

Cabinet

Held at:	Council Chamber - Civic Centre Folkestone
Date	Wednesday, 18 October 2023
Present	Councillors Mike Blakemore, Polly Blakemore, Gary Fuller, Jim Martin (Chairman), Tim Prater (Vice-Chair), Stephen Scoffham, Rebecca Shoob and Jeremy Speakman
Apologies for Absence	Councillors Rich Holgate
Officers Present:	Andy Blaszkowicz (Director of Housing and Operations), Rebecca Chittock (Planning Policy Specialist), Gavin Edwards (Performance and Improvement Specialist), Jonathan Hicks (Performance Specialist (Business Insight Manager)), Amandeep Khroud (Assistant Director), Daniella Loxton (Capital & Treasury Senior Specialist), Ola Owolabi (Chief Financial Services Officer), Richard Parker (Leasehold Management Senior Specialist), Susan Priest (Chief Executive), Jonathan Smith (Chief Accountant), Jemma West (Democratic Services Senior Specialist) and David Whittington (Strategy & Policy Senior Specialist)
Others Present:	Councillor Connor McConville (Folkestone & Hythe District Council)

NOTE: All decisions are subject to call-in arrangements, with the exception of Minute No 37 relating to government consultation on local plan reforms and new duties for local planning authorities, which is exempt from call-in due to urgency (as per paragraph 7 of part 6.3 of the constitution – call-in rules of procedure). The deadline for call-in is Friday 27 October 2023 at 5pm. Decisions not called in may be implemented on Monday 30 October 2023.

34. **Declarations of Interest**

Councillor Shoob made an OSI declaration in respect of Minute No 40 (Otterpool Park: Strategic Direction and Delivery Priorities 2023-25), as she was

a Director on the Board of Otterpool Park LLP. She stated that she would move into the public gallery during consideration of this item.

35. **Minutes**

The minutes of the meetings held on 20 September 2023 were submitted, approved, and signed by the Leader.

36. **Homeowners policy**

The report outlined changes made to the Council's Homeownership Management Policy, following a review of payment options for leaseholders.

Proposed by Councillor Shoob,
Seconded by Councillor Speakman;

RESOLVED:

1. **That report C/23/45 be received and noted.**
2. **That the proposed changes to the Homeownership Management Policy outlined in the report and in the appended track-changed policy be approved.**

(Voting figures: 8 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

Cabinet was asked to agree the recommendations because: -

- a. The Council is seeking to improve its process for collecting service charges on leasehold properties, in line with best practice, and provide greater flexibility of payment options for resident leaseholders.
- b. The Leasehold Reform (Ground Rent) Act 2022 prohibits the charging of ground rent on all new leases from June 2022. The Council's policy needs to be updated to reflect this.

37. **Government consultation on local plan reforms and new duties for local planning authorities**

The report outlined reforms to the local plan-making system that will be brought into force when the Levelling-up and Regeneration Bill receives Royal Assent; these will be the most far-reaching reforms to the local plan-making system for 20 years. The Bill is expected to gain Royal Assent within the next few weeks. The current consultation, 'Consultation on implementation of plan-making reforms', sets out how the reforms will be put into practice. The consultation is being conducted by the Department for Levelling-up, Housing and Communities (DLUHC) and will close on 18 October 2023.

The Cabinet Members gave their thanks to officers for the their work in drafting the responses to the consultation.

Proposed by Councillor Scoffham,
Seconded by Councillor P Blakemore; and

RESOLVED:

- 1. That report C/23/41 be received and noted.**
- 2. That the draft consultation responses set out in Appendix 1 for submission to DLUHC be approved, subject to the addition of the comments of Cabinet Members.**
- 3. To express the council's interest in becoming a 'front runner' authority through the consultation response (Appendix 1, Question 41).**

(Voting figures: 8 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

For Folkestone & Hythe District Council to influence the implementation of the planning reforms, as far as is possible through the current consultation.

38. Authority-wide Design Code - Preliminary Steps

When the Levelling-up and Regeneration Bill becomes law within the next few weeks, it will be a legal requirement for local planning authorities to produce a design code covering their entire area. The Secretary of State will have powers to intervene where local authorities are not making progress. Local authorities will need to prepare and adopt design codes as part of their local plan or as a supplementary plan, giving the design requirements set within them the weight of the development plan in decision-making. Design codes are part of wider government reforms, which will be the most far-reaching changes to the local planning system for twenty years.

The report set out what design codes are and the government's requirement for local planning authorities to have a district-wide code. Producing a design code will require significant time and resources, and the report set out proposals for the first stages of this process.

Proposed by Councillor Scoffham,
Seconded by Councillor Speakman; and

RESOLVED:

- 1. That report C/23/42 be received and noted.**
- 2. That officers commence with the three preliminary steps set out in paragraph 4.4 of the report.**
- 3. That it be noted that subsequent reports on design code work will return to members for information and approval.**

(Voting figures: 8 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

To allow preliminary steps to be taken to prepare for the statutory requirement to produce a district-wide design code that will be brought into force when the Levelling-up and Regeneration Bill receives Royal Assent.

39. Learoyd Road Potential Disposal

The council owns units 1 to 6 Learoyd Road, New Romney. Units 1, 2, 3/4 and 5 are in one block and are vacant pending refurbishment by the council. Unit 6 is standalone and leased to a tenant on a long-term basis. The tenant of Unit 6 has made an offer for the freehold of U1-6. The freehold of U1-6 is currently being advertised on the open market to ascertain best value for disposal. There are two main options available to the council; retain the freehold of units 1 to 6 (U1-6) and continue with the refurbishment and reletting of units 1 – 5 (U1-5); or dispose of the freehold of U1-6. If a disposal is agreed, a new application should be made to reallocate the Section106 funds currently assigned to the refurbishment of units 1 to 5 Learoyd Road to the refurbishment of units 1 and 2 Mountfield Road.

Proposed by Councillor M Blakemore,
Seconded by Councillor J Martin; and

RESOLVED:

- 1. That report C/23/46 be received and noted.**
- 2. That the Chief Officer – Corporate Estate and Development be authorised to proceed with the disposal and achieve best value for the Council on the basis that an acceptable offer is received.**
- 3. That if a disposal is agreed, a new application should be made to reallocate the Section106 funds currently assigned to the refurbishment of units 1 to 5 Learoyd Road to the refurbishment of units 1 and 2 Mountfield Road.**

(Voting figures: 8 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

A disposal of the freehold of U1-6 at best value is recommended to:

1. Generate a capital receipt for the council.
2. The anticipated increased cost of the refurbishment works is £230,000. This is £34,000 above the current approved budget to undertake the refurbishment to bring the property up to the required standard.
3. Mitigate the risk that the units will not be compliant with anticipated strengthening energy efficiency standards and the council's net zero agenda; and
4. If the Section106 funds currently assigned to the refurbishment of U1-5 are instead used for the refurbishment of units 1 and 2 Mountfield Road,

it is anticipated that this will generate an enhanced revenue outcome for the council.

5. Alignment with 2023/2024 Budget Strategy.

40. **Otterpool Park: Strategic Direction and Delivery Priorities 2023-25**

The report presented an update on Otterpool Park (following cabinet report C/22/109). The report detailed outcomes of the governance, finance, and management reviews to ensure the successful continuation of this important significant project. Recommendations cover the strategic direction, funding, and future delivery of the project.

A Cabinet Member proposed a drafting amendment to the wording of recommendation 7, to reflect that Cabinet agreed to the forming of an OSC Task and Finish Group rather than noting this action. The proposer and seconder of the recommendations agreed to this amendment.

The Cabinet Members commented on various aspects of the report, and it was noted that although the skills and expertise of a joint venture partner were essential, they must also share the council's vision. Members also commented on the vision for the Otterpool Park LLP, particularly in respect of net zero aspirations. The Chief Executive confirmed that the vision could not be amended without due consideration by Members, but it would be noted that Members had indicated they would like to reconsider the Vision.

Proposed by Councillor J Martin,
Seconded by Councillor Scoffham; and

RESOLVED:

1. **That report C/23/50 be received and noted.**
2. **That the governance review and that relevant reports will continue to be provided to the Owners' Committee and to Audit & Governance.**
3. **That the changed economic context and operating environment requires the Council to amend the delivery approach, mitigating the potential financial and delivery risks associated with the Otterpool Park project.**
4. **That the outcomes of a strategic funding and delivery review, and the need to attract external funding, expertise and capacity to deliver the project be agreed.**
5. **That the Council explores third-party investment (public and/or private sector) on a joint venture basis, reporting the outcome to Cabinet for further consideration and decision.**
6. **That the key principles under which the Council shall seek to explore a joint venture partner, as set out in section 5 be noted.**
7. **That Cabinet agree to OSC proposals to form a Task & Finish group to review any emerging joint venture proposals before returning to Cabinet for further consideration and decision.**

8. **That the outcomes of the Leader's management review requiring focused Council investment and activity over the coming 12-18 months, as set out in section 7, be noted.**
9. **That continued investment by the council to support OPLLP over the coming 12-18 months is approved by the S151 officer, in consultation with the Leader, and as expressed in a Transition Plan, noting that this will be within the overall budget Council has already set aside for the project and reported to Council through appropriate budget reports.**

Prior to the consideration of this item, Councillor Shoob moved to the public gallery. She returned after the vote had taken place.

(Voting figures: 7 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

The resolution to grant outline planning permission on 4 April 2023 signalled that the Otterpool Park project is moving into a new phase of development which will represent a significant increase and change to the current scale and focus of activities for the Council and Otterpool Park LLP.

At this stage it is therefore appropriate, and good practice, that the Council fully considers the strategic direction, funding, and delivery of the project in order to ensure that the vision for a sustainable new garden town at Otterpool Park is successfully delivered.

With due diligence carried out on the Otterpool Park draft updated Business Plan, it has become clear that continuing to fund Otterpool Park to the level previously agreed presents a level of risk that the Council is unable to mitigate to a tolerable position. Therefore, the financing and delivery structure of the Otterpool Park project and OPLLP needs to change.

With positive progress across the project continuing to be made, this report seeks agreement for the council to explore potential strategic partnership options in order to continue delivering Otterpool Park while reducing the Council's financial exposure, securing appropriate skills and expertise to accelerate project delivery and, while doing so, suggests a focus of investment to guide the coming 12-18 months of project activity in a Transition Plan.

41. Q2 HRA Budget Monitoring 2023/24

The monitoring report provided a projection of the end of year financial position for the Housing Revenue Account (HRA) revenue expenditure and HRA capital programme based on net expenditure to 31 August 2023.

Proposed by Councillor Prater,
Seconded by Councillor J Martin; and

RESOLVED:

That report C/23/47 be received and noted

(Voting figures: 8 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

Cabinet is asked to agree the recommendation because Cabinet needs to be kept informed of the Housing Revenue Account position and take appropriate action to deal with any variance from the approved budget.

42. Q2 General Fund Revenue Budget Monitoring 2023/24

The report set out the financial monitoring information for the Council as at 1 September 2023, i.e., Q2 of 2023/24. The report provides Members with an overview of budget performance, including an overview of reserves and balances, to enable the Committee to take ownership of the budgets and provide robust challenge and scrutiny to Officers on the performance of those budgets. At the end of Quarter 2, there is a favourable **end of the financial year projected position of £512k** on the Council's revised net revenue budget, of £28.3m. This position is based on activity as at 1 September 2023, projected trends in income and expenditure and changes to Council funding.

The Deputy Leader and Cabinet Member for Finance and Governance offered his apologies to the Chair of the Finance and Performance Scrutiny Sub-Committee that the Quarter 2 reports had not been reported to their recent meeting. He advised that this was an oversight and more care would be taken in future.

Proposed by Councillor Prater,
Seconded by Councillor J Martin; and

RESOLVED:

That report C/23/51 be received and noted.

(Voting figures: 8 for, 0 against, 0 abstentions)

REASONS FOR DECISION:

The Cabinet is asked to note the recommendation as it needs to be informed of the Council's General Fund revenue budget position, note the forecast outturn underspend position, and consider any action required as appropriate. Regular monitoring and reporting of the revenue budgets and savings achievements enable decisions to be taken in a timely manner, which may produce revenue benefits and will improve the financial control of the Council.

43. Q2 General Fund Capital Prog Monitoring 2023/24

The monitoring report provided an initial projection of the current financial position for the General Fund capital programme profiled for 2023/24, based on expenditure to 31 August 2023, and identifies variances compared to the latest approved budget.

Proposed by Councillor Prater,
Seconded by Councillor J Martin; and

RESOLVED:
That report C/23/48 be received and noted.

(Voting figures: 8 for, 0 against, 0 abstentions)

REASONS FOR DECISION:

Cabinet is asked to note the recommendation because it needs to be kept informed of the General Fund capital programme position and take appropriate action to deal with any variance from the approved budget.

44. Treasury Management Monitoring Report 2023/24

The report provided an update on the Council's treasury management activities that have taken place during 2023/24 against the agreed strategy for the year. The report also provided an update on the treasury management indicators approved by Cabinet earlier this year.

Proposed by Councillor Prater,
Seconded by Councillor J Martin; and

RESOLVED:
That report C/23/49 be received and noted.

(Voting figures: 8 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

Cabinet is asked to agree the recommendations because both the CIPFA Code of Practice on Treasury Management and the Council's Financial Procedure Rules require Members to receive a report on the Council's treasury management activities during the year.

45. Q1 Performance report 2023/24

The report provided an update on the Council's performance for the first quarter of the year covering 1st April – 30th June 2023. The report enabled the Council to assess progress against the approved key performance indicators arising from the Council's new Corporate Action Plan.

Key performance indicators will be monitored during 2023-24 and reported to Members quarterly.

The Deputy Leader and Cabinet Member for Finance and Governance advised that this report had been considered by the Finance and Performance Scrutiny Sub-Committee, and that they had raised concerns in respect of paragraph 2.5.5, relating to data breaches not being reported in time, due to a backlog of emails in a service area's email box. He stated that this matter had been discussed with the Assistant Director of Governance and Law and was flagged as unacceptable.

Members raised queries on various aspects of the report, including paragraphs 2.2.5 (relating to litter clearing), 2.2.7 (relating to the target for household waste recycling, and overall waste increase), and 2.3.2 (relating to the promotion of the Green Business Waste scheme, and the application process). The Performance & Improvement Specialist stated that he would discuss the queries raised with the relevant service areas and provide responses to the Cabinet Members in due course.

Proposed by Councillor Prater,
Seconded by Councillor J Martin; and

RESOLVED:

1. That report C/23/40 be received and noted.
2. That the performance information for Quarter 1 2023-24 in Appendix 1 of the report be noted.

(Voting figures: 8 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

- a) The Council is committed to monitoring performance across all of its corporate service ambitions to ensure progress and improvement is maintained.
- b) The Council needs to ensure that performance is measured, monitored and the results are used to identify where things are working well and where there are failings and appropriate action needs to be taken.

46. **Oportunitas Progress Report - 2022/23 (to 31 March 2023)**

The report provided an update from the Board of Oportunitas Ltd ("the company") on its provisional financial outturn and activities undertaken for the financial year ending 31 March 2023 and is in-line with the requirement contained in the Shareholder's Agreement between the company and the Council.

The Chair of the Board of Oportunitas was not able to be present, so the Director of Housing and Operations introduced the report, and he advised of an

error in the dates on recommendation 2 in the report. The amendment is reflected in the resolution below.

Proposed by Councillor Speakman,
Seconded by Councillor M Blakemore; and

RESOLVED:

1. That report C/23/43 be received and noted.
2. That it be noted that the provisional financial outturn for Oportunitas Ltd for the period from 1 April 2022 to 31 March 2023.

(Voting figures: 8 for, 0 against, 0 abstentions).

REASON FOR DECISION:

Cabinet is asked to agree the recommendations because Oportunitas Ltd ("the company") is required to provide regular updates to Cabinet as set out in the Shareholder's Agreement between the company and the Council.

47. Oportunitas Quarterly Report - 2023/24

The report provided an update from the Board of Oportunitas Ltd ("the company") on activities undertaken so far during the 2023/24 financial year, including a projected outturn for the profit and loss account for the period to 31 March 2024 compared to the original forecast. The report is in-line with the requirement contained in the Shareholder's Agreement between the company and the Council.

The Cabinet Members raised concerns that Oportunitas was not generating a return at least equal to its losses. The Director of Housing and Operations advised that a review of the structural finances would be taking place, and external advice would be sought, with a further report being presented to the Board of Oportunitas, Overview and Scrutiny and Cabinet in due course.

Proposed by Councillor J Martin,
Seconded by Councillor Shoob; and

RESOLVED:

That report C/23/44 be received and noted.

(Voting figures: 8 for, 0 against, 0 abstentions).

REASON FOR DECISION:

Cabinet is asked to agree the recommendations because Oportunitas Ltd ("the company") is required to provide regular updates to Cabinet as set out in the Shareholder's Agreement between the company and the Council.

