-37.~~ Persons who complain about ASB and are asked to keep a diary will not normally be Covert Human Intelligence Source and therefore do not require authorisation as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. decibel) will not normally capture private information and does not require authorisation. However, careful consideration should be given to how this is to be done in practice, as it is possible that conduct requiring authorisation might be undertaken.

~~35-38.~~ Recording sound (with a DAT recorder) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it may be possible to record if the noisemaker is warned that this will occur if the level of noise continues. However, this will depend on how this is to be done, including the technical capabilities of the equipment used. Placing a stationary or mobile video camera outside a building to record ASB on residential estates will require prior authorisation.

H. INTERCEPTION OF COMMUNICATIONS

~~36-39.~~ Local authorities cannot generally intercept communications. Under Part I of RIPA, employers can intercept e-mails with employees consent. However, consent is not needed where the purpose is to detect and prevent crime OR unauthorised use of the e-mail or internet system. The employer must make “all reasonable efforts” to inform the employee that their e-mails may be intercepted. The Council cannot otherwise seek to intercept communications.

I. ACQUISITION OF COMMUNICATIONS DATA

~~37.40.~~ Under Part I, Chapter II of RIPA, local authorities have powers in respect of the acquisition of communications data from telecommunications and postal companies. Communications data means any traffic or any information that is sent by telecommunications system or postal system, together with information about the use of the system by any person. For example, this could include the dates and times messages are sent or calls made, but not the content of the messages.

~~38.41.~~ An authorised person can authorise another officer within the public authority to collect the data. The local authority is allowed to collect data communications itself, i.e. if a private telecommunications company is technically unable to collect the data, the local authority would be able to collect the communications data itself.

~~39.42.~~ In order to compel a Communications Company to obtain and/or disclose communications data in their possession, a Notice must be issued (Appendix -2). The *only* grounds a local authority can compel this is for the purposes of “preventing or detecting crime or of preventing disorder”.

~~40.43.~~ In issuing a Notice, the authorising officer can authorise another person to liaise with the Communications Company covered by the Notice.

~~41.44.~~ Whilst RIPA allows local authorities in appropriate circumstances to acquire communications data, this is not something Epsom & Ewell Borough Council can directly do at present, as we have no appropriately trained and accredited officers.

J SOCIAL MEDIA AND WEBSITES

45. Although Social Media and other websites are easily accessible and a great deal of information may be published, if that information is going to be sought out and used as part of an investigation, consideration must be given to whether authorisation under RIPA should be obtained. A guidance note is included at Appendix 3.

46. Care must be taken to understand how the particular site/service works. Officers should not assume that one site or service provider will work in much the same way as any other. Individuals have a large measure of responsibility to set privacy settings to protect against unsolicited access to their private information on social media or the internet generally. Unprotected data may be considered published and no longer fully under the control of the originator. An author has a reasonable expectation of privacy, especially where access controls have been applied. Where privacy settings are available but have not been used, authorisation is not usually required to access and use that data in an investigation. Regard will of course need to be had to whether that information can be directly tied to a particular individual.

47. In certain circumstances, however, authorisation might be required. Following an individual's activities on social media could stray into covert surveillance. Any proposal to ask to become a "friend" or to otherwise connect with an individual could constitute use of a CHIS. One-off test purchasing over the internet where no ongoing relationship is established will not normally require a CHIS authorisation.

48. Social media could be a valuable source of information. Prior to undertaking research, legal advice must be sought, and the investigating officer should document their decision, if they conclude in light of that advice, that no authorisation is required. Records of activities should be kept, and officers should regularly review whether authorisation is required. If required, authorisations will be granted and administered in the normal way.

49. Officers must not create covert online identities, for the purposes of research or investigation without first seeking legal advice. This activity is generally to be discouraged. If such activities are, in exceptional circumstances, considered to be necessary, this will require the approval of the ~~Chief Legal Officer~~~~Head of Legal & Democratic Services~~ and/or the Chief Executive, before any RIPA authorisation is considered by an authorising officer. The approved arrangements must include details of controls in place, including a register of such identities and details of which officers have access to those identities. A record must be kept of all activities using a covert identity.

K. NON-RIPA SURVEILLANCE

42.50. RIPA does not of itself grant powers to carry out surveillance; such powers are either available under specific legislation, or ancillary to other functions. RIPA provides a framework for ensuring that surveillance that is undertaken is authorised and supervised in a manner that ensures compliance with the Human Rights Act 1998. Equally, RIPA does not prevent surveillance from being carried out or require that it may only be carried out in accordance with RIPA.

43.51. There may, exceptionally, be times when it will be necessary to undertake covert surveillance or use a CHIS otherwise in accordance with RIPA. For example, there may be a serious internal investigation. If this might lead to criminal proceedings, then a RIPA authorisation may be appropriate, but if criminal proceedings are not contemplated, this might not be possible.

44.52. There may be serious cases of anti-social behaviour or nuisance for which the penalties would be below the threshold for a RIPA authorisation. Nonetheless, there may be good reasons why covert directed surveillance, or the use of a CHIS is necessary, in order effectively to deal with the matter, especially if it might be the only effective means of efficiently obtaining the information necessary in order for action to be taken.

[45-53.](#) In such circumstances it is recommended that the same procedures are followed, as if it were a RIPA authorisation – the forms should be clearly endorsed “NON-RIPA APPLICATION” on the top of each page. An application should be submitted for the consideration of an Authorising Officer in the usual way, who should consider it under the necessity and proportionality tests. The normal procedure of timescales, review and cancellations should also be followed.

[46-54.](#) The authorisation, review, renewal and cancellation of non-RIPA surveillance/CHIS activity must be notified to the [Chief Legal Officer](#)~~Head of Legal & Democratic Services~~. Authorisations will not require Magistrates’ Court approval and will take effect when authorised. Records will be kept alongside the RIPA central record.

L. PROCEDURES

[47-55.](#) The overall rules and procedures that need to be followed are set out below. [A quick RIPA checklist is included at Appendix 4.](#)

Authorisation

[56.](#) An authorisation under Part II of the Act will provide lawful authority for a public authority to carry out surveillance. Public authorities are strongly recommended to seek an authorisation where the surveillance is likely to interfere with a person’s Article 8 right to privacy by obtaining private information about that person. There is a great likelihood of risk if you are carrying out observations around a person’s home. The [Chief Legal Officer](#)~~Head of Legal and Democratic Services~~ who is the Monitoring Officer for RIPA is authorised by the Council to oversee all RIPA use/processes within the Council and maintain the Central Record of Authorisations for the purpose of RIPA. [The Monitoring Officer](#) ~~He~~ will receive and retain originals of all RIPA applications, authorisations, renewals, reviews and cancellations, and to maintain these in a central file. The list of authorised officers is attached as [Appendix 1](#). If [the Chief Operating Officer](#) ~~a Director~~ or Head of Service

wishes to add, delete or substitute a post s/he must make a formal request to the [Chief Legal Officer](#) ~~Head of Legal and Democratic Services~~ for consideration. The Monitoring Officer will oversee the RIPA process on behalf of the Council.

[48-57.](#) Private information is a broad term and can include aspects of private life such as gender identification, name, sexual orientation and sexual life. It can also cover interaction with others in the outside world (and not restricted to private premises), and may include activities of a professional or business nature (*Perry v United Kingdom*).

[49-58.](#) Ideally the Authorising Officer should not be responsible for authorising a CHIS in connection with their own activities, i.e. those operations or investigations in which they are directly involved or for which they have direct responsibility. If this is unavoidable, it should be highlighted in the central record.

[50-59.](#) All surveillance covered by the Act must be authorised using the corporate application forms, listed in [Appendix 2](#). To ensure that the latest version of the relevant form is being used, officers must use a blank template on each occasion, and must not type over the top of a previously saved form.

[51-60.](#) Surveillance equipment will only be installed with the authorisation of the Council's authorised officers. If a resident is requested to keep a video diary as part of an evidence gathering exercise, this will be regarded as directed surveillance on behalf of the Council, and as such will require authorisation.

[52-61.](#) Directed surveillance or the conduct and use of CHIS can *only* be authorised by the Council on the ground of the prevention or detection of crime/disorder.

~~53.62.~~ It is important that careful consideration be given to the issue of confidential information. It should be possible in most cases to ensure that it is not likely that confidential information will be acquired. In any case in which this is considered likely, advice should be sought prior to submission of an application to the Chief Executive for authorisation.

How is the application for authorisation made?

~~54.63.~~ It should be made in writing, and it should specify:

- The details of the purpose for which the CHIS/surveillance will be used,
- The identities, where known, of those to be subject of the use or conduct of the CHIS/surveillance,
- Details of what the CHIS will be asked to do,
- An account of the investigation or operation,
- The ground on which the authorisation is sought (i.e. for the prevention or detection of crime/disorder),
- Why the use of CHIS/surveillance is considered to be proportionate to what it seeks to achieve.
- An explanation of the information which the Council desires to obtain as a result of the authorisation,
- Details of the level of authority required,
- The potential for collateral intrusion, that is to say, interference with the privacy of other persons other than the subjects of the investigation, and an assessment of the risk of such intrusion or interference,
- The likelihood of acquiring any confidential material and what that material might be,
- Where authorisation is sought urgently, reasons why the case is considered to be urgent.

~~55-64.~~ In assessing an application form the Authorising Officer must:

- Be mindful of the corporate policy,
- Satisfy himself that:
 - The use of covert means is proportionate to the mischief being investigated and the degree of intrusion on the target and others;
 - the RIPA authorisation is in accordance with the law, and the proposed activity is necessary and proportionate, and
 - Whether other means show covert surveillance could be used,
- In assessing proportionality and necessity, consider whether other less intrusive means could be used to gather information,
- Consider the degree of intrusion for those likely to be affected, bearing in mind Article 8 of the Human Rights Act, including an assessment of the risk of any collateral intrusion,
- Set a date for reviewing the authorisation, Set the date on which the authorisation will expire
- Forward **the original** authorisation to the [Chief Legal Officer Head of Legal and Democratic Services](#) within 5 working days of making the authorisation, keeping a copy on their own file.

~~56-65.~~ When authorising the conduct or use of CHIS the Authorised Officer must adhere to the Regulation of Investigatory Powers (Source Records) Regulations 2000, and:

- Be satisfied that the appropriate arrangements are in place for the management of the CHIS. This should include a risk assessment for health and safety;
- Consider the diverse impact on community confidence that may result from the information obtained;
- Ensure that records are available on a need to know basis.

~~57-66.~~ The authorisation must be reviewed within the time stated on the application form and cancelled as soon as it is no longer necessary. The duration of the authorisation for directed surveillance can last for a maximum of 3 months from the date of authorisation and 12 months for a CHIS. However, it is essential that the authorisations are reviewed or cancelled at the proper time. There must be evidence of cancellation on file.

~~58-67.~~ Prior to any authorisation having effect, or being renewed, judicial approval must be sought. This will be done by the investigating officer in conjunction with the Council's legal team, who will advise on the completion of the judicial application/order form and liaise with the court service.

Training and Development

~~59-68.~~ All officers certified to sign RIPA forms shall be given the appropriate training. If the Chief Legal Officer ~~Head of Legal and Democratic Services~~ feels that an authorised officer has not had the appropriate training/guidance then he is authorised to retract the officer's authorisation until the training has been completed.

~~60-69.~~ RIPA Monitoring Officer shall aim to keep a Central Record of all RIPA training undertaken (to include officer name, date, provider & course title, optional comments, and copy of course materials where appropriate and available)

~~61-70.~~ Regular refresher ~~Periodic external~~ training of key staff shall be programmed (every ~~23-35~~ years).

~~62-71.~~ Anyone attending ~~an external course training~~ shall be encouraged to share what they have've learnt with colleagues.

~~63-72.~~ Extra training ~~In-house training~~/updating will be ~~e to be h~~held on at least a biennial basis – to cover legislative changes/guidance/cases etc., and follow-up on the most recent OSC inspection report or good practice.

M. MAINTENANCE OF RECORDS AND OTHER MATTERS

~~64.73.~~ The Chief Legal Officer is responsible for:

- The integrity of the process in place within the public authority for the management of CHIS;
- Compliance with Part II of the Act and the Codes;
- Oversight of the reporting of any errors to the Commissioner and identifying both the cause(s) of errors and the implementation of processes to minimise the repetition of errors;
- Engagement with the OSC inspectors when they conduct their inspections, where applicable; and
- Where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.

~~65.74.~~ The following documents must be forwarded to the Chief Legal Officer by the Authorising Officer and retained by the Chief Legal Officer where an authorisation has been granted:

- **The original** of the forms with any supporting documentation;
- A record for the period for which the surveillance has taken place;
- The frequency of reviews as prescribed by the Authorising Officer;
- A record of the result of each review of an authorisation;
- A record of any renewal of an authorisation, the reason why the person renewing an authorisation considered it necessary to do so, and the reasons, if any, for not renewing an authorisation;
- The date and time of any instruction by the Authorising Officer;
- A record including the date and time of any oral authorisation given by the Authorising Officer, and the reason why the case was considered urgent;
- Any risk assessment made in relation to a CHIS;
- The circumstances in which tasks were given to the CHIS;

- The value of the CHIS to the investigating authority;
- The reasons for cancelling an authorisation;
- The date and time when any instruction was given by the Authorising Officer to cease using a CHIS
- A copy of the judicial application form, and original of any order obtained from the Court.

~~66-75.~~ The Council will retain records in the Central Register for a period of at least 3 years after the end of a period of authorisation.

Central Register of Authorisations

~~76.~~ This will be maintained by the ~~Chief Legal Officer~~~~Head of Legal and Democratic Services~~. All completed forms must be sent to the ~~Chief Legal Officer~~~~Head of Legal and Democratic Services~~, marked "Private and Confidential", within 5 working days for the purpose of maintaining the Central Register.

~~67-77.~~ If you need any further advice on RIPA, please contact the ~~Chief Legal Officer~~~~Head of Legal and Democratic Services~~.

Who is responsible for overseeing compliance with RIPA?

~~68-78.~~ The Chief Surveillance Commissioner and Surveillance Commission together with the Assistant Surveillance Commissioners have been appointed to provide independent oversight of the use of the powers contained in Part II of the Act. They will inspect the Council from time to time to ensure that the Council is complying with the Act. In addition, the 2000 Act establishes an independent tribunal. The tribunal has full powers to investigate and decide any case where a person complains about the conduct of the Council in exercising its powers that are covered by the Act.

Working with Other Organisations

~~69-79.~~ Where another agency has been instructed by the Council to undertake any action under RIPA this must be done in accordance with this policy. The Chief Operating Officer ~~appropriate Director~~ or appropriate Head of Service requesting the work must ensure that the agency is made explicitly aware of what they are authorised to do.

Involvement of Councillors

~~70-80.~~ This policy and the Council's use of RIPA will be reviewed on at least an annual basis by the Chief Legal Officer ~~Head of Legal & Democratic Services~~ and by the Strategy and Resources Committee at least every four years. A report on the use of RIPA will be considered by the Audit Crime & Disorder and Scrutiny Committee at least annually. Councillors will not act as authorised officers.

Acknowledgement

In producing this policy the Council has considered the Guidance of the Office of Surveillance Commissioners, the Codes of Practice. Good practice from other local authorities was considered.

List of Appendices

APPENDIX 1 **LIST OF AUTHORISED OFFICERS**

APPENDIX 2 **RIPA FORMS**

APPENDIX 3 **GUIDANCE NOTE ON COVERT SURVEILLANCE OF
SOCIAL NETWORKING**

APPENDIX 4 **QUICK RIPA CHECKLIST**

APPENDIX 1 - LIST OF AUTHORISED OFFICERS

Chief Executive – Kathryn Beldon

~~Damien Roberts – Chief Operating Officer - Damien Roberts -(also to act as the Chief Executive's Deputy when she is absent)~~

~~Chief Legal Officer Head of Legal and Democratic Services¹-(also to act as the Chief Executive's Deputy when she is absent) – Amandip Healy Simon Young~~

Other Authorised Officers (subject to receiving the appropriate training):

Head of Housing & Community – Rod Brown

Grants and Licensing Team Leader – Rachel Jackson

Benefits Manager – Pete Wells

¹ Will not normally grant authorisations, due to role in overseeing use of RIPA.

APPENDIX 2 – RIPA FORMS

Please see paragraph 4 of the Policy

The forms are available at: <https://www.gov.uk/government/collections/ripa-forms--2>

List of Forms

1. Application for Authorisation to Carry Out Directed Surveillance
2. Review of a Directed Surveillance Authorisation
3. Application for Renewal of a Directed Surveillance Authorisation
4. Cancellation of a Directed Surveillance Authorisation
5. Application for Authorisation of the Use or Conduct of a Covert Human Intelligence Source
6. Review of a Covert Human Intelligence Source (CHIS) Authorisation
7. Application for Renewal of a Covert Human Intelligence Source (CHIS) Authorisation
8. Cancellation of an Authorisation for the Use or Conduct of a Covert Human Intelligence Source (CHIS)
9. [Forms relating to the Acquisition of Communications Data have been removed from the list – please speak to the Chief Legal Officer ~~Head of Legal & Democratic Services~~ for further information]
10. Application for judicial approval for authorisation to obtain communications data, to use a covert human intelligence source or to conduct directed surveillance.

APPENDIX 3 – GUIDANCE NOTE ON COVERT SURVEILLANCE OF SOCIAL NETWORKING SITES

The purpose of this guidance note is to provide clarity on the Council's position:

1. In using social media for the gathering of evidence:

- officers must not 'friend' individuals on social networks
- officers should not use their own private accounts to view the social networking accounts of other individuals
- officers viewing an individual's profile on a social networking site should do so only once in order to obtain evidence to support or refute their investigation
- further viewing of open profiles on social networking sites to gather evidence or to monitor an individual's status, must only take place once RIPA authorisation has been granted and approved by a Magistrate
- officers should be aware that it may not be possible to verify the accuracy of information on social networking sites and, if such information is to be used as evidence, steps must be taken to ensure its validity.

2. It is not possible to provide a definitive list of social networking sites, so this should be taken to mean any site which involves individuals creating a profile which contains personal information and is viewable by others, whether accepted as 'friends' or otherwise. This might include sites such as 'Facebook' and 'Linked-In'.

3. As the definition of 'private information' under RIPA includes: 'any information relating to a person's private or family life and should be taken generally to include any aspect of a person's private or personal relationship with others, including family and professional or business relationships' Sites used to advertise goods and services should be included within the definition. Although there is likely to be a reduced expectation of privacy with this type of site, there

is still the possibility of obtaining private information that may be subsequently used in any enforcement proceedings.

4. If an allegation is received or, as part of an investigation into an individual, it is necessary to view their social networking site, officers may access the main page of the individual's profile once in order to take an initial view as to whether there is any substance to the allegation or matter being investigated.
5. The initial viewing must be reasonable – for example, it would not be reasonable to spend any significant amount of time searching through various pages of the individual's profile or to print out several pages just in case they may reveal something useful.
6. In some cases where, for example, a link to a site is provided by a complainant, it may be relevant for the receiving officer to view the link before passing it onto the investigating officer to also view. This would count as one viewing. However, it would not be reasonable for each officer in a team to view the site in turn so that they may each gather some information.
7. If there is a need to monitor an individual's social networking site, authorisation must be obtained.
8. If the offence being investigated falls under RIPA, a formal RIPA application must be completed, authorised by an Authorising Officers and then approved by a Magistrate.

APPENDIX 4 – QUICK RIPA CHECKLIST

When is RIPA Authorisation required? If the answer is 'Yes' to all of the following questions:

<u>Questions to ask</u>	<u>Matters to consider</u>
<u>Is the proposed activity 'surveillance'?</u>	<u>involving monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications, recording anything monitored, observed or listened to in the course of the proposed activity and/or a surveillance device will be used.</u>
<u>Is it 'covert'?</u>	<u>carried out in a manner calculated to ensure that the target(s) will be unaware of the activity</u>
<u>Is it 'directed'?</u>	<u>for the purposes of a specific investigation/operation.</u>
<u>Is it likely to result in obtaining private information about this person?</u>	<u>information about the target /targets' private or family life is likely to be obtained.</u>
<u>Is it a 'foreseen/planned response'?</u>	<u>something other than an immediate response to events. If the proposed activity has been planned in advance, it requires authorisation if all the answers to questions 1 to 4 above have also been 'Yes'.</u>

<u>Questions to ask</u>	<u>Matters to consider</u>
<p><u>Is it a "core function" of the Authority?</u></p>	<ul style="list-style-type: none"> • <u>matters which relate to functions the Authority is required to carry out under statute (such as investigating benefit fraud, planning or food hygiene enforcement, licensing).</u> • <u>is for the purpose of preventing or detecting criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment or are related to the underage sale of alcohol and tobacco (the crime threshold)</u> • is for the purpose of preventing or detecting criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment or are related to the underage sale of alcohol and tobacco (the crime threshold)
<p><u>does it meet Home Office requirements</u></p>	<p><u>If the answer is 'No' to any of the above questions, the proposed activity falls outside the scope of RIPA and this policy.</u></p>

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Horton Country Park - Change Of Use (“New Room” Former Stable Building)

Report of the:	Head of Property and Regeneration
Contact:	Mark Shephard
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Annexes/Appendices (attached):	Annexe 1 – Site Plan Annexe 2 (considered exempt from publication: paragraph 3 Schedule 12A LGA 1972): – Business Plan
Other available papers (not attached):	None

Report summary

This report considers a proposal from the Gauntlett Boxing Club (an existing Council tenant at the Harrier Centre, Poole Recreation Ground) to open an additional facility at Horton Country Park.

A planning application has been submitted by the Gauntlett Boxing Club for a change of use and is awaiting decision.

Any proposed change of use to a Council owned property must be exercised by the Strategy and Resources Committee (Appendix 5: Delegation of Property Functions – Asset Management Plan).

Recommendation (s)

- (1) The Committee approves the proposed change of use (of part of the New Room, Horton Country Park) to Use Class D (boxing club). *(For the avoidance of doubt, this is subject to the grant of satisfactory planning permission by the Council acting in its separate capacity as the Local Planning Authority).***
- (2) The Head of Property and Regeneration, in consultation with the Chief Legal Officer, be authorised to conclude negotiations with the Gauntlett Boxing Club for a new commercial lease as they think fit.**

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 This proposal supports the Council's four year Corporate Plan and Medium Term Financial Strategy specifically focusing on the Key Priority of Managing our Resources through maximising returns from properties and other investments, and identifying new sources of revenue and maximising our income.
- 1.2 It will also contribute to the Council's Key Priority of Supporting our Community by promoting healthy and active lifestyles for all ages.

2 Background

- 2.1 The Gauntlett Boxing Club ("the Club") has leased premises from the Council at Poole Recreation Ground since September 2015. The Club has proven so successful that new enquiries join a lengthy waiting list, prompting the Club to look for additional facilities to compliment the current operation.
- 2.2 The Club is an Epsom family run boxing club solely owned by Chris Gauntlett (coach for all classes) and supported by a team of coaches including his daughter (women's coach) and son (juniors and teen coach).
- 2.3 The Club's web site describes its unique offer:-

"Having worked and trained in various gyms throughout his life, Chris wanted to build a club that would show a different approach to boxing. He wanted to create an exciting venue with a great buzz and most importantly a club which is intimidation free and welcoming to all."
- 2.4 The membership is drawn from a broad spectrum of people looking to improve their fitness and wellbeing. The majority of members are EEBC residents and boxing classes include Juniors, Teens, Late Teens, Adult, Competitive and Womens. The Club also accepts referrals from schools to assist difficult children and help focus their energy on positive outcomes.
- 2.5 A facility at Horton Country Park would allow the Club to broaden its scope by offering opportunities in Olympic style, or as it is more generally known, amateur boxing. Olympic style accounts for 60% of national boxing fitness activities across England Boxing Ltd accredited gyms.
- 2.6 The Club has submitted a planning application (Ref: 17/01300/ Full) which was validated on 9 February 2018 to change the use of a former Horton Country Park stable building from sui generis use to boxing club (Use Class D). A decision is imminent.
- 2.7 A site plan is attached at **Annexe 1** showing the proposed facility edged red occupying one-half of the former stable building known as the "New Room".

- 2.8 This report has been brought to Committee as any proposed change of use to a Council owned property must be exercised by the Strategy and Resources Committee. This is a requirement of the Council's approved Asset Management Plan under Appendix 5: Delegation of Property Functions.

3 Club Proposal

- 3.1 The Club believes the most deliverable vehicle to provide a first class amateur boxing club would be via a Charitable Incorporated Organisation (CIO), i.e. a not-for-profit enterprise. This would allow access to Sport England grant funding to build a new boxing gym space and develop the overall sporting opportunity on offer in the Borough.
- 3.2 Sport England recently announced that grant funding is now available (January 2017 onwards) to not-for-profit organisations. They view CIO's as particularly strong candidates for capital development projects of up to £150,000 – sufficient to fully finance a project of this scale.
- 3.3 Furthermore, due to the Club's excellent relationship with Sport England, they have been invited to apply for grant funding as soon as Planning Permission and draft lease negotiations have been concluded.
- 3.4 To ensure the ethos and management of the new club follows the existing model, the charity (CIO) would essentially be a franchise operation of the Gauntlett Boxing Club. In return for access to the franchise, the CIO would pay an initial "Setup Fee" to the Club, and then pay an on-going monthly subscription for continual benefits delivered by the franchise. The Setup Fee would cover the costs of equipping the new gym and crucially, the CIO would benefit from any membership overflow from the Club.
- 3.5 As a charity, the CIO would need to be a separate legal entity from the Club. This will require the appointment of three (minimum) independent trustees and delivery to new memberships, as well as affiliation to English Boxing.
- 3.6 It is proposed that Chris Gauntlett be appointed Head Coach by the CIO. The main purpose would be to oversee the franchise delivery in the first year to ensure it successfully "beds in", and the CIO becomes the same success story as the Club.
- 3.7 As a charity, excess revenues from the CIO will be reinvested in the club and boxing in the local community. This may include charity days, public events and boxing exhibitions, sponsoring competitions, boxing tours and promotions to effectively communicate the success story both in the UK and even internationally.
- 3.8 A full business case is attached at **Annexe 2 (considered exempt from publication)**.

4 Council Benefit (from a property ownership perspective)

- 4.1 It is proposed the Club (as distinct from the CIO) will take a commercial lease of one-half of the New Room at Horton Country Park. The other half of the New Room is used by Mole Valley Trust for timber work and renovation projects and this arrangement will remain unchanged.
- 4.2 The Club's lease is likely to be for a term of 10 years with the option for either party to terminate the lease after 5 years. The rent will comprise a 2.5 year rent-free period (to compensate the Club for undertaking landlord works), followed by a market rent (c£9,000 pa) thereafter.
- 4.3 The New Room requires extensive refurbishment by the Council to bring the building back to full use. Whilst it remains a long-term aspiration of the Council to redevelop the existing properties for community / mixed use, the investment required currently renders it financially unviable.
- 4.4 A minimum investment of £42,000 is required to convert the New Room into a useable gym space. This will be initially funded by the Club, and partially recovered through the initial rent-free period granted under the lease. The rent-free period will reimburse the Club for those items of expenditure that would otherwise be incurred by the Council if it was preparing the accommodation for market letting.
- 4.5 Therefore, for the medium term, with the existing properties requiring capital investment, the proposal by the Club will allow the Council to derive a future income from the New Room without the risk of upfront capital expenditure.
- 4.6 The new facility will benefit the wider community and bring further footfall to Horton Country Park, thus widening the general awareness of this community asset and its historical background. In turn, this would assist in building a future case for investment, and bring together more stakeholders with an interest in seeing the existing buildings enhanced or redeveloped for new facilities.
- 4.7 The New Room is currently hired by the Epsom Silver Band for two evenings a week for practice and intermittently, if they have an upcoming concert. They are fully aware of the proposal and the Council is working with the Band to identify an alternative venue for their use.

5 Financial and Manpower Implications

- 5.1 The Gauntlett Boxing Club's proposal offers the Council the opportunity to safeguard the New Room's medium term income generation capability without placing pressure on the Council's budget.

5.2 **Chief Finance Officer's comments:** *In 2017/18, the New Room achieved an income of £3,600, from ad hoc booking fees from Epsom Silver Band. The Gauntlett Boxing Club's proposal would secure external capital investment in the building and, following a 2.5 year rent-free period, should generate an increased annual income to the Council of circa £9,000. The Council's Corporate Plan includes a priority to maximise returns from its properties. The proposed use of the New Room supports this aim.*

6 Legal Implications (including implications for matters relating to equality)

6.1 Horton Country Park is freehold owned by the Council. Any lease granted by the Council (acting in its capacity as the landowner), will be conditional on the satisfactory receipt of planning permission for change of use.

6.2 **Monitoring Officer's comments:** *No further comments.*

7 Sustainability Policy and Community Safety Implications; Partnerships

7.1 No implications for the purpose of this report.

8 Risk Assessment

8.1 The Council incurs minimal financial risk:-

- No upfront refurbishment expenditure
- Successful existing tenant minimises the likelihood of future business failure
- Safeguards the New Room's medium-term income generation ability

9 Conclusion and Recommendations

9.1 It is recommended that Committee, acting in the Council's capacity as landowner and thereby subject to planning, approves the change of use of part of the New Room, Horton Country Park, to that of Use Class D (boxing Club).

9.2 In summary, the Gauntlett Boxing Club's proposal offers the following tangible benefits:-

- Enhancement of the Borough's public health / fitness / well-being offer
- Increased awareness / use of Horton Country Park
- Investment in a Council owned property asset without risk to the Council
- Circa £9,000 pa income generation after 2.5 years

Ward(s) affected: (All Wards);

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Interim Homelessness Strategy

Report of the:	Head of Housing & Community
Contact:	Rod Brown
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Annexes/Appendices (attached):	Annexe 1: Draft Interim Homelessness Strategy
Other available papers (not attached):	Homelessness Strategy 2008 – 2013 Homelessness Act 2002 Homelessness Reduction Act 2017

Report summary

The proposed Interim Homelessness Strategy is intended to meet our legal duty to publish a Homelessness Strategy as set out in the Homelessness Act 2002. This interim strategy will satisfy this legal requirement until a more detailed strategy can be developed later in 2018.

Recommendation (s)

That the Interim Homelessness Strategy is approved.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Managing our resources – The proposal will ensure the Council is able to defend appeals against negative housing decisions which will reduce the expenditure on homelessness.
- 1.2 Supporting our community – The proposal will help those at risk of homelessness by ensuring scarce resources within housing are directed to those in most need.

2 Background

- 2.1 The Council, as a Housing Authority, is required to publish a Homelessness Strategy as set out in the Homelessness Act 2002.
- 2.2 The content of the statutory requirements include the need to set out how the council will meet the following homelessness objectives:

- 2.2.1 The prevention of homelessness, including reducing the levels of homelessness against the main causes;
 - 2.2.2 Ensuring there is sufficient accommodation available for people who are, or who may become homeless;
 - 2.2.3 Ensuring there is satisfactory support for people who are, or who may become homeless, or who need support to prevent them from becoming homeless again
- 2.3 The Council's previous Homelessness Strategy was agreed in 2008 and should be reviewed periodically to meet the legal requirement as set out above.
- 2.4 The Homelessness Reduction Act 2017 will introduce significant changes to how local Housing Authorities will manage homelessness with a far greater emphasis on preventing homelessness.
- 2.5 In response to this major change in housing legislation, during 2018/19 the Council is proposing a substantial review of homelessness within the Borough, which will be instrumental in the preparation of a new strategy, in consultation with its partners and residents.
- 2.6 This substantial review will result in a further report to committee later in 2018/19 proposing a more definitive Homelessness Strategy incorporating the new provisions as set out in the Homeless Reduction Act 2017.
- 2.7 The majority of other councils are operating under Homelessness Strategies which will also be reviewed in light of the Homelessness Reduction Act 2017.

3 Proposals

- 3.1 The proposal is that the council approves the Interim Homelessness Strategy as set out in **Annexe 1** to this report.

4 Financial and Manpower Implications

- 4.1 There are no financial or manpower implications arising from the recommendation within this report.
- 4.2 Should the recommendation not be supported there could be implications for additional expenditure on homelessness resulting from having to accommodate some applicants or enter into further legal processes.
- 4.3 **Chief Finance Officer's comments:** None for the purposes of this report.

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The Council is legally required to have a Homelessness Strategy and the previous strategy applied to the period 2008 – 2013.

- 5.2 During the performance of its duties as a Housing Authority, the Council has to take decisions on applicant's requests for housing or housing assistance, as set out in relevant legislation and codes of practice.
- 5.3 On occasion, these decisions will be to refuse an applicant's requests for continued housing or associated support. There are statutorily defined opportunities for unsatisfied housing applicants to appeal the Housing Authority's decisions.
- 5.4 When this occurs it is important that the Housing Authority can be robust in defending that decision.
- 5.5 The absence of an up-to-date Homelessness Strategy could hinder the ability of the Housing Authority to defend decisions on housing provision and assistance. The consequences of which could include additional expenditure on homelessness by the council which may have been avoided.
- 5.6 **Monitoring Officer's comments:** *As a Housing Authority the Council is subject to a range of legal duties and requirements, which it must comply with. The interim strategy, as a measure whilst a detailed review is undertaken, helps to mitigate any risks of challenge to its decision making.*

6 Sustainability Policy and Community Safety Implications

- 6.1 There are no implications arising from this report.

7 Partnerships

- 7.1 The Council as the Housing Authority works closely with numerous Housing Associations, public bodies, support services and community groups to perform its statutory housing duties.

8 Risk Assessment

- 8.1 The report's proposal will ensure the Council, as the local Housing Authority, meets the minimum legal requirement to publish a Homelessness Strategy.
- 8.2 Should the recommendation not be approved there is a risk that the Council may be exposed to financial and reputational risk associated with not being able to defend housing decisions in the future.

9 Conclusion and Recommendations

- 9.1 In light of the Homelessness Reduction Act 2017 the Council will be completing a review of homelessness as part of the process of developing its Homelessness Strategy, ensuring the relevant legal duty is maintained.

- 9.2 In the meantime, whilst this work is being completed, the proposed Interim Homelessness Strategy fulfils the Housing Authority's duty to have and publish its strategy. This proposed strategy is set out in **Annexe 1**.
- 9.3 The proposed strategy details a wide range of activities the Council is involved in to support those at risk of becoming homeless and it is recommended that this interim Strategy be adopted.

Ward(s) affected: (All Wards);



INTERIM
HOMELESSNESS
STRATEGY
2018/19

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Legal requirements and strategic homelessness objectives

Response to strategic objectives

Introduction

The Homelessness Act 2002 placed a duty on all local authorities to publish a Homelessness Strategy and update it regularly.

In light of the growing national issue of homelessness and the recognition that more emphasis needed to be placed on preventing homelessness, the statutory landscape in homelessness changed significantly in 2017 with the Homelessness Reduction Act (HRA) 2017. This legislation will introduce significant changes to the duties on and prescribed processes used by local housing authorities in managing homelessness and also helping those who could potentially become homeless.

Epsom and Ewell Borough Council published its first Homelessness Strategy in July 2003 with the most recent strategy covering the period 2008 to 2013. Given the significant changes resulting from the HRA 2017, during 2018/19 the Council will be required to produce a substantial review of homelessness within the Borough which will be instrumental in the preparation of a new strategy, in consultation with our partners and residents.

This interim strategy is intended to meet the Council's legal obligations to produce a Homelessness Strategy which will be replaced by the more substantial review after the Homelessness Reduction Act 2017 comes into force in April 2018.

Legal requirements and strategic homelessness objectives

The Homelessness Act 2002 was intended to bring about a radical change in the way that central and local government, together with partner agencies worked to tackle homelessness, an important part of which is the formulation of a Homelessness Strategy.

Pending the more comprehensive homelessness review and strategy following the introduction of the HRA 2017, this Interim Homelessness Strategy is intended to meet the minimum legal requirements as set out in the existing Homelessness Act 2002.

This Interim Homelessness Strategy has specifically been designed to meet the needs of particular groups who are at particular risk of becoming homeless, including care leavers, people leaving prison, people who have left the regular Armed Forces, victims of domestic abuse, people leaving hospital and people suffering from mental illness.

The duty set out in the Homelessness Act 2002 requires local housing authorities to formulate a strategy for the following homelessness objectives:

- The prevention of homelessness, including reducing the levels of homelessness against the main causes;
- Ensuring there is sufficient accommodation available for people who are, or who may become homeless;

- Ensuring there is satisfactory support for people who are, or who may become homeless, or who need support to prevent them from becoming homeless again;

Response to strategic homelessness objectives

Objective 1 Preventing homelessness in Epsom and Ewell Borough

- Negotiations with parents, friends and relatives to prevent or delay homelessness to allow for a planned move
- Housing Options interviews for those threatened with homelessness
- Provision of housing advice
- Provide a Rent Deposit Scheme including, provision of bond/deposits, advice to landlords and tenants, inventory service, arrangement of Discretionary Housing Payments and Housing benefit liaison.
- Special Needs Panel in place to secure better access to supported social housing for vulnerable clients locally.
- Sanctuary scheme to help victims of domestic violence remain safe in their own homes
- The Council is represented at the regular meetings of the Multi Agency Risk Assessment Conferences set up to discuss and address the legal, support and accommodation needs of households suffering from domestic abuse.
- Support Citizens Advice Epsom and Ewell which provides financial and legal advice.
- With our east Surrey partners we have commissioned outreach services for rough sleepers called East Surrey Outreach Service (eSOS). The inclusion of non-statutory single homeless people and rough sleepers in our prevention approach has been very successful.
- Provide an enhanced Housing Options service addressing unemployment called Employment Training Housing Options Service (ETHOS)
- Hospital Discharge Protocol
- Parashoot floating support service providing tenancy sustainment
- Provide Severe Weather Provision to provide emergency housing in periods of very cold weather

Objective 2 Ensuring sufficient accommodation is and will be available for people in Epsom and Ewell Borough who are or may become homeless

- Provide a Rent Deposit Scheme including, provision of bond/deposits, advice to landlords and tenants, inventory service, arrangement of Discretionary Housing Payments and Housing benefit liaison.
- Creating additional temporary accommodation located close to or within the borough, through the council creating a £3m residential property purchasing fund which is used to purchase accommodation for temporary accommodation use
- Creating additional in borough temporary accommodation by completing a major renovation of 1 – 3 Blenheim Road to create high quality, energy efficient 9 x 1 bed temporary accommodation units, including one level access unit.
- Maximise access to additional sources of homelessness prevention accommodation wherever possible - such as the 11 units of accommodation in Ewell village procured from Paragon Housing Association
- Provision of supported accommodation for young homeless people in DeFoe Court
- Purchasing other property for use as temporary accommodation
- Planning policy requirement for 40% affordable housing in developments of 10 units or more.
- Provision of a Private Sector Leasing scheme to provide additional temporary accommodation through the long term leasing of suitable property within the borough
- Established a corporate Empty Property Group to reduce the number of empty residential properties and advocate their use for affordable housing
- Work with Rosebery Housing Association to ensure that all housing stock used as homelessness prevention accommodation is fit for purpose, self-contained and suitable for its residents' use.
- Working supported housing providers to ensure an adequate supply of supported accommodation.

Objective 3 Securing the satisfactory provision of support for people in Epsom and Ewell Borough who are or may become homeless; or who have been homeless and need support to prevent them becoming homeless again.

- With our east Surrey partners we have commissioned outreach services for rough sleepers called East Surrey Outreach Service (eSOS). The inclusion of non-statutory single homeless people and rough sleepers in our prevention approach has been very successful.
- Parashoot floating support service providing tenancy sustainment
- Provide an enhanced Housing Options service addressing wordlessness called Employment Training Housing Options Service (ETHOS)
- Working with Surrey County Council and Supported housing providers
- Work with Special Needs Panel to accurate assess the needs of households with additional support needs
- Work closely with colleagues in the police, probation and prison service to ensure we keep this risk to a minimum.
- In conjunction with Surrey County Council and other agencies in the area, the Family Support Team has been set up to will work with families to address school attendance, employment and anti-social behaviour and improve outcomes
- Joint working protocol for young people and care leavers with Surrey County Council to co-ordinate services for youth homelessness.
- Reviewed the council's Allocation Policy to ensure provision is made for Armed Forces and ex- forces personnel and their families

**Minutes of the Meeting of the STRATEGY AND RESOURCES COMMITTEE held on
1 February 2018**

PRESENT -

Councillor Eber Kington (Chairman); Councillor Clive Smitheram (Vice-Chairman); Councillors Kate Chinn, Neil Dallen, Hannah Dalton, Omer Kokou-Tchri, Humphrey Reynolds, Mike Teasdale, Clive Woodbridge and Tella Wormington (as nominated substitute for Councillor Tony Axelrod)

Absent: Councillor Tony Axelrod

Officers present: Kathryn Beldon (Chief Executive), Damian Roberts (Chief Operating Officer), Amardip Healy (Chief Legal Officer), Lee Duffy (Chief Finance Officer), Brendan Bradley (Chief Accountant) and Fiona Cotter (Democratic Services Manager)

41 QUESTION TIME

A number of questions were asked at the meeting regarding the future of the Wells to which the Chairman responded verbally.

42 DECLARATIONS OF INTEREST

No declarations of interest were made by councillors on the Agenda.

43 FUTURE USE OF THE WELLS SITE

The Committee received and considered a report (marked to follow on the Agenda) which recommended the development of the Wells site for residential accommodation and community use and how best to achieve this objective.

The report highlighted that developing the Wells site had the potential to deliver a long-term residential asset with associated income streams. However, the long-term financial impacts would only be accurately established once professional advice had been received and full due diligence exercises had been undertaken.

It was evident that the residents' lobby group was unhappy with the proposed footprint (1,500 sq. ft.) of the community facility. However, the Head of Property and Regeneration indicated that a facility of around this size was the only viable option. An amendment to remove reference to the footprint of the community facility, proposed by Councillor Hannah Dalton and Seconded by Councillor Kate Chinn, was lost.

The Committee welcomed the report on the basis that the Council would be retaining ownership of the site to ensure the delivery of much needed affordable residential accommodation. Development by the Council also enabled the continuation of a community facility. There appeared to be general consensus that the Committee would not support the inclusion of a facility with a footprint less than 1,500sq ft but would equally not wish to see the inclusion of a facility that was not viable. It was proposed to engage PwC to advise on how best to structure the development, particularly in relation to the implications for the Council's VAT position, and confirmed that the cost of the company's services could be met from the Corporate Projects Reserve.

Accordingly, the Committee agreed that:

- (1) the residential redevelopment of the Wells site, including the provision of a community facility of up to 1,500 sq. ft. (to be operate and managed by the community) be undertaken by the Council or its wholly owned trading company;
- (2) PwC (PricewaterhouseCooper) be engaged to advise on how to achieve the outcome set out in (1) above at a cost of up to £15,000 to be funded from the Corporate Project Reserve;
- (3) The Head of Property and Regeneration, in consultation with the Chief Finance Officer and Chief Legal Officer, be authorised to act on the advice received from PwC.

44 REVENUE BUDGET 2018/19

The Committee received a report that set out estimates for income and expenditure on its services for 2018/19.

The report highlighted that the probable outturn for this Committee in 2017/18 was an under spend of £121,000. The key reasons for the major variances were set out in the report, in particular significant favourable variations in relation to Corporate Financial Management, Tax collection and Land and Property. This had been taken into account in setting the 2018/19 budget.

The report set out a summary of the Committee's revenue estimates for 2018/19, giving an overall base position of £2,669K. This included recommended income from discretionary fees and charges. The report highlighted that charges at the Town Hall for room hire and associated officer time fees had been raised between 3.3% and 4.9%, (resulting in a budgeted income of £497), and that Land Charge tariffs had been increased between 3.2% and 7.8% with one exception. Charges for an LLC1 had been increased by 13.6% to £25 in order to make it more comparable with other local authorities in Surrey. The annual budget for land charges was £120,000.

The Chairman clarified that in order to slow the depletion of reserves, the Financial Policy Panel had supported – not mandated - the possibility of using any surplus revenue funds, arising principally from dividend income received from the Epsom & Ewell Property Investment Company (EPIPIC) to fund the

capital programme in 2018/19. The Financial Policy Panel would be further debating this issue at its meeting on 2 February 2018.

It was further noted that, in order to reflect the current management structure, the Committee was being asked to reconfirm a delegation in relation to the variation of fees and charges. This would now be delegated to the Chief Finance Officer.

Accordingly, the Committee:

- (1) Authorised the Chief Finance Officer to vary fees and charges for items generating income under £1,000 per annum and/or for one-off services or items;
- (2) Recommended the 2018/19 service estimates (including the increases to fees and charges set out in the report) for approval at the budget meeting of the Full Council on 20 February 2018.

45 CAPITAL PROGRAMME 2018/19

A report was presented to the Committee that set out its proposed Capital Programme for 2018/19.

The Chairman highlighted that the programme had been through extensive scrutiny prior to its presentation to Committee and again highlighted that the Financial Policy Panel had only supported the possibility of using any surplus revenue funds, arising principally from dividend income received from the Epsom & Ewell Property Investment Company (EPIPIC) to fund the capital programme in 2018/19.

The report highlighted that, in total, Medium Term Financial Strategy projects showed that £540K revenue funds were available to fund the capital programme in 2018/19 subject to the risks associated with Government proposals currently out to consultation in relation to changes to Minimum Revenue Provision (MRP). It was recommended that the entirety of this Committee's capital programme be funded from these reserves, together with £35K towards the Environment Committee's capital programme (upgrade of car park card payment machines), altogether totalling £540K. This would ease the pressure on the use of capital receipts and maintain the reserves at £2.16 million at the end of this period.

The report set out that the Financial Policy Panel had recommended the following schemes for inclusion in the capital programme totalling £505,000 to be funded from revenue subject to the risks associated with Government proposals currently out to consultation in relation to changes to Minimum Revenue Provision (MRP):

- Replacement of CRM Data Warehouse (£250K);
- ICT programme of works (£60K);
- Document Management System replacement (£50K)

- Financial Management System Upgrade (£65K)
- Renewal of Town Hall Lift Controls (£60K).

It was further proposed that the following scheme be included in the provisional capital programme for 2019/20 to 2020/21:

- Replacement of CRM and Data Warehouse (£250K)

Accordingly, the Committee:

- (1) Submitted the Capital Programme for 2018/19 as identified in section 4 of the report to Council for approval on 20 February 2018;
- (2) Confirmed its support for all the schemes included in the provisional programme for 2019-21 as identified in section 5 of the report;
- (3) Agreed that £540K revenue funds, as set out in paragraph 2.4 to 2.5 of the report be used to fund the 2018/19 capital programme, subject to:
 - a) Approval of the 2018/19 revenue budget estimated by this same Committee;
 - b) Should the Department for Communities and Local Government (DCLG) implement changes that reduced the level of revenue funds available to support the Capital Programme, any affected scheme should proceed but revert to funding from capital receipts as set out in section 10 of the report.

46 S106 UPDATE REPORT

The Committee received a report that provided an update on the funds held under Section 106 planning agreements and sought agreement for S106 funding to be applied to energy improvement initiatives in Court and Poole Road Recreation Grounds.

The report highlighted that as at 30 November 2017, the balance of uncommitted S106 funds stood at £1,508K, £311k of which had been earmarked against future expenditure, leaving available funds of £1,197K.

Certain S106 funds were required to be spent within a certain period or were liable to return to the developer. Three S106 contributions in relation to The Lintons Centre, Lintons Lane totalling £141,742 fell into this category. The expiry date on these funds was December 2024.

The report also highlighted currently uncommitted S106 contributions held over £10,000. Eleven contributions totalling £1,122,362 fell into this category. A Capital Member Group meeting would be convened in the coming months to discuss the potential uses of S106 funds.

The report sought the use of:

- £18,000 of S106 funds from the Lintons Lane agreement (£124,364) the use of which was conditioned to be for open space outdoor sports facilities to replace the existing lighting to the tennis courts and 3G football pitch with LED high level, low energy floodlights.
- £18,000 of S106 funds from the following agreements for open space outdoor sports facilities to replace the existing lighting with low energy LED lighting:

S106 Ref	S106 Agreement	Contribution Required £
167	42 Meadow Walk	1,054
250	1A Corner House Parade, Ewell	1,315
273	379 - 393 Kingston Road, Ewell	3,832
275	The Lane House, 33 Epsom Rd, Ewell	873
297	413A Kingston Road, Ewell	1,573
285	Public Convenience High St Ewell	2,630
283	178A Kingston Road, Ewell	1,383
270	31 High Street, Epsom	3,146
271	31 High Street, Epsom	2,160
Total		17,967

It was noted that the revenue savings as a direct result of these projects were estimated at £2,000 per annum and £1,000 per annum respectively and investment in certain areas was not necessarily all about pay back but about enhancement of facilities for the benefit of residents.

Accordingly, the Committee:

- (1) Noted the current position on S1)6 funds;
- (2) Approved the use of S106 funds as set out in paragraph 5 of the report for floodlight LED replacement on the tennis courts and 3 G football pitch at Court Recreation Ground;
- (3) Approved the use of S106 funds as set out in paragraph 6 of the report for floodlight LED replacement on the running track and sports areas at Poole Road Recreation Ground;
- (4) Noted that a Capital Member Group meeting will be convened to discuss potential uses of uncommitted S106 funds.

47 MINUTES OF PREVIOUS MEETING

The Minutes of the Meeting of the Strategy and Resources Committee held on 28 November were agreed as a true record and signed by the Chairman.

48 ROSEBERY PARK POND - SILT REMOVAL

The Committee received and considered an item not included in the original Agenda pack but which required consideration as a matter of urgency. The report highlighted issues with the renovation of Rosebery Park Pond and sought authority to use additional funds to remove accumulated silt. An urgent decision was required as the contractor was now on site.

An urgent decision had already been taken in consultation with the Chairman to spend additional funds on the perimeter detail of the pond. The cost of these unforeseen but necessary works had increased the cost of the project by £33,000.

Draining the pond had subsequently also revealed the extent of the silt build up and the Committee was asked to consider whether to proceed with its removal, the recommended option costing up to £82,000, or whether to delay the works for possible inclusion in a future capital programme.

The report proposed that, should the Committee be minded to agree to the silt removal, the works could be funded from S106 monies. The report highlighted that the Council held a balance of uncommitted S106 funds for "Environmental Improvements" of £131,000 and identified 14 agreements from which the funds could be sourced. The report further highlighted that this would deplete the resources available for other environmental improvement priorities within the Borough.

An amendment was proposed and seconded, but not carried, to delay the works.

Having balanced the risks, in particular public perception that works were not carried out properly if further works proved necessary in a very short period of time and the possibility that to delay the silt removal would cost more in the long run, the Committee:

- (1) Noted the urgent decision taken under delegated authority in consultation with the Chairman to allocate additional funds to the project for the perimeter detail of the pond;
- (2) Agreed to proceed with the silt removal at an extra cost of up to £82,000;
- (3) Approved the use of S106 from the agreements listed in paragraph 5.3 of the report to fund the works.

49 EXCLUSION OF PRESS AND PUBLIC

The Committee resolved to exclude the Press and Public from the meeting in accordance with Section 100A (4) of the Local Government Act 1972 on the

grounds that the business involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act (as amended). Pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

50 PROPERTY DISPOSAL

The Committee agreed a way forward as set out in the Minutes.

Note: The details were considered officially sensitive at this time and the Minute for this item will be exempt from publication.

The meeting began at 7.33 pm and ended at 8.56 pm

COUNCILLOR EBER KINGTON (CHAIRMAN)

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Exclusion of Press and Public

Under Section 100(A)(4) of the Local Government Act 1972, the Committee may pass a resolution to exclude the public from the Meeting for Part Two of the Agenda on the grounds that the business involves the likely disclosure of exempt information as defined in paragraph (s) 3 of Part 1 of Schedule 12A to the Act (as amended) and that pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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