

South Hams Executive



Title:	Agenda
Date:	Thursday, 14th September, 2017
Time:	10.00 am
Venue:	Repton Room - Follaton House
Full Members:	<p style="text-align: center;">Chairman Cllr Tucker Vice Chairman Cllr Wright</p> <p><i>Members:</i> Cllr Bastone Cllr Hopwood Cllr Gilbert Cllr Wingate</p>
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
Committee administrator:	Member.Services@swdevon.gov.uk

- | | |
|---|----------------|
| 1. Minutes | 1 - 8 |
| to approve as a correct record and authorise the Chairman to sign the minutes of the meeting of the Executive held on 20 July 2017; | |
| 2. Urgent Business | |
| brought forward at the discretion of the Chairman; | |
| 3. Division of Agenda | |
| to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information; | |
| 4. Declarations of Interest | |
| Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting; | |
| 5. Public Question Time | 9 - 10 |
| a period of up to 15 minutes is available to deal with questions submitted to the Council in accordance with the Executive Procedure Rules; | |
| 6. Release of S106 funds for Affordable Housing projects | 11 - 46 |
| 7. The Government's proposed 20% increase in planning fees | 47 - 50 |
| 8. Business Rates Pilot 2018/19 | 51 - 62 |
| 9. Local Authority Controlled Company (LACC) Project Review and Closure Report | 63 - 76 |
| 10. Reports of Other Bodies | 77 - 90 |
| a) Overview and Scrutiny Panel – 24 August 2017 | |
| 11. Exclusion of Public and Press - to consider the following resolution to exclude the public and press:- | |
| "That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following items of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act"; | |

12. Front Line Services Commissioning Options

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**MINUTES OF A MEETING OF
THE EXECUTIVE
HELD AT FOLLATON HOUSE ON THURSDAY 20 JULY 2017**

Members in attendance:			
* Denotes attendance			
∅ Denotes apologies for absence			
*	Cllr H D Bastone	*	Cllr R J Tucker
*	Cllr R D Gilbert	∅	Cllr S A E Wright
*	Cllr N A Hopwood	*	Cllr K R H Wingate

Also in attendance and participating		
Item 6	E.10/17	Cllrs Birch, Brazil, Green, Pennington and Saltern
Item 7	E.11/17	Cllrs Birch, Bramble, Brazil, Foss, Hicks, Holway, May, Pearce and Pennington
Item 8	E.12/17	Cllrs Baldry, Brazil, Birch, Cuthbert, Green, Pennington and Saltern
Item 10	E.14/17	Cllrs Brazil, Pearce and Pennington
Item 11	E.15/17	Cllrs Green and Pearce
Item 14	E.18/17	Cllrs Green and Pennington
Also in attendance and not participating		
Cllrs Blackler, Brown, Huntley, Rowe and Steer		

Officers in attendance and participating		
All items		Executive Director (Strategy and Commissioning), Section 151 Officer and Specialist – Democratic Services
Item 6	E.10/17	Group Manager Commercial Services
Item 7	E.11/17	Group Manager Business Development, Solicitor
Item 10	E.14/17	Group Manager Commercial Services
Item 11	E.15/17	COP Lead Assets

E.07/17 MINUTES

The minutes of the Executive meeting held on 29 June 2017 were confirmed as a true record and signed off by the Chairman.

E.08/17 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting but none were made.

E.09/17 PUBLIC QUESTION TIME

It was noted that no public questions had been received.

E.10/17 MEDIUM TERM FINANCIAL POSITION 2018/19 TO 2022/23

Members were presented with a report that set out the Council's Medium Term Financial Position based on a financial forecast over a rolling five year time frame to 2022/23 which would help ensure resources were aligned to the outcomes in Our Plan. The forecast was intended to provide a framework within which decisions could be made regarding the future service provision and council tax levels whilst building an approach that guaranteed South Hams District Council's longer term viability.

The Leader presented the report and he and the s151 Officer responded to a number of questions on the content of the report.

One Member raised that there had been no information circulated in relation to the projected savings relating to Dartmouth Lower Ferry. In response, the Group Manager Commercial Services advised that a Task and Finish Group was working on options in relation to the Lower Ferry and she would make notes of those meetings available to all Members. The s151 Officer also advised that a report would be presented to the Executive in September relating to the Lower Ferry.

Another Member asked if the budget gap could be closed by increasing council tax by a large enough amount, if a referendum permitted, rather than proceeding with a Single Council Option or taking the risks involved with Commercial Property Acquisition, both options being the subject of later reports on the agenda. The Leader responded that the possibility of a significant council tax increase to close the budget gap had been discussed, but it was important to proceed with consideration of the Single Council Option before other options were costed and considered.

It was then:

RESOLVED that:

- i. the forecast budget gap by 2020/21 of £0.8 million be noted;
- ii. the financial strategy of the SH/WD Joint Steering Group (JSG) set out in paras 1.7 to 1.13 of the presented report be agreed;
- iii. the budget principles set out in para 1.14 be agreed;
- iv. the current Council policy on the minimum level of unearmarked reserves being £1.5m be agreed;
- v. the five year Medium Term Financial Position (MTFP) be considered including certain elements with the MTFP such as:
 - a) The level of council tax for 2018/19; and
 - b) The use of New Homes Bonus to support the revenue budget for 2018-19 onwards.

E.11/17 COMMERCIAL PROPERTY ACQUISITION STRATEGY

Members were presented with a report that set out the business case, based on advice received, for the Commercial Property Acquisition Strategy. The objective of the proposed strategy was to generate revenue streams to contribute to the financial sustainability of the Council, enabling it to continue to deliver, and where possible improve, frontline services in line with the Council's adopted strategy and objectives.

As the agenda item commenced, Cllr Birch, a Member of the Invest to Earn Group credited with authoring the report, asked that the minutes reflect that he had taken no part in writing the report.

The Lead Member for Business Development presented the report. The report had been presented to a meeting of the Overview and Scrutiny Panel immediately prior to this meeting taking place and an amendment had been proposed and accepted to the third recommendation that included the Lead Member for Business Development in the delegated decision-making process.

During discussion, it was clear that Members had mixed views on the proposal. The s151 officer and Group Manager Business Development responded to technical queries. Points raised during the debate included the following:

- Members had not been elected to borrow significant sums on behalf of residents;
- Borrowing would distort the market;
- The retail property market was volatile;
- The borrowing was for a long time, within such time there could be many changes within the market;
- Borrowing £80m equated to £1,000 for every man, woman and child in the South Hams;
- It was some Members' view that the Council did not have the expertise to undertake this proposal. The Leader responded that, if approved, then advice would be taken from the right people or organisations;
- The proposal did not include a defined exit strategy, nor the cost of early redemption of borrowing. In response to the second point, the s151 officer advised that the cost of early redemption would depend on the type of borrowing;
- The borrowing would be spread across multiple tenants and multiple properties thereby mitigating the risk;
- Whilst risks existed, safeguards were in place;
- The possibility of a conflict if both South Hams and West Devon sought to acquire the same property;
- If the council was to borrow, it should be invested in affordable housing. The financial returns may not be as good, but at least the council would be supporting one of its priorities.

The Lead Member concluded the debate by stating that whilst the concerns raised were understandable, the expertise was there to get the right advice. The strategy was to buy assets, so in addition to revenue, capital growth should also be considered.

It was then:

RESOLVED

That Council be **RECOMMENDED** to:

1. Approve and implement the proposed commercial property acquisition strategy as detailed in Appendix A;
2. Agree that officers conclude an appropriate procurement process to commission property experts to work on behalf of the Council in relation to the proposed commercial property acquisition strategy;
3. Delegate individual commercial property portfolio purchase and disposal decisions to the Head of Paid Service, in consultation with the s151 Officer, the Leader, the Lead Executive Member for Business Development and the appointed Chair of the 'Invest to Earn' Working Group; and
4. Borrow funds on fixed rate terms from the appropriate source in order to pursue this strategy. To fulfil the first tranche of the proposed strategy, this would require borrowing of up to £26.75 million (£25 million plus acquisition costs of 7%).

E.12/17

PROPOSAL FOR A SINGLE COUNCIL FOR SOUTH HAMS AND WEST DEVON

Members were presented with a comprehensive report that set out recommendations from the SH/WD Joint Steering Group (JSG) to agree in principle to establish a single second tier Council for South Hams and West Devon from 1 April 2019.

The Leader introduced the report and advised that the presented recommendation should be amended to state that the Executive recommended to Council. He referred to recent press coverage of this matter, and in response to claims that South Hams would be 'bailing out' West Devon he advised that both South Hams and West Devon had benefitted financially from working together over the last ten years. Neither authority could afford to go their own way. A number of Members had concerns over the timetable, but advice from central government was that to be confident of there being adequate parliamentary time to approve a single council, the proposal must be with the Secretary of State by November 2017. The recommendation today was to go to public consultation.

During discussion a number of Members stated that they felt the right thing to do would be to go to public consultation on this issue. A number of Members were concerned that South Hams council tax payers would have to pay higher council tax. Members discussed the matter of council tax in more detail and there were alternative interpretations of how the percentage increase in council tax was calculated. The s151 Officer clarified this point.

One Member raised questions regarding the process of consultation, particularly how it would be carried out with vulnerable adults. In response, the Leader confirmed that Members could have a role to play in reaching all sectors of the community. He added that he had asked officers to look at whether relief could be applied to less well-off households in terms of the projected council tax increases.

Another Member felt that the report could have given more detail in terms of a strategic overview, for instance the costs of moving to a central location and releasing the existing buildings. In response, a Member of the JSG stated that this had been considered, but at this early stage the available information clouded the issue and did not provide any clarity.

The Chairman of Overview and Scrutiny Panel raised his concerns with the wording of the presented first recommendation, and a number of Members agreed that, as written, it implied a *fait accompli*. It was **PROPOSED, SECONDED** and on being put to the vote declared **CARRIED**, to amend the recommendation to 'agree to consider', rather than 'agree in principle'.

It was then:

RESOLVED

That Council be **RECOMMENDED** to:

1. Agree to consider establishing a single second-tier Council for South Hams and West Devon from 1 April 2019;
2. Proceeds to consultation with the public and stakeholders from early August through to the end of September 2017;
3. Agree to bring to Council for approval, the outcome of the consultation together with the final Proposal for submission to the Secretary of State, if appropriate.

E.13/17

EXCLUSION OF PUBLIC AND PRESS

RESOLVED

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Schedule 12A to the Act is involved.

E.14/17 DELIVERY OF BEST VALUE FOR MONEY FRONT LINE SERVICES

Members were presented with a report that set out how the SH/WD Joint Steering Group had been tasked by both Councils to consider options to achieve financial sustainability and address the forecast budget deficit for both Councils; one of those options was to look at the way in which front line services were provided and designed.

The Portfolio Holder for Commercial Services introduced the report.

It was then:

RESOLVED

That, based on the advice of the Joint Steering Group, Council be **RECOMMENDED** to:

1. Test the front line services in scope through competitive dialogue processes with combined procurements where the services allow;
2. Prepare a bid by a wholly owned company if a competitive and sustainable price for service can be proved against benchmarked current costs with the external market place; and
3. Continue to test market costs and income opportunities during the summer period to further inform the market position.

E.15/17 TRANSFER OF LAND TO SALCOMBE TOWN COUNCIL

Members were presented with a report that set out an 'in principle' agreement for a transfer of land owned by South Hams District Council to Salcombe Town Council.

The Leader introduced the report and the COP Lead Assets responded to questions.

It was then:

RESOLVED

That Council be **RECOMMENDED** to:

1. support the principle of an asset transfer of land in Salcombe (indicatively shown on the plan at Appendix 1 and described in paragraph 1.2 of the presented report) based on the detail set out in the presented report;
2. dispose of a parcel of land on the Berry for best consideration, outlined in blue in presented Transfer Plan 1 of the agenda report; and

3. delegate authority to conclude detailed negotiations and the disposal of the Area A land to the CoP Lead Assets, in consultation with the s151 Officer, Head of Paid Service and Leader of Council.

E.16/17 READMITTANCE OF THE PRESS AND PUBLIC

It was then:

RESOLVED

That the press and public be readmitted to the meeting.

E.17/17 WRITE OFF REPORT

Members considered a composite report that detailed the debts for all revenue streams within the Revenue and Benefits Service remit up to the value of £5,000, written off by the S151 Officer under delegated authority.

The Leader introduced the report and explained the debts over £5,000 in a little more detail.

It was then:

RESOLVED

1. That in accordance with Financial Regulations, it be noted that the s151 Officer had authorised the write-off of individual South Hams District Council debts totalling £109,557.03 as detailed in Tables 1 and 2 of the presented agenda report; and
2. That the write off of individual debts in excess of £5,000 totalling £9,650.91 as detailed in Table 3 of the presented report be approved.

E.18/17 WRITE OFF REPORT 2017/18 Q1

Members considered a composite report that detailed the debts for all revenue streams within the Revenue and Benefits Service remit up to the value of £5,000, written off by the S151 Officer under delegated authority.

The Lead Executive Member for Support Services introduced the report and explained the debts over £5,000 in a little more detail.

It was then:

RESOLVED

1. That in accordance with Financial Regulations, it be noted that the s151 Officer had authorised the write-off of individual South Hams District Council debts totalling £55,319.54 as detailed in Tables 1 and 2 of the presented agenda report; and
2. That the write off of individual debts in excess of £5,000 totalling £22,367.17 as detailed in Table 3 of the presented report be approved.

(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF E.10/17, E.11/17, E.12/17, E.14/17 AND E.15/17 WHICH ARE RECOMMENDATIONS TO THE SPECIAL COUNCIL MEETING TO BE HELD ON 27 JULY 2017, WILL BECOME EFFECTIVE FROM 5.00PM ON MONDAY, 31 JULY 2017 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULE 18).

(Meeting commenced at 10.30 am and concluded at 1.30 pm)

Chairman

PUBLIC QUESTIONS AT EXECUTIVE MEETINGS

The Council at its meeting on 21 June 2001 agreed that 15 minutes should be set aside at the beginning of the Council's monthly Executive meetings to allow members of the public to ask questions.

Any member of the public who wants to raise a question at a meeting should:-

- (a) submit the question in writing to the Democratic Services Manager by 5.00 pm on the Monday prior to the Executive meeting. This will allow a detailed answer to the question to be given at the meeting. If advance notice of the question cannot be given, the Chairman of the meeting has the discretion to allow questions on matters which are felt to be urgent;
- (b) ensure that normally questions are no longer than 50 words in length;
- (c) ensure that the question does not relate to a specific planning matter (this is specifically excluded from the public question time);
- (d) ensure that the question relates to something over which the Council has some control and is suitable to be considered, ie, that it is not derogatory to the Council or relates to matters which the Council could consider confidential.

For any further advice on questions for Executive meetings, please contact Kathryn Trant (Member Services Manager).

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Agenda Item 6

Report to: **Executive**
Date: **14th September 2017**
Title: **Release of S106 funds for Affordable Housing projects**
Portfolio Area: **Place Making**
Wards Affected: **All Wards**
Relevant Scrutiny Committee: **Overview & Scrutiny**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Current**

Author: **Cassandra Harrison** Role: **Specialist, Place Making**

Contact: **01803 861317 / cassandra.harrison@swdevon.gov.uk**

Recommendations:

1. To approve the release or allocation of s106 funds for Affordable Housing projects as set out below:
£31,291 – from the 23 Western Road, Ivybridge development to spend on an affordable housing scheme at Butterpark, Ivybridge
£97,845 – from Torhill Cottages, Godwell Lane, Ivybridge to spend on an affordable housing scheme at Butterpark, Ivybridge
£60,000 – from the Gara Rock Hotel development to spend on East Portlemouth CLT
2. In future for s106 spends below £30,000 be delegated to the Place Making Community of Practice Lead in consultation with Ward Member(s) and Portfolio Holder.

1. Executive summary

The Council has a key role as Local Planning Authority in securing funds for appropriate mitigation projects in relation to development. These funds can be deployed either directly on Council projects or released to community groups and other organisations to develop affordable housing projects. The current mechanism for securing funds is through Section 106 (s106) of the Town and County Planning Act. Affordable Housing requirements are set out in the SHDC Affordable Housing SPD, adopted September 2008.

The SPD states that where off site provision is the agreed contribution, the contribution will be used solely for the purpose of affordable housing in accordance with the housing need priorities at the time and in line with the priorities set out in the South Hams Housing Strategy. Contributions will be applied to meet housing need across the South Hams District. In practice this may mean that contributions in lieu arising from one location may be applied to meet housing need elsewhere in the South Hams.

The Council has significant secured s106 funds for affordable housing projects. The Council's Financial Procedure Rules require that where expenditure is proposed over £30,000 that this be authorised by Executive. The purpose of this report is to request the release and allocation of s106 funds over £30,000 for two affordable housing projects, Butterpark in Ivybridge and East Portlemouth Community Land Trust.

2. Background

The Council's Affordable Housing Supplementary Planning Document (September 2008) sets out when the Council will ask for an off-site commuted sum rather than on-site provision of affordable housing from a developer.

Circumstances where the Council may consider the acceptance of an off-site contribution may include the following:

- Where housing need priorities could be better met in an alternative location, either through an alternative site, completed units elsewhere or a financial contribution.
- Where there is a dominance of a particular type of affordable housing provision in the immediate area.
- Where the integrity or viability of the particular form of development might be compromised by the integration of affordable housing for reasons that can be clearly justified.

Background to the Land at rear of 23 Western Road, Ivybridge contribution

The s106 agreement for this development dated 10th July 2009, by Hayman Homes secured an off-site contribution of £32,938. The agreement states that prior to the commencement of development the owner shall pay to the Council the Affordable Housing contribution towards the provision of affordable housing required as a result of that development. The planning application number is 27/0908/09/F.

Background to land at Torhill Cottages, Godwell Lane, Ivybridge contribution

The s106 agreement for this development dated 4th October 2011, secured an off-site contribution of £97,845. The agreement states that prior to the occupation of the first dwelling of the development the owner shall pay to SHDC the Affordable Housing contribution to be used by SHDC for the purpose of providing subsidised housing within the district. The planning application number is 27/1758/11/F.

Background to the Gara Rock Hotel, East Portlemouth

The s106 agreement for this development dated 23rd January 2014, secured an off-site affordable housing contribution of £290,000. The agreement states that upon the legal completion of the sale of the fifth residential unit to pay to the Council the Affordable Housing contribution in full. The planning application number is 20/2104/13/F.

3. Outcomes/outputs

The Council's adopted Affordable Housing Supplementary Planning Document states:

Payments received in lieu of affordable housing on site will be held in the Affordable Housing Fund. Such payments will be used to meet the Council's affordable housing objectives in accordance with Circular 05/2005 and the following criteria:

- That the proposal fulfils the scope of the relevant Section 106 agreement, the Affordable Housing Policy and any relevant case law and Government guidance.
- That the proposal fulfils the aims of the current Housing Strategy statement and any other relevant documents.

4. Options available and consideration of risk

The Council has a legal obligation to spend the s106 funds in accordance with the agreements. There are two main alternative approaches for expenditure of the s106 funds:

Option 1 – SHDC develop and deliver housing projects

The first option is for SHDC Officers to develop and deliver projects. This allows more control over project plans and certainty. However there is an implication with regard to time resource and other partners may be best placed to lead community consultation and bring in other funds. Other partners may also own housing sites.

Option 2 – SHDC pass funds to community groups/other groups to develop and deliver housing projects

The second option is to pass s106 funds to community groups/other organisations to develop and deliver projects.

Where SHDC has done this in the past the offer of grants have been made with the appropriate terms and conditions securing the interest of the Council and ensuring that the requirements of the s106 agreements are adhered to.

5. Proposed Way Forward

Proposals for the expenditure of secured s106 funds are detailed below.

Butterpark Ivybridge

Ivybridge Town Council are in the process of purchasing the land occupied by the former residential care home, Butterpark in Brook Road, Ivybridge from Devon County Council. They are purchasing the land at a discounted rate of £201,250 with a view to completion of the land purchase by the end of October 2017. The proposal is to build 6 units of accommodation for people with learning disabilities, plus a 3 bed learning/training house. Dialogue has been ongoing with Devon Social Services supported by the Dove Project and Brook Housing to enable a supported living package to be offered to residents.

The development of the site will be put out to tender to seek a mix of private sector development, which it is hoped would part fund the cost of the units, as well as delivering additional affordable housing for the town.

Ivybridge Town Council have requested £31,291 from the 23 Western Road, Ivybridge development and £97,845 – from Torhill Cottages, Godwell Lane, Ivybridge. The money would help the Town Council to purchase the site with the balance being met from Ivybridge Town Council reserves.

The Waterhouse Trust

The Waterhouse Trust constructed six 3 bedroom homes at Bakers Piece, East Portlemouth in 2010 and these were let to local people at affordable rents. The project was completed successfully, using borrowings secured on The Waterhouse Trust properties. The initial funding was provided by Charity Bank. The Trust has struggled to keep the rents within local housing allowance rates and the rent currently charged is £685 per month. The local housing allowance rate for the area is £663.09 per month.

The Waterhouse Trust are requesting £60,000 from the Gara Rock Hotel s106 agreement. This funding would enable them to save on the interest rate charged on their borrowing and result in a rent reduction of £29 per month. This would be for a period of not less than £25 years. The Waterhouse Trust's current policy is to increase rents annually in line with the Retail Price Index. The base figure would become the current rent less the £29 per month. In addition the reduction in the Trust's overall borrowing by £60,000 would improve the Trust's ability to borrow more new money to finance further affordable housing development.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	S106 agreements are secured under Section 106 of the Town and Country Planning Act to support projects that mitigate the impact of the development. The Council has an obligation to spend the funds in accordance with the terms of the agreement. The Affordable Housing Supplementary Planning Document 2008 sets out the policy basis for collection of offsite financial contributions towards affordable housing.
Financial	Y	The Council's Financial Procedure Rules require that where expenditure over £30,000 is proposed that it needs to be agreed at Executive.
Risk	Y	There is a risk of funds not being spent in accordance with the s106 agreement. To address this, where any s106 funds are passed to community groups to develop and deliver projects, offers of grants will be made with appropriate

		<p>terms and conditions securing the interest of the Council and ensuring that the requirements of the s106 agreements are adhered to.</p> <p>Some s106 agreements have clauses allowing the developers to be re-paid the money if it is not spent within a certain timeframe. Thus there is a risk of communities losing out if money is not spent within the specific timeframes. Careful monitoring will prevent this from happening.</p> <p>There is a risk that the requirements of the Council's Financial Procedure Rules will not be met. All payments will be made in accordance with the Rules and contracting/tendering procedures where relevant.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	Projects need to address accessibility issues to ensure access to all wherever reasonable and practicable.
Safeguarding	N	There are no safeguarding implications.
Community Safety, Crime and Disorder	N	There are no community safety, or Crime and Disorder implications as a result of these recommendations.
Health, Safety and Wellbeing	Y	Increasing the provision of affordable housing is closely linked with improved health and wellbeing.
Other implications	N	

Supporting Information

Appendices:

- S.106 agreement – Land to the rear of 23 Western Road, Ivybridge - 10th July 2009
- S.106 agreement – Land at Torhill Cottages, Godwell Lane, Devon - 4th October 2011
- S.106 agreement – Gara Rock Hotel, East Portlemouth 23rd January 2014

Background Papers:

"Section 106 Agreements" report to Overview and Scrutiny Panel – 6th July 2017

Process checklist	Completed
Portfolio Holder briefed	No
SLT Rep briefed	No
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	No

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DATED

10th July
10th July

2009

SOUTH HAMS DISTRICT COUNCIL

and

HAYMAN HOMES LIMITED

D E E D

Under Section 106 of the Town and Country Planning Act 1990

- relating to -

Land to the rear of 23 Western Road, Ivybridge, Devon

THIS DEED is made under section 106 of the Town and Country Planning Act 1990.

Date: 10th July 2009

Parties:

- (1) **SOUTH HAMS DISTRICT COUNCIL** of Follaton House, Plymouth Road, Totnes, Devon, TQ9 5NE ("the Council");
- (2) **HAYMAN HOMES LIMITED** (CRN: 3317213) of White Oaks Court David Lane Ivybridge Devon PL21 0DW ("the Owner");

1. Definitions

In this Deed:-

"the Act" means the Town and Country Planning Act 1990;

"the Affordable Housing Contribution" means the sum of £32,938.00 (thirty-two thousand, nine hundred and thirty-eight pounds)

"the Application" means an application for full planning permission, registered by the Council on 20 May 2009 with the reference number 27/0908/09/F, to develop the Land by the redevelopment of an existing garage workshop to 6 one-bedroomed flats

"the BCIS index" means the All in Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors

"Commencement of Development" means the carrying out of a material operation pursuant to the Permission as defined in Section 56 of the Act and

"commences development" shall be construed accordingly

"the Council" means South Hams District Council in its capacity as Local Planning Authority for the area in which the Land is situated;

"the Development" means development pursuant to the Permission;

"the Indexation Formula" means the Formula set out at Schedule 2 to this Deed

"the Land" means land in the parish of Ivybridge shown edged red on the Plan, namely land at the rear of 23 Western Road, Ivybridge, Devon

"the Obligations" means the planning obligations contained in Schedule 1;

"the Open Space Sport and Recreation Contribution" means the sum of £2,925.00 (two thousand, nine hundred and twenty-five pounds)

"the Owner" means Hayman Homes Limited

“the Permission” means such conditional planning permission as may be granted by the Council in respect of the Application;

“the Plan” means the plan attached to this Deed;

2. Interpretation

In this Deed, except where the context requires otherwise:-

- 2.1 The singular includes the plural, the masculine includes the feminine, and vice versa;
- 2.2 References to clauses and schedules are to the clauses in and schedules to this Deed;
- 2.3 Reference to any party having an interest in land affected by this Deed shall include any successor in title of that party to that land or to any part of it;
- 2.4 Reference to any party having a statutory function referred to in this agreement shall include any successor to that statutory function;
- 2.5 Reference to any Act or Statutory Instrument shall include any subsequent amendment or re-enactment of it;
- 2.6 Where an Obligation applies to more than one person, their liabilities shall be joint and several.

3. Land to be subject to Planning Obligations

- 3.1 The Owner owns the freehold estate in the Land absolutely, free from any charge or mortgage.
- 3.2 The Council is minded to grant the Permission for the Development, provided that all persons with an interest in the Land enter into this Deed.
- 3.3 Subject to clause 4, the Owner covenants to observe and perform the Obligations contained in Schedule 1, which shall bind the Land (and every part of it) as planning obligations under section 106 of the Act.
- 3.4 The Council covenants to observe and perform the Obligations contained in Schedule 3
- 3.5 The Obligations shall be enforceable by the Council.
- 3.6 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999, the Obligations shall not be enforceable by anyone not a party to this Deed.

- 3.7 The Obligations are Land Charges and shall be registered as such
- 3.8 Nothing in this Deed is or amounts to or shall be construed as a planning permission within the meaning of Section 336 of the Act
- 3.9 For the avoidance of doubt save as lawfully permitted nothing herein contained or implied shall prejudice or affect the Council's or the County Council's rights powers duties or obligations in relation to its functions pursuant to all public and private statutes bye-laws orders and regulations which may be as fully and effectively exercised in relation to the Land as if this Deed had not been exercised
- 3.10 The Owner acknowledges that the Council shall be entitled to use up to five per cent (5%) of the total of the Affordable Housing Contribution and the Open Space Sport and Recreation Contribution payable pursuant to the provisions of this Agreement towards the costs to be reasonably and properly incurred by the Council in monitoring compliance with this Agreement and in assessing the details submitted to the Council for approval pursuant to this Agreement

4. Scope of the Obligations

- 4.1 The Obligations shall take effect upon commencement of the Development.
- 4.2 No person shall be liable for any breach of an Obligation occurring after he has parted with all interest in the Land.

5. Financial matters

- 5.1 The Owner shall not seek from the Council any payment of compensation under the Act in respect of the Land, except in the event of the acquisition of the Land or any part of it under Part IX or Part X of the Act.
- 5.2 The Owner agrees to pay upon completion of this Deed the reasonable legal costs of the Council in the sum of £150 in respect of the preparation and execution of this Deed.

IN WITNESS of which the Council has affixed its Common Seal and the Owner has set its hand to this Deed on the above date.

Schedule 1
The Obligations

The Owner hereby covenants with the Council as follows:

1. Prior to the Commencement of Development the Owner shall pay to the Council the Open Space Sport and Recreation Contribution towards the provision of public open space required as a result of the Development **PROVIDED THAT** in the event that aforementioned Contribution is not paid on the date of this Agreement then at the date that it is paid in accordance with the terms of this Agreement it shall be calculated in accordance with the Indexation Formula
2. The Public Open Space Contribution shall be spent on Open Space Sport and Recreation for the benefit of the Parish of Ivybridge
3. Prior to the Commencement of Development the Owner shall pay to the Council the Affordable Housing Contribution towards the provision of affordable housing required as a result of the Development **PROVIDED THAT** in the event the aforementioned Contribution is not paid on the date of this Agreement then at the date that it is paid in accordance with the terms of this Agreement it shall be calculated in accordance with the Indexation Formula

Schedule 2

The Indexation Formula

1. In the event that the Affordable Housing Contribution and/or the Open Space Sport and Recreation Contribution is not paid on the date of this Agreement then at the date that it is paid in accordance with the terms of this Agreement it shall be calculated in accordance with the following formula:

$$C = EY \times (B \div A)$$

where

A is the value of the BCIS Index last published before the date hereof and

B is the value of the BCIS Index last published before the said contribution has been paid

C is the contribution to be paid

EY is the amount of the Affordable Housing Contribution or Open Space Sport and Recreation Contribution as the case may be as set out in this Agreement

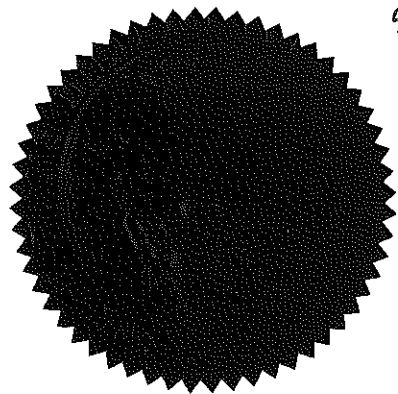
Schedule 3

Covenants on behalf of the Council

The Council hereby covenants with the Owner that should any of the Affordable Housing Contribution and/or the Open Space Sport and Recreation Contribution or any part thereof remain unspent at the end of 25 years from the date of payment the Council shall repay the unspent contribution or part thereof to the Owner

9850

THE COMMON SEAL of SOUTH HAMS)
DISTRICT COUNCIL was affixed to)
this Deed in the presence of:-)



Col. Rice
Solicitor/Legal Executive

EXECUTED AS A DEED by)
HAYMAN HOMES LIMITED)
acting by:-)

Director *[Signature]*
Director/Secretary *[Signature]*

DATED 4th October 2011 2011

Vera Pearce

And

Raymond Dunn and Rosina May Dunn
As Executors of the Estate of the late Percival James Pearce

-to-

SOUTH HAMS DISTRICT COUNCIL

**UNILATERAL UNDERTAKING
IN TERMS OF
SECTION 106 TOWN & COUNTRY PLANNING ACT 1990**

relating to

Land at Torrhill Cottages, Godwell Lane, Devon PL21 0LT.

THIS UNILATERAL UNDERTAKING is made the 4th day of October 2011

BY

Vera Pearce and Raymond Dunn and Rosina May Dunn as Executors of the Estate of the late **Percival James Pearce of 1 Torrhill Cottages, Godwell Lane, Ivybridge, Devon, PL21 0LT** (The Owner)

TO

SOUTH HAMS DISTRICT COUNCIL of Follaton House Plymouth Road Totnes TQ9 5NE ("SHDC")

1. DEFINITIONS

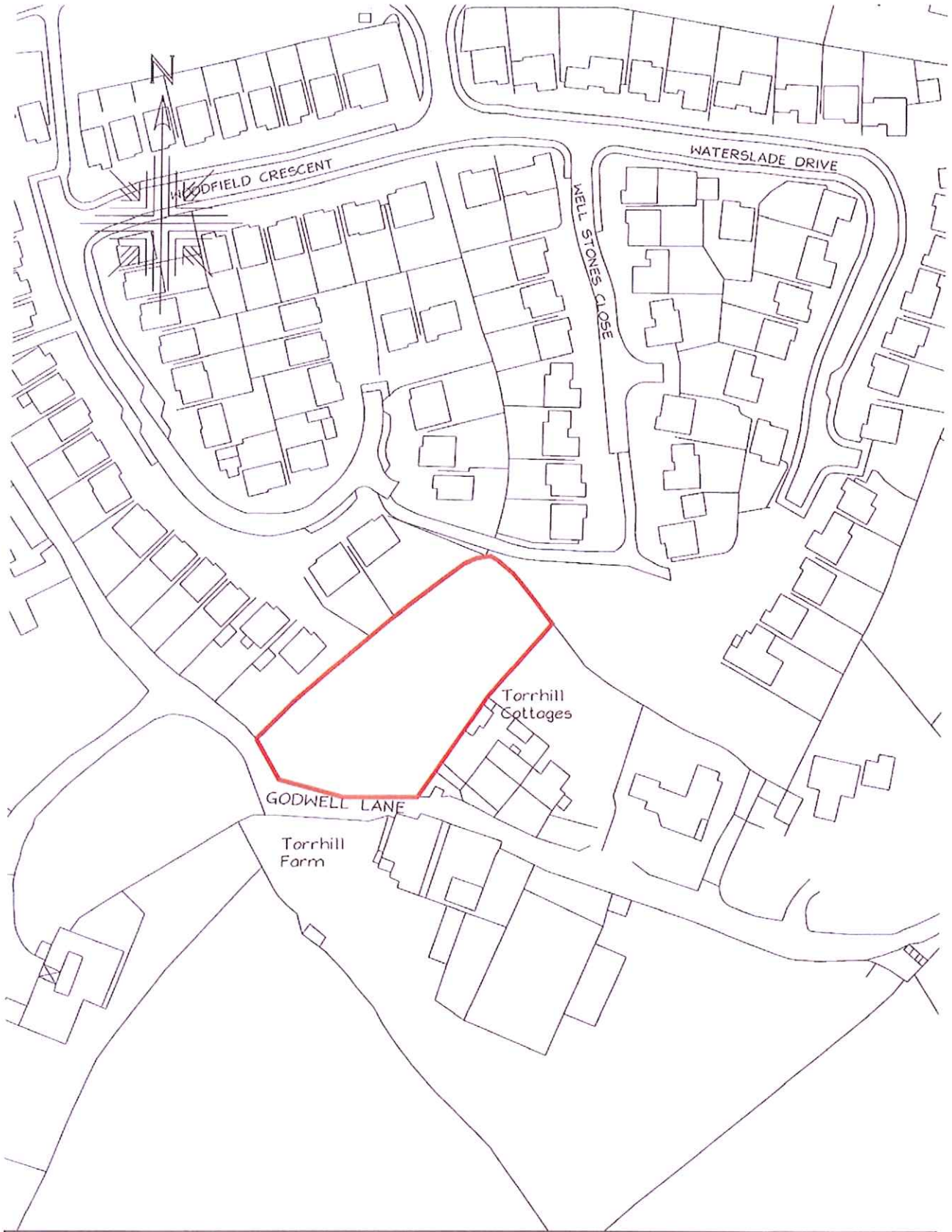
1.1 In this deed unless the context otherwise requires the following expressions shall have the meanings set out below:

"the Act" the Town & Country Planning Act 1990 as amended by the Planning and Compensation Act 1991

"the Application" the application submitted to the South Hams District Council on behalf of the Owners for planning permission in outline for the Development and allocated planning reference 27/1758/11/F

"the Affordable Housing Contribution" means the sum of £97,845 (ninety seven thousand, eight hundred and forty five pounds) to be used by SHDC for the purpose of providing subsidised housing within the District

"Commencement of Development" the date upon which the Development is begun by any material operation as defined in Section 56 of the Act and for the purposes of determining whether or not a material operation has been carried out there shall be disregarded such operations as archaeological investigation demolition site clearance site preparation site filling diversion and laying of



BWW DESIGN Ltd

STRUCTURAL & CIVIL
CONSULTING ENGINEERS
BUILDING DESIGN CONSULTANCY
ADELAIDE, EXETER ROAD, IVYBRIDGE. PL21 0BD
TEL./FAX. 01752 896835

JOB **1 TORRHILL COTTAGES,
GODWELL LANE, IVYBRIDGE**

CLIENT **Mrs. PEARCE**

DETAIL **SITE PLAN
UNILATERAL UNDERTAKING**

DRAWING NO
08501/UU

SCALE

DATE **JUL 10**

DRAWN BY **PA**

CHECKED BY

services erection of fences and hoardings and construction of access or service road

"the Development" the development of the Land involving the erection of three dwellings and garages with a new access and associated works in accordance with the Application

"the District" the administration area of SHDC

the "Indexation Allowance" means an amount equal to the difference between the relevant contribution and any increase over that amount which is arrived at by applying to the amount the percentage increase in the Building Costs Information Service Index between the quarterly Index figure immediately preceding the date of this deed and the quarterly index figure of the quarter immediately preceding the date of payment

"the Land" land at Torrhill Cottages, Godwell Lane, Ivybridge, Devon shown edged red on the Plan for identification purposes

"the Plan" the plan number 08501/UU annexed to this deed

"the Permission" the planning permission which is granted pursuant to the Application

"the Open Space, Sport & Recreation Contribution" means the sum of **£14,625 (fourteen thousand, six hundred and twenty five pounds)** which shall be expended solely on sports and recreation facilities in the District

2. INTERPRETATION

Where in this deed the context so admits:

- 2.1 Words importing one gender include the other gender and words importing the singular include the plural and vice versa

- 2.2 The expressions "the Owner" and "SHDC" shall include their respective successors in title
- 2.3 Where for the time being there are two or more persons within the meaning of the expression "the Owner" covenants whether express or implied and made or to be made by or with such party are made by or with such persons jointly and severally
- 2.4 Clause headings in this deed are for convenience only and shall not affect construction or interpretation
- 2.5 Reference in this deed to any enactment shall include any statutory extension modification or re-enactment and includes any byelaw order rule regulation procedure scheme or other instrument having effect by virtue of an enactment
- 2.6 Save where a contrary intention is expressed a reference herein to a clause or Schedule shall be deemed to be a reference to a clause or Schedule of this deed and reference to a sub-clause or paragraph shall be deemed to be a reference to a sub-clause or paragraph of the clause sub-clause or Schedule in which such reference appears

3. RECITALS

- 3.1 SHDC is a local planning authority for the purposes of the Act and is the local planning authority by whom the planning obligations contained in this deed are enforceable
- 3.2 The Owner is the freehold of the Land shown outlined in red on the Plan and registered at The Land Registry under title number DN 510287

3.3 The Owner is willing to enter into planning obligations under this Unilateral Undertaking to facilitate the provision of Affordable Housing and Open Space, Sport and Recreation facilities in accordance with the terms of this Undertaking in the event of the SHDC granting the Permission

4. LEGAL EFFECT

4.1 This Unilateral Undertaking is made pursuant to Section 106 of the Act which section shall apply to the obligations hereinafter contained

4.2 The planning obligations contained herein shall be binding upon the Land and shall be enforceable by SHDC against the Owner and its successors in title SAVE THAT no person shall be liable for any breach of the covenants restrictions or obligations contained in this deed occurring after he has parted with his interest in the Land or the part in respect of which such breach occurs or occurring after he or she ceases to be an Owner

4.3 This deed shall not take effect until:
(a) the Permission has been granted; and
(b) there has been a Commencement of Development

4.4 If the Permission shall expire before Commencement of Development or is revoked this Deed shall forthwith determine and cease to have effect

5. UNDERTAKING

The Owner undertakes and covenants to comply with the planning obligations set out in the Schedule subject to the other terms of this deed

6. MONITORING FEES

The Owner acknowledges that SHDC shall be entitled to use a sum equivalent to

five per cent (5%) of the total payments and contribution payable pursuant to the provisions of this deed hereto towards the costs to be reasonably and properly incurred by SHDC in monitoring compliance with this deed and in assessing the details submitted to the Council for approval pursuant to this deed

7. GENERAL

8.1 Nothing in this deed shall prevent or restrict any of the statutory rights powers duties and obligations of SHDC in the exercise of its function as a local authority

8.2 This deed shall be registered in the South Hams District Council's Local Land Charges Register immediately on completion thereof

9. ARBITRATION

The Owner undertakes that any dispute or difference arising between it and SHDC with regards to the rights and obligations as to any matter or thing in any way arising out of or connected with the subject matter of this deed shall subject to the consent of SHDC be referred to the decision of a single arbitrator to be agreed between the Owner and SHDC or failing agreement between them to be nominated by the President for the time being of the Royal Institution of Chartered Surveyors and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or re-enactment for the time being in force

10. NOTICES

Any notice consent or approval required to be given under this deed shall be subject to the requirement that it is delivered personally or sent by pre-paid first class post to the address of the intended recipient or such other address for

service as shall have been previously notified by the recipient to the body delivering the notice consent or approval but no Notice shall be deemed served by e-mail

IN WITNESS whereof the Owner has signed this Unilateral Undertaking as a deed the day and year first before written

SCHEDULE

1 Prior to occupation of the first dwelling of the Development the Owner shall pay to SHDC in full the Open Space, Sports and Recreation Contribution and the Affordable Housing Contribution plus the Indexation Allowance

Signed as a deed by
Vera Pearce

V. Pearce

in the presence of

Signature.....*Richard King*.....

Name.....*RICHARD KING*.....
(Capital letters)

Address

*King - Solicitors
24 Fore Street
Inybridge PL21 9AB*

Occupation

Solicitor.

Signed as a deed by
Raymond Robert Dunn
And Rosina May Dunn
As Executors of the Estate
Of the late Percival James Pearce

R.R. Dunn

in the presence of

Signature.....

[Signature]
Richard King

Name.....

(Capital letters)

RICHARD KING

Address

IVYBRIDGES

Occupation

Solicitor



Unilateral Planning Obligation

under Section 106 of the Town &
Country Planning Act 1990

- (1) Aminghurst Limited
- (2) P & T Norris LLP
- (3) Arnllloyd Limited
- (4) Downing Corporate Finance Limited
- (5) Coast Constructors Limited
- (6) Gasdev Limited
- (7) Susan Kelly

Dated 23 JANUARY 2014

WE CERTIFY THAT
THIS IS A TRUE COPY
OF ITS ORIGINAL
23-01-14
M. WILLIAMSON
TLT LLP
ONE REDCLIFF ST
BRISTOL BS1 6TP

One Redcliff Street
Bristol BS1 6TP
T +44 (0)117 917 7777
F +44 (0)117 917 7778
DX 7815 Bristol

www.TLTsolicitors.com
/14724032.3

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JANUARY

23

This Unilateral Planning Obligation is made the

day of 2014

And given by :

- (1) Aminghurst Limited (Company Registration Number 4822314) whose registered office is at 10 Lower Grosvenor Place, London SW1W 0EN (**Owner**)
- (2) P & T Norris LLP (LLP Registration Number OC349578) of Manor Farm House, Oakley Road, Brill, HP18 9SL (**Norris**)
- (3) Amloyd Limited (Company Registration Number 2866394) whose registered office is at 71 Cloncurry Street, London SW6 6DT (**First Mortgagee**)
- (4) Downing Corporate Finance Limited (Company Registration Number 2053006) whose registered office is at 10 Lower Grosvenor Place, London SW1W 0EN (**Second Mortgagee**)
- (5) Coast Constructors Limited (Company Registration Number 5909774) whose registered office is at 10 Lower Grosvenor Place, London SW1W 0EN , SW1V 1AU (**Third Mortgagee**)
- (6) Gasdev Limited (Company Registration Number 7617390) whose registered office is at 5 Castle Close, Flax Bourton, Bristol, BS48 3RG (**Lessee**)
- (7) Susan Kelly of Oxford House, Hazel Road, West Byfleet KT14 6JJ (**Second Lessee**)
- to
- (8) South Hams District Council of Follaton House, Plymouth Road, Totnes, Devon TQ9 5NE (**Council**)

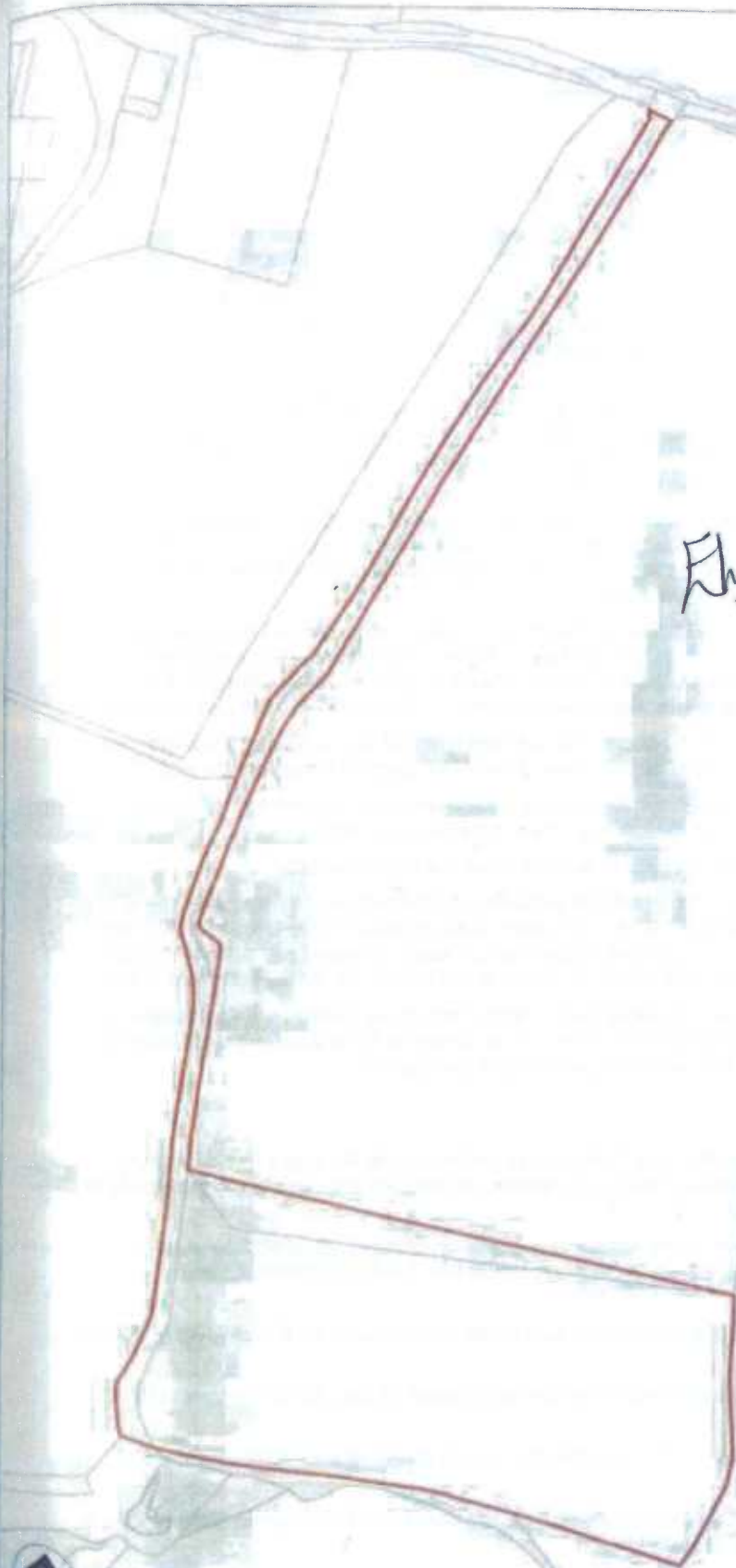
1 Definitions and interpretation

- 1.1 In this Unilateral Planning Obligation the following expressions shall where the context so requires or admits have the following meanings:

Act	the Town & Country Planning Act 1990 (as amended) or any re-enactment or modification thereof for the time being in force
Affordable Housing Contribution	the sum of £290,000 (two hundred and ninety thousand pounds) towards the provision of affordable housing within the District of South Hams
Application	the application registered by the Council on 11 th September 2013 under reference number 20/2104/13/F for planning permission to remove condition 3 of the Existing Planning Permission to allow unrestricted occupation of apartments and cottages
Application Site	land at Gara Rock Hotel, East Portlemouth, Salcombe, TQ8 8PH shown edged red on the Plan in respect of which the Owner has made the Application
Development	such development as may be authorised by the Planning Permission
Existing Planning Permission	planning permission granted by the Council under reference number 20/1058/12/F for variation of conditions 2,3,4,5 and 10 of planning permission 27/1710/11/F (redevelopment of existing site to provide a hotel comprising 18 bedroom suites, 14 self contained holiday apartments and 5 self contained holiday cottages, restaurant bar, swimming pool and spa, secret spa, external swimming pool, staff and ancillary infrastructure, car parking and associated

	works)
Implementation	in the case of implementation of the Planning Permission the carrying out of any of the material operations listed in Section 56 of the Act pursuant to the Planning Permission provided that for the purposes of determining whether or not a material operation has been carried out there shall be disregarded site clearance, demolition, site surveys and investigations and implement and implemented shall be construed accordingly
Index	Building Cost Information Service All-in Tender Price Index or any successor to that index
Indexation Formula	the amount calculated in accordance with the following formula: $C = \text{£}Y \times B/A$ Where: A is the value of the Index last published before the date hereof B is the value of the Index last published before the said contribution is paid C is the amount of the Affordable Housing Contribution or Open Space Sport and Recreation contribution to be paid £Y is the sum to which this formula is applied
Obligations	the obligations contained within the Schedule to this Unilateral Planning Obligation
Open Space Sport and Recreation Contribution	the sum of £10,000 (ten thousand pounds) towards the provision of Open Space Sport and Recreation facilities within the District of South Hams
Plan	the plan annexed to this Agreement
Planning Permission	the Planning Permission granted pursuant to the Application
Residential unit	any residential unit forming part of the Development
Residential Unit Owner	the owner of any of the Residential Units
Statutory Undertaker	those persons defined in Section 262 of the Act
Working Day	any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory bank holiday and Working Days shall be construed accordingly

- 1.2 In this Unilateral Planning Obligation, unless the context otherwise requires:
- 1.2.1 any reference to a statute or a provision of a statute shall be construed as a reference to that statute or provisions as amended, re-enacted or extended at the relevant time and shall include any subordinate legislation made under that statute or statutory provision;
- 1.2.2 any reference to a person shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any



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 for the site shown. The architect, planner,
 or other professional is not responsible for any
 errors or omissions in this drawing or any
 other drawings or documents prepared by or
 for the client. The client is responsible for
 providing all necessary information and for
 ensuring that the site is suitable for the use
 intended. The architect, planner, or other
 professional is not responsible for any errors
 or omissions in this drawing or any other
 drawings or documents prepared by or for
 the client.

TOWNERS

I. Rand

Elizabeth M. Vaughan

Jonathan B. B. B.

M. C.

J. Kelly

REC'D - PLANNING

03 MAY 2012

SECTION NAME RC

20/1058/12

Kendall Kingscott

Qualified Architects
 Qualified Building Supervisors
 Interior Designers
 CDM Co-ordinators
 Glenworth Court, Lime Kiln Close
 Stoke Gifford, Bristol BS34 5SP
 T: 0117 931 2602 F: 0117 931 2134
 www.kingscottkingcott.co.uk

Gara Rock
 East Portsmouth

Aminghurst

Site Location Plan

Project No. 110237 SL100

Date	Drawn	Checked	By
12/0	GA	SW	PRELIMINARY

↑
Coastal Slope



- association or partnership (whether or not having separate legal personality) or one or more of the foregoing;
- 1.2.3 any reference to the singular shall include the plural and vice versa;
- 1.2.4 any reference to the masculine gender shall include the feminine and neuter and vice versa;
- 1.2.5 the table of contents and headings are inserted for ease of reference only and shall not affect the construction of this Unilateral Planning Obligation;;
- 1.2.6 where any party comprises two or more persons, any obligations of that party in, under or arising from this Unilateral Planning Obligation is undertaken by or binding upon such two or more persons jointly and severally;
- 1.2.7 references to any party to this Unilateral Planning Obligation include that party's personal representatives, successors-in-title and permitted assignees and in the case of any local authority shall also include any successor to its statutory functions;
- 1.2.8 references to numbered clauses, schedules, paragraphs or plans are references to the relevant clauses, schedules or plans in this Unilateral Planning Obligation or the relevant paragraph of this Unilateral Planning Obligation respectively;
- 1.2.9 where in this Unilateral Planning Obligation any approval or consent or a certificate is required to be given by the Council then such approval or consent shall unless otherwise stated be given by such officer as the Council as appropriate shall from time to time notify in writing to the Owner;
- 1.2.10 all payments in accordance with the terms of this Unilateral Planning Obligation shall be exclusive of any VAT payable in respect thereof;
- 1.2.11 an obligation in this Deed on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.2.12 reference to **writing** or **written** does not include email;
- 1.2.13 reference to **this Unilateral Planning Obligation** or to any other Deed or document referred to in this deed is a reference to this Unilateral Planning Obligation or such other document or deed as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time;
- 1.2.14 any phrase introduced by the terms **including**, **include**, **in particular**, or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 Background

- 2.1 The Council is a Local Planning Authority as defined in the Act and a Local Planning Authority for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Act.
- 2.2 The Owner is the owner in fee simple in possession of the Application Site with title absolute registered at HM Land Registry under title numbers DN386942 and DN388393
- 2.3 Norris has the benefit of a contract for sale dated 17 February 2010 in respect of part of the Application Site.
- 2.4 The First Mortgagee has the benefit of a charge dated 18 May 2010 in respect of the Application Site.
- 2.5 The Second Mortgagee has the benefit of a charge dated 18 May 2010 in respect of the Application Site.
- 2.6 The Third Mortgagee has the benefit of a charge contained in a debenture dated 7 April 2010 in respect of the Application Site.

- 2.7 The Lessee has the benefit of a lease registered at HM Land Registry under title number DN620624
- 2.8 The Second Lessee has the benefit of a lease registered at HM Land Registry under title number DN621725
- 2.9 The Application has been submitted to the Council by the Owner for Planning Permission for the development of the Application Site as described in the Application.
- 2.10 The Owner is willing to give an undertaking to perform the obligations set out in this Unilateral Planning Obligation in order to facilitate the grant of Planning Permission by ensuring that the Council can regulate the Development by securing the benefits contain in this Unilateral Planning Obligation.

3 Conditionality

- 3.1 This Deed is conditional upon:
 - 3.1.1 the grant of the Planning Permission; and
 - 3.1.2 Implementation

4 Statutory Provisions and Covenants

- 4.1 This Unilateral Planning Obligation is entered into pursuant to the provisions of sections 106 of the Act, section 111 of Local Government Act 1972 and any other enabling powers and shall be deemed to be planning obligations in respect of the Application Site for the purposes of that section but without prejudice to all and any other means of enforcing them at law or in equity or by statute
- 4.2 The covenants and obligations created by this Unilateral Planning Obligation are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by those persons in the Application Site and their respective successors and assigns
- 4.3 This Unilateral Planning Obligation shall cease to have effect in respect of any then outstanding obligations in the event that the Planning Permission is revoked, or is modified without the Owner's consent or is quashed following a successful legal challenge.
- 4.4 No person will be liable for any breach of this Unilateral Planning Obligation unless they hold an interest in that part of the Application Site in respect of which such breach occurs or hold such an interest at the date of the breach provided that the person shall remain liable for any antecedent breach.
- 4.5 The Obligations are enforceable by the Council in accordance with Section 106 of the Act

5 Notices

- 5.1 Any notice, consent or other communication required or permitted under this Unilateral Planning Obligation shall be in writing and shall be sent by first class registered post, hand delivery or fax.
- 5.2 Subject to Clause 5.4 below any such notice, consent or other document shall be deemed to have been duly received:
 - 5.2.1 if despatched by first class, registered post - 48 hours from the time of posting to the relevant party; or
 - 5.2.2 if despatched by hand delivery - at the time of actual delivery; or
 - 5.2.3 if despatched by fax - 24 hours after the time of the despatch.
- 5.3 Unless otherwise notified by one party to the other in writing from time to time, for the purposes of this Clause the postal addresses of each party are those set out at the beginning of this Unilateral Planning Obligation.

- 5.4 In proving service by post it will be sufficient (unless any relevant part of the postal service is affected by industrial action) to prove that the envelope containing the notice was duly stamped addressed and posted to the addresses specified herein. In proving service by fax it shall be sufficient to prove that it was properly addressed and dispatched to the numbers or address specified herein. A party shall not attempt to prevent or delay the service on it of a notice under this Unilateral Planning Obligation.

6 Indexation

- 6.1 All financial contributions payable to the Council in accordance with this Deed shall be calculated in accordance with the Indexation Formula

7 Waiver

- 7.1 No delay or failure on the part of any party in enforcing any provision in this Unilateral Planning Obligation shall be deemed to be a waiver or create a precedent or in any way prejudice any party's rights under this Unilateral Planning Obligation.
- 7.2 The rights and remedies provided in this Unilateral Planning Obligation are cumulative and are additional to any rights or remedies provided by law.

8 Miscellaneous

- 8.1 If any party defaults in the payment when due of any sum payable under this Unilateral Planning Obligation (whether pursuant to a court order or otherwise) the liability of that party in default shall be increased to include interest on such sum from the date when such payment was due until the date of actual payment at a rate of 4% above the base rate from time to time of Barclays Bank plc such interest shall accrue from day to day and shall be compounded annually.
- 8.2 The Owner shall pay to the Council prior to completion of the Unilateral Planning Obligation its proper and reasonable legal costs incurred in connection with this Unilateral Planning Obligation not to exceed £2,000 (inclusive of VAT and disbursements).
- 8.3 The Owner hereby consents to the registration of this Deed as a Local Land Charge and as a Notice on Title Numbers DN386942 and DN388393
- 8.4 If any provision in this Unilateral Planning Obligation shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.
- 8.5 The Owner hereby warrants to the Council that they have not leased mortgaged charged or otherwise created any interest in the Application Site save for those matters revealed on Title Numbers DN386942 and DN388393 at the date of this Unilateral Planning Obligation.
- 8.6 This Agreement constitutes a Deed.

9 Third Parties

- 9.1 The Owner declares and confirms that with the exception of any person who becomes an Owner, Lessee or Mortgagee of the Application Site no term of this Unilateral Planning Obligation is enforceable under the Contract (Rights of Third Parties) Act 1999 by a person who is not a party to this Unilateral Planning Obligation.

10 Severance

- 10.1 If any court or competent authority finds that any provisions of this deed (or part of any provision) is invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this deed shall not be affected.
- 10.2 If any invalid, unenforceable or illegal provision of this Deed would be valid, enforceable and legal if some part of it were deleted the parties shall amend such provision so that,

as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties original intention

11 Release for Occupiers and Tenants

- 11.1 The obligations in this Unilateral Planning Obligation shall not be enforceable against:
 - 11.1.1 the Residential Unit owner and/or occupier of any Residential Unit
 - 11.1.2 the tenant of any building on the Application Site
 - 11.1.3 a statutory undertaker after the transfer of any building or land or apparatus by the Owner to that statutory undertaker

12 Consents

- 12.1 The First Mortgagee, the Second Mortgagee and the Third Mortgagee consent to this Unilateral Planning Obligation with the intention that notwithstanding Section 104 of the Law of Property Act 1925 their respective interests in the Application Site will be bound by the terms of this Unilateral Planning Obligation as if it had been executed and registered as a local land charge before the execution of the security.
- 12.2 Notwithstanding clause 12.1 of this Unilateral Planning Obligation the First Mortgagee, the Second Mortgagee and the Third Mortgagee will not incur any liability for any breach of the obligations contained in the Unilateral Planning Obligation unless and until it becomes a mortgagee in possession of the Application Site or appoints a receiver or administrative receiver under the security.
- 12.3 Norris consents to this Unilateral Planning Obligation.
- 12.4 The Lessee consents to this Unilateral Planning Obligation.
- 12.5 The Second Lessee consents to this Unilateral Planning Obligation

13 Monitoring Fees


- 13.1 The Owner acknowledges that the Council shall be entitled to use up to five percent (5%) of the total payments and contributions payable pursuant to the provisions of this Unilateral Planning Obligation towards the costs to be reasonably and properly incurred by the Council in monitoring compliance with this Unilateral Planning Obligation

14 Governing Law

- 14.1 This Unilateral Planning Obligation and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

In witness whereof this Deed has been duly executed by the parties the day and year first before written.


Signed as a Deed by
Aminghurst Limited
acting by
in the presence of

)
)
)
) 
.....
Director

Witness signature:
Name:
Address:
Occupation:

Carly Thomas
CARLY THOMAS
10 LOWER GROSVENOR PLACE
EXECUTIVE ASSISTANT

Signed as a Deed by
P & T Norris LLP
acting by
in the presence of

) 
)
)
)
Director

Witness signature:

Jeanie Rawlins

Name:

JEAN RAWLINS


Address:

MANOR WEDGE, BRILL, HP18 9SL

Occupation:

Retired.

Signed as a Deed by
Amloyd Limited
acting by PAUL AMAUDINI
in the presence of

) 
)
)
)
Director

Witness signature:

Erica Nelson

Name:


ERICA NELSON

Address:

Howard Kennedy Fox LLP
179 GREAT PORTLAND STREET

Occupation:

LONDON
WIW 6LS
Legal Secretary



Signed as a Deed by
Downing Corporate Finance Limited
acting by
in the presence of

)
)
)
)
Director

Witness signature:

Carly Thomas

Name:

CARLY THOMAS

Address:

10 LOWER GROSVENOR PLACE
LONDON SW1W 0EN

Occupation:

EXECUTIVE ASSISTANT

Signed as a Deed by
Coast Constructors Limited
acting by
in the presence of

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)
)

Director




Witness signature:
Name:
Address:
Occupation:

Carly Thomas
CARLY THOMAS
10 LOWER GROSVENOR PLACE
EXECUTIVE ASSISTANT

Signed as a Deed by
Gasdev Limited
acting by in the presence of

)
)

Director



Witness signature:

Name: PHILIP WILLIAM JESSE, CHANDLER

Address: 3 Castle Close
Fax Bourton, Oxon OX48 3RR.

Occupation: Retired Chemical Engineer

Signed as a Deed by
Susan Kelly
in the presence of

)
)



Witness signature:

Name: DR. COPE

Address: Lower House, 12 Fairfield West.

Occupation: KINGSTON UPON THAMES, SURREY

Schedule

Covenants to the Council

- 1 Affordable Housing Contribution and Open Space Sport and Recreation Contribution
 - 1.1 Within fourteen days of legal completion of the sale of each of the first five Residential Units to give written Notice to the Council of such completion.
 - 1.2 Upon the legal completion of the sale of the fifth Residential Unit to pay to the Council the Affordable Housing Contribution and the Open Space Sport and Recreation Contribution in full.

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Agenda Item 7

Report to: **Executive**

Date: **14 September 2017**

Title: **The Government's proposed 20% increase in planning fees**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee: N/A

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **28 September 2017**

Author: **Drew Powell** Role: **Specialist Manager (Customer First)**

Contact: **01803 861240/ drew.powell@swdevon.gov.uk**

Recommendations:

That the Executive RECOMMEND to Council that:

1. planning fees be increased by 20% once primary legislation is confirmed; and
2. an appraisal be undertaken of resource and performance levels across the wider planning function to ascertain the best use of the additional resource, to be approved by the Head of Paid Service in consultation with the s151 officer and Leader of Council.

1. Executive summary

1.1 The Government's February 2017 White Paper – "Fixing our broken housing market" set out proposals to boost local authority capacity and capability to deliver housing and improve the speed and quality with which planning cases are handled. These proposals include increasing nationally set planning fees. The White Paper says "*Local Authorities will be able to increase fees by 20% from July 2017 if they commit to invest the additional fee income in their planning department.*"

The increase in fees has to be spent entirely on the planning function. This timescale has slipped but the indications are that the necessary regulations are being brought forward in the autumn.

- 1.2 The actual amount of increased income to the Council as a result of a 20% fee increase is dependent on the volume, scale and nature of planning applications received in any year. However based on the income received in the last 12 months (August 2016 – July 2017) the annual increased income would be approximately £153,000.
- 1.3 Acceptance of the increase in fees will enable the Council to increase staffing levels across the planning function and to continue to strive to deliver an efficient high quality Development Management service without additional support from the Council Tax payer.
- 1.4 The report recommends the Council increase its planning fees by 20% when the legislation is amended to allow for such an increase. It is further recommended that an appraisal be undertaken of resource and performance levels across the wider planning function to ascertain the best use of the additional resource, to be approved by the Head of Paid Service in consultation with the s151 officer and Leader of Council.

2. Background

- 2.1 Planning application fees are set nationally by the Government. The fees currently applicable across England were set by The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force on 22 November 2012. Planning application fees do not rise annually and are not index linked, so have remained static since that date.
- 2.2 Planning application fees are an important source of income to the Council, contributing approximately £768k to South Hams District Council over the last 12 months.
- 2.3 The Government's February 2017 White Paper – "Fixing our broken housing market" set out proposals to boost local authority capacity and capability to deliver housing and improve the speed and quality with which planning cases are handled. These proposals include increasing nationally set planning fees. The White Paper says "Local Authorities will be able to increase fees by 20% from July 2017 if they commit to invest the additional fee income in their planning department.
- 2.4 The timescale set out in the White Paper has slipped, however within the latest DCLG Newsletter to Chief Planning officers it states that the Government are bringing forward the necessary regulations in the autumn, which, subject to Parliamentary scrutiny, will apply the increase.
- 2.5 The increased fees have to be spent entirely on the planning function without a reduction in the current baseline budget for the planning service.

- 2.6 The actual amount of increased income to the Council as a result of a 20% fee increase is dependent on the volume, scale and nature of planning applications received in any year. However based on the income received in the last 12 months (August 2016 – July 2017) the annual increased income would be approximately £153,000.
- 2.7 A 20% increase in fees would, for example, see the application fee for construction of a single dwelling rising from £385 to £462. A householder application would rise from £172 to £206. At the higher end of the scale an application for 100 houses would rise from £24,799 to £29,759. These fees would still represent a very small proportion of the overall development cost of the project and it should be remembered that application fees have remained static since November 2012.
- 2.8 An efficient Development Management service has significant economic benefits for the Council and its residents and businesses, by ensuring that acceptable development proposals can be permitted and delivered quickly. The Development Management service also has an important role to play in ensuring that development is of the highest quality design and includes all the necessary community facilities and infrastructure. An effective Development Management service therefore underpins the vision and key objectives of the Council.
- 2.9 It is open to the Council to reject the proposed increase in fees, however it is difficult to see any significant advantage to the Council in doing so. The only potential benefit may be that the Council could be perceived to offer better value for money if most other authorities choose to accept the increase. However this would have to be balanced against the fact that those other Council's would then be better-resourced.
- 2.10 Consideration will, of course, have to be given to how the extra income should be spent to best effect. A review of current staffing resources and performance will allow officers to determine the best use of the additional resource, to most effectively support the Development Management Service. Additions to the establishment would be agreed with the Head of Paid Service and s151 Officer in consultation with the Leader.

3. Outcomes/outputs

- 3.1 Acceptance of the increase in fees will enable the Council to increase staffing levels across the function and to continue to strive to deliver an efficient high quality Development Management service without additional support from the Council Tax payer. The additional income will come from Applicants for planning permission who will benefit most from any resultant improvement in the efficiency of the service. The increased planning fees will still represent a very small proportion of the Applicant's overall development cost.

4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The Council is awaiting the introduction of the legislation that will enable planning fees to be increased
Financial		It is anticipated that the increase in fees will amount to £153,000 per annum based on current income levels.
Risk		There is a risk that if fees are not increased the Council would lose the opportunity for additional income.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None directly arising from this report.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.
Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	N/A

Agenda Item 8

Report to: **Executive**

Date: **14th September 2017**

Title: **Business Rates Pilot for 2018/19 and Pooling arrangements for 2018/19**

Portfolio Area: **Cllr Tucker – Strategic Budget Setting Process**

Wards Affected: **All**

Relevant Scrutiny Committee: **Overview and Scrutiny Panel**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: **Lisa Buckle** Role: **S151 Officer (Finance Lead)**

Contact: **Email: lisa.buckle@swdevon.gov.uk**
(01803) 861413

Recommendations:

It is recommended that the Executive recommends to Council:-

- (i) To apply to become a business rates pilot for 2018-19, as part of a Devonwide business rates pilot bid, to pioneer new pooling and tier-split models
- (ii) To delegate to the S151 Officer, in consultation with the Leader, Deputy Leader and Head of Paid Service, to agree the detail of the business rates pilot bid (in conjunction with Devon Local Authority S151 colleagues) with respect to the financial aspects and overall governance of the pilot bid
- (iii) That in the event of the Devon pilot bid being unsuccessful, South Hams District Council applies to re-join the Devon Business Rates Pool for 2018-19.

1. Executive summary

- 1.1 At the meetings of the Devon Local Government Steering Group and Devon District Forum on 14 July 2017, the eight Devon Districts, Devon County Council, Plymouth City Council and Torbay Council all agreed “in principle” to submit an application to be a pilot for 100% business rates retention, if a formal invitation from the Government Department for Communities and Local Government (DCLG) was received.
- 1.2 On 1 September, an invitation to apply to become a business rates pilot for 2018-19 was issued by the Government. The deadline for applications is 27 October 2017. If successful, the pilot would begin 1st April 2018.
- 1.3 Local Government Futures are specialists in Local Government finance who assisted Devon Councils in setting up the Devon business rates pool. They have undertaken some modelling for the Devon Business Rates Pool which indicates that Devon authorities would benefit financially from being a pilot.
- 1.4 Based upon historic and forecast levels of business rates income, LG Futures have suggested that the Devon Pool could benefit by somewhere in the region of between £10m to £16.9m by becoming a pilot in 2018/19. An agreement would need to be reached between all of the Devon Authorities as to how these projected gains would be shared between the eleven Authorities in the pilot.
- 1.5 The Devon S151 Officers will meet in September to make recommendations to their Councils on how the gains could be shared. Early thoughts are around a formulaic approach that could, for example, see a fixed amount being paid to all the Councils in the pilot. Additional gains could be distributed based on the level of business rates growth in individual Council areas, above that of the business rates baseline, but this detail has not yet been worked up. It should be noted that all Devon authorities would need to continue to be part of the Pilot if this estimated gain is to be achieved.
- 1.6 South Hams would have to forego the Rural Services Delivery Grant that it was due to receive in 2018-19 which is £251,886, if it was part of a pilot. However the Council would gain by receiving a share of the predicted gains of £10m to £16.9m.
- 1.7 The financial gain from being a business rates pilot is one-off additional revenue money for the year of the pilot only (2018-19). The invitation to be a pilot states that the 2018/19 pilot programme will last for one year only. Even though the additional funding is only short-term additional funding (for one year), it would allow the Council time for longer term options for achieving financial stability to be realised. South Hams District Council is currently forecasting a £0.8m budget gap (9%) by 2020/21. This pilot is too uncertain at this stage to be seen as a

solution to closing that gap and this income is only for one year (it is not recurring year on year income).

- 1.8 For the 2017/18 pilots the Government has agreed a 'no detriment' clause, guaranteeing that these areas will not be worse off as a result of participating in the pilot. This is not necessarily the case for 2018/19 pilots. The Government has said that proposals for the 2018/19 pilots will need to include details of how authorities will work together to manage risk in line with their proposed pooling arrangements in the event that the 2018/19 pilots programme does not include a 'no detriment' clause.
- 1.9 DCLG is not confirming one way or another whether there will be a "no detriment" clause. This increases the risk for 2018-19 pilots, but the level of gains predicted for a Devon pilot should give a sufficient safety blanket against this.
- 1.10 It is recommended by the S151 Officer that South Hams District Council applies to become a business rates pilot for 2018-19, as part of a Devonwide business rates pilot bid.
- 1.11 If the pilot bid is unsuccessful, it is recommended that South Hams applies to re-join the business rates pool for 2018-19. South Hams has a forecast levy of £0.6 million for 2018-19 and this would be retained in the Devon area if South Hams were in the pool. The forecast pooling gain (SHDC's share) is in the region of £100,000.

2 BUSINESS RATES RETENTION (100% BRR)

- 2.1 In October 2015 the Government announced its commitment that local government should retain 100% of business rates raised locally. This would amount to an additional £12.5 billion of revenue from business rates for the local government sector.
- 2.2 The Government also said any reforms to business rates would be fiscally neutral and in addition to delivering its existing responsibilities local government would take on new responsibilities to reflect any additional tax income.
- 2.3 The Government's intention had been to introduce the new system of 100% Business Rates Retention from April 2019. A Local Government Finance Bill was due to be presented to Parliament giving the statutory powers for 100% Business Rates Retention (BRR). However this bill was omitted from the Queens Speech on 10 June.
- 2.4 DCLG have confirmed there are no current plans for resurrecting or re-introducing the provisions of the Bill which means the introduction of 100% retention is unclear in terms of its timescale. A DCLG statement said: "The government is committed to delivering the manifesto pledge

to help local authorities to control more of the money they raise and will work closely with local government to agree the best way to achieve this.”

3 BUSINESS RATES RETENTION (BRR) PILOTS FOR 2018-19

- 3.1 The key elements of the new system are:
- All authorities have been invited to participate as a business rates pilot for 2018/19;
 - The system will not have a levy on growth;
 - Top Ups and Tariffs will remain and there will be a Safety Net of 3%;
 - Appeals following revaluation will be paid for centrally, using a top-slice of business rates income;
 - Revenue Support Grant, Rural Services Delivery Grant, Public Health Grant and the GLA Transport grant will all be funded through 100% BRR;
 - The remaining grants and/or new responsibilities that will be devolved will be determined by Spring 2018.
- 3.2 There are a number of issues that needed to be determined in devising the new system of 100% BRR, some of which will be informed by the pilot schemes.
- 3.3 100% pilots will retain all locally-collected business rates and will receive additional responsibilities in return.
- 3.4 As a minimum, authorities will forego the Revenue Support Grant and Rural Services Delivery Grant. *The Revenue Support Grant for South Hams District Council is zero for 2018/19 but the Rural Services Delivery Grant is £251,886 for 2018/19. The Council would not receive this amount if it was part of a pilot, but instead it would receive a share of the gains.*
- 3.5 Any difference between the increase in business rate retention and new responsibilities will be offset by an adjustment to top-ups or tariffs. The creation of the pilots will be “fiscally neutral” at baseline, but authorities will gain from retaining 100% of any above-baseline growth.
- 3.6 Pilots will have a safety net at 97% of Baseline Funding Level (for the whole pilot instead of the current 92.5% for an individual authority). No levy will be payable by the pilot or the individual authorities. The DCLG has not decided whether there will be a “no detriment” clause, whereby the pilot as a whole cannot be worse-off than under the existing 50% scheme.
- 3.7 It is highly unlikely that all applications for pilot status will be successful because of Government affordability constraints. There is likely to be a competitive process, with applications measured against the following criteria:

Applications should cover a functional economic area. The invitation talks about covering a “functional economic geography”. This might be a current pool area or county, but could also extend further than this.

Preference for applications from two-tier areas. Pilots will not be limited to two-tier areas, although the split between counties and districts is something the DCLG clearly wants to explore. The 2017-18 pilots only included single-tier authorities. For applicants in two-tier areas such as Devon, deciding on the tier split for counties and districts will be a very important and potentially a difficult decision.

Proposals would promote financial sustainability. The DCLG wants pilots to show how they can be more self-reliant and require less support from the national safety net. There is some concern that 2017-18 100% pilots are too financially beneficial for authorities, with large potential upside and no downside. The next round of pilot applications will need to say whether they will need the “no detriment” provision to continue. Furthermore, the DCLG is proposing that the safety net (whilst increasing from 92.5% to 97% of Baseline funding level) will apply at the pilot level rather than individual authority level (as it does for the first round of pilots). The DCLG is not confirming one way or another whether there will be a “no detriment” clause. This increases the risk for 2018-19 pilots, but the level of gains predicted for a Devon pilot should give a sufficient safety blanket against this.

Evidence of how pooled income from growth will be used across the pilot area. The DCLG wants to see how (potentially considerable) financial gains will be used. Of principal concern, is that gains are used within the pilot to mitigate risk, and to reduce the reliance of individual authorities on the national safety net. Applications for pilot status will need to demonstrate that there would be arrangements in place to share risk and reward. Additionally, the DCLG wants to see how pilots would invest “some retained income from growth ... to encourage further growth across the area”. This was not something that the first round of pilots were asked to demonstrate.

- 3.8 The DCLG is looking for a wide spread of different types of pilot. There will be particular focus on applications from rural areas (given that the majority of 2017 pilots are in urban areas) and from two-tier areas. A Devon Pilot bid would meet both these criteria. This is a real opportunity for Devon Authorities whom it is felt meet many of the criteria being asked for from pilot bids.
- 3.9 The emphasis on financial sustainability and risk is a new criteria for this round of 100% pilots. Proposed changes in “no detriment” and the safety net are really important because they place much more risk on authorities. As a result, decisions by authorities will need to be supported by robust financial modelling. Authorities will need to have some confidence about growth in the proposed area, and about the

potential risk to that growth. Crucially, it is possible that an authority or the whole pilot could be worse-off as a result of the changes in “no detriment” and the safety net. It is assumed that the DCLG has not made a decision about “no detriment” in case it puts off applications that it might want to support, but it is envisaged that those applicants who are willing to proceed without a “no detriment” clause could be looked on more favourably for pilot status.

- 3.10 Very little is said in the invitation about transfers of funding streams or new responsibilities. This is maybe because DCLG are thinking that it will take too long to negotiate anything new, with the deadlines being so short.
- 3.11 All authorities covered by the proposed pilot will have to give their agreement. This has implications for how the pilot is developed by a group of authorities: every authority needs to have an incentive to join the pilot. Governance is also important to the DLCOG because they will want to ensure that prospective candidates will deliver.
- 3.12 The deadline for applications is the 27th October. Decisions about successful pilots will not be made until potentially the provisional finance settlement itself and announced in December 2017. For any authorities who would wish to continue with their pool (under the current 50% system), if their pilot application is unsuccessful, they will need to make arrangements in parallel.
- 3.13 If the bid was unsuccessful, it is recommended that the Council re-joins the Devonwide Business Rates Pool for 2018/19 (see Section 7).

4. BUSINESS RATES FOR SOUTH HAMS DISTRICT COUNCIL

- 4.1 **Retained Business Rates** - The Government introduced the Business Rates Retention system (50% scheme) from April 2013. There is a risk of volatility in the system because Councils are exposed to any loss of income if businesses go into decline. The Council was part of the Devonwide Business Rates Pool to mitigate this risk, but had to come out of the Pool due to the risk associated with large business rates appeals.
- 4.2 Of the Business Rates collected by South Hams of £30.8 million, the Council is predicted to retain in funding only £1.86 million of this in 2018/19. So the District Council retains approximately 6p in every £1 to run our services.

Self-sufficient local government: 100% Business Rates Retention

- 4.3 The move from 50% to 100% Business Rates Retention (BRR) will see new responsibilities given to local government, with certain central government grants already being phased out for many Councils such

as South Hams (such as Revenue Support Grant). The Government has previously announced that the move to 100% BRR will be fiscally neutral. As the Local Government Finance Bill was omitted from the Queen's Speech, the timing for the introduction of 100% BRR is now unclear.

5. FINANCIAL MODELLING

5.1. LG Futures undertook some modelling on behalf of the Devon authorities to consider the impact of becoming a pilot and to ensure no Devon authority was detrimentally affected by becoming a pilot.

5.2 There are a number of reasons why it would be advantageous to become a pilot and these include:

- To help DCLG design the 100% (BRR) scheme;
- To help influence the design and to explore options
- To test more technical aspects of the 100% business rates retention system, such as tier splits between upper tier authorities and Districts
- Financial benefits
- Local perception and reputation;
- Continue to evolve integrated working on business rates across Devon;

The opportunity for Councils to work together as a pool across a functional economic area will allow authorities to make coherent strategic decisions about the wider area and to jointly manage risk and reward.

Pilots will test authorities' administration, technical planning for implementation and to look at system maintenance, how the accounting, data collection and IT system will work. The Government expects to learn from the pilots' experiences in the design of any national system of business rates retention.

5.3 LG Futures have undertaken some modelling using the most recent data from the Devon pool. This modelling is based upon existing historic and forecast business rates data as provided to DCLG.

5.4 Based upon historic and forecast levels of business rates income LG Futures have suggested that the Devon Pool could benefit by somewhere in the region of between £10m to £16.9m by becoming a pilot in 2018/19. It should be noted that all Devon authorities must continue to be part of the Pool if this estimated gain is to be achieved. This would also include South Hams District Council who would be able to be part of a pilot due to the large business rates appeals being settled in 2016-17. It should be noted that the modelling is an estimate at this stage and this gain would be for one year only i.e. 2018/19.

- 5.5 As part of any application to become a pilot the Devon authorities will need to prepare a proposal to DCLG setting out why Devon should be considered as a pilot. As an existing Pool, Devon should have a strong case as it has proven governance arrangements and has made pooling gains for each year it has operated. There are expected to be around 15 bids for pilot status around the country and the likelihood is that only around 5-6 areas would have pilot status approved by DCLG. Therefore there would be a lot of competition for being a pilot and Devon would need to set out in its bid why the Devon region should be approved by DCLG.
- 5.6 Further work would be required by the Devon authorities with respect to the Governance arrangements. It is suggested this work is delegated to the section 151 officers. This work will include making proposals and reaching an agreement as to how the financial benefits from being pilot are shared amongst all Devon authorities.

6. WHAT COULD PILOT BID STATUS MEAN FOR SOUTH HAMS DISTRICT COUNCIL FINANCIALLY?

- 6.1 Based upon the work undertaken by LG Futures, there is a case for the Devon Pool to apply to be a pilot area for Business Rates Retention. Modelling estimates there could be between a £10 million to £16.9m gain to the pool in one year (2018/19) which would be retained and shared within Devon.
- 6.2 South Hams would have to forego the Rural Services Delivery Grant that it was due to receive in 2018-19 which is £251,886, if it was part of a pilot. However the Council would gain by receiving a share of the predicted gains of £10m to £16.9m.
- 6.3 The financial gain from being a business rates pilot is one-off additional revenue money for the year of the pilot only (2018-19). The invitation to be a pilot states that the 2018/19 pilot programme will last for one year only. Even though the additional funding is only short-term additional funding, it would allow the Council time for longer term options for achieving financial stability to be realised. South Hams District Council is currently forecasting a £0.8m budget gap (9%) by 2020/21. This pilot is too uncertain at this stage to be seen as a solution to closing that gap and this income is only for one year (it is not recurring year on year income).
- 6.4 The Government is interested in exploring how business rates retention could operate across more than one authority to promote financial sustainability and to support coherent decision-making across functional economic areas. In addition, the Government would expect for some retained business rates income from growth to be invested to encourage further growth across the area.

- 6.5 For the 2017/18 pilots the Government has agreed a 'no detriment' clause, guaranteeing that these areas will not be worse off as a result of participating in the pilot. This is not necessarily the case for 2018/19 pilots. The Government has said that proposals for the 2018/19 pilots will need to include details of how authorities will work together to manage risk in line with their proposed pooling arrangements in the event that the 2018/19 pilots programme does not include a 'no detriment' clause. Devon Authorities will need to decide whether or not they would be willing to become a 100% Business Rates Retention pilot if the 2018/19 pilots were expected by DCLG to operate without the benefit of a 'no detriment' clause. As part of the application process to become a pilot, Devon Authorities would have to state whether or not they would still like their application to be considered if they were expected to operate without a 'no detriment' clause.
- 6.6 All Devon authorities must remain within the Pool (and part of the pilot bid) to ensure any application to DCLG is successful and the modelled financial benefits achieved.
- 6.7 Plymouth City Council is currently the administering Authority for the Devon Business Rates Pool. The Council is supportive of continuing to be the administering Authority for a pilot in 2018/19.

7. DEVON BUSINESS RATES POOL FOR 2018-19

- 7.1 There has been a Devon Business rates pool since 2013/14. South Hams were original members, but the Council subsequently left due to the uncertainty regarding some large business rates appeals.
- 7.2 The large appeals have now been resolved and South Hams has an opportunity to re-join the pool for 2018/19. DCLG usually requires pool changes to be notified by the preceding October.
- 7.3 If Devon is able to become a business rates pilot for 2018/19, a Devon business rates pool will not be needed. However, this will not be known until after the expected deadline to change the pool's membership. Therefore applying to be in the pool is still required.
- 7.4 In order to evaluate whether South Hams should seek to be in the pool for 2018/19, it is necessary to evaluate the potential risks and rewards of entering the pool.
- 7.5 The main risk of entering the pool is that if it makes a loss. If a loss occurs, pool members have to share the value of the loss between them. In order to assess the risk, past performance of the pool has been assessed. For every year of the pool, the net position of the area has been more than the Business Rates Baseline, with 2016/17 being the highest to date of £7.6 million. This is forecast to increase to £12.5 million in 2017/18.

7.6 The reward (for South Hams) of entering the pool in 2018/19 is that a proportion of any levy due is retained by South Hams in the form of a pooling gain (rather than paid to DCLG). There is also a benefit to other pool members, with the remaining amount of any levy due being shared across the remaining pool members. The forecast for 2018/19 shows a levy of £0.6 million would be due. Of this amount, it is likely that South Hams would benefit from a pooling gain of around £100,000.

7.7 The risk of the pool making a loss (and adversely affecting South Hams) appears minimal, considering the Devon authorities have never made an aggregate loss since the business rates scheme started.

8. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Executive is responsible for recommending to Council the budgetary framework. In accordance with the Financial Procedure Rules, Council must decide any material items affecting the Budget of the Council (e.g. a bid for Business Rates Pilot status requires the approval of Full Council)</p> <p>The preparation of the annual Budget is evidence that the Council has considered and taken into account all relevant information and proper advice when determining its financial arrangements in accordance with statutory requirements, and in particular, that it will set a lawful budget.</p>
Financial	Y	<p>South Hams would have to forego the Rural Services Delivery Grant that is was due to receive in 2018-19 which is £251,886, if it was part of a pilot.</p> <p>However the Council would gain by receiving a share of the predicted gains of £10m to £16.9m.</p> <p>The financial gain from being a business rates pilot is one-off additional revenue money for the year of the pilot only (2018-19). Even though the additional funding is only short-term additional funding, it would allow the Council time for longer term options for achieving financial</p>

		<p>stability to be realised. South Hams District Council is currently forecasting a £0.8m budget gap (9%) by 2020/21.</p> <p>This pilot is too uncertain at this stage to be seen as a solution to closing that gap and this income is only for one year (it is not recurring year on year income).</p> <p>The reward (for South Hams) of entering the pool in 2018/19 is that a proportion of any levy due is retained by South Hams (rather than paid to DCLG). There is also a benefit to other pool members, with the remaining amount of any levy due being shared across the remaining pool members. The forecast for 2018/19 shows a levy of £0.6 million would be due. Of this amount, it is likely that South Hams would benefit from a pooling gain of around £100,000.</p>
Risk	Y	<p>The emphasis on financial sustainability and risk is a new criteria for this round of 100% pilots. Proposed changes in “no detriment” and the safety net are really important because they place much more risk on authorities.</p> <p>As a result, decisions by authorities will need to be supported by robust financial modelling (this is being undertaken by Local Government Futures on behalf of Devon Authorities).</p> <p>Authorities will need to have confidence about growth in the proposed area, and about the potential risk to that growth. Crucially, it is possible that an authority or the whole pilot could be worse-off as a result of the changes in “no detriment” and the safety net.</p> <p>It is assumed that the DCLG has not made a decision about “no detriment” in case it puts off applications that it might want to support. Devon Authorities will need to consider this point to decide on, on which basis it would wish to proceed.</p> <p>The risk of the pool making a loss (and adversely affecting South Hams) appears minimal, considering the Devon authorities have never made an aggregate loss since the business rates scheme started.</p>

Comprehensive Impact Assessment Implications		
Equality and Diversity		None directly arising from this report.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.
Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

Supporting Information

Briefing note on Business Rates Pilot for 2018/19 to Devon Local Government Steering Group and Devon District Forum on 14 July 2017

Invitation from DCLG to apply for business rates pilot status for 2018/19:

<https://www.gov.uk/government/publications/100-business-rates-retention-pilots-2018-to-2019-prospectus>

Appendices:

None

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	N/A

Agenda Item 9

The appendix to this report contains exempt information contained in Paragraphs 3 of 12A of the Local Government Act 1972 (information relating to the financial and business affairs of the Council)

Report to: **South Hams District Council Executive**

Date: **14th September 2017**

Title: **Local Authority Controlled Company (LACC)
Project Review and Closure Report**

Portfolio Area: **Leader of the Council - Strategic Vision**

Wards Affected: **All**

Relevant Scrutiny Committee:

Approval and clearance obtained: **No**

Urgent Decision: **N/A**

Date next steps can be taken: Following Call In period – 26 September 2017

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Recommendations:

1. That the Executive Committee notes the Local Authority Controlled Company project closure report.

1.0 Executive Summary

- 1.1 The Joint Steering Group (JSG) was formed between West Devon Borough Council and South Hams District Council in August 2016. The JSG was tasked to consider further detailed information and to make a final recommendation to both Councils, in respect of the proposal to set up a Local Authority Controlled Company (LACC).
- 1.2 Having fully considered the matter, in January 2017 the JSG recommended to both Councils not to proceed with the implementation of a LACC as proposed at that time.

- 1.3 The JSG recommendation, together with the Final JSG Report was presented to South Hams District Council on 9th February 2017. The Council agreed with the JSG recommendation not to implement a LACC and arrangements were made by Officers to close down the project.
- 1.4 As part of the Project Management process, the JSG LACC project was formally debriefed and a closure report produced. This detailed the Lessons Learnt, Project Performance and its Closure Activities.
- 1.5 At the meeting of the Joint Steering Group on 6th March 2017, the LACC Project Review and Closure report was approved. It was agreed that once the PWC fee had been finalised, the report should go to both Councils.
- 1.6 The financial settlement with PWC was agreed in June 2017 and the LACC Project Review and Closure Report was again approved by the JSG at its 17th July 2017 meeting.

2.0 Background

- 2.1 On 27th July 2016, a full meeting of South Hams District Council considered a detailed business case prepared by Price Waterhouse Coopers into the viability of establishing a Local Authority Controlled Company.
- 2.2 At that meeting, it was resolved that a Joint Steering Group (JSG) be formed to consider a number of matters which Members felt required further investigation before making a final decision on implementing a Local Authority Controlled Company (LACC).
- 2.3 The JSG was made up of four Members from South Hams District Council and four Members from West Devon Borough Council, with the chair role rotating to the Leader of the hosting Council.
- 2.4 At the JSG first meeting, nine key areas were identified where further analysis was required to enable Members to make a final decision on whether or not to implement a LACC for the delivery of services to the Councils.
- 2.5 A Project Team was formed from Officers and external Legal and Financial advice was commissioned, in order for the nine key issues to be fully understood and the implications to the Councils made clear. Regular reports and updates were provided for the monthly JSG meetings.
- 2.6 When the JSG recommendations were made in January 2017, this in effect closed down the JSG LACC Project. The process for reviewing and closing down the project was commenced.
- 2.7 Debrief forms were sent to all JSG Members and Project Team Officers. This form asked for feedback on various aspects of the JSG LACC project, including what went well and what could have been improved.

3.0 Outcomes/outputs

- 1.1 The JSG LACC Project Review and Closure Report was reviewed and agreed at the JSG meeting on 6th March 2017. The content was agreed and suggested that the report be approved by both Councils.
- 1.2 As the final settlement figure with PWC report had not been agreed and paid, it was felt that this should be resolved prior to presenting the project closure report.
- 1.3 Following the financial settlement agreement with PWC in June 2017, the LACC Project Review and Closure Report was again reviewed and agreed at the JSG meeting on 17th July 2017.
- 1.4 The report highlighted the following;
 - The JSG worked well in bringing Members of both Councils together in a forum to consider the matters of setting up a LACC
 - The structured project approach was generally considered to be effective with clear reports setting out the issues to be considered
 - The Project Team liaised with other councils that are establishing LACC's, to exchange information and documents
 - Many Lessons Learnt were captured in feedback from JSG Members and Project Team Officers
 - The overall project performance was considered to be good, with its objectives met, keeping to timescales and within budget

- 3.4 The report made the following recommendations;

Recommendation 1 – The JSG worked well in offering a regular opportunity for Members of both Councils to consider matters which would have an impact across South Hams and West Devon. This forum should therefore continue albeit with a revised terms of reference

Recommendation 2 – Planning and project management worked on the whole effectively and ensured that the process was managed in a structured way. This approach should be further embedded across the organisation with standard templates and guidance for those staff commencing projects

3.0 Options available and consideration of risk

- 3.1. The project has closed and the Executive Committee are asked to note the content of the closure report.
- 3.2. There are no risks associated with this report and no key decisions required.

4.0 Proposed Way Forward

- 4.1. The JSG has continued to meet under new terms of reference and has been examining the One Council and Wholly Owned Company/Outsource options.
- 4.2. A Programme Board is being set up, to coordinate and manage all projects across both Councils. The Project Management principles will become embedded into the way the Councils approach future projects.

6.0 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	N	N/A
Financial	N	N/A
Risk	N	N/A
Comprehensive Impact Assessment Implications		
Equality and Diversity		N/A as no change to service delivery or policy
Safeguarding		N/A as no change to service delivery or policy
Community Safety, Crime and Disorder		N/A as no change to service delivery or policy
Health, Safety and Wellbeing		N/A as no change to service delivery or policy
Other implications		N/A as no change to service delivery or policy

Supporting Information

Appendices:

Appendix A – Joint Steering Group LACC Project Review and Closure Report (Exempt from publication)

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report	Yes

also drafted	
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**MINUTES OF THE MEETING OF THE
OVERVIEW & SCRUTINY PANEL
HELD AT FOLLATON HOUSE, TOTNES ON
THURSDAY, 24 AUGUST 2017**

Panel Members in attendance:			
* Denotes attendance		∅ Denotes apology for absence	
∅	Cllr K J Baldry	*	Cllr E D Huntley
*	Cllr J P Birch	*	Cllr D W May
*	Cllr J I G Blackler	*	Cllr J T Pennington
*	Cllr B F Cane	*	Cllr K Pringle
*	Cllr J P Green	*	Cllr M F Saltern (Chairman)
∅	Cllr J D Hawkins	*	Cllr P C Smerdon (Vice Chairman)
*	Cllr M J Hicks		

Other Members also in attendance:
Cllrs I Bramble, J Brazil, R D Gilbert, T R Holway, N A Hopwood, J A Pearce, R C Steer, R J Tucker, K R H Wingate and S A E Wright

Item No	Minute Ref No below refers	Officers in attendance and participating
All		Head of Paid Service and Senior Specialist – Democratic Services
6	O&S.40/17	Assets Senior Specialist
7	O&S.41/17	South Devon College Principal and Vice-Principal
8(b)	O&S.42/17(b)	Specialist – Revenues
8(c)	O&S.42/17(c)	Assets Senior Specialist
9	O&S.43/17	Specialist Manager
10	O&S.44/17	HR Specialist
11 and 12	O&S.45/17 and O&S.46/17	Monitoring Officer
13	O&S.47/17	COP Lead – Environmental Health
16(a)	O&S.50/17	Group Manager – Commercial Services

O&S.38/17 MINUTES

The minutes of the meetings of the Overview and Scrutiny Panel held on 20 and 27 July 2017 were confirmed as a correct record and signed by the Chairman.

Having been agreed, two points of clarity were raised as follows:

1. Minute O&S.25/17: '*Commercial Property Acquisition Strategy*' discussion point (c). Whilst not disputing the accuracy of the discussion point, a Member felt that the response given at the meeting had been misleading and it was agreed that this matter would be clarified outside of this meeting; and

2. Minute O&S.37/17: 'Annual Work Programme 2017/18' discussion point (g). Whilst acknowledging that a briefing note on Air Quality and Air Pollution had been circulated to all Members, a Member was of the view that a formal agenda item was to be considered at the Panel meeting on 18 January 2018. In reply, other Members did not recall that this had been agreed but highlighted the ability of the Panel to amend and update its own Work Programme as it evolved throughout the year.

O&S.39/17 **DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting, but there were none made.

O&S.40/17 **PUBLIC FORUM**

In accordance with the Public Forum Procedure Rules, the following three questions had been received from Kingsbridge Town Council for consideration at this meeting as follows:

Reference Agenda Item 8(c) (Minute O&S.42/17(c) below refers):

Paragraph 5: 'Stakeholder and Community Consultation (Stage 4):

5.6 Bullet point 7: "Recognition that development of Kingsbridge Quayside is needed to support costs of improvements to public realm and provision of affordable housing."

Question 1: Kingsbridge Town Council has concluded that SHDC is holding the Kingsbridge Community to ransom in unnecessarily linking development of the Kingsbridge Quayside to support costs of improvements to public realm and provision of affordable housing. Adequate funding is available for the latter given SHDC's recent monies from Central Government. What percentage and form of consultation responses constitute 'recognition' that this 'is needed'?

Question 2: What is the basis from the consultation that allow SHDC to assert that there is a 'recognition' that this project is needed?

Question 3: Has SHDC agreed to our demand that they defer consideration of the Quayside Development to allow public contribution?

The Assets Senior Specialist was invited to respond to the three questions and, in so doing, made the following comments:

Question 1:

'There are two parts to this question:

1. *I think it is unfortunate that the term 'ransom' has continued to appear within 'formal' comments submitted by Kingsbridge Town Council and would add that this is not reflective of the face-to-face discussions that we have been having. Furthermore, the current model is based upon:*
 - *Compliance / investigation in line with the current site allocation (100 homes);*
 - *Delivery of a high quality of affordable / community housing (40% target); and*
 - *Analysis of finance associated with delivering this as a whole and including some public realm.*

2. *This question was also raised at the public meeting that officers attended at the request of Kingsbridge Town Council. With respect to the reference to central government money, officers understanding is that we have £1.8 million for across the South Hams and that this relates to a community housing model only and will be used in a variety of ways including:*
 - *Supporting the delivery of existing community housing projects;*
 - *Building a new community housing team; and*
 - *Buying suitable sites or securing options with landowners to facilitate projects.*

Question 2:

'Again, there are two parts to this question:

'Firstly, we need to take a step back and recap on the purpose of this Stage 1 which was:

1. *The site is previously allocated;*
2. *The Council are a major landowner and so it is sensible to review assets for the long-term;*
3. *The outcome is to provide a summary of constraints and opportunities, illustrative concept layouts and associated financial assessments to better inform where we move to the next stage;*
4. *It is not about putting a financial solution on to the community.*

The term 'recognition' appears to relate to bullet point 7 and in particular Question 8:

Question 8: Do you, in principle, support development of the Kingsbridge Quayside recognising the some development would be needed to support the cost of improvements to public realm and affordable housing?

Age:	Yes:	No:
<i>All</i>	<i>35%</i>	<i>65%</i>
<i>Under 46s</i>	<i>49%</i>	<i>51%</i>
<i>Over 46s</i>	<i>25%</i>	<i>75%</i>

With regard to whether the project is needed to meet the needs of the community, the officer suggested that it was. To expand on this view, the public realm and affordable housing aspects received very positive responses, highly in favour, and aligning with the aspirations of the town council.

In terms of delivering the site allocation or something similar, the officer advised that the purpose of the Masterplan has been to demonstrate how this could be achieved.

Whilst in isolation, the survey results do not appear positive, the purpose of the consultation was to try and be transparent and to enable key concerns to be raised.

This has clearly sparked a high level of discussion within the community, with the issues of: quayside development; affordable housing model; and loss of parking.

I believe that there is now an opportunity for these concerns to be further explored within Stage 2 and hopefully, we can still work together to develop a scheme that meets the needs of all parties.

Given the potential change that could be implemented (in accordance with allocation), this will be a challenge, however this is to be expected.

Question 3:

'Yes, we have. However, officers need to discuss with the town council their expectation in terms of being able to review the final report.

Further to this response, the Leader also advised that:

- He had agreed that this agenda item would be deferred to the Executive meeting on 19 October 2017;
- It was the intention to now sign-off this phase before looking at a revised plan;
- As part of a revised plan, officers would be tasked with mitigating concerns related to loss of car parking and affordable housing;
- The Council had listened to the consultation feedback and would continue to talk to the town council and local residents.

In welcoming these responses, the Town Council representatives in attendance did not wish to take up the offer of asking a supplementary question, but did state that they were looking forward to making progress in this respect, in line with the wishes of the local community.

O&S.41/17 SOUTH DEVON COLLEGE PRINCIPAL PRESENTATION

The South Devon College Principal and Vice-Principal were in attendance to conduct a presentation to the Panel that included reference to the following headings:-

- College learners;

- The College Mission Statement;
- The Vocational and Technical Curriculum Offer;
- Working with Businesses;
- Recent Satisfaction Survey Responses;
- Higher & Degree Apprenticeships;
- Financial Information 2016/17;and
- Capital Developments – going forward.

In the ensuing discussion, the following points were raised:-

- (a) A number of Members congratulated the representatives on the progress being made by the College and the particular focus that was being given to apprenticeship schemes;
- (b) In the event of Members having any suggestions that they felt could further improve the service provided by the College, they were invited to contact the Principal outside of this meeting;
- (c) The Panel noted the intention of the College to give greater future consideration to all aspects of student rights to Higher Education provision. As part of this exercise, the representatives informed that they were keen to consider part-time learning and supported online courses. In reply to a question, Members were advised that the College did have provision for some bursary packages for disadvantaged students. Furthermore, it was also confirmed that central government was actively looking at methods of providing travel support for apprentices and the College representatives gave a commitment to explore the potential and encourage the use of reinstating the 'Wheels to Work' scheme;
- (d) With regard to the membership of the South Devon College Governing Body, the representatives emphasised the importance of key service sectors being represented;
- (e) The Leader highlighted the meetings that took place between Council and College representatives and felt that they were a very effective means of communication between the two organisations.

In conclusion, the Chairman wished to thank the representatives for their informative presentation and responses to Member questions.

O&S.42/17 **DRAFT EXECUTIVE FORWARD PLAN**

The Panel was presented with the most recently published Executive Forward Plan and, in discussion, made reference to the following amendments:-

- (a) As highlighted during the Public Forum agenda item (Minute O&S.40/17 above refers), the Kingsbridge Quayside Phase 2 agenda item had been deferred to the Executive meeting on 19 October 2017;

- (b) The Chairman reminded Members that both the Transformation Programme Closedown and IT Procurement reports would be considered by the Panel at its meeting on 9 November 2017 before then being presented to the Executive meeting on 7 December 2017.

(i) Medium Term Financial Strategy for the Five Year Period 2018/19 to 2021/22

The Chairman advised that this agenda item had been deferred for consideration at the next Panel meeting on 12 October 2017.

(ii) Business Rates – Locally Administered Business Rate Relief Policy

A report was considered that sought to recommend adoption of the locally administered Business Rate Relief Policy.

During discussion, particular reference was made to:-

- (a) the proposed date for the policy review. Members felt that the proposal to review the policy in December 2017 was too soon after it would have been adopted by the Council. As a consequence, Members felt that the proposed review should be extended to April 2018;
- (b) the decision-making process. Some Members were of the view that the decision-making process (including the right to appeal) was too reliant upon the Leader of the Council and there was a need for a greater number of Members to be involved in the process. As a way forward, the following suggested amendments to the process were made:
- That Discretionary Payment awards under the Policy be determined by the Leader of the Council and the lead Executive Member; and
 - That all appeals be determined by the Leader of the Council; the lead Executive Member and the Chairman of the Overview and Scrutiny Panel.

It was then:

RECOMMENDED

That the Executive **RECOMMEND** to Council that, following consultation with Devon County Council, Devon and Cornwall Police and Devon and Somerset Fire and Rescue, the locally administered Business Rate Relief Policy be adopted subject to the following amendments:

- The policy review being extended from the end of December 2017 to the end of April 2018; and
- The decision-making process being amended in accordance with discussion point (b) above.

(iii) Quayside Phase 2 Consultation

The Panel considered a report that provided a summary of the work that had been undertaken as part of the Kingsbridge Masterplan project.

The Chairman introduced the report and reminded those present that the outcome of the public forum agenda item (Minute O&S.40/17 above refers) had significantly impacted upon this agenda item.

In the subsequent discussion, the following points were raised:-

- (a) Some Members expressed their concerns that the production of revised plans would result in additional costs to the Council and have a detrimental effect on the overall viability of the scheme. In reply, the Panel was assured that the Council was not in a position to effectively subsidise sites and any additional cost implications would require the approval of full Council;
- (b) In support of the revised approach, the local Ward Members were pleased that the outcome of the consultation exercise had been acknowledged;
- (c) A Member emphasised that the Council and local community must not lose sight of the definite need for affordable housing in Kingsbridge. In highlighting the different views depending on age, the Member emphasised the importance of the younger generation also having its views heard as part of this process.

It was then:

RESOLVED

That the Panel:

1. endorse the consultation exercise to date and is satisfied that the results have been duly acknowledged; and
2. fully supports the further consultation exercise that is being proposed.

O&S.43/17 NEIGHBOURHOOD PLANNING – SUPPORT TO GROUPS

Consideration was given to a report that outlined the support the Council was providing to Neighbourhood Planning Groups within the South Hams and outlined future plans to secure support at this level.

In discussion, the following points were raised:-

(a) A Member outlined a number of her concerns in relation to the published agenda report and the Council's corporate approach to Neighbourhood Planning. In summary, the Member raised the following concerns:

- The Council was not adhering to the 'Neighbourhood Planning Offer of Service to Communities' that it launched in September 2016. In particular, the information on the Council website was sadly lacking;
- The dedicated officer resource and support for Neighbourhood Planning was wholly insufficient;
- Neighbourhood Planning Groups were in desperate need of immediate help and support.

In response, officers acknowledged the concerns related to the website and informed that a revised set of webpages would be launched in September 2017. With regard to the officer resource and support available, the previous recruitment problems were stressed and measures to improve capacity and resilience were highlighted.

Having been advised of the proposal for Strategic Planning Officers to be able to provide the equivalent of one day per week of additional support, the Member also highlighted her belief that this was an unrealistic expectation;

(b) The local Ward Member for Woolwell wished for her disappointment to be formally recorded at the lack of any reference in the published agenda report to her local area potentially acquiring over 2,000 additional properties;

(c) In light of the specialist knowledge and expertise involved in Neighbourhood Planning, a number of Members echoed the need for the Council to provide Groups with additional professional officer support. As an alternative view, a Member did remind those present that town and parish councils did have the ability to buy in their own external advice and support to progress their respective Neighbourhood Plans;

(d) In reply to a question, officers accepted the point that it would now be timely for the Council to review its Offer of Service to Communities.

It was then:

RESOLVED

That the Panel:

1. expresses its concern over the adequacy of resources to address the level of support required to meet the statutory requirement of Neighbourhood Planning;

2. supports the proposal for the Council to review its Neighbourhood Planning Offer of Service to Communities; and
3. require a review of the resources and information provided and a further overview in six months' time.

O&S.44/17 **SICKNESS ABSENCE MONITORING**

The Panel considered a report that provided an update on the level of sickness absence amongst Council employees and the measures in place to manage and monitor short and long term absence.

In discussion, reference was made to:-

- (a) overall staff absenteeism in the Council. Some Members felt that the increases related to long-term sickness absence and overall absenteeism (when compared to the Local Government average) were causes for concern. In response, officers informed that the Senior Leadership Team was particularly mindful of these statistics and was working closely with managers and the Human Resources Community Of Practice in an attempt to reverse these trends;
- (b) the counselling service. Officers confirmed that the Council offered a counselling service with staff having the ability to self-refer themselves. Having been informed that the Council did not obtain regular feedback on the service, the Panel strongly suggested that officers review both usage levels and whether or not the Council was receiving value for money for this service;
- (c) staff workload. Whilst the staff survey results had illustrated a number of improvements, some Members cited the feedback related to workload pressures and insufficient staff capacity as being alarming. A Member highlighted the correlation between this feedback and the significant increases in cases of stress and depression. Officers responded by reminding Members that, whilst the Transformation Programme had resulted in a 30% reduction in the Council's workforce, some service areas had seen a 20% increase in demand. As a consequence, it was inevitable that some members of staff would be struggling with their workload and there was a need to strike a better balance between capacity and demand. Officers also reminded Members that they had a key role to play in this regard by both ensuring that they adhered to using the Transformation Programme operating model and by being realistic and supporting and co-operating with members of staff;
- (d) staff enjoyment of their job. Whilst the debate had focused on some areas of concern, a Member did wish to provide some balance by highlighting that the staff survey had also indicated that 84% of staff had stated that they enjoyed their job.

It was then:

RESOLVED

That the Panel:

1. acknowledges that the Council continues to proactively manage and monitor short and long-term absence and that the HR Lead Specialist continues to report to the Senior Leadership Team on a monthly basis; and
2. recognises that the trends related to increases in long-term sickness absence and stress and depression levels are causes for concern that must be kept under close review.

O&S.45/17 OMBUDSMAN ANNUAL REVIEW LETTER 2017

The Panel considered a report that presented the Local Government Ombudsman's Annual Review Letter. The Letter outlined the details concerning Ombudsman complaints received against the Council for the period 1 April 2016 to 31 March 2017.

In introducing the report, the Panel noted that, whilst there had been an increase in the number of complaints made to the Ombudsman in comparison to last year, the previous two years were very much higher. Members acknowledged the impact of the revised complaints procedures and the emphasis on ownership and early resolution and appreciation was extended to the Executive Director (Service Delivery and Commercial Development) and the Monitoring Officer.

During the ensuing discussion, the following points were raised:-

- (a) Members acknowledged the Annual Review Letter and, whilst of the view that there was always room for improvements to be made, felt that its contents were sound;
- (b) A Member stated his surprise that the complaint listed against a fellow Member had been dealt with by the Ombudsman and not by the adopted normal practice of the Council's Standards procedures. In asking for an explanation for this decision, it was agreed that the Monitoring Officer would meet with the interested Member outside of this meeting.

It was then:

RESOLVED

That the Ombudsman Annual Letter for 2016 (as outlined at Appendix A of the presented agenda report) has been reviewed with consideration being given to what corporate lessons may be learned and whether further service improvements be required.

O&S.46/17 **REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000 POLICY AND UPDATE**

The Panel considered a report that sought to:-

- Review the Council's RIPA Policy and approve guidance on Social Networking Sites in investigations;
- Update Members on the use of RIPA;
- Report on the role of the Office of Surveillance Commissioners; and
- Report on training for officers.

During discussion, reference was made to:-

- (i) use of these Powers. A Member repeated his previously raised objections to the use of covert surveillance, which he considered to be intrusive. As an assurance, officers advised that these Powers could only be used in very limited circumstances;
- (ii) the Records Management Policy. Unless otherwise stated, the Monitoring Officer confirmed that the default position was that records had to be kept for a minimum of six years.

It was then:

RESOLVED

1. That the Executive be **RECOMMENDED** to approve the guidance on Social Networking Sites in investigations (as outlined at Appendix B of the presented agenda report) and included in the Council's RIPA policy; and
2. That it be noted that there have been no RIPA Authorisations in the last three years.

O&S.47/17 **ANNUAL REVIEW OF HEALTH AND SAFETY POLICY**

A report was considered by the Panel that presented the annual review of the Council's Health and Safety Policy.

In the ensuing debate, the following points were raised:-

- (a) Panel Members emphasised the importance of reporting near misses and welcomed the efforts of lead officers to breed a culture of Health and Safety awareness throughout the Council;
- (b) It was confirmed that the contents of the Health and Safety Policy were relevant to both Members and officers and, in accordance with the Policy, Members were also eligible to receive a refund for the cost of an eye test;

- (c) Officers advised that work was progressing on the creation of a specific Lone Worker Policy for Members and it was agreed that the Deputy Leader and Cllr Green should be consulted on its content prior to it being presented for approval;
- (d) Officers advised that pages 197 and 198 of the presented agenda papers had been published in error and should not therefore be considered to be part of the draft Policy.

It was then:

RESOLVED

That the Executive **RECOMMEND** to Council that the revised policy be adopted and signed by the Head of Paid Service and the Leader of the Council.

O&S.48/17 SH/WD JOINT STEERING GROUP NOTES

In light of the most recent Joint Steering Group meeting only taking place on Tuesday, 22 August 2017, the Chairman advised that these notes would be presented to the next Panel meeting on 12 October 2017.

O&S.49/17 EXCLUSION OF PUBLIC AND PRESS

RESOLVED

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Act is involved.

O&S.50/17 TASK AND FINISH GROUP UPDATES

(a) Dartmouth Lower Ferry

The Panel considered an exempt report that presented the conclusions of the Lower Ferry Task and Finish Group.

In discussion, reference was made to:-

- (i) the meeting with the Unions. Officers advised that the meeting had still to take place and had been scheduled to be held on Monday, 4 September 2017;

- (ii) the lack of detail in the exempt report. In response to a Member's concerns at the lack of information in this concluding report, it was agreed that officers would circulate every relevant background paper to the interested Member.

It was then:

RESOLVED

1. That the Panel endorse the direction of travel and the outcomes of the Task and Finish Group and formally disband the Task and Finish Group, with Lower Ferry Service updates being provided to the Panel as and when requested;
2. That Executive be **RECOMMENDED** that if for any reason union agreement cannot be achieved, the final offer is the Councils' binding offer and new contracts replace existing terms and conditions to that effect; and
3. That Executive be **RECOMMENDED** that regular consultation with the Lower Ferry workforce continues to inform service improvements and tariff setting proposals

O&S.51/17 READMITTANCE OF THE PRESS AND PUBLIC

It was then:

RESOLVED

That the press and public be readmitted to the meeting.

O&S.52/17 TASK AND FINISH GROUP UPDATES

(b) Discretionary Grant Funding

A Member of the Task and Finish Group expressed his view that there was some scope for savings to be made as part of this review.

(c) Performance Measures

By way of an update, it was noted that the first Group meeting had been held with the lead Specialist. The main outcome of this meeting was that each Group Member had been assigned an individual service area of the Council to focus upon.

It was noted that the ultimate aim of the Group was to report on its initial findings before the end of September 2017.

O&S.53/17 ACTIONS ARISING / DECISIONS LOG

The contents of the latest version of the Log was presented and it was agreed that the lead officer should populate it with target dates for completion.

O&S.54/17 ANNUAL WORK PROGRAMME 2017/18

In consideration of its Annual Work Programme, the following comments, additions and amendments were made:-

- (a) As highlighted above (Minute O&S.42/17(i) refers), the Medium Term Financial Strategy was added to the Programme for consideration at the next Panel meeting on 12 October 2017;
- (b) It was agreed that consideration of the 'Joint Local Plan Progress Update', the 'General Data Protection Regulations' and the 'Concluding Recommendations of the Discretionary Grant Funding Review Group' should be deferred to the Panel meeting on 9 November 2017;
- (c) Due to the length of the meeting agenda on 9 November 2017, Members were supportive of the proposal for the annual updates from the Citizens Advice Bureau and the Council for Voluntary Service to be deferred to the Panel meeting on 8 February 2018;
- (d) The Panel requested that the ICT Procurement Options be presented to its meeting on 9 November 2017 before then being presented to the Executive;
- (e) In response to Member frustration at the lack of progress being made on the 'Future Use of Follaton House – to include heating' agenda item, the Head of Paid Service advised that he would pursue an update;
- (f) In respect of the 'Section 106 Agreement Schedule', it was agreed that the Chairman would be tasked with assigning this item on to a specific Panel meeting agenda. As part of this item, Members also requested an update on the work of the *'appointed person to be responsible for the monitoring, control and liaison with both local Ward Members and town and parish councils as part of the process for spending S106 funds'* (Minute O&S.16/17 refers).

(Meeting started at 10.00 am and concluded at 1.25 pm)

Chairman

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