



Agenda

Meeting: **Council**
Date: **28 November 2018**
Time: **7.00 pm**
Place: **Council Chamber - Civic Centre Folkestone**

To: **All Members of the Council**

YOU ARE HEREBY SUMMONED to attend a meeting of the Council on the date and at the time and place shown above. The meeting will be open to the press and public.

Anyone who wishes to have information on any matter arising on the Agenda which is not fully covered in these papers is requested to give notice prior to the meeting to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>. Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

Head of Paid Service

1. **Apologies for Absence**
2. **Declarations of Interest**

Members of the Council should declare any discloseable pecuniary

Queries about the agenda? Need a different format?

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Email: committee@folkestone-hythe.gov.uk or download from our
website
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interest or any other significant interests in any item/s on this agenda.

3. Minutes (Pages 5 - 18)

To receive the minutes of the meeting of the council held on 31 October 2018 and to authorise the Chairman of the Council to sign them as a correct record.

4. Chairman's Communications

5. Petitions

There are no petitions to be presented.

6. Questions from the Public

1. From Michelle Dorrell to Councillor Ewart-James, Cabinet Member for Housing

Earlier this year, District Council publicly promised to review its current SWEPP procedures to protect homeless people. Can I ask what has been the result of that review, how and when will it be made public; to ensure Folkestone doesn't add to the statistics of homelessness deaths across the country?

2. From Dr Geoff Burrell to Councillor Malcolm Dearden, Cabinet Member for Finance

The Princes Parade development is critically dependent on the availability of cash receipts from its own residential build programme. Those receipts will however fall substantially short of the needs of the project, due to under-estimation of the engineering difficulties and because Betteridge & Milsom have used Savills land valuation figures that are based on quite different assumptions. The level of debt will therefore be much larger than anticipated and will ramp up more rapidly due to a combination of later sales receipts and a greater need for up-front expenditure on external work.

Would Councillor Dearden please advise what levels of debt will be incurred and how the council intends to service that debt?

7. Questions from Councillors

(Questions can be found on www.folkestone-hythe.gov.uk from noon 2 days before the meeting).

Up to 45 minutes is allowed for questions from councillors.

8. Announcements of the Leader of the Council

To receive a report from the Leader of the Council on the business of the

cabinet and on matters that the leader considers should be drawn to the council's attention. The leader shall have 10 minutes to make his announcements.

The opposition group will have an opportunity to reply to the leader's remarks. The opposition group leader shall have 5 minutes to respond after which the Leader of the Council will have a right of reply. Any right of reply will be for a maximum duration of 5 minutes.

9. Opposition Business

There is no opposition business.

10. Motions on Notice

There are no notices on motion.

11. Otterpool Park Garden Town - additional borrowing (Pages 19 - 28)

This report considers the recommendation of the cabinet that borrowing for ten million pounds be approved in order that the council can secure further parcels of land within the site of the proposed Otterpool Park Garden Town and to enable to get the scheme to the point where development can start.

*Explanations as to different levels of interest

(a) A member with a discloseable pecuniary interest (DPI) must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares a DPI in relation to any item must leave the meeting for that item (unless a relevant dispensation has been granted).

(b) A member with an other significant interest (OSI) under the local code of conduct relating to items on this agenda must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares an OSI in relation to any item will need to remove him/herself to the public gallery before the debate and not vote on that item (unless a relevant dispensation has been granted). However, prior to leaving, the member may address the meeting in the same way that a member of the public may do so.

(c) Members may make voluntary announcements of other interests which are not required to be disclosed under (a) and (b). These are announcements made for transparency reasons alone, such as:

- membership of outside bodies that have made representations on agenda items, or
- where a member knows a person involved, but does not have a close association with that person, or
- where an item would affect the well-being of a member, relative, close associate, employer, etc. but not his/her financial position.

Voluntary announcements do not prevent the member from participating or voting on the relevant item

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FOLKESTONE AND HYTHE DISTRICT COUNCIL

Minutes for the meeting of the Council held at the Council Chamber - Civic Centre Folkestone on Wednesday, 31 October 2018

Present: Councillors Mrs Ann Berry, Miss Susan Carey, John Collier, Malcolm Dearden, Alan Ewart-James, Clive Goddard, David Godfrey, Mrs Jennifer Hollingsbee, Mrs Mary Lawes, Len Laws, Rory Love, Michael Lyons (Vice-Chair), Philip Martin, Frank McKenna, Ian Meyers, David Monk, David Owen (Chairman), Dick Pascoe, Paul Peacock, Stuart Peall, Damon Robinson, Russell Tillson, Mrs Rodica Wheeler and Roger Wilkins

Apologies for Absence: Councillors Peter Gane, Miss Susie Govett, Ms Janet Holben, Carol Sacre and Mrs Susan Wallace

37. Declarations of Interest

Councillor Mrs Carey made a voluntary declaration of interest in relation to questions from Councillors, as the question she was asking related to Oportunitas, whose gardening service she had made use of.

38. Minutes

The minutes of the meeting held on 19 September 2018 were submitted, approved and signed by the Chairman.

39. Chairman's Communications

The Chairman gave the following update:

“This past month has continued with a military theme, and of course it will continue as we move into Remembrance Season, which will have special resonance this year, as we recall the centenary of the ending of the Great War.

Some time ago, at the end of September, I attended the Lord Lieutenant of Kent's annual awards ceremony on behalf of people of our area. As Her Majesty's representative in Kent, these awards rank second only to the Queens Honours List. They are given to publicly recognise those members of the reserve and cadet forces, whose efforts are not recognised in the Honours List. Of the total of 19 meritorious service certificates awarded, I was particularly pleased to note that awards were made to Flight Lieutenant Emma Dando, RAF AC and to Warrant Officer Peter Wilcoxon, RAF AC, both of 2513 (Romney Marsh) Squadron, Kent Wing Air Training Corps. It is good to not our local volunteers have been recognised in this way. I do intend to write to both recipients and I'm sure I'll have your support in congratulating them on this award, and thanking them for their voluntary efforts.

Staying on a similar theme, I was pleased to travel with a party organised by the Mayor of Sandwich for a day visit to the Ypres Salient, and ending with the nightly last Post ceremony of the Menin Gate. We also had the opportunity to visit Tyne Cot Military Cemetery as well as the Caterpillar Crater and Essex Farm Cemetery. Any of you who have visited any of the British War Cemeteries

will know what poignant places they can be, and these were no different. One cannot but be deeply affected by the seemingly endless list of names inscribed on the cemetery walls of those who have no known graves, as well as the number whose inscription reads 'unknown British Soldier'. Despite this, these cemeteries are places of beauty and reflection, wonderfully maintained by the British and Commonwealth war graves commission. In the interests of balance, we also visited a German War Cemetery at Langemark. The contrast could not have been more different. While clearly being maintained and the dead recognised, the atmosphere was different and somewhat brooding in nature. The Ceremony however at the Menin Gate was a very special occasion.

Last Monday, along with most Kent District Chairmen and Borough and Town Mayors, I attended the Kent launch of the Royal British Legion 2018 Poppy Appeal at County Hall. Meanwhile, I also supported our local Mayors charitable fundraising events, as I have been able to.

Thank you".

40. **Petitions**

There were no petitions presented at the meeting.

41. **Questions from the Public**

The questions asked, including supplementary questions (if any), and the answers given are set out in Schedule 1, appended to these minutes.

42. **Questions from Councillors**

The questions asked, including supplementary questions (if any), and the answers given are set out in Schedule 2, appended to these minutes.

43. **Announcements of the Leader of the Council**

The Leader of the Council gave the following announcement:

"Good evening to you all.

Eight years ago, a group of Folkestone people got together to consider how the centenary of the 1914-18 war should be commemorated and so the Step Short Committee was formed with Damian Collins as its Chairman. After much discussion, it was decided that a memorial arch should be built and having agreed a site with us, the committee went into fund raising mode. Step forward Councillor Mrs Ann Berry who led the charge. Her, and her team raised around a half a million pounds towards the project and with the support of Land Securities, who Damian got on side, who project managed the build, the Arch was built. I have not time tonight to list the number of crises that had to be resolved during the project. Suffice to say, that Ann was at the forefront in

enabling solutions to those that were on the administrative side. She can be particularly persistent and persuasive!

But, you know, it does not stop there. The general maintenance of the arch site is around a thousand pounds a year which has meant that fund raising has had to continue. So every Saturday, Sunday and bank holiday, from Easter to the end of October, for the last three years, Ann and her team have manned the Mole Café on the harbour arm. For the café to operate, supplies had to be bought; gallons of milk, pounds of sugar, tea, etc. So who went shopping for all of this on a Friday? Ann of course.

Why am I telling you all of this?

Because last Sunday, the Mole Café finally closed its doors, it being the last Sunday in October 2018, and opening the Cafe was part of the 1914-1918 commemoration.

David Cameron gave Ann a Point of Light award, recognising her contribution to the installation of the Step Short Arch. As Damian at the time said: "Ann Berry is an inspiration. It has been a pleasure to work alongside her on the Step Short project over the last six years. She has worked tirelessly to support the project giving thousands of hours of her time to help raise funds, organise events and promote awareness of the significance of the First World War centenary in Folkestone. This award is a well-deserved recognition of everything she has done over many years to support Folkestone and her community". Having received the award, she does not rest on her laurels but continues to devote hundreds of hours for the benefit of Folkestone. And I for one find her to be an inspiration.

Well done Ann".

The Leader of the Opposition, Councillor Myers, responded and stated that the group endorsed the accolade given to Councillor Mrs Berry, and thanked her for her efforts.

He then added that he was disappointed that the Turn the Tide Festival held the previous weekend was not mentioned, particularly the enforcement action taken against the organisers for illegal fly-posting, of which he thought the penalty was disproportionate, and he hoped this did not stifle the success of the event.

Councillor Monk responded to the points raised, and stated that the council does not tolerate illegal fly posting, which was a problem in the district, particularly when advice had been given to the organisers and a period of 5 days had been given to remove the illegal posters which had been displayed. Sadly rather than remove the posters, more had been displayed and officers had undertaken their duties effectively and proportionately.

Proposed by Councillor Monk,

Seconded by Councillor Hollingsbee; and

RESOLVED:

That the announcements of the Leader of the Council be noted.

(Voting figures: 24 for, 0 against, 0 abstentions).

44. **Opposition Business**

There was no opposition business.

45. **Motions on Notice**

There were no motions on notice.

46. **Medium Term Financial Strategy 2019/20 to 2022/23**

The Medium Term Financial Strategy (MTFS) is the Council's key financial planning document. It puts the financial perspective on the council's Corporate Plan priorities, expressing the aims and objectives of various plans and strategies in financial terms over the four year period ending 31 March 2023. It covers both revenue and capital for the General Fund and the Housing Revenue Account. Also included were the Council's reserves policies. The MTFS is a key element of sound corporate governance and financial management.

Proposed by Councillor Monk,
Seconded by Councillor Dearden; and

RESOLVED:

1. **That report A/18/14 be received and noted.**
2. **That the Medium Term Financial Strategy, as appended to the report, be adopted.**

(Voting figures: 24 for, 0 against, 0 abstentions).

Council – 31 October 2018

Public questions:

1. From Bryan Rylands to Councillor Monk, Leader of the Council

The Collaboration Board notes for the 1st Feb 2017 state at 1.2: "In response to a question about conflicts of interest in relation to work undertaken by David Parry for Shepway District Council, Savills confirmed that he would not be involved in the work to be commissioned by the Collaboration Board."

Please can the Council either as LPA or Promoter please inform me and the public how Mr Parry came to undertake valuations for and on behalf of the promoters/developers, and created a clear conflict of interest?

ANSWER:

You ask a question about a potential conflict of interest. This is not a question for the Council. I suggest you raise this matter directly with Savills.

NO SUPPLEMENTARY QUESTION WAS ASKED.

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Full Council – 31 October 2018

Councillor questions:

1. From Councillor Mrs Carey to Councillor Monk, Leader of the Council

What is being done to promote the council's gardening services to residents?
It is either not there or very hard to find on our website.

ANSWER:

The Council's Regeneration and Housing Company, Oportunitas, continues to advertise gardening services to residents within the Council's 'Your District Today' publication distributed to the majority of households across the District.

Leaflets promoting the service were previously distributed with this year's (2018/19) council tax bills to all households in the District.

At present, gardening services are not promoted directly through the Council's website and are instead advertised through the Company's own independent website - oportunitas.co.uk

The Company will be reviewing its current gardening services offer against competitors within the market and considering how the service fits within the Council's approach to commercialisation.

NO SUPPLEMENTARY QUESTION WAS ASKED.

2. From Councillor Lyons to Councillor Peall, Cabinet Member for the Environment

What is the council doing to monitor air quality in our district?

ANSWER:

The air quality is assessed on a monthly basis by using air quality monitoring tubes placed around the district in 14 sites (15 from January 2019) and results from these tubes are submitted to DEFRA and they issue an annual report which is updated on the Council's website.

NO SUPPLEMENTARY QUESTION WAS ASKED.

3. From Councillor Goddard to Councillor Pascoe, Cabinet Member for Property Management and Environmental Health

Would the cabinet member please inform me of what areas of contaminated land there are known to be in the district?

ANSWER:

To respond to the question it would help to firstly explain how the contaminated land register works and how land is assessed.

Since April 2000, the Council has a duty under Part 2A of the Environmental Protection Act 1990 to manage contaminated land issues within its area. The Council has a Contaminated Land strategy which was approved by Defra in 2016 and includes the requirement to maintain a public register containing certain information about the sites it has dealt with under the Act. Sites are only included on the register once contamination has been found where:

- (a) significant harm is being caused or there is a significant possibility of such harm being caused; or
- (b) significant pollution of controlled waters is being, or is likely to be caused

When land has been identified as being contaminated but does not meet the threshold, there is no need to enter the land on the register. Therefore, an area such as Princes Parade is confirmed to have contaminated land, but it does not pose a significant risk of harm to health or to controlled waters.

If any sites are identified and dealt with under the normal planning processes, this overrides Part 2A of the Environmental Protection Act 1990 as this is considered as part of the planning process for proposed use and will be investigated as part of the planning process with appropriate conditions for remediation imposed as necessary.

Currently, there are 6 sites that are to be investigated in our district which have been identified in the Contaminated Land Strategy due to historic use of the land and investigation work will be carried out to identify if these areas meet the threshold or require remediation work. These sites are:-

1. Fosters Close
2. Canterbury Road
3. Sandgate high Street
4. London Street
5. Bradford Court
6. Station Road, Lydd

Fosters Close is the first to be investigated and letters are being drafted and checked ready to issue to the residents ready for soil samples and investigation work to take place.

It should be noted that at this stage simply by being identified as requiring further investigation does not mean that the land will meet the contamination threshold or require remediation.

NO SUPPLEMENTARY QUESTION WAS ASKED.

4. **From Councillor Mrs Lawes to Councillor Ewart-James, Cabinet Member for Housing**

I recently went to see the new block of six flats just Roman Way. I must admit these flats are lovely, especially the two disabled ground floor flats.

However these I believe, are not social housing but are Affordable Housing that are capped. Could the member explain what this means in relation to the difference between social housing and council affordable? Are the public aware of this new concept and the rules, the council is now building?

ANSWER:

I am really pleased that Councillor Mrs Lawes took advantage of the open day and visited the new block of flats which the council has built at Roman Way, and she was impressed with the quality of this building. However, I have to point out that the two ground floor flats are not as she states in her question disabled flats but are flats of disabled people. In passing I am amazed that there was a campaign organised by the Green Party to stop these affordable units from being built which had the slogan "No Way Romany Way" and it says a lot for that part's policy when they try to stop new council flats from being built for the most vulnerable in our society. I would like to thank our team here in Folkestone and Hythe District Council along with the developer in producing such high class flats on time and on budget.

Now turning to Councillor Mrs Lawes question, I can confirm that all of the Council homes for rent provided through the Council's new build and acquisition programme are let in line with the Affordable Rent Policy which was implemented by the Government in 2011. The Policy sets out that the rents for all new Council and Housing Association homes should not exceed 80% of the market rent for the area in which they are being provided . In the case of the Folkestone and Hythe District, the Council has also decided that rents should not exceed the Local Housing Allowance level for the area to ensure that all of the rents can be covered by Housing Benefit and to ensure that the rents remain affordable to households who are on low incomes and reliant on housing benefit.

The policy to deliver the new homes at affordable rents has been set out in our Housing Revenue Account Business Plan since 2013. The Council also provides a breakdown of the rental charges for each of the properties that it lets when they are advertised through Kent Home Choice. This means that housing applicants are able to see exactly how much they will have to pay in order to rent a particular property from the Council.

Affordable rents are higher than the rents charged under the Social Rent Regime. As a guide, the current weekly affordable rent charged for Council homes in the Folkestone area are:

1 bedroom homes: £87.08
2 bedroom homes: £116.13
3 bedroom homes: £145.15

The weekly social rents for the same area are:

1 bedroom homes: £71.52
2 bedroom homes: £89.20
3 bedroom homes: £99.40

All of the Councils existing homes for rent continue to be let at Social Rents (approximately 3300 homes not provided through our new build and acquisition programme). The Council currently has 92 homes for rent which are let at affordable rents.

The typical weekly rents for properties of the same size in the private sector are as follows:

1 bedroom homes: £133.00
2 bedroom homes: £191.00
3 bedroom homes: £197.00

The rents charged for our affordable rented homes are, therefore, considerably below the prevailing market rents in the district. They are also fully in line with the Government's definition of 'Affordable Housing' which includes homes for social rent, affordable rent and intermediate housing.

The Council is also working to help people who want to access home ownership in the district by providing homes for shared ownership purchase. Over the last 6 months, the Council has sold 7 new homes for shared ownership purchase and therefore helped 7 families access low cost home ownership in the district. The homes were made available for purchase with shares as low as 25% of the market value of the homes.

SUPPLEMENTARY QUESTION:

Can you buy the homes with a right to buy?

ANSWER:

You can, but there is a procedure to be followed to purchase the homes. The Medium Term Financial Strategy shows the HRA business plan which explains how the HRA was funded by social and affordable rents.

5. From Councillor Mrs Lawes to Councillor Stuart Peall, Cabinet Member for Environment.

Why is this council deliberately avoiding its obligations of cleaning Harbour Ward?

ANSWER:

Folkestone & Hythe District Council are the Principal Litter Authority and cleansing across the district is carried out in accordance with the Environmental Protection Act 1990 and subsequent Code of Practice on Litter and Refuse.

Veolia are contracted to inspect the district and clean where required to bring the areas back up to the relevant standard, this includes all types of litter and detritus including weeds, dog fouling and leaves.

The Council is not deliberately avoiding its obligations of cleaning Harbour Ward and I can confirm that cleansing is carried out on a regular basis and as required in accordance with our contract. Our Council officers also monitor areas for cleansing as part of our contract monitoring and KPI reporting.

Weed spraying is carried out twice a year, between April and May and a second spray between August and September, the last spray in Harbour Ward was carried out a litter later than we had anticipated and would have liked, however it was carried out and completed on the 24th September 2018.

If there are areas that you feel are not cleaned on a regular basis please do report these through to us and we can arrange for them to be checked and cleaned as required. We also use this information to monitor the performance of the contractor, and to see where additional or more regular cleansing across the district may be required.

NO SUPPLEMENTARY QUESTION WAS ASKED.

6. From Councillor Mrs Lawes to Councillor Stuart Peall, Cabinet Member for the Environment

What is the Council, if anything, putting in place to ensure that no further damage happens to their Big Belly bins which cost the tax payer an astonishingly extravagant £83,000?

ANSWER:

I would firstly like to address the issue of cost. The allocated budget for the purchase of the new compactor bins was £83,000. The final cost of purchase was in fact £74,580, which had been reduced through running a competitive purchasing process and negotiation.

This made a total cost per unit of £6,215. However it should be noted that within this price also comprised a 5-year warranty, maintenance and on-line monitoring application license costs, which meant that effectively capitalised upfront much of the ongoing revenue/maintenance costs.

The actual cost per unit without warranties and maintenance was £4,990, which bearing in mind each bin with compaction provides 8 times the equivalent capacity of a standard-sized litter bin, brings the unit cost much closer to the cost of purchasing a similar number of standard-sized litter bins. This is closer still if you take into account the cost of the electronic sensor monitoring functionality that the new compactor bins have.

This calculation also does not take into account the time-saving for the coastal park staff from being able to empty only as required and less frequently overall. At this early stage in the rollout, it is difficult to put a monetary figure to

this efficiency. However when compared to the previous standard litter bins that were being emptied daily that are now being emptied with the new compactor bins as little as once every 10 days or in some cases longer, you can begin to understand the efficiencies offered by this technology.

On the basis of the savings achieved at procurement, the improved functionality gained and the comparison to purchasing a similar number of standard litter bins; I would reject the comment that this was an extravagance.

Furthermore councillors will also recall the reasons why we invested in compactor bins at this location. The coastal park each year has received an increasing number of visitors, which is welcome. The current standard litter bins in the park were struggling to cope with the volume of visitors and there was added problem that at busy times it was often difficult for maintenance vehicles to access the park.

The council, with its ongoing corporate commitment to 'Appearance Matters', chose to trial the 12 new compactor bins at the coastal park with the purpose of providing additional bin capacity to help resolve the issues mentioned.

Since installation, the new bins have proven to be a great success in providing additional bin capacity at this popular location and reducing the need to empty the bins, which has proven to be a timesaver for the park staff. It is therefore very disappointing and frustrating that one of the bins was deliberately set alight and destroyed by fire last week.

In response to the question about what can be done to prevent further damage. Unfortunately, litter bins including our standard litter bins, as well as benches, shelters and play equipment; are always at risk from vandalism and the council works proactively with the local police through the community safety partnership to combat anti-social behaviour. The destructive impulses of a minority however should not act as a disincentive for the council to continue to invest in the appearance of the district.

The damaged compactor bin was insured and a claim is being made.

NO SUPPLEMENTARY QUESTION WAS ASKED.

7. From Councillor Robinson to Councillor Monk, Leader of the Council

Does this council fully support the anti-bullying of council staff?

ANSWER:

The council takes any allegation of bullying very seriously and is absolutely against this in any form whatsoever towards any of our staff.

I have spoken to our Chief HR Officer who has confirmed that there is a clear grievance procedure in place, accessible via our staff intranet, which provides the mechanism for staff to address concerns either informally if appropriate or more formally with their line manager who would have the support and

guidance of the HR team. If any manager or the HR team are made aware of any allegation of bullying they would action it appropriately either through the grievance or disciplinary processes and if proven it could lead to a range of formal outcomes ranging from a written warning to summary dismissal depending upon the severity of the situation.

SUPPLEMENTARY QUESTION:

Why were you shouting at a female officer following the Council meeting held on 26 September 2018, where you could be heard by others?

ANSWER:

I have no recollection of this incident, but I was not bullying anybody.

8. From Councillor Len Laws to Councillor Dick Pascoe, Cabinet Member for Property Management and Environmental Health

Has all land/property registered in the name of Shepway District Council at Land Registry been re-registered in the name of Folkestone - Hythe Council?

ANSWER:

I confirm that the Land Registry confirmed to the Council that all land in the ownership of the Council has been reregistered into the name of the District Council of Folkestone and Hythe. If there is a specific property about which Councillor Laws is enquiring, we could easily do a search of the address at the Registry to confirm the position.

SUPPLEMENTARY QUESTION:

Can you provide the approximate cost of re-registering the land?

ANSWER:

I will provide the answer at a later date.

9. From Councillor Len Laws to Councillor Peall, Cabinet Member for the Environment

Has any progress been made in the attempts By Gramm Ltd with the assistance of F-H Council environmental Health Dept, to find another site for the charity collection bins currently situated at Lydd Level Crossing?

ANSWER:

I have raised this matter with both the Environmental Enforcement Team and Waste Team. They have not received any contact about re-locating charity collection bins at this site but are happy to look into it if approached.

SUPPLEMENTARY QUESTION:

This is strange as I have a letter from Gramm, the land owners, stating that they are working with the council on this issue. Is this not the case?

ANSWER:

I have no knowledge of this, and would suggest you take up the issue with Gramm.

10. From Councillor Meyers to Councillor Peall, Cabinet Member for the Environment

Did the council consider the potential for fire and the impact it would have on the new compactor bins purchased this past summer for the Leas Cliff park?

ANSWER:

The council did consider the potential for fire damage to the new compactor bins. The compactors bins have a general robust design suitable for use in public areas. In addition we considered the risk of accidental fire from the disposal of BBQs and added warning signage and provided separate facilities for their safe disposal. The bins were also insured for all risks cover.

The compactor bin damaged by fire last week was subject to a deliberate arson attack and this has been confirmed by Kent Fire and Rescue. An insurance claim has been made to replace the bin.

SUPPLEMENTARY QUESTION:

Why did the Council feel it appropriate to bypass the Overview and Scrutiny Committee when seeking approval to purchase the bins, when the fire risks could have been raised by some of the Committee Members with expertise in the field of fire safety?

ANSWER:

There is a potential for vandalism with anything put on the street, such as graffiti and arson, etc, hence putting in place insurance to cover any damage. The time factor in getting the bins in place as soon as possible was the reason for bypassing the Overview and Scrutiny Committee. A Cabinet Member also had expertise in the field of fire safety, and was able to give his input.

This Report will be made public on 20 November 2018



Report Number **A/18/15**

To: Council
Date: 28 November 2018
Status: Non - executive Decision
Responsible officer: Andy Jarrett, Chief Strategic Development Officer
Cabinet Member: Councillor David Monk, Leader of the Council,
Councillor Malcolm Dearden, Finance
Councillor Dick Pascoe, Property Management and Environmental Health.

SUBJECT: OTTERPOOL PARK GARDEN TOWN – ADDITIONAL BORROWING

SUMMARY: This report considers the recommendation of the cabinet that borrowing for ten million pounds be approved in order that the council can secure further parcels of land within the site of the proposed Otterpool Park Garden Town and to enable to get the scheme to the point where development can start.

REASONS FOR RECOMMENDATIONS:

Council is asked to consider the recommendations in order to consider whether to authorise additional borrowing to enable acquisitions to proceed and to progress the scheme to the point where development can start.

RECOMMENDATIONS:

1. To receive and note report A/18/15
2. To consider the recommendation of cabinet that the council borrows an additional £10 million to enable the council to purchase land for the Otterpool Garden Town project and to progress the scheme to the point where development can commence.

1. BACKGROUND

1.1 On 14 November 2018 cabinet considered report C/18/44 attached at appendix 1.

1.2 Cabinet resolved:-

1. *To receive and note report C/18/44*
2. *To recommend to full council that it borrows an additional £10 million to enable the council to purchase land for the Otterpool Garden Town project and to progress the scheme to the point where development can commence.*
3. *Subject to the council approving the additional borrowing recommended above to authorise the Corporate Director - Place and Commercial in consultation with the Leader of the Council, the Cabinet member for Finance and the Cabinet Member for Property Management & Environmental Health to acquire property in the Otterpool Park Garden Town area.*

1.2.1 Council now needs to consider the recommendation of cabinet to borrow the additional ten million pounds. This is outside the agreed budget for the current financial year and so the proposal must be considered by council.

2. REASONS FOR THE CABINET'S RECOMMENDATIONS

2.1 Report C.18/44 sets out the reasons why the cabinet recommended additional borrowing, in brief the money will be used to fund the purchase of further areas of land for the development of Otterpool Park Garden Town and to get the scheme to the point where development can commence.

2.2 The financial implications, including the risks are also set out in the report. There have been no changes since the consideration by the cabinet of the report.

2.3 Council is therefore requested to consider the recommendation.

3. RISK MANAGEMENT ISSUES

3.1 The risks are set out in detail in report C/18/44

4. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

4.1 Legal Officer's Comments (NE)

There are no legal implications arising directly from this report but legal will continue to seek external legal advice on any complex issues as and when the need arises.

4.2 Finance Officer's Comments (LW)

The financial implications arising from the proposed additional capital investment of £10m are addressed in the report (C/18/44) to Cabinet from 14 November 2018, included at appendix 1.

4.3 Diversities and Equalities Implications

No diversities and equalities implications.

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Andy Jarrett, Chief Strategic Development Officer.

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APPENDIX

Appendix 1 – report C/18/44 – Cabinet 14 November 2018

The following background documents have been relied upon in the preparation of this report:

None

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Appendix 1

This Report will be made public on 6 November 2018.



Report Number **C/18/44**

To: Cabinet
Date: 14 November 2018
Status: Key Decision
Head of service: Andy Jarrett, Chief Strategic Development Officer
Cabinet Members: Councillor David Monk, Leader of the Council,
Councillor Dick Pascoe, Property Management and Environmental Health,
Councillor Malcolm Dearden, Finance.

SUBJECT: OTTERPOOL PARK GARDEN TOWN - UPDATE

SUMMARY: This report considers the option for securing further parcels of land within the site of the proposed Otterpool Park Garden Town.

REASONS FOR RECOMMENDATIONS:

Cabinet are asked to consider the recommendations in order to request council to authorise additional borrowing and to enable, subject to council approval of the budget, acquisitions to proceed and to enable the project to be taken to the stage where development can commence.

RECOMMENDATIONS:

1. To receive and note report C/18/44.
2. To recommend to full council that it borrows an additional £10 million to enable the council to purchase land for the Otterpool Garden Town project and to progress the scheme to the point where development can commence.
3. Subject to the council approving the additional borrowing recommended above to authorise the Corporate Director - Place and Commercial in consultation with the Leader of the Council, the Cabinet Member for Finance and the Cabinet Member for Property Management and Environmental Health to acquire property in the Otterpool Park Garden Town area.

1. BACKGROUND

- 1.1 On 18 July 2018 cabinet resolved to authorise the purchase or enter into options in respect of certain properties adjoining the A20 at Newingreen in order to facilitate the development of Otterpool Park Garden Town (minute 20 and report C/18/19).
- 1.2 Since then, further masterplanning work suggested acquisition of an additional property adjoining the A20 has become necessary to deliver the new road connection. The cost of this can be covered from within the existing approved £3 million budget. In accordance with the previous authorisation (minute 20.2 c) the Head of Strategic Development Projects (now the Chief Strategic Development Officer) after consulting the Leader has entered into negotiations to purchase the property.
- 1.3 This report, for the reasons explained below, recommends the purchase of additional properties over and above those already authorised.
- 1.4 In addition, since the decision on 18 July 2018 it has become apparent that in order to progress the development monies will need to be made available to deliver the garden town and at this stage specifically to enable the scheme to progress to the point where development can commence. Expert advice will need to be obtained a wide range of issues, including the provision of infrastructure and utilities.

2. FURTHER PURCHASES

- 2.1 The decision of the cabinet on 18 July 2018 (above) and the subsequent decision to buy the additional property mentioned in paragraph 1.2 means the council will purchase the most vital areas of land. However, for the reasons set out below, it is considered that the further purchases should be made to facilitate the development of the garden town and to secure the land / properties. It should be appreciated that the majority of properties will not be needed by the council for 8 – 10 years, nevertheless it is considered that authority should be given for officers to acquire appropriate land and buildings.
- 2.2 The arguments in favour of securing further land now and granting delegated powers to acquire land can be summarised as follows: -
 - The owners' lives have been disrupted through the council's plans and through no fault of their own; many of them have found the uncertainty upsetting and feel it has left them unable to plan their future. As stated above in some cases the properties will not be needed for 8 – 10 years, although the properties are not blighted in any statutory sense the council's plans may make it more difficult for them to sell. It is a matter of fairness that the council should enable them to "get on with their lives".
 - Whilst the properties immediately essential for the development of the town have been identified already, acquisition of further properties will make the

development easier, for example in relation to the proposed secondary school.

- Securing further land is contemplated in the initial collaboration agreement with Cozumel Estates Ltd.
- It will avoid having some properties surrounded by new development which will look incongruous.
- Delegated powers will enable speedier decisions to be made on the acquisition of properties that become available for purchase. It should be appreciated that the council will receive a rental income from the properties. It is unlikely this income will cover all the costs of borrowing and managing the properties however it will mean that some of these costs are offset.
- In the long run the costs should be neutral, as the value of the property will be retained and it can ultimately be re-sold if for any reason development did not take place (assuming purchase is at market rate).

2.3 The contrary arguments are: -

- If the council acquires properties this will entail further borrowing.
- The rental income may not cover the borrowing costs albeit that some will be offset.
- There will be certain costs involved in managing the properties.
- Some works may need to be undertaken to put some of the properties in a condition where they can be rented out.
- The properties may not be needed for 8 – 10 years.

2.4 Whilst there are undoubted risks in acquiring additional properties and various pros and cons which are set out above, it is considered that the arguments in favour of embarking on a process of securing property now further the council's objectives of developing the garden town to such an extent that the advantages in doing so outweigh the disadvantages. It should be noted that the balancing of the risks are not financially driven.

2.5 As indicated above the Council will wish to obtain some return on the properties. Non – residential properties can be let out on agricultural or business tenancies. So far as the residential properties are concerned the advice the council has received is that it could let them out through either a company or offer non – secure tenancies itself.

2.6 As far as which approach to take is concerned the council letting out the residential properties on non – secure tenancies would be the simplest. In both scenarios the costs of managing the properties would be the same. The formation of a company would entail additional work on its formation,

governance and relationship with the council. There would undoubtedly be costs in setting it up and servicing it. As it would be formed merely to hold the land pending the development the company itself would have a finite life. As the council is able to let out residential properties on non-secure tenancies where it holds those properties pending development of the land then the extra costs and complications of forming a company do not appear to be justified, indeed it is difficult to see what advantages there would be.

2.7 A further possibility would be for the council to transfer the properties to Oportunitas to let them out. Whilst this would avoid the expenses in forming a new company there are no advantages in using the company, indeed there are disadvantages. The properties will be eventually transferred to the joint venture and the use of the company would add an additional level of complexity to the transaction and would also reduce the flexibility of the Council in the setting up of any joint venture. In respect of the properties already acquired this would mean in effect that stamp duty land tax would be paid twice. The only way to avoid this would be for the shares in Oportunitas to be acquired by the joint venture. This would in reality entail the winding up of Oportunitas in its present form.

2.8 The houses will be acquired under S227 Town and Country Planning Act 1990 (as amended) for the purposes of development and not for the provision of housing accommodation. Consequently the houses will be managed separately from the council's social housing stock (which they will not form part of) and there will be no implications for the housing allocations policy. Non – secure tenancies are not subject to 'Right to Buy' legislation.

2.9 There are obviously some risks to purchasing the properties at this stage and there will be costs involved in maintaining / improving and managing them. It is envisaged that the dwellings will be managed on behalf of the council by a private agent in the same way that the properties of Oportunitas are managed.

3. THE NEED FOR EXTERNAL ADVICE

3.1 A project of the complexity, scale and novelty of Otterpool Park Garden Town will involve a team made up both of council officers and external consultants. Aside from financial and legal issues, advice will need to be sought on a wide range of issues e.g. utilities, infrastructure, and transport.

3.2 In addition it will be necessary to engage with statutory and other bodies some of whom will require payment before entering into discussions about the development.

3.3 Consequently, whilst officers will attempt to keep expenditure to a minimum, further costs are inevitable and so the sum requested does include an element of the amounts necessary to get the scheme to the point where development can commence.

4. COSTS AND PROCESS

- 4.1 To enable the council to secure the land it needs to and enable the project to proceed to the stage where development can commence it is estimated it will cost in the region of a further £10 million pounds over that already approved. Obviously not all of this would be spent at once and officers would attempt to reduce the total cost as much as possible whilst treating the owners fairly. Indeed not all of this money may be needed – it allows for contingency for any unforeseen additional land or property that the council needs to acquire to deliver the project.
- 4.2 Consequently it is recommended that the council be requested to authorise additional borrowing for £10 million to fund purchase of land for the Otterpool Park Garden Town and to enable the scheme to proceed to the point where development can commence.
- 4.3 As already outlined in the report, the financial implications of the proposed additional £10m investment in the Otterpool scheme are not fully known at this stage. However, indicatively, the annual interest cost of borrowing a further £10m will be about £250,000 in a full year. The full financial implications from the council's total investment in the Otterpool scheme will continue to be carefully monitored and reported to Council in accordance with agreed financial procedures.
- 4.4 If the budget is authorised by the council it is suggested that authority to authorise the acquisition of individual plots be delegated to the Corporate Director - Place and Commercial in consultation with the Leader of the Council, the Cabinet Member for Finance and the Cabinet Member Property & Environmental Health prior to authorising any purchase a report will be produced for the decision taker setting out the financial consequences of any particular purchase.

5. RISK MANAGEMENT ISSUES

- 5.1 The risks are summarised below:

Perceived risk	Seriousness	Likelihood	Preventative action
Income from rent does not meet borrowing costs/ rent fluctuates over time	medium	medium	Ensure that the costs are offset as much as possible by effective management of the properties. Consider capitalizing the borrowing costs as part of the council's overall investment in the Otterpool scheme.
Value of property is blighted if the council wanted	medium	low	Continue to rent out properties until the market picks up

to sell, or recession affects values			
Value of property and investment not recognised in transfer to a future Joint Venture	medium	low	Ensure negotiations on JV take proper account of the value of any property assets and advice taken on most tax efficient way to transfer land

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

6.1 Legal Officer's Comments (NE)

There are no legal implications arising directly from this report but Legal will continue to seek external legal advice on any complex issues as and when needed.

6.2 Finance Officer's Comments (LW)

The key financial implications from the proposed additional investment are covered in the body of the report. The proposed additional borrowing to meet the capital investment can be contained within the council's existing authorised borrowing limit of £90m. It is anticipated the increase in the council's Capital Financing Requirement from the borrowing will be offset over time by future receipts from the project itself and is in accordance with the approved Minimum Revenue Provision policy. Consideration will need to be given to adopting a policy to capitalise borrowing costs for the council's overall investment in this scheme to help mitigate the revenue impact arising from it during the development phase.

6.3 Diversities and Equalities Implications

No equalities and diversities implications.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Andy Jarrett, Chief Strategic Development Officer

Telephone:

Email: andy.jarrett@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

None