



## AGENDA

### CABINET MEETING

Date: Wednesday, 7 September 2016

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Bowles (Chairman), Mike Cosgrove, Duncan Dewar-Whalley, Alan Horton, Gerry Lewin (Vice-Chairman), Ken Pugh and David Simmons

Quorum = 3

#### RECORDING NOTICE

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1. Emergency Evacuation Procedure

Pages

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence

3. Minutes

To approve the following Minutes as correct records:

Co-located Meeting held on 4 July 2016 (Minute Nos. 756 - 757).

Meeting held on 13 July 2016 (Minute Nos. 781 - 790) subject to the following amendment:

Minute No. 788 Financial Management Report – Financial Outturn Report 2015/16 Resolution 6 to read: That the net revenue over-recovery on business rates of £1,744,380 be noted.

Extraordinary Meeting held on 8 August 2016 (Minutes Nos. 819 – 822).

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real

possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

**Advice to Members:** If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

## **Part B Reports for Decision by Cabinet**

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| 5.  | Comensura Contract Extension  | 1 - 4   |
| 6.  | Government Four Year Efficiency Plan  | 5 - 14  |
| 7.  | Asset Transfer of Iwade Recreation Ground and associated features to Iwade Parish Council | 15 - 24 |
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| 9.  | Limited Liability Partnership (LLP)   | 41 - 52 |
| 10. | Exclusion of the Press and Public   |         |

To decide whether to pass the resolution set out below in respect of the following items:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Act:

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

- |     |   |          |
|-----|---|----------|
| 11. | Exempt Appendices: Establishment of a Limited Liability Partnership (LLP) | 53 - 106 |
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## **Issued on Thursday, 25 August 2016**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Cabinet, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

**Director of Corporate Services, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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<b>Cabinet Meeting</b>		<b>Agenda Item: 5</b>
<b>Meeting Date</b>	7 September 2016	
<b>Report Title</b>	Comensura Contract Extension	
<b>Portfolio Holder</b>	Cllr D Dewar Whalley	
<b>SMT Lead</b>	Mark Radford, Director of Corporate Services	
<b>Head of Service</b>	Dena Smart, Head of HR Shared Service	
<b>Lead Officer</b>	Bal Sandher, HR Shared Services Manager	
<b>Recommendation</b>	<ol style="list-style-type: none"> <li>1. To approve the extension of the existing contract with Comensura for the provision of agency workers for a period of one year, from 1 October 2016 to 30 September 2017 as allowed for under the current contract.</li> <li>2. To agree that the Procurement Team commence a tender exercise for Temporary Agency Resource services to be in place from 1 October 2017.</li> </ol>	

## 1 Purpose of Report and Executive Summary

- 1.1 This report seeks approval from Cabinet to extend the existing contract with Comensura from 1 October 2016 to 30 September 2017.

## 2 Background

- 2.1 Swale Borough Council is currently part of a vendor-neutral managed contract with Comensura for the supply of temporary agency staff through the Eastern Shires Purchasing Organisation (ESPO) and their Managed Services for Temporary Agency Resources (MSTAR) framework.
- 2.2 In September 2013, the Procurement Team in Maidstone examined the market for supply options for temporary staff. The review was carried out for Maidstone Borough Council and at that time a decision was made to include Swale Borough Council.
- 2.3 This is because, at the time, services were able to call any agency and negotiate any price, which resulted in vastly different levels of pay and generated many invoices to administer, whereas under the proposed arrangements Comensura would contribute to cost reduction by using bulk purchasing to achieve better prices, whilst departments retain responsibility for managing the hire, management and costs of agency staff.
- 2.4 The outcome based on the tender exercise was for Maidstone Council to remain with Comensura, and for Swale Council to join the contract under the ESPO and MSTAR framework.

- 2.5 On 1 October 2013 the Council entered into a three-year contract agreement with Comensura for the provision of a neutral vendor service for Temporary Agency Resources Services. The current contract provides the option of a one year extension from October 2016.
- 2.6 Under the contract, using an online portal and helpdesk services Comensura provides temporary staff via managed services. In the event of a need for a temporary member of staff, the relevant manager would notify Comensura of their need and Comensura then pre-selects the details of suitable candidates from agencies listed with them.
- 2.7 All transactions are carried out with Comensura, rather than individual agencies, and the necessary 'vetting' procedures required to ensure that the agencies are complying with our requirements are carried out by Comensura.
- 2.8 The benefits obtained from the contract since joining have been:
- both cashable and non-cashable savings;
  - improvements in the quality of agency staff;
  - an effective engagement route for finding good quality temporary staff;
  - improved management and administration procedures by reducing the volume of invoices;
  - reduction in risk from the employment of agency staff;
  - improved reporting procedures; and
  - training on the system.
- 2.9 In particular, since October 2013, Swale BC has benefited from increased savings each year due to annual benchmarking and reduced agency margins. This ensures the Council receives the best value for money from the contract.
- 2.10 A breakdown of spend and savings with Comensura over the last three years is set out in the table below: It should be noted that the total spend on temporary staff through Comensura includes the amount paid to the agency worker, fees paid to the employing agency, and the fee paid to Comensura for their service.

<b>Time Period</b>	<b>Total Spend</b>	<b>Total Saving</b>
2013/14	£120,746	£8,116
2014/15	£254,668	£27,745
2015/16	£282,492	£51,311

- 2.11 The table shows an increase in spend for agency staff over the last three years. This has primarily been caused by the difficulty in permanent recruitment within Legal Services where the manager has appointed agency staff to temporarily fill vacancies. The table shows the whole of the cost to Swale BC as the employing authority, but the expenditure by both Maidstone and Tunbridge Wells BCs will be recovered through the general recharge for the shared service.

2.12 Given this good performance, the extension of the current contract will enable the Council to continue to benefit from using the current agency terms agreed in October 2013. It will also allow managers to continue to utilise the current streamlined processes that they are familiar with when resourcing staff on a short term basis.

### **3 Proposal**

3.1 To extend the current contract for another year from 1 October 2016 to 30 September 2017. This allows managers to use the current system of obtaining temporary staff without having to go out and find suitable agencies.

3.2 It is also proposed that during this period the Procurement Team will commence a tender exercise for Temporary Agency Resource services to be in place from 1 October 2017.

### **4 Alternative Options**

4.1 The decision could be not to extend the existing contract and to go out to the market to re-tender the contract now. However, this will leave a gap in the provision of Temporary Agency Resource services, which will have cost implications when using other agencies and different pay rates.

4.2 The decision could be to return to the practice of directly contacting multiple agencies. However, this will cause additional cost implications by departments paying any agency rates that are quoted, administration of more invoices as these will no longer be managed through one central point, and increased costs of appointing agency staff to permanent roles as finders' fees will be applied.

### **4 Consultation Undertaken or Proposed**

4.1 Managers who regularly make use the Commensura contract, the Procurement Team, and the Strategic Management Team have been consulted in preparation of this report.

### **5 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	A Council to be proud of.
Financial, Resource and Property	There is no cost to the Council of extending the Comensura contract for an additional year. The current spend and saving of the contract has been outlined in the report.
Legal and Statutory	There is a requirement under the Agency Workers Regulations 2011 to ensure that agency workers that have a minimum 12 weeks service are given the same basic employment conditions as permanent staff. Comensura have developed software to manage the regulations and track the length of assignments so that we are compliant with the regulations.

Crime and Disorder	None identified.
Sustainability	None identified.
Health and Wellbeing	None identified.
Risk Management and Health and Safety	Not using a neutral vendor for supply of temporary staff will have a significant impact on the control and governance of the process for resourcing agency staff. There will be a risk of not being able to accurately report on agency spend as this will no longer be reported centrally through one system, and the risk of inadequate checks being carried out before being appointed to jobs. In addition, there will be issues on providing responses to Fol requests
Equality and Diversity	There are no equality and diversity implications in extending the contract with Comensura.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- None.

## 8 Background Papers

8.1 Cabinet decision on 4 July 2012 on Procurement of Temporary Staff report:  
<http://services.swale.gov.uk/meetings/CeListDocuments.aspx?MID=303&RD=Minutes&DF=04%2f07%2f2012&A=1&R=0>



<b>Cabinet Meeting</b>	<b>Agenda Item: 6</b>
<b>Meeting Date</b>	7 September 2016
<b>Report Title</b>	Four Year Efficiency Plan
<b>Cabinet Member</b>	Cllr Dewar-Whalley, Cabinet Member for Finance and Performance
<b>SMT Lead</b>	Nick Vickers, Head of Finance
<b>Head of Service</b>	Nick Vickers, Head of Finance
<b>Lead Officer</b>	Nick Vickers, Head of Finance
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Forward Plan</b>	<b>Reference number:</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. To agree the Four Year Efficiency Plan for submission to Government.</li> <li>2. To delegate to the Head of Finance, in consultation with the Cabinet Member for Finance and Performance, to make any final amendments prior to submission.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 To agree a Four Year Efficiency Plan to submit to Government.

## 2 Background

- 2.1 In the 2016/17 Local Government Finance Settlement the Government introduced a new concept of a Four Year Efficiency Plan. By submitting a plan for that period the Government will guarantee Revenue Support Grant (RSG) for that period, but not other funding. Responses are required by 14 October.
- 2.2 Given that RSG is being phased out, and for the Council is projected to be £2,086,000 in 2016/17, reducing to £1,238,000 in 2017/18, £707,000 in 2018/19, and £113,000 in 2019/20, this is quite a limited offer, but nonetheless one that should not be ignored.
- 2.3 We had expected the Government to issue guidance on the content but none has appeared. Some guidance has come from the Chartered Institute of Public Finance and Accountancy (CIPFA) and we have utilised that in collating our proposals.

## 3 Proposals

- 3.1 The Council normally has a three year 'medium term' financial plan.

- 3.2 We are already well into the detailed work of updating the plan, and undertaking the annual exercise on pressure and savings for 2017/8 to 2019/20. But 2017/18 is part of a transition to a situation where by 2020 the Council will no longer receive any RSG, and will instead become wholly dependent upon the income it generates locally.
- 3.3 The thinking around this is continuing to develop, and is set out in part in the submission (Appendix I), but will be more fully developed in the 2017/18 budget reports.
- 3.4 We have also included an outline ten-year budget plan to illustrate the key income streams which will determine what services the Council is able to provide and to what level.
- 3.5 Whilst we have made a set of assumptions that underpin the income forecasts, the reality is that they are all volatile; not only are business rates inherently unpredictable due to changes in economic circumstances and the way in which the appeals system works, but the whole operation of the business rates system is currently subject to a major Government review. In addition, we continue to await the Government's response to the consultation on the future of New Homes Bonus, which we responded to in February.
- 3.6 All of this uncertainty argues for in-year prudence, and for the continued careful management of reserves which we have built up. But at the same time we need to actively support income generation and transformation activities which will be fundamental to the longer term financial future of the Council.

## **4 Alternative Options**

- 4.1 The Council could choose not to submit a four year efficiency plan. However, this creates the possibility of the RSG funding already notified to the Council being reduced further, so preparing and submitting this Plan mitigates that risk.

## **5 Consultation Undertaken or Proposed**

- 5.1 Discussions with other Kent borough councils suggest that most, if not all, also intend to submit a plan.

## **6 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Supports obtaining resources to meet Corporate Plan objectives, in particular, being 'a Council to be proud of'.
Financial, Resource and Property	Supports the Medium Term Financial Plan, and the annual budget process.
Legal and	There is no legal requirement to submit the plan.

Statutory	
Crime and Disorder	No direct applicability.
Sustainability	No direct applicability.
Health and Wellbeing	No direct applicability.
Risk Management and Health and Safety	Relates to the corporate risk on properly resourcing the Council's activities.
Equality and Diversity	No direct applicability.

## **7 Appendices**

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Four Year Efficiency Plan

## **8 Background Papers**

8.1 None

# FOUR YEAR EFFICIENCY PLAN



## INTRODUCTION

1. This document is the Swale Borough Council response to the offer from the Secretary of State for Communities and Local Government as part of the 2016/17 Local Government Finance Settlement that councils submit a plan to secure the level of Revenue Support Grant allocated for the next three years.

## CURRENT POSITION

2. The Council has seen significant year-on-year funding reductions since 2010, with Formula Grant falling from £12,134,000 in 2010/11 to RSG of £2,086,000 in 2016/17, and projected to further reduce to £1,238,000 in 2017/18, £707,000 in 2018/19, and £113,000 in 2019/20.
3. Swale is an area with high levels of deprivation, and the substantial reduction in Formula Grant and then RSG takes away resources that are needed to support significant demands on services.
4. Nonetheless, the Council, through excellent financial management and clear political decision making and prioritisation and no Council Tax increase for six years, has managed to cope well with the impact of deficit reduction:
  - rather than ceasing services as the key or only means of meeting the requirements of deficit recovery, this Council has made it a priority to protect front-line services;
  - as such, soundly based budgets have been set which have been fully delivered with significant end-of-year contributions to reserves resulting from both efficiency measures and raising additional income;
  - these contributions have grown reserves to £17.9m as at 31 March 2016, up 80% since 2010, for a Council whose annual budget requirement is £14.9m. In part these reserve funds, including the Regeneration and Performance Funds, are utilised by members and officers to support new initiatives;
  - partnership working with other local councils has become a default position, in particular in relation to support services which are provided in partnership with Maidstone and Tunbridge Wells Borough Councils;
  - a significant emphasis has also been put on improved commissioning and procurement, not just for our major contracts, but for all external spend; and
  - the single most important factor affecting the Council's finances has been the localisation of business rates in 2013, with the Council retaining 40% of the growth from the 1 April 2013 base position. The Council puts the highest emphasis on developing the local economy and encouraging business

growth, and this has proved highly successful with the Council seeing the highest levels of business rate growth in the County.

## **FUTURE APPROACH**

5. The Council's Corporate Plan objectives are:
  - A Borough to be Proud Of - this priority theme focuses on the Council's aspirations for Swale as a physical place;
  - A Community to be Proud Of - this priority theme focuses on the Council's aspirations for the people of Swale; and
  - A Council to be Proud Of - this priority theme focuses on the Council's need to develop its own organisational capacity and culture as it continually re-assesses how it can best achieve the objectives of the other two priority themes.
  
6. Under the third priority, 'A Council to be Proud of', a priority has been set for the Council, given the complete removal of RSG, to move to a position where it is totally self-financing from local sources of finance.
  
7. In order to achieve these aims, the Council requires a radically different approach, building on successes such as partnership working, but going much further. Our high level strategy is built around four key themes:

<b>Theme</b>	<b>Description</b>
<b>Driving Transformation</b>	<p>All services will be reviewed with a focus on digitalisation of customer contact, and lean thinking challenging systems and processes. Fundamental questions will be asked of all areas of activity, taking a digital by design approach. This will include our shared services where efficiency targets have been set in agreement with our partnership councils.</p> <p>This project is supported with £569k of Transformation Challenge Award monies awarded by DCLG.</p>
<b>Driving Income</b>	<p>The bedrock of this is core income from Council Tax (where house building is driving growth in the base), and Business Rates retention, where the Council is being very successful in attracting new business.</p> <p>Good management of our core sources of fees and charges income, principally car parking and planning fees, will also contribute.</p> <p>New sources of income from commercial property</p>

	investment and the development of private rented sector housing will be on-stream by 2020.
<b>Review of major contracts</b>	Investing in a joint waste contract with Kent County Council and Maidstone and Ashford Borough Councils has provided savings of over £1m per annum for the Council, along with enhancements in recycling.  Further opportunities are being actively explored, including the Grounds Maintenance contract which expires in 2017; and the current Leisure Centre contract which expires in 2019 where achieving savings and improvements to the leisure facilities are both major priorities for the Council.
<b>Deliver regeneration</b>	Our ambitious regeneration plans for the Borough will bring direct financial benefits through growth in the Council Tax base, Business Rates, and New Homes Bonus.

8. This high level strategy will be delivered through the Council's successful annual budget process. Our approach ensures that all service managers are held accountable for their service budgets, including savings targets. This is supported by a monthly monitoring report to senior management, and quarterly reporting to Cabinet.
9. Our independent external auditors in their most recent Audit Findings Report stated that: "Overall we concluded that you continue to have an effective framework of financial planning and control, and robust arrangements for financial governance".
10. Appendix 1 sets out the Medium Term Financial Plan agreed by Council on 17 February 2016; and Appendix 2 sets out a high-level Ten Year Financial Plan. Please note that some of the figures differ between the appendices as there has been some updating of the assumptions since the February Council report.

## **RISK MANAGEMENT**

11. The Council has recently updated its approach to risk management. One of the high level corporate risks identified is Finance Resource Limitations.
12. The key triggers associated with this risk are set out in the table below.

<b>Risk Trigger</b>	<b>Issues</b>
New Local	<ul style="list-style-type: none"> <li>▪ Phasing out of RSG, and full funding of local authorities through</li> </ul>

Government Finance system	business rates.
Volatility of Business Rates	<ul style="list-style-type: none"> <li>▪ Variations due to the economic cycle.</li> <li>▪ The willingness of businesses to expand or relocate in Swale.</li> <li>▪ The vagaries of the appeals process, whereby there is an inbuilt bias for businesses to appeal, coupled with a lack of capacity by the Valuations Office to handle the volume of appeals.</li> <li>▪ Re-setting of Business Rates baseline.</li> </ul>
New Homes Bonus	<ul style="list-style-type: none"> <li>▪ This is a major funding stream for the Council, but there has been no response from the Government to the consultation which closed in February 2016.</li> </ul>
Council Tax base projections not being delivered	<ul style="list-style-type: none"> <li>▪ New build housing numbers will ultimately depend upon the willingness of house builders to build, and the rate they are prepared to build at.</li> </ul>
Income Generation Project	<ul style="list-style-type: none"> <li>▪ Commercial risks.</li> <li>▪ Skills issues.</li> <li>▪ Willingness of private sector partners to participate.</li> </ul>

**Agreed by:**

Leader of the Council, Cllr Andrew Bowles

Chief Executive, Abdool Kara

Cabinet Member for Finance & Performance,  
Duncan Dewar-Whalley

Head of Finance, Nick Vickers



## Appendix I

## 2016/17 Budget &amp; Medium Term Financial Plan

	2015/16 £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000
Base budget	17,609	17,609	17,609	17,609
Growth items	0	469	459	451
Unavoidable cost pressures	0	759	691	697
Loss of income	0	35	35	35
Additional income	0	(595)	(549)	(585)
Committed price increases	0	66	93	136
<u>Salary Related:</u>				
Increments	0	57	79	101
Pay award	0	109	240	371
Contribution to/(from) reserves	317	459	317	317
Revenue Support Grant	(2,929)	(1,955)	(1,107)	(576)
Business Rates	(5,040)	(5,644)	(5,843)	(6,011)
Council Tax	(6,856)	(7,030)	(7,101)	(7,172)
Council Tax Freeze Grant funded from RSG	(79)	(79)	(79)	(79)
Council Tax Freeze Grant funded separately	(80)	0	0	0
New Homes Bonus	(2,824)	(3,482)	(3,500)	(2,199)
Collection Fund Surplus - Council Tax	(176)	(261)	0	0
<b>Savings Required</b>	<b>(58)</b>	<b>517</b>	<b>1,344</b>	<b>3,095</b>
Service savings	0	(517)	(378)	(384)
Requirement for balanced position	0	0	(966)	(2,711)
<b>Committed savings</b>	<b>0</b>	<b>(517)</b>	<b>(1,344)</b>	<b>(3,095)</b>
<b>Contribution (to) from General Fund</b>	<b>(58)</b>	<b>0</b>	<b>0</b>	<b>0</b>

Source: 17 February report to Council

## Revised Ten Year Medium Term Financial Plan

	Budget	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan
Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
<b>Expenditure</b>										
Net Service Expenditure c/f (based on 2016/17 budget)	17,812	18,044	18,105	18,148	18,192	18,236	18,280	18,324	18,568	18,812
Net forecast cost/ (savings) (approved in previous years)	66	128	113	113	113	113	113	113	113	113
Pay Award	109	111	110	113	113	113	113	113	113	113
Non-Pay Award Salary Increases	57	22	20	18	18	18	18	18	18	18
Service savings/ Additional income		(200)	(200)	(200)	(200)	(200)	(200)	0	0	0
<b>Net Service Expenditure b/f</b>	<b>18,044</b>	<b>18,105</b>	<b>18,148</b>	<b>18,192</b>	<b>18,236</b>	<b>18,280</b>	<b>18,324</b>	<b>18,568</b>	<b>18,812</b>	<b>19,056</b>
<b>Financing Sources</b>										
<b>Government Support</b>										
Revenue Support Grant	(2,086)	(1,238)	(707)	(113)	0	0	0	0	0	0
New Homes Bonus	(3,482)	(2,800)	(2,500)	(2,500)	(2,400)	(2,300)	(2,200)	(2,100)	(2,000)	(1,900)
Council Tax (assume 2% increase pa)	(7,030)	(7,330)	(7,669)	(8,021)	(8,261)	(8,508)	(8,764)	(9,029)	(9,298)	(9,576)
Business Rates	(5,644)	(6,455)	(7,134)	(7,384)	(7,458)	(7,533)	(7,609)	(7,685)	(7,762)	(7,840)
Collection Fund Surplus C Tax	(261)	15	0	0	0	0	0	0	0	0
Contribution to/(from) reserves	459	127	67	67	67	67	67	67	67	67
<b>Total Financing</b>	<b>(18,044)</b>	<b>(17,681)</b>	<b>(17,943)</b>	<b>(17,951)</b>	<b>(18,052)</b>	<b>(18,274)</b>	<b>(18,506)</b>	<b>(18,747)</b>	<b>(18,993)</b>	<b>(19,249)</b>
<b>Budget Gap (surplus)/ deficit</b>	<b>0</b>	<b>424</b>	<b>205</b>	<b>241</b>	<b>184</b>	<b>6</b>	<b>(182)</b>	<b>(179)</b>	<b>(181)</b>	<b>(193)</b>

Note: a number of assumptions have been updated since the February Council report presented in Appendix I

<b>Cabinet Meeting</b>		<b>Agenda Item: 7</b>
<b>Meeting Date</b>	7 September 2016	
<b>Report Title</b>	Asset Transfer of facilities at Iwade Recreation Ground	
<b>Cabinet Member</b>	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance and Performance	
<b>SMT Lead</b>	Dave Thomas, Head of Commissioning and Customer Contact	
<b>Head of Service</b>	Dave Thomas, Head of Commissioning and Customer Contact	
<b>Lead Officer</b>	Martyn Cassell, Leisure and Technical Services Manager	
<b>Key Decision</b>	No	
<b>Classification</b>	Open	
<b>Forward Plan</b>	<b>Reference number:</b>	
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. To transfer Iwade Recreation Ground including the children’s playground and the changing pavilion to Iwade Parish Council on a 125 year lease.</li> <li>2. To delegate authority to the Head of Commissioning and Customer Contact and Head of Property in consultation with the Cabinet Member for Finance and Performance to negotiate the final terms of the lease.</li> </ol>	

## 1 Purpose of Report and Executive Summary

- 1.1 The report provides Cabinet with the history of the Iwade Recreation Ground development and suggests reasons for transferring the site to Iwade Parish Council.

## 2 Background

- 2.1 Iwade Recreation Ground was previously managed and maintained by Iwade Parish Council via a lease arrangement with a local farmer.
- 2.2 As part of the Iwade housing developments, the site was secured and the developers requested that the transfer was made to Swale Borough Council. Provision was agreed through a Section 106 Agreement to construct sport and leisure facilities including a children’s playground, hard surface car park and sports changing pavilion with social area. The whole grassed area was also redeveloped including fencing surrounds and now provides space for formal playing pitches.

- 2.3 Persimmon Homes has undertaken the development and is now looking for Swale Borough Council to take possession of the site. An indicative plan is shown at Appendix I, but the final area of land to be transferred will be subject to the final details of the transfer agreement received from Persimmon Homes.
- 2.4 There are still some steps that need to be undertaken by the developer prior to SBC acceptance of the site. These include snagging to the internal features of the changing pavilion, evidence of maintenance records, conduct of a building surveyor inspection and then handover of various operating manuals.
- 2.5 Initial discussions have been held with members and officers of Iwade Parish Council to return the operation of the site to them. They have requested a 125 year lease. Draft Heads of Terms have been drawn up that capture these discussions and follow the principles of the Asset Transfer Policy. The draft Heads of Terms can be found at Appendix II.
- 2.6 Whilst the site is brand new, the benefit of the transfer is that Swale Borough Council will save longer term running costs with no grounds maintenance and inspections, no building maintenance or insurance liabilities, no administration of bookings and no requirement for SBC to allocate renewal funds for replacement at the end of the facility life.
- 2.7 The proposed transfer is in line with the recommendations of the Swale Playing Pitch Strategy (PPS) and the lease will state the need to keep the site as a recreational facility and to make it available for junior football usage to help meet the identified deficit in the PPS.
- 2.8 It is anticipated that the developer will be in a position to transfer the site in the next three months and this may be before the negotiations of the lease with Iwade Parish Council have been completed. If this situation does occur, then in order to ensure that the asset is managed and maintained in this interim period, SBC will maintain it utilising our existing ground maintenance budget.
- 2.9 Under the terms of the Asset Transfer Policy, it has been determined that an external valuation under Section 123 of the Local Government Act 1972 is not required as there is no alternative non-community use. The proposed disposal would only be at an 'undervalue' if it was realistic to think that the Council could sell or lease the land/premises for a capital receipt or a higher rent. Given that the Section 106 Agreement includes the need to protect it as public open space and it is assumed the Transfer Agreement will also require this, the above options are not possible.
- 2.10 Furthermore an internal valuation is not proposed on the basis that the transfer will be undertaken on a back to back or very short interim period and therefore permission of the Section 151 officer is the only requirement.

### **3 Proposals**

- 3.1 To transfer Iwade Recreation Ground including the children’s playground and the changing pavilion to Iwade Parish Council on a 125 year lease.
- 3.2 To delegate authority to the Head of Commissioning and Customer Contact and Head of Property in conjunction with the Cabinet Member for Finance and Performance to negotiate the final terms of the lease.

### **4 Alternative Options**

- 4.1 The site could be retained and managed by SBC. This will increase on-going costs for the management of open spaces.
- 4.2 The site could be leased directly to interested voluntary sector sports clubs. Whilst this is an option mentioned in the Asset Transfer Policy and Playing Pitch Strategy, it is considered that the facilities will be more sustainable in the hands of the Parish Council as they could be used to develop localised community activities. A voluntary club would be unlikely to take a lease on better terms than is proposed in this transfer to Iwade Parish Council. A sports club is also unlikely to be interested in management of the children’s playground.

### **5 Consultation Undertaken or Proposed**

- 5.1 The item has been raised at Asset Transfer Group and Asset Management Group.
- 5.2 An initial meeting has taken place with Iwade Parish Council and Cabinet members have been briefed.
- 5.3 There will be a requirement to advertise this transfer in the local newspapers as a disposal of public open space under s123(2A) of the Local Government Act 1972.

### **6 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	A Borough to be Proud of – Protect and improve the natural and built environment  A Community to be Proud of – encourage active communities and support the voluntary sector, work in partnership to improve health and mental health
Financial, Resource and Property	There are small cost implications if the acceptance of the site from the developer is prior to the agreed transfer date out to the Parish Council. The figures are low and can be absorbed into the existing open spaces and grounds maintenance budgets.

	<p>It is proposed that the lease is at a nominal rent to allow for sustainable operation in the future by the Parish Council. A rent review option has been included in the Draft Heads of Terms with a trigger at 5 years and/or a clause based on implementation of a commercial venture.</p> <p>Retaining the site would increase the costs of the grounds maintenance contract and increase workload for existing resources in Customer Services, Environmental Response Team and Parks team.</p> <p>A low rental is proposed at £10 per annum.</p>
Legal and Statutory	<p>The lease will be completed by Mid Kent Legal Services.</p> <p>There will be a requirement to advertise this as a disposal of public open space under s123 (2A) of the Local Government Act 1972. The costs of this will be borne by the Open Spaces budget.</p> <p>The transfer to the Parish Council will be bound by the terms of the Section 106 Agreement and Transfer Agreement from the developer.</p>
Crime and Disorder	<p>The design of the building and site fencing has been considered with crime and disorder in mind. Good management of the site will ensure any issues are reduced. Leisure activities are evidenced to provide diversionary activity for young people to reduce ASB.</p>
Sustainability	<p>Modern standard changing pavilion designs take into consideration energy efficiency. The Parish Council will be able to use income derived from increased community usage and through application for grants to help maintain the building.</p>
Health and Wellbeing	<p>The recreational facilities promote healthy activity. The site will provide a base for local sports clubs and for the Parish Council to use as a community facility.</p>
Risk Management and Health and Safety	<p>There is limited or no risk in the project as the facilities have been constructed by the developer. Prior to acceptance the buildings and site will be inspected by our in-house building surveyor.</p> <p>On-going risk will be passed onto the Parish Council under the terms of a full management and repairing lease.</p>
Equality and Diversity	<p>The children's playground was designed with disabled users in mind. The building complies with building regulations relating to access.</p>

## 7 Appendices

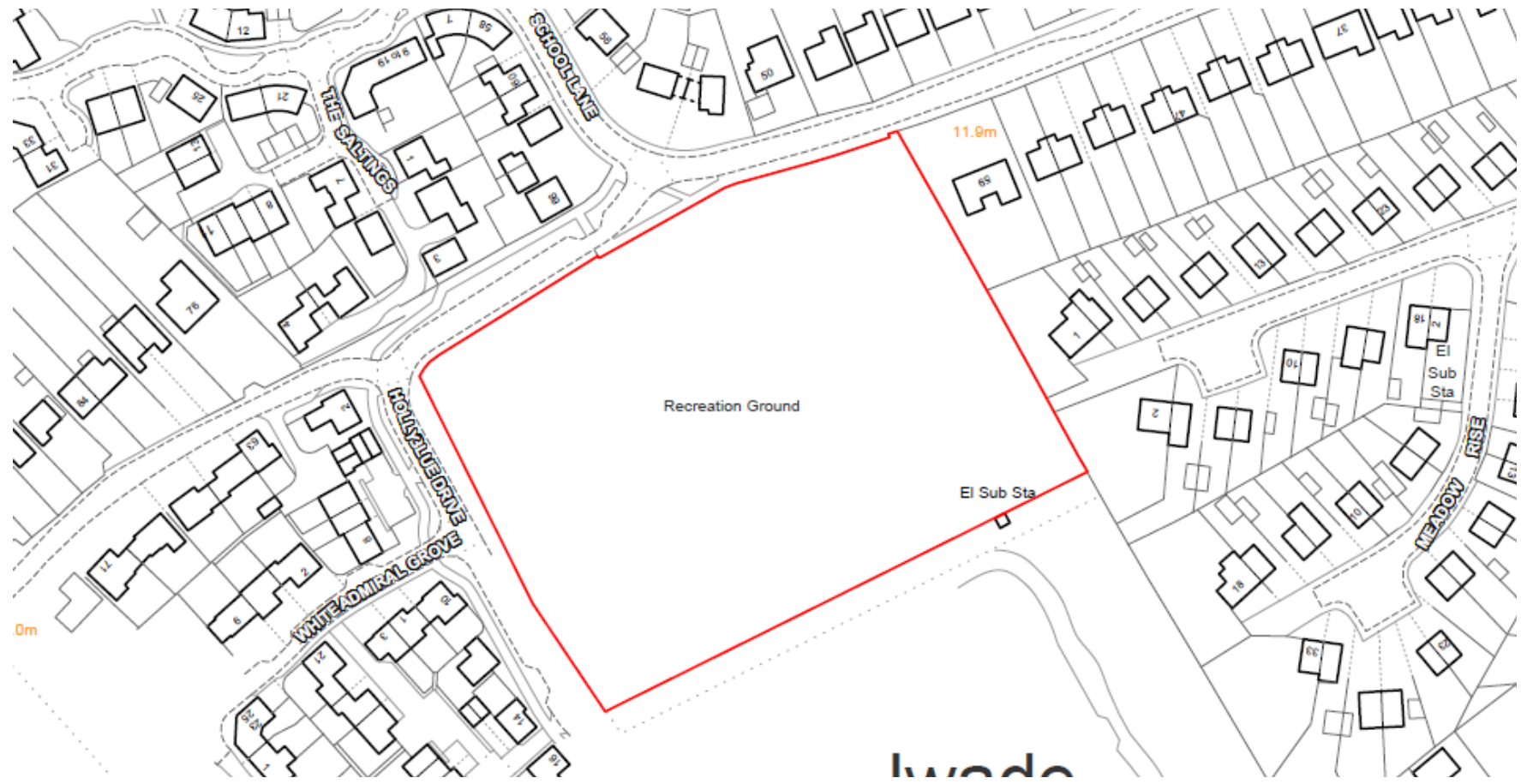
The following documents are to be published with this report and form part of the report:

- Appendix I: Indicative Site Plan
- Appendix II: Draft Heads of Terms for Iwade Recreation Ground Transfer

## **8 Background Papers**

n/a

# Appendix I – Indicative Site Plan



lyode



## Appendix II – Draft Heads of Terms for Transfer

### Lease of Iwade Recreation Ground, School Lane, Iwade, Sittingbourne

#### HEADS OF TERMS

<b>1.0 Initial information</b>	
1.0 Property Address	The Iwade Recreation Ground, School Lane, Iwade, Sittingbourne, Kent. As shown edged red on the attached plan.
1.1 Title No.	
1.2 Landlord	Swale Borough Council, Swale House, East Street, Sittingbourne, Kent. ME10 3HT
1.3 Tenant	Iwade Parish Council
1.4 Rent	Sum to be mutually agreed.
1.5 Type of lease	Head lease
<b>2.0 Lease length and breaks</b>	
2.1 Lease start date and length	A 125 year lease from <i>[date to be agreed]</i>
2.2 Break clauses or renewal dates	N/A?
2.3 1954 Act protection	N/A? check CAT policy
2.4 Rights	Rights are to be reserved for access and repair and maintenance of underground apparatus in favour of the relevant statutory undertakers.
<b>3.0 Rent Reviews</b>	After 5 years Commercial Venture trigger
<b>4.0 Assignment and subletting</b>	There shall be no assignment, sub-letting or parting of possession of the whole of the demised premises.  Subletting of parts will be permitted with the Council's prior approval providing they are compatible with the primary aim of being a community facility.  The hiring out to organisations approved by the Tenant for periods of less than 24 hours will be permitted.
<b>5.0 Services and service charges</b>	All services and service charges are the responsibility of the Lessee
<b>6.0 Repairing obligations</b>	The Tenant shall be responsible for keeping all buildings and structures and all fixtures and additions erected or to be erected on the demised premises in a good and substantial state of repair and condition throughout the term and for the maintenance of all boundary and site

	security fencing.
<b>7.0 Alterations</b>	The Tenant shall not carry out any structural or external alterations or new building works without the prior written consent of the Landlord. Non-structural internal alterations will not require prior consent.
<b>8.0 Permitted use</b>	The site shall be used for the provision of a <i>[recreation ground including formal sports pitches, children's play area, car park and sports changing pavilion providing a social space to support service provision to meet the needs of the local community]</i> . No other use is permitted without the express consent of the Council.
<b>9.0 Insurance</b>	The Tenant shall insure the demised premises and any buildings erected thereon and indemnify the Council against any claims for damages, losses or injuries and any other claims whatsoever arising out of the use of the demised premises by the tenant.
<b>10.0 Dilapidations</b>	The Tenant shall be responsible for all costs charges and expenses including solicitors costs and surveyors fees incurred by the Council in respect of the preparation and service of a notice under sections 146 and 147 of the Law of Property Act 1925
<b>11.0 Other issues</b>	
11.1 Nuisance	The Tenant shall covenant not to cause or permit to be caused anything which may become a nuisance to the Council or adjoining property owners
11.2 Rates and Utilities	The Tenant shall be responsible for the payment of all future rates taxes assessments and all outgoings payable by law in respect of the demised premises by either the owner or occupier thereof.
11.3 Statutory Obligations	The Tenant shall conform at his own expense to all statutory and other regulations pertaining to the demised premises including all health and safety legislation and obtaining any necessary planning consent required and to indemnify the Council against any claims arising from any breach of such regulations.
11.4 Legal costs	Each party to pay own costs
11.5 Conditions	The proposed Heads of Terms are

	subject to Member approval.
11.6 General	An Energy Performance Certificate is to be provided by the building contractors.
11.7 No contract	These Heads of Terms are subject to contract.
11.8 Landlords solicitors	Mid Kent Legal Partnership, Swale Borough Council, East Street, Sittingbourne, Kent. ME10 3HT
11.9 Tenants solicitors	To be advised

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<b>Cabinet</b>	<b>Agenda Item: 8</b>
<b>Meeting Date</b>	<b>7 September 2016</b>
<b>Report Title</b>	<b>Financial Management Report – April – June 2016</b>
<b>Cabinet Member</b>	<b>Cllr Duncan Dewar-Whalley, Cabinet Member for Finance &amp; Performance</b>
<b>SMT Lead</b>	<b>Nick Vickers, Head of Finance</b>
<b>Head of Service</b>	<b>Nick Vickers, Head of Finance</b>
<b>Lead Officer</b>	<b>Phil Wilson, Chief Accountant</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Classification</b>	<b>Open</b>
<b>Forward Plan</b>	<b>Reference number: 7</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. To note the projected net revenue underspend on services of £199,000.</li> <li>2. To note the capital expenditure of £346,000 to end of June 2016.</li> </ol>

## 1. Purpose of Report and Executive Summary

- 1.1 This report shows the revenue and capital projected outturn for 2016/17 as at the end of June 2016. The report is based on service activity up to the end of June 2016, and is collated from monitoring reports from budget managers.
- 1.2 A total revenue projected underspend on services is forecast of £199,000;
- 1.3 The detailed outturn statements are detailed in Tables 2 and 3.

## 2. Background

- 2.1 The Council operates a monthly budget monitoring process at Head of Service level, with reports each month to the Strategic Management Team.
- 2.2 Financial monitoring reports are presented to Cabinet on a quarterly basis, as well as to Scrutiny Committee.

### 3. Proposals

#### Revenue Outturn

3.1 There are a number of service movements within the projected revenue outturn, and the most significant of these are summarised below.

**Table 1: Service Movements**

Service/Contract	Reason for Variance	Working Budget £'000	Projected Variance £'000
<b>Additional Income:</b>			
<b>Fees &amp; Charges set by SBC:</b>			
Parking	Additional income from parking fees	(1,565)	(165)
Legal	Additional income from S106 fees	(29)	(11)
Recycling & Waste Management & Street Cleansing	Additional income from garden waste collections (brown bins)	(368)	(11)
<b>Other Income:</b>			
Corporate Items	Additional external interest income	(93)	(134)
Recycling & Waste Management & Street Cleansing	Special collections and sale of litter bins	(25)	(6)
<b>Total Additional Income</b>			<b>(327)</b>
<b>Procurement/Shared Service Savings/Additional Costs:</b>			
Refuse Collection/Street Cleansing	Street Cleansing Contract	(884)	(30)
	Refuse & Recycling Contract	(2,401)	(17)
Leisure & Sport	Net contract savings	(226)	(2)
Planning MKIP	Additional MKIP costs	251	13
Audit Shared Service	Additional shared service costs	157	1
Benefits	Fraud Prevention savings	(93)	(19)
Public Conveniences	Net contract savings	(250)	(5)
<b>Total Net Procurement/Shared Service Savings</b>			<b>(59)</b>
<b>Overspends:</b>			
Homelessness	Net bed and breakfast budget	111	119
Planning	Shortfall on planning income	(672)	100
<b>Total Overspends</b>			<b>219</b>
<b>Other Net Underspends</b>			<b>(32)</b>
<b>Total Variance</b>			<b>(199)</b>

3.2 Table 2 below shows the outturn position by service. The line-by-line variations are explained in Table 3.

**Table 2 : Underspend by Service**

	Service Manager	Working Budget	Projected Outturn 2016/17	Projected Variance
		£	£	£
Chief Executive	A. Kara	265,810	237,810	(28,000)
Policy	D. Clifford	213,860	212,860	(1,000)
Economy & Communities	C. Hudson	2,066,690	2,066,690	0
Communications	S. Toal	234,770	234,770	0
Resident Services	A. Christou	1,654,760	1,716,760	62,000
Planning	J. Freeman	935,730	1,080,730	145,000
Commissioning & Customer Contact	D. Thomas	5,486,430	5,242,430	(244,000)
Director of Corporate Services & Director of Regeneration	M. Radford / E. Wiggins	361,850	364,850	3,000
Information Technology	A. Cole	1,081,500	1,081,500	0
Audit	R. Clarke	156,990	157,990	1,000
Environmental Health	T. Beattie	507,050	507,050	0
Finance	N. Vickers	1,452,480	1,443,480	(9,000)
Human Resources	D. Smart	342,010	342,010	0
Legal	J. Scarborough	395,640	384,640	(11,000)
Democratic Services	K. Bescoby	914,720	913,720	(1,000)
Property	A. Adams	574,930	569,930	(5,000)
Variances to be met from underspend		0	10,000	10,000
Corporate Items		1,806,048	1,685,048	(121,000)
<b>NET REVENUE SERVICE EXPENDITURE</b>		18,451,268	18,252,268	(199,000)
<b>Financed by:</b>				
Revenue Support Grant		(1,954,950)	(1,954,950)	0
Business Rates		(5,643,950)	(5,643,950)	0
New Homes Bonus		(3,482,000)	(3,482,000)	0
Collection Fund Surplus		(260,970)	(260,970)	0
Council Tax Freeze Grant		(79,000)	(79,000)	0
Council Tax Requirement		(7,030,398)	(7,030,398)	0
<b>TOTAL CONTRIBUTION TO GENERAL FUND</b>		<b>0</b>	<b>(199,000)</b>	<b>(199,000)</b>

**Table 3: Main Variations by Service**

<b>Projected Net (Under)/Overspend / Income Shortfall as at end of June 2016</b>		
<b>Service – Cabinet Member (Head of Service)</b>	<b>£'000</b>	<b>Explanation</b>
<b>CHIEF EXECUTIVE – Cllr A. Bowles (Abdool Kara)</b>		
Chief Executive & Corporate Costs	(28)	£7k underspend on corporate costs £21k other net savings
Policy	(1)	Net staff costs savings
<b>TOTAL</b>	<b>(29)</b>	
<b>ECONOMY AND COMMUNITIES – Cllrs M. Cosgrove &amp; A. Horton (Charlotte Hudson)</b>		
Environmental	0	The Dog Warden Service is negotiating a new kennelling contract however it is too early to estimate the final service outturn.  Additional staff costs in Environmental Response are anticipated to be offset by savings elsewhere.
Economic Development	0	Additional maternity cover staff costs are expected to be offset by savings in Learning & Skills.
Learning & Skills	0	Savings arising from the new contract for Business Support Services will offset Economic Development additional staff costs.
Markets	0	Anticipated additional specialist markets on Saturday may generate additional business rates and income. However, contract terms are still being negotiated and it is too early to estimate any additional costs or savings.
<b>TOTAL</b>	<b>0</b>	
<b>COMMUNICATIONS, PRINTING, ADVERTISING &amp; PROMOTION – Cllrs M. Cosgrove &amp; A. Horton (Sara Toal)</b>		
Communications	0	Nil Variance reported at this stage
<b>TOTAL</b>	<b>0</b>	
<b>RESIDENT SERVICES – Cllr K. Pugh (Amber Christou)</b>		
Council Tax Benefit	0	Nil Variance reported at this stage
Housing Benefit and Council Tax	(14)	£19k projected underspend on the Fraud Partnership shared service;  £11k underspend on mileage;  £10k overspend projected on staff costs  £6k overspend for grants



<b>Projected Net (Under)/Overspend / Income Shortfall as at end of June 2016</b>		
<b>Service – Cabinet Member (Head of Service)</b>	<b>£'000</b>	<b>Explanation</b>
Housing Development and Strategy	(1)	Staff costs underspend
Private Sector Housing	(14)	£11k underspend on staff costs as a member of staff is on maternity leave £3k mileage underspend
Stay Put Scheme	(2)	Small underspend on salaries.
Housing Options	93	£119k overspend on the Bed & Breakfast budget £30k underspend for homeless hostel budget £4k miscellaneous overspends
<b>TOTAL</b>	<b>62</b>	
<b>PLANNING – Cllr G. Lewin (James Freeman)</b>		
Building Control	0	Nil Variance reported at this stage
Development Control	128	£100k net pressure for planning fees £2k additional income £25k overspend from Spade Lane appeal £5k overspend for enforcement salaries
Development Services	4	Additional staff costs £4k
Local Land Charges	0	Nil Variance reported at this stage
Local Planning & Conservation	0	Nil Variance reported at this stage
Mid Kent Planning Service (MKPS)	13	Anticipated additional costs for MKPS
<b>TOTAL</b>	<b>145</b>	
<b>COMMISSIONING &amp; CUSTOMER CONTACT – Cllr D. Simmons (Dave Thomas)</b>		
Commissioning & Customer Contact, Client & Amenity Services and Customer Service Centre	8	£7k staff costs pressure £1k miscellaneous other costs
Parking Management	(165)	Anticipated additional income over budget
Leisure & Sports	(13)	£11k energy costs recharges for Central House £2k Serco credit sale agreement repayments lower than budgeted

<b>Projected Net (Under)/Overspend / Income Shortfall as at end of June 2016</b>		
<b>Service – Cabinet Member (Head of Service)</b>	<b>£'000</b>	<b>Explanation</b>
Cleansing	(2)	£5k staff costs savings £3k miscellaneous additional costs (including mileage lump sum £1k)
Recycling & Waste Minimisation	(11)	Garden Waste bins additional income.
Refuse Collection / Street Cleansing/ Public Conveniences	(61)	£52k estimated contract costs savings £5k special collections fees £3k rates savings £1k sale of litter bins (Note – contract costs for current year are still being negotiated)
<b>TOTAL</b>	<b>(244)</b>	
<b>DIRECTOR OF CORPORATE SERVICES – Cllr D. Dewar-Whalley (Mark Radford)</b>		
Corporate Costs	0	Nil variance
Licensing	0	Nil variance
<b>TOTAL</b>	<b>0</b>	Nil variance
<b>EMERGENCY PLANNING – Cllr A. Bowles (Della Fackrell)</b>		
Emergency Planning	0	Nil variance
<b>TOTAL</b>	<b>0</b>	
<b>DIRECTOR OF REGENERATION – Cllr M. Cosgrove (Emma Wiggins)</b>		
Strategic Director	3	Minor variance
<b>TOTAL</b>	<b>3</b>	
<b>IT SERVICES – Cllr D. Dewar-Whalley (Andy Cole)</b>		
IT MKIP	0	Nil variance
IT Clientside	0	Nil variance
<b>TOTAL</b>	<b>0</b>	
<b>ENVIRONMENTAL HEALTH – Cllr. D. Simmons (Tracey Beattie)</b>		
Environmental Health MKIP	0	Nil variance
<b>TOTAL</b>	<b>0</b>	
<b>INTERNAL AUDIT – Cllr D. Dewar-Whalley (Rich Clarke)</b>		
Audit Services	1	Small increase in the recharge for the MKIP Audit service due to new pay scales at MBC
<b>TOTAL</b>	<b>1</b>	

<b>Projected Net (Under)/Overspend / Income Shortfall as at end of June 2016</b>		
<b>Service – Cabinet Member (Head of Service)</b>	<b>£'000</b>	<b>Explanation</b>
<b>FINANCE – Cllr D. Dewar-Whalley (Nick Vickers)</b>		
Financial Services	(9)	Minor variance
<b>TOTAL</b>	<b>(9)</b>	
<b>HUMAN RESOURCES – Cllr D. Dewar-Whalley (Dena Smart)</b>		
Human Resources	0	Nil variance
Organisational Development	0	Nil variance
<b>TOTAL</b>	<b>0</b>	
<b>LEGAL – Cllr D. Dewar-Whalley (John Scarborough)</b>		
Legal MKLS	0	Nil variance
S106 Income	(11)	Additional income from S106 income
<b>TOTAL</b>	<b>(11)</b>	
<b>DEMOCRATIC SERVICES – Cllr A. Bowles (Katherine Bescoby)</b>		
Democratic Process	(1)	Minor variance
Other Democratic Costs	0	Nil Variance
<b>TOTAL</b>	<b>(1)</b>	
<b>PROPERTY SERVICES – Cllr D. Dewar-Whalley (Anne Adams)</b>		
Property Services	(9)	Underspend on salary budgets
Administrative Buildings	(2)	Miscellaneous small underspends
Property Management	6	£11k pressure on rental income £5k underspend on rates
Health & Safety	0	Nil variance
<b>TOTAL</b>	<b>(5)</b>	
<b>VARIANCES TO BE MET FROM UNDERSPEND</b>		
Sittingbourne Town Centre Development	10	Additional Legal Fees re Sittingbourne Town Centre Project. As in previous years, it is requested that this be funded from the anticipated final total underspend.
<b>TOTAL</b>	<b>10</b>	
<b>NON-SERVICE BUDGETS</b>		
Corporate Items	(121)	£134k external interest additional income £7k additional costs re: Lower Medway Internal Drainage Board £6k net additional costs
	<b>(199)</b>	<b>NET EXPENDITURE (PROJECTED VARIANCE)</b>

## Business Rates

- 3.3 The headline figures for total Business Rates income are:
- 2015/16 NNDR3 (outturn) £45,081,000
  - 2016/17 Budget £46,422,000
  - 2016/17 NNDR1 (Forecast) £47,542,000
- 3.4 The Council retains about 10% of total business rates and 40% of any growth over the 1 April 2013 base position. The Council has agreed that any surplus goes into the Business Rates Volatility Reserve. The reserve currently stands at £2.6m and any surplus business rates for 2016/17 will be put to this reserve in order to be able to address any future volatility of income.
- 3.5 The Council has set aside £8.1m for business rate appeals. This indicates how business rate income can vary greatly as a result of a decision made on business rate appeals.
- 3.6 On 5 July 2016, DCLG published the consultation paper, “*Self-sufficient local government: 100% Business Rates Retention*”. The paper seeks views regarding the implementation of 100% Business Rates Retention for local government which government intends to introduce to local government by the end of the Parliament. It is expected that, at the same time, the government will update the relative needs formulae (i.e. that determines the amount of resources that an authority will have if it collects at its business rates target). A discussion paper “*Fair Funding Review: Call for evidence on needs and redistribution*” on the review of the Baseline Need figure was also published on 5 July 2016. There will also be a revaluation of business rates as at 1 April 2017.
- 3.7 DCLG have confirmed agreement to a business rate pool for 2016/17 consisting of KCC and ten district / borough councils – Sevenoaks remains outside, Dartford comes in and Dover leaves.

## Improvement and Regeneration Funds

- 3.8 Table 4 below details the outturn position on a number of reserve funds.

**Table 4: Improvement and Regeneration Funds**

	<b>Balance as at 1 April 2016</b>	<b>Transfers from reserve (Expenditure) in year</b>	<b>Transfers to reserve (Income) in year</b>	<b>Balance as at March 2017</b>
<b>Funds:</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
Performance	536,417	(2,850)	0	533,567
Regeneration	362,649	(9,782)	250,000	602,867
Communities	71,913	(143)	0	71,770
Transformation	212,142	(221)	0	211,921
Local Loan Fund	250,000	0	0	250,000
<b>TOTAL</b>	<b>1,433,121</b>	<b>(12,996)</b>	<b>250,000</b>	<b>1,670,125</b>

3.9 Appendix I details the allocations from the above funds during 2016/17.

### Capital Expenditure

3.10 This section of the report details actual capital expenditure and highlights any variations between the revised 2016/17 capital budget and the projected outturn.

3.11 Actual expenditure to end of June 2016 is £346,003. This represents 12.6% of the revised budget. Further details are set out in Appendix II.

### Funding of the 2016/17 Capital Programme

3.12 The 2016/17 capital programme expenditure of £346,003 is funded as set out in Table 5.

**Table 5: Capital Programme Funding**

	<b>2016/17 Revised Budget £</b>	<b>2016/17 Actual to end of June 2016 £</b>
Partnership funding (including S106 Grants)	2,104,000	317,524
Earmarked Reserves	47,000	8,567
Long Term Debtors / Third Party Loans	0	19,912
Capital Receipts	605,000	0
<b>Total Funded</b>	<b>2,756,000</b>	<b>346,003</b>

### Payment of Creditors

3.13 The payment of creditors to end of June 2016 is 99% paid in 30 days against the target of 97%.

### Debtors

3.14 Tables 6, 7 and 8 below analyse the sundry debt outstanding.

**Table 6: Debt outstanding by due date (not including Rent Deposit Scheme)**

	<b>June 2016</b>	<b>June 2015</b>
	<b>£'000</b>	<b>£'000</b>
Not Due	112	313
1-2 Months	440	116
2-6 Months	46	65
6-12 Months	11	20
1-2 Years	19	11
2-3 Years	4	6
3-4 Years	6	8

	June 2016	June 2015
	£'000	£'000
4-5 Years	7	24
5-6 Years	14	11
6 Years +	23	15
<b>Total</b>	<b>682</b>	<b>589</b>
<b>Total Due</b>	<b>570</b>	<b>276</b>
<b>% Total Due</b>	<b>84%</b>	<b>47%</b>

**Table 7: Debt outstanding by due date (including Rent Deposit Scheme)**

	June 2016	June 2015
	£'000	£'000
Not Due	114	317
1-2 Months	440	116
2-6 Months	56	76
6-12 Months	23	20
1-2 Years	33	18
2-3 Years	38	12
3-4 Years	11	15
4-5 Years	15	57
5-6 Years	43	173
6 Years +	94	15
<b>Total</b>	<b>867</b>	<b>819</b>
<b>Total Due</b>	<b>753</b>	<b>502</b>
<b>% Total Due</b>	<b>87%</b>	<b>61%</b>

**Table 8: Debt outstanding (including Rent Deposit Scheme) by Head of Service**

	June 2016	June 2015
	£'000	£'000
Rent Deposit Scheme	185	231
Commissioning & Customer Contact	58	33
Property	157	196
Residents Services	49	66
Legal (MKLS)	5	2
Economy & Communities	14	12
Planning	3	20
Regeneration	0	45
Communications	0	1
Environmental Health	14	4
Policy	1	3
Other	381	206
<b>Total</b>	<b>867</b>	<b>819</b>

3.15 The debt over six years old relates to charges on property, i.e. where the debt cannot be collected until the property concerned is sold.

3.16 Of the £440k shown to be outstanding as at June 2016, £392k (largely S106 income) was paid on 5 July 2016. Of the debts older than 12 months, £24k are charges on property.

## 4. Alternative Options

4.1 None identified – this report is largely for information.

## 5. Consultation Undertaken or Proposed

5.1 Heads of Service and Strategic Management Team have been consulted in preparing this report.

## 6. Implications

Issue	Implications
Corporate Plan	Good financial management is key to achieving our Corporate Plan priority of being “A council to be proud of”
Financial, Resource and Property	As detailed in the report
Legal and Statutory	None identified at this stage
Crime and Disorder	None identified at this stage
Sustainability	None identified at this stage
Health & Wellbeing	None identified at this stage
Risk Management and Health and Safety	None identified at this stage
Equality and Diversity	None identified at this stage

## 7. Appendices

7.1 The following documents are published with this report and form part of the report:

- Appendix I: Improvement & Regeneration Fund allocations as at the end of June 2016
- Appendix II: Capital Programme – Projected outturn as at end of June 2016

## 8. Background Papers

8.1 The Budget 2016/17 and Medium Term Financial Strategy 2016/17 to 2018/19.

## Improvement and Regeneration Fund Allocations to the end of June 2016

	<b>Amount £</b>
<b>Performance Fund</b>	
Community Safety Operational Pot	5,000
Transformation Project	120,000
Data Quality Project	25,000
Transitional Review into Future Delivery of DFG's	4,000
Consultancy support for renegotiation of Grounds Maintenance contract	20,000
Smarter Digital Services	20,000
Additional hours to support Cabinet and Deputy Cabinet Members	1,604
Website Development	5,000
Digital Service Development - GovDelivery implementation	3,320
Website re-design	49,000
Pilot project for website self service	10,260
<b>Total Approved as at June 2016</b>	<b>263,184</b>
<b>Regeneration Fund</b>	
Sheerness Strategic Regeneration Framework	15,000
<b>Total Approved as at June 2016</b>	<b>15,000</b>
<b>Communities Fund</b>	
<b>Total Approved as at June 2016</b>	<b>0</b>



## Capital Programme 2016/17

	Funding SBC / P	2016/17 Original Budget £	Other Adjustments £	2016/17 Working Budget £	2016/17 Actual to End of June 2016 £	2016/17 Projected Variance £
<b>SUMMARY</b>						
<b><i>PARTNERSHIP FUNDING SCHEMES</i></b>						
<i>Economy &amp; Communities</i>	<i>P</i>	964,000		964,000	13,538	
<i>Resident Services</i>	<i>P</i>	1,140,000		1,140,000	302,625	
<b>TOTAL PARTNERSHIP FUNDING SCHEMES</b>	<b><i>P</i></b>	<b>2,104,000</b>	<b>0</b>	<b>2,104,000</b>	<b>316,163</b>	<b>0</b>
<b><u>SWALE BOROUGH COUNCIL FUNDING SCHEMES</u></b>						
Commissing & Customer Contact	SBC	15,000		15,000	0	
Corporate Services	SBC	0	17,000	17,000	8,500	
Environmental Health	SBC	55,000		55,000	0	
Economy & Communities	SBC	565,000		565,000	0	
Resident Services	SBC	0		0	21,340	
Finance	SBC					
<b>TOTAL SBC FUNDING SCHEMES</b>	<b>SBC</b>	<b>635,000</b>	<b>17,000</b>	<b>652,000</b>	<b>29,840</b>	<b>0</b>
<b>TOTAL CAPITAL PROGRAMME</b>		<b>2,739,000</b>	<b>17,000</b>	<b>2,756,000</b>	<b>346,003</b>	<b>0</b>

## Capital Programme 2016/17

	Funding SBC / P	2016/17 Original Budget £	Other Adjustments £	2016/17 Working Budget £	2016/17 Actual to End of June 2016 £	2016/17 Projected Variance £
<b><u>ECONOMY &amp; COMMUNITIES - C.HUDSON</u></b>						
CCTV - Repairs & Renewals Reserve	SBC	15,000		15,000	0	
<i>Easthall Farm Community Centre - S106</i>	<i>P</i>	<i>964,000</i>		<i>964,000</i>	<i>13,538</i>	
Faversham Pools - Capital Receipts	SBC	150,000		150,000	0	
The Mill Project, Sittingbourne Skate Park - Capital Receipts	SBC	200,000		200,000	0	
Faversham Creek Basin Regeneration Project (swing bridge) - Capital Receipts	SBC	200,000		200,000	0	
<b>TOTAL ECONOMY &amp; COMMUNITIES</b>		<b>1,529,000</b>	<b>0</b>	<b>1,529,000</b>	<b>13,538</b>	<b>0</b>
<b><u>COMMISSIONING &amp; CUSTOMER CONTACT - D.THOMAS</u></b>						
Car Park Machines - Reserves	SBC	15,000		15,000	0	
<b>TOTAL COMMISSIONING &amp; CUSTOMER CONTACT</b>		<b>15,000</b>	<b>0</b>	<b>15,000</b>	<b>0</b>	<b>0</b>
<b><u>CORPORATE SERVICES - MARK RADFORD</u></b>						
Uniform Licencing Implementation	SBC		17,000	17,000	8,500	
<b>TOTAL CORPORATE SERVICES</b>		<b>0</b>	<b>17,000</b>	<b>17,000</b>	<b>8,500</b>	<b>0</b>

## Capital Programme 2016/17

	Funding SBC / P	2016/17 Original Budget £	Other Adjustments £	2016/17 Working Budget £	2016/17 Actual to End of June 2016 £	2016/17 Projected Variance £
<b>ENVIRONMENTAL HEALTH - T.BEATTIE</b>						
Replacement of Air Quality Stations - Capital Receipts	SBC	55,000		55,000		
<b>TOTAL ENVIRONMENTAL HEALTH</b>		<b>55,000</b>	<b>0</b>	<b>55,000</b>	<b>0</b>	<b>0</b>
<b>RESIDENT SERVICES - A. CHRISTOU</b>						
<i>DFG Mandatory Grants (CLG)</i>	<i>P</i>	<i>1,140,000</i>		1,140,000	302,625	
HRG - Housing Repair Grants Over 60	SBC	0		0	1,360	
RHB2 - Decent Home Loans Owner Occupier	SBC	0		0	19,913	
Temporary Accommodation - Reserves	SBC	0		0	67	
<b>TOTAL RESIDENT SERVICES</b>		<b>1,140,000</b>	<b>0</b>	<b>1,140,000</b>	<b>323,965</b>	<b>0</b>

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# Agenda Item 9

<b>Cabinet Meeting</b>		<b>Agenda Item: 9</b>
<b>Meeting Date</b>	7 September 2016	
<b>Report Title</b>	Establishment of a limited liability partnership (LLP)	
<b>Cabinet Member</b>	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance and Performance	
<b>SMT Lead</b>	Mark Radford, Director of Corporate Services	
<b>Lead Officer</b>	Mark Radford, Director of Corporate Services	
<b>Key Decision</b>	Yes with restricted appendices containing exempt information under Paragraph(s) 3, Part 1 Schedule 12A, Local Government Act 1972 (as amended)	
<b>Classification</b>	<b>Open</b> with restricted appendices containing exempt information under Paragraph(s) 3, Part 1 Schedule 12A, Local Government Act 1972 (as amended)	
<b>Forward Plan</b>	<b>Reference number:</b>	
<b>Recommendations</b>	<p>It is recommended that:</p> <ol style="list-style-type: none"> <li>1. the creation of a limited liability partnership (LLP) between the Council and PSP Facilitating Limited (PSPF) be approved;</li> <li>2. the final terms of the necessary agreements be agreed by the Director of Corporate Services, the Head of Finance, and the Head of Legal, in consultation with the Cabinet Member for Finance and Performance, provided that all the due diligence checks have been carried out successfully;</li> <li>3. it be noted the LLP arrangement requires the establishment of an LLP Members Board with equal Council and PSPF representation, supported by an Operations Board for officers;</li> <li>4. the Council representation on these Boards be agreed by the Director of Corporate Services following consultation with the Leader, once the format of these boards is established as part of the final terms of the agreement; and that the Council representation on the LLP Board will be from members of the Cabinet;</li> <li>5. insurance and indemnity be provided for Member and Officer representatives of the LLP;</li> <li>6. it be noted that the LLP will be an additional option for the Council to use to deal with its property portfolio; and</li> <li>7. it be noted that further reports will be submitted to Cabinet in respect of relevant proposals to pursue property related projects through the LLP.</li> </ol>	

# 1 Purpose of Report and Executive Summary

- 1.1 The purpose of this report is to recommend to Cabinet that the Council enters into a joint venture limited liability partnership (LLP) with a private sector partner, PSP Facilitating Ltd (PSPF). An LLP between Swale BC and PSPF would provide the Council with an additional option over and above those currently available to it with regard to the disposal, sale, or development or other use of its assets in order to maximise income and opportunity.
- 1.2 The local government financing environment is evolving and the expectation is that the authority will no longer be reliant on central government funding from 2020. With this change the authority has been pursuing a number of income generation initiatives to achieve the corporate objective of becoming self-financing. The establishment of an LLP will provide another 'string to our bow'.
- 1.3 As part of our medium term financial planning the Council has been reviewing the approach to property and asset management and the LLP will give us access to additional expertise and a robust process designed to maximise the return from our portfolio.
- 1.4 Public Sector Plc (PSP) is a company formed in 2007 between the Winston Group, the William Pears Groups, and Best Value Strategies Ltd. PSP approaches local authorities with whom it seeks to partner. It works in partnership using a 'relationship first' approach, and requires no prior commitment or guarantee of work by the Council. PSP is already operating in 13 local authority areas and is negotiating additional localities in its current phase of development.
- 1.5 The relationship brings funding opportunities for the Council which are not traditionally available, and the LLP once formed will be required to demonstrate its value to the Council before projects are agreed for delivery. Under the partnership the Council has the assurance that it will receive the current market value of the property assets, whether this is in terms of revenue income from investment portfolios or capital receipts from the disposal of surplus property. Any additional revenue income or capital value generated by the LLP over and above this is shared between the partners.
- 1.6 Property initiatives through the LLP must be able to demonstrate added value over and above the Council's traditional approaches and any up-front investment is uniquely supported by private sector funding, removing any risk to taxpayers' money. Furthermore the LLP does not involve the commitment up front before the partnership can be established as would be the case with other public private partnership approaches such as Private Finance Initiative (PFI) projects and Local Asset Backed Vehicles (LABV).
- 1.7 The report reflects considerable detailed discussions held with a number of authorities who have entered into partnerships of this type and the details are set out in sections 2 and 5 of the report.

## **2 Background**

- 2.1 Whilst Swale Borough Council has an established and effective Property Services Team, it is acknowledged that the Team does not contain the necessary level of capacity and expertise to fully maximise the potential value that could be gained from Council assets, and contribute to the delivery of Council priorities. To do this would often require the buying in of expensive consultancy support. In addition, the Council's current Property Asset Strategy is currently being updated and will reference the establishment of the LLP as a further option to support the objectives of the Plan.
- 2.2 Councils have long held land and property to achieve regeneration objectives or to facilitate development of their area. Like many councils, Swale owns a diverse portfolio of operational and non-operational assets e.g. shops and investment properties. However, changes in funding for local government has resulted in many Councils reviewing their approach to property and asset management, seeing their assets not simply as a means to deliver operational or development requirements, but also as an opportunity for income generation.
- 2.3 Through an introduction, officers initially met with PSP representatives in February 2016 to discuss their organisation, how it works, and how it could work in partnership with the Council to achieve joint objectives. This has since been followed up with further discussions with PSP and informally with Cabinet in June 2016, which have resulted in an invitation to utilise their LLP model to achieve property objectives. Over 40 councils have expressed an interest in the establishment of their own PSP Limited Liability Partnerships to access the £500m Relational Partnering Fund launched at the Municipal Journal Future Forum in March 2015.
- 2.4 PSP was established to offer Local Authorities funding in connection with their property portfolios. It is funded through a joint venture (JV) between the Winston and William Pears Groups established in 2007. Funding is made available through a unique partnership model jointly owned by the Council and PSP. The PSP model encompasses a step-by-step facilitation process, coupled with robust and flexible governance arrangements. This enables local authorities to ensure they have met all their statutory legal and financial obligations.
- 2.5 An LLP model of working is a jointly 'owned' partnership approach to the managing of properties across an area. The PSP LLP model has been in place since 2006/07, and currently has 13 Local Authorities involved in individual partnerships across England: Bolton MBC, Cheshire West and Chester, Daventry, Dorset CC, Dudley MBC, Isle of Wight DC, Scarborough BC, Southend-on Sea MBC, Southampton CC, South Staffordshire DC and Warwick DC). Two additional councils, Warrington and Lichfield, have also agreed in principle to pursue LLPs, though these are not yet up and running. Cannock Chase DC is the latest authority to enter into a LLP.

2.6 The purpose and benefits of a Limited Liability Partnership approach for Swale Borough Council are set out below.

<p><b>Outcomes:</b></p>	<ul style="list-style-type: none"> <li>▪ Generate new additional income through working on property-related projects to support the Council becoming financially self-reliant</li> <li>▪ Access to significant levels of capital investment</li> <li>▪ Resilience – complementing our existing resources by tapping into expertise and resources with a commercial edge</li> <li>▪ Community Benefits i.e. realising improvement in the local economy</li> <li>▪ Revenue savings and generating capital receipts</li> <li>▪ Utilising and strengthening the skills of the Council’s staff</li> </ul>
<p><b>Potential Benefits:</b></p>	<ul style="list-style-type: none"> <li>▪ Highly flexible and creative in operation</li> <li>▪ Additional option open to the Council - this does not remove or compromise ability to consider other options</li> <li>▪ Allows projects to evolve and be assessed before any commitment</li> <li>▪ <b>Baseline value remains with the Council - it is the added value that is shared</b></li> <li>▪ Investment of private sector funds into projects of mutual benefit</li> <li>▪ Support the Council in the development of its strategic review of the property portfolio, and facilitate the preparation of a new Council Asset Management Strategy and related action plan</li> <li>▪ Realise revenue savings</li> <li>▪ Establish new or enhanced revenue income streams</li> <li>▪ Generate improved levels of capital receipts from projects</li> <li>▪ Make more efficient use of their property assets</li> <li>▪ De-risk property transactions</li> <li>▪ Benefit from value created by the private sector</li> </ul>

2.7 In essence, the LLP will extend the range of projects that the Council can be involved in which currently we are not able to progress due to the lack of appropriate expertise, finance, and officer capacity. Projects which fall into this category could include:

- future uses for the Beachfields site and other sites in and around Sheerness and other parts of the Borough;
- feasibility study for progressing Queenborough and Rushenden;



- potential delivery of retail, housing and leisure uses on identified sites; and
  - developing a portfolio of assets to generate an income stream (subject to consideration by Cabinet).
- 2.8 The implementation of a partnership approach will assist the Council to meet its future requirements from a financial, operational and strategic perspective. This will be achieved through maximising the commercial potential of current (and future) assets, and allowing a different management approach to be taken in regards to our land and property assets.
- 2.9 It is noted that any assets developed as part of this approach will be retained under the Council's ownership unless otherwise decided upon by the Council.

### **Governance and due diligence**

- 2.10 A Limited Liability Partnership is a corporate entity in which two or more partners agree to go into partnership with a view to making a profit. LLPs are regulated by legislation in the same way as for a company, e.g. an LLP must file annual accounts and details of membership with Companies House. In an LLP the members have the benefit of limited liability: that is, protection from personal liability for any debts or claims made against the LLP, provided they act within the powers of the constitution of the LLP.
- 2.11 To enter into this proposed LLP it will be necessary to enter into binding legal agreements with PSPF which set out the terms of the partnership. The Members Agreement, and the more detailed Procedure Agreement which sits beneath it, commit both parties to a number of obligations in terms of establishing management and decision-making structures, but it does not commit the Council to make any financial commitment to the LLP. The details of the proposed agreements are set out in the **exempt Appendices I and II** which contain the latest example agreements.
- 2.12 The proposed term of the partnership is **ten years**, but the agreement enables either partner to terminate the partnership at any time with 12 months' notice. The length of the term reflects the medium term nature of any involvement with property matters, the nature of the relationship partnership, the rigorous process followed to establish viable propositions for consideration by the authority and that the LLP may lay dormant for a period depending on projects identified.
- 2.13 Entering into the LLP does not give rise to any EU procurement implications since there is no obligation to undertake development works to the Council's assets, and therefore no works or services contracts are being awarded through establishing the LLP. In relation to specific projects that the LLP may take forward, every potential asset disposal or development will need to be assessed individually to ensure legal compliance.

## Infrastructure

- 2.14 The inception of the LLP model will include the creation of an LLP Partnership Board, which will consist of equal representation of Councillors and PSPF nominees. One implication of this is that there will need to be equal voting by both parties for a proposal to proceed, and without this any given project would not proceed.
- 2.15 For the first six months, the Chairperson would be appointed from the Council representation, and the Vice Chairman from the PSPF nominees. Thereafter, the right to appoint the Chairperson will rotate between the parties on a six monthly basis, There is no casting vote for the Chairperson. Representatives on the LLP Board will collectively make decisions in respect of asset related projects. The Board is anticipated to meet quarterly although the latest example of the members agreement provides for “ not less than twice per calendar year”.
- 2.16 Alongside the Partnership Board, an Operational Board of officers will be created. This will have an equal split of representation from the Council and PSP. The total number will need to be set as part of the final contractual arrangements, but is typically between three and five representatives from each party. It is proposed that this Operational Board meets initially monthly, then will move to a bi-monthly meeting.
- 2.17 Prior to any projects being presented to the LLP Partnership Board, a report will be presented to Cabinet on proposed projects. This report will be written by the Operational Board of officers. It will follow the standard four stage LLP process, which involves:
- a high level review of the opportunity;
  - if approved, then a detailed business plan is developed for the project;
  - the plan is validated; and
  - the Operational Board then makes recommendations to the Members Board (in parallel with Cabinet approval) for agreement to move to project delivery.
- (NB. Any project coming forward will have to demonstrate ‘added value’ over and above that which the traditional approaches followed by the Council could achieve.)**
- 2.18 Once the proposal/project has been approved by Cabinet and signed-off by the LLP Partnership Board, a project sponsor will be nominated to take the project forward, and an agreement on the reporting of progress back to Members will be established.

### 3 Proposals

- 3.1 Following initial introductions (see para 2.3) the Council has investigated the feasibility and value of establishing an LLP joint venture with PSPF, and they have in turn carried out a review of property opportunities with the Council. On this basis both parties believe there to be benefit in forming an LLP.
- 3.2 The purpose of the LLP would be to facilitate property related projects for the Council, making use of private sector funding, resources and skills paid for by the LLP, in addition to those available through the Council. The Council can use the strategic partnership created to achieve a wide-range of property opportunities for the Council, including regeneration, redevelopment, property portfolio rationalisation, and property related investment.
- 3.3 Having each contributed initial capital of £1, the Council and PSPF will have an equal stake in the LLP, together with equal voting rights. The LLP's main purpose would be to:
- invest private sector funds in projects of mutual benefit;
  - facilitate regeneration projects;
  - provide potential capital receipts and/or revenue income streams to the Council from the development of surplus land and buildings; and
  - support the Council in the development of its strategic review of the property portfolio, including:
    - the delivery of a property portfolio strategy for the Council involving, where appropriate, a partnership approach to the management of the Council's property assets; and
    - the acquisition of private property or land by LLP to facilitate development, and potentially to develop income streams.
- 3.4 Projects are developed by the LLP using PSPF resources, but the final decision as to whether to proceed with a project sits with the Council. The profit share on each project will vary depending on the resources committed to the project, and PSPF guarantee at least the income currently derived from an asset, with the profit share element relating only to the amount above this level. The option might also be available to the Council to put additional resources into a project in order to achieve a larger percentage of the profit share.
- 3.5 In order to ensure that the land and property portfolio of the Council is maximised into the future, there needs to be a review of these assets. The utilisation of an LLP model and approach would facilitate this, and allow the Council a large amount of flexibility to be able to manage the portfolio differently into the future.
- 3.6 The LLP between PSPF and the Council is an additional option for maximising the value from property assets, and does not remove the Council's ability to consider alternative approaches and partnerships.

## **Recommendations**

3.7 It is therefore recommended that:

- (i) the creation of a limited liability partnership (LLP) between the Council and Public Sector Plc Facilitating Limited (PSPF) be approved;
- (ii) the final terms of the necessary agreements be agreed by the Director of Corporate Services, the Head of Finance, and the Head of Legal, in consultation with the Cabinet Member for Finance and Performance, provided that all the due diligence checks have been carried out successfully;
- (iii) it be noted the LLP arrangement requires the establishment of an LLP Members Board with equal Council and PSPF representation, supported by an Operations Board for officers;
- (iv) the Council representation on these Boards be agreed by the Director of Corporate Services following consultation with the Leader, once the format of these boards is established as part of the final terms of the agreement; and that the Council representation on the LLP Board will be from members of the Cabinet;
- (v) insurance and indemnity be provided for Member and Officer representatives of the LLP;
- (vi) it be noted that the LLP will be an additional option for the Council to use to deal with its property portfolio; and
- (vii) it be noted that further reports will be submitted to Cabinet in respect of relevant proposals to pursue property related projects through the LLP.

## **4 Alternative Options**

4.1 There are a number of options that could be utilised to manage the Council's current assets.

4.2 One option would be to continue to manage and develop the assets ourselves. However, it is acknowledged that the Council's Property Team does not contain the necessary level of capacity and expertise to fully maximise the potential value that could be gained from Council assets, and contribute to the delivery of Council priorities. Recruiting additional staff to add capacity and capability to the Team is not recommended, as such staff are generally not available within the Council's current pay structures. Similarly, buying in consultancy support would be expensive.

4.3 An alternative would be a joint venture with a private sector partner. Although there are many different models for such a partnership, these are predominantly 'asset backed' vehicles, which involve the Council placing one or more assets into the partnership for joint development. As such, these assets are immediately put at risk, and beyond the control of the Council.

- 4.4 In contrast, by entering into the LLP with PSPF, the Council will not be under any obligation to put any specific property related projects into the LLP. The key safeguard is that if better value can be delivered by a normal market disposal, or by any other means, then the project would not go through the LLP and would progress as appropriate through an alternative route.
- 4.5 Therefore, the approach and utilisation of the PSP LLP model offers Swale BC the most appropriate method to allow the Council to proactively manage its current land and property portfolio with maximum flexibility, as the assets remain within the ownership of the Council.

## **5 Consultation Undertaken or Proposed**

5.1 In order to understand the model more and undertake initial research, contact has been made with the following authorities who have entered into a LLP: South Staffordshire, Southend, Warwick, Dudley and Daventry.

5.2 The key messages were:

- critical first stage is the setting up the LLP as it establishes the principle of the relationship partnership. It is this which is critical to the success of the LLP, and it is necessary to invest significant time and effort to establish the LLP relationships and continue to reinforce them;
- the LLP is on a no commitment basis, and as such it is another tool in the box. Any intention to use it is then based on projects identified through a well-developed project management methodology. It does not remove the ability to consider approaches;
- the supporting agreements are well developed and provide a robust governance framework;
- the governance arrangements are very clear over respective roles of the Partnership Board (strategic and political emphasis) and the Operations Board (undertaking the iterative process of identifying proposals);
- the model is flexible to meet any requirements for 'double locking' of decisions through the council's formal decision making processes;
- the LLP model aligns closely with the desire to generate income through working on property related projects to support a strategic response to becoming more self-financing;
- PSP bring to the table the commercial perspective and mind set of the private sector, together with their market intelligence and a track record of delivering projects through this approach;
- being able to tap into expertise/resources with a commercial edge results in a more holistic approach to assets than the more 'traditional' local authority approach;
- working together has the potential to upskill staff to act more commercially;

- the baseline value of the asset remains with the Council - it is the added value that is shared;
- take time to identify the projects to be put through the partnership. There is a well-established group of authorities to help with learning and support;
- PSP have a highly flexible/creative approach, which allows projects to evolve and to be assessed before any commitment is made;
- the model provides another potential source of significant levels of capital investment;
- the model's project management approach has recently been refreshed to reflect the reporting requirements of the authorities and the need for information and excellent communications; and
- there is nothing to lose by this approach, and it helps ensure a mixed economy of options to supplement other approaches.

## 6 Implications

Issue	Implications
Corporate Plan	This proposal directly supports the 'Council to be proud of' priority, and in particular the need to be self-financing and to secure best value from the Council's resources.
Financial, Resource and Property	<p>The aim of the LLP is to generate value using Council assets which is above and beyond that which the Council would be able to generate itself. The PSP model is unique as it seeks to share these net development returns 50:50 between the public and private sector partners - the basic premise of sharing the net value created is central to the proposition. This could be achieved by, for example, the LLP acquiring assets and improving them for the best use. It should be noted that the Council's existing asset value will be protected, and it is only the value that is achieved above this figure that will be shared, after the deduction of the associated costs.</p> <p>The full financial implications from the proposed partnership with PSPF is difficult to fully calculate at this time, as any future profits are linked to individual projects and the potential development opportunities for each asset under consideration. Other authorities indicate that through a partnership approach they have received best consideration, though the percentage increase will vary per project. It is noted at this time that the costs of establishing the LLP are met entirely by PSPF, and so other than the initial £1 capital contribution and officer time with regards to the inception of the Partnership and Operational Boards, there is no other financial commitment from the Council.</p> <p>Once the partnership is in place, it is proposed that a rolling reporting process is undertaken to report back to Cabinet the progress of the partnership, which will include all financial details and performance.</p>

<p>Legal and Statutory</p>	<p>The statutory powers to undertake the proposals set out in the report are provided by section 1 of the Localism Act 2011 (the general power of competence) and section 111 of the Local Government Act, 1972 .</p> <p>The establishment of the LLP is not a transaction which is caught by the Public Contract Regulations 2015 as being either a contract for goods, services, works or, under the Concessions Directive 2014 as a concession. for the reasons explained in paragraph 2.13 of the report.</p> <p>The Council’s insurance and indemnity arrangements will need to be extended to cover any actions or inaction of Member and Officer representatives of the LLP pursuant to section 39 of the Local Government (Miscellaneous Provisions) Act 1976, section 265 of the Public Health Act 1875, section 101 of the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) Order 2004.</p> <p>The Head of Legal has reviewed the example agreements and has confirmed he is satisfied with their content following due diligence with authorities which have established a PSP LLP.</p> <p>The legal authority for any specific proposals to pursue property related projects through the LLP will be dealt with in the appropriate Cabinet report.</p>
<p>Crime and Disorder</p>	<p>None specific to this report.</p>
<p>Sustainability</p>	<p>None specific to this report.</p>
<p>Health and Wellbeing</p>	<p>None specific to this report.</p>
<p>Risk Management and Health and Safety</p>	<p>There is no financial risk attached to the establishment of the LLP for the Council, other than officer time being lost should it not come to fruition. Individual projects will be risk assessed on their own merits.</p> <p>The LLP model has been risk assessed through exploration of the experience of the existing LLPs, with the following factors considered:</p> <ul style="list-style-type: none"> <li>▪ the costs of establishing the partnership and the facilitation of property projects will be met by the private sector partner;</li> <li>▪ the establishment of the LLP will provide additional capacity, resources and skills to the Council, which will be used to support the delivery of our Asset Management Plan;</li> <li>▪ the LLP can manage projects on behalf of the Council without the risk of up-front investment by the Council; and</li> <li>▪ there is no requirement on the Council to use the LLP once established.</li> </ul>

Equality and Diversity	None specific to this report.
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## **7 Appendices**

7.1 The following **exempt** documents are to be published with this report and form part of the report:

- Appendix I: Members Agreement
- Appendix II: Procedure Agreement

## **8 Background Papers**

8.1 PSP Public Sector Plc website: <http://www.publicsectorplc.com>



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of the Local Government Act 1972.

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