
1 March 2019

Dear Councillor,

A meeting of **CABINET** will be held in the **COUNCIL CHAMBER** at these offices on **MONDAY, 11TH MARCH, 2019 at 4.00 pm** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

	Pages
1. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
2. To receive apologies for absence.	
3. To confirm Minutes of the meeting held on 11 February 2019.	3 - 12
4. To consider any items that the Leader agrees to take as urgent business.	
5. Strategic Risks 2019-20.	13 - 30
6. Court Bushes Community Building Proposed Lease Disposal.	31 - 40
7. Land at Hurst Farm, Hurstwood Lane, Haywards Heath.	41 - 66
8. To consider whether to exclude the Press and Public from the meeting during consideration of the following items in accordance with Section 100A of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the said Act.	
9. Land at Hurst Farm, on East Side of Hurstwood Lane, Haywards Heath - Exempt Appendix F.	67 - 68

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| 10. | Land at Maple Drive, Burgess Hill. | 69 - 78 |
| 11. | Proposed Development of Land at Hammonds Ridge, Burgess Hill. | 79 - 84 |
| 12. | To confirm the Exempt Minutes of the meeting held on 11 February 2019. | 85 - 86 |
| 13. | Questions pursuant to Council Procedure Rule 10 due notice of which has been given. | |

To: **Members of Cabinet:** Councillors G Wall (Chairman), J Ash-Edwards (Vice-Chair), J Llewellyn-Burke, A MacNaughton, G Marsh, M Thomas-Atkin and N Webster

**Minutes of a meeting of Cabinet
held on Monday, 11th February, 2019
from 4.02 pm - 5.15 pm**

Present: G Wall (Chairman)
J Ash-Edwards (Vice-Chair)

J Llewellyn-Burke G Marsh N Webster
A MacNaughton M Thomas-Atkin

Absent: Councillors R Clarke and C Hersey

Also Present: Kathryn Hall (Chief Executive), Judy Holmes (Assistant Chief Executive), Tom Clark (Head of Regulatory Services), Judy Holmes (Assistant Chief Executive), Simon Hughes (Head of Digital and Customer Services), Peter Stuart (Head of Corporate Resources), Kate Wilson (Business Unit Leader for Community Services, Policy and Performance), Terry Stanley (Business Unit Leader for Democratic Services) and Alison Hammond (Democratic Services Officer)

1. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

Councillor Andrew MacNaughton declared that he had a prejudicial Interest in item 9 on the Agenda and would leave the Chamber for this item.

2. TO RECEIVE APOLOGIES FOR ABSENCE.

None.

3. TO CONFIRM THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 14 JANUARY 2019.

The minutes of the meeting held on 14 January 2019 were agreed as a correct record and signed by the Leader.

4. TO CONSIDER ANY ITEMS THAT THE LEADER AGREES TO TAKE AS URGENT BUSINESS.

None.

5. DRAFT CORPORATE PLAN AND BUDGET 2019/20

Peter Stuart, Head of Corporate Resources introduced the report, he confirmed that the report had been scrutinised by the Scrutiny Committee for Leader, Resources and Economic Growth. The Head of Corporate Resources confirmed that there had been no changes between the provisional and final settlement. He noted that there had been many discussions on the funding for 2019/20 and there would be no impact

on the budget. However it is not known how cuts by West Sussex County Council would affect the Council. The Council has a prudent budget but no allowance has been made for these cuts.

The Leader confirmed that the corporate plan and budget had been robustly reviewed by the scrutiny committee. The report sets out a balanced budget highlighting the future challenges faced by the Council and flags up savings to be made in years two, three and four of the medium term plan. The Council has a strong financial record and must plan accordingly.

The Deputy Leader and Cabinet Member for Economic Growth commented that at the beginning of the decade the Council received £6m each year from central government but that funding had since ceased. The Council has not cut any services by ensuring its finances are in a strong position to deliver the services that the public expect to see and frontline services have been protected, investment has continued in community facilities, and the Council has the third lowest Council Tax in East and West Sussex.

The Cabinet Member for Community noted that the Council was in a good financial position as it managed its resources differently to other local authorities who were reducing spending. The Council was investing and not reducing the services it provides for residents.

The Cabinet Member for Customer Services commented that the Council's investment in ICT infrastructure was important to enable the provision of good customer service.

The Cabinet Member for Finance and Performance advised that the fair funding review would be next year and the Council would hope to bring forward some capital programmes next year.

In summary the Leader noted that it was a positive budget. It demonstrates that the Council is financially independent. Mid Sussex continues to grow through the investment by the Council in the community and provides excellent value for money for residents.

The Leader noted that no more Members wished to speak and took them to the recommendations contained in the report, which were agreed unanimously.

RESOLVED

Cabinet resolved to recommend the proposals for 2019/20 to Council for approval:

- (i) The overall direction and service levels promoted within the draft Corporate Plan;
- (ii) The financial outlook facing the Council;
- (iii) The proposed increase in Council Tax;
- (iv) The proposed placements in the Specific Reserves;
- (v) The proposed Capital Programme; and
- (vi) The service commentaries and supporting summary budget tables for each business unit.

6. BUDGET MANAGEMENT 2018/19 - PROGRESS REPORT APRIL TO DECEMBER 2018

Peter Stuart, Head of Corporate Resources introduced the report. He drew Members attention to the unpredictable nature of income streams and advised that large sums of income had been received from two planning applications. The allocation of these funds was highlighted along with the variations in the capital programme and the local property fund. The Head of Corporate Resources noted that more income was generated than previously expected resulting in a budget surplus.

The Cabinet Member for Finance and Performance noted a good report and supported the proposed use of the surplus funds. She commented that the Council must invest for the future, make best use of and get value for money to make a prosperous environment for residents.

The Cabinet Member for Community confirmed that housing adaptations had provided a better quality of life which had allowed residents to remain in their own homes, which had improved their quality of life and helped discharge people from hospital. He noted that many residents use the Council's parks.

The Cabinet Member for Service Delivery welcomed the report and the proposal to make good use of any underspending on specific projects. The parks are well used and the improvements would enhance them. He noted the seamless implementation of the upgrade from pay and display to cashless parking which was well received by users. He also commented that the padel tennis court at The Triangle should be operational this summer.

The Cabinet Member for Housing and Planning commented on the unpredictability of income and that several large planning applications had resulted in extra income which was good for the residents of Mid Sussex.

The Deputy Leader and Cabinet Member for Economic Growth commented that the Council was making good use of their resources for key projects in the community. He noted the scale of the projects undertaken across the region and highlighted the acquisition of temporary housing. He thanked Estates and Housing Services for their work and stated these acquisitions would provide good quality secure accommodation in Mid Sussex which would help homeless families get back on their feet more quickly.

The Leader stated that the report showed how the budget set last year had been managed and allowed Members to track and understand the evolving plan. The management of the Council's finances was vital and how the money was used in providing key services in the community was very important. The report demonstrated that the Council is flexible and well managed.

The Leader highlighted recommendation (viii) and as no more Members wished to speak took them to the recommendations contained in the report, which were agreed unanimously.

RESOLVED

Cabinet resolved to recommend to Council for approval:

- (i) That £16,684 be transferred to Specific Reserve as detailed in paragraph 21;
- (ii) That £2,786 be transferred to Specific Reserve as detailed in paragraph 22;
- (iii) That £90,000 be transferred to Specific Reserve as detailed in paragraph 23;

- (iv) That £18,873 be transferred to Housing Needs Survey specific reserve as detailed in paragraph 24;
- (v) That £15,830 be transferred to Specific Reserve as detailed in paragraph 25;
- (vi) That £340,000 of the revenue underspend be transferred to Specific Reserves as detailed in paragraph 26
- (vii) The variations to the Capital Programme contained in paragraph 46 in accordance with the Council's Financial Procedure rule B4.

To note:

- (viii) The remainder of the report.

7. EXPANSION OF USE OF POWERS CONTAINED WITHIN THE ANTI-SOCIAL BEHAVIOUR, CRIME & POLICING ACT 2014

Kate Wilson, Business Unit Leader for Community Services, Policy and Performance introduced the report and noted that some powers had been in use by the Council since 2014 and 2017 i.e., dog control and Fixed Penalty Notices (FPN). The report had been scrutinised by the Scrutiny Committee and was not a solution for all incidents of crime or a quick fix, and could be used in conjunction with other agencies. Before taking action officers would reassure themselves that incidents were persistent, unreasonable and having a detrimental effect on those in the locality. She noted that often a warning can be successful, but they could escalate the matter if needed. A CPN could be issued on an individual or body whether they had an active or passive role. The officers would work with other agencies to support vulnerable people, both perpetrators and victims, and undertake annual reviews.

The Business Unit Leader confirmed that use of the powers would be phased in and other categories could be added later at the discretion of Heads of Services if it was appropriate.

The Cabinet Member for Community noted that officers would work with Housing Associations and other agencies if a tenancy was under review, and other tools would be used first. All Council services would work together to ensure measures taken were appropriate and proportionate. He thanked the officers for the professional and sensitive way they had dealt with difficult situations.

The Business Unit Leader confirmed that officers and agencies would be proactive in getting people to change their behaviour by providing access to support measures. The process has safeguards in place, for example should, as a last resort, the Council make application to the Court for a Criminal Behaviour Order, which could put a social housing tenancy at risk, the court would take a wider view of the individual and family unit before agreeing it.

The Cabinet Member for Service Delivery advised that this would give the Council more tools to deal appropriately with issues. The additional powers would be used proportionately, sensibly and appropriately.

The Leader confirmed that the appendix had been useful to allow Members to understand the issues that have happened recently and provides balance to the report.

As no more Members wished to speak the Leader took them to the recommendations contained in the report, which were agreed unanimously.

RESOLVED

Cabinet resolved to:

- (i) Note the contents of this report and agree to adopt the additional powers under the ASBCP Act 2014 for the uses specified.
- (ii) Approve delegation of authority to specified officers to use those powers.
- (iii) Approve authorisation to further extend the scope of the powers to be at the discretion of the relevant Head of Service.

8. ADOPTION OF THE HIGH WEALD AREA OF OUTSTANDING NATURAL BEAUTY MANAGEMENT PLAN 2019-2024

Judy Holmes, Assistant Chief Executive introduced the report seeking approval to adopt the High Weald Area of Outstanding Natural Beauty (AONB) Management Plan 2019 – 2024. The plan is reviewed every five years and will become the Council's policy for managing the High Weald AONB and will be a material consideration in planning decisions.

The Cabinet Member for Housing and Planning noted the well written report and that Cabinet had supported the plan in the past and this was a renewal.

The Leader confirmed that this was part of the national planning policy and thanked Councillor Chris Hersey for his involvement. As no more Members wished to speak the Leader took them to the recommendations contained in the report, which were agreed unanimously.

RESOLVED

Cabinet resolved to:

- (i) Formally adopt the High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024;
- (ii) Approve the Habitats Regulations Assessment which supports the High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024;
- (iii) Authorise the High Weald Joint Advisory Committee to submit the High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024 to the Secretary of State and to publish the Management Plan 2019-2024 on behalf of the District Council.

The Cabinet Member for Housing and Planning left the Chamber.

9. COMMUNITY BUILDINGS CAPITAL DEVELOPMENT PROJECTS UPDATE

Peter Stuart, Head of Corporate Resources introduced the report. He highlighted the Court Bushes project and noted the shortfall following the insurance settlement. He commented that the Ansty Village Hall Sports and Social Club was an ambitious project and the officers had worked with the parish clerk to assist delivery of the project.

The Leader noted the length of time it has taken to bring these forward which shows the complexity of the projects. He reminded Members that they must consider if this is a proper use of public money that would have community support and the projects must be properly evidence based. He confirmed that Section 106 money is available.

The Deputy Leader and Cabinet Member for Economic Growth welcomed the report which would ensure these projects are progressed and delivered for communities. In future the Council should use a more strategic approach. The Council needs to receive a business case for each application and use of public money where it will deliver the most benefit, both the Finches Fields and Court Bushes projects will benefit local communities.

The Cabinet Member for Community supported the report and highlighted that the design of the project at Court Bushes should accommodate the many sectors of the community who would want to use it.

As Ward Member for Ardingly and Balcombe the Cabinet Member for Service Delivery commented that the Finches Field project had taken 12 years to reach the current stage and it would be jointly run by the parish council and the local community. It was a welcome facility with the recent additional houses in Pease Pottage. He noted that in the long term the Council should develop a strategy for use of Section 106 money.

The Leader noted the comments of the Members and as no more Members wished to speak the Leader took them to the recommendations contained in the report, which were agreed unanimously.

RESOLVED

Cabinet resolved to:

- (a) Award Slaugham Parish Council a grant of £65,660 towards the additional costs incurred as a result of relocating the Finches Field Community and Sports Pavilion made up of £4,515 from Section 106 and £61,145 General Reserve;
- (b) Allocate £54,071 from Section 106 and increase the capital budget for the proposed Community Building at Court Bushes by £96,650 to enable Estates and Facilities to complete the capital works, and
- (c) Note that work continues to bring forward facilities at Ansty Village Hall and St Francis Sports and Social Club.

The Cabinet Member for Housing and Planning returned to the Chamber.

10. BURGESS HILL FULL FIBRE - PROCUREMENT FOR BURGESS HILL FULL FIBRE PROGRAMME

Simon Hughes, Head of Digital and Customer Services introduced the report and advised that the Council had received £2.2m to develop fibre connectivity in the district. The project would install a loop of fibre for market use to connect fibre to homes and businesses and connection is expected in the summer. He noted that East and West Sussex County Councils had asked to be included in this project.

The Leader commented that there was interest in the programme and the Council was undertaking an important role in assisting East and West Sussex County Councils. He thanked the Head of Digital and Customer Services and his team for securing the funding and noted that the rural areas of Mid Sussex would benefit from the level of investment that would follow.

The Deputy Leader and Cabinet Member for Economic Growth welcomed the full fibre connectivity project and the business rate pilot as both projects had received support from central government. He noted the constraints that poor connectivity put on growth and this project would assist the development of the new business parks. It would highlight Mid Sussex as a place for investment and growth.

In response to Members questions the Head of Digital and Customer Services confirmed that fibre optic cable is “dark” if there is no connection. He also confirmed that the “Point of Presence” is where hardware connects to the fibre.

The Cabinet Member for Customer Services noted that the project was good news for residents and businesses.

The Leader noted that the Mid Sussex District Council’s bid was the only one that was supported in this round and area by Government and underpins the ambitions of the Council for the future.

RESOLVED

Cabinet resolved to:

- (i) Agree to delegate responsibility to procure civil and associated works, up to the value of £2.2m, to the Head of Digital and Customer Services in consultation with the Head of Corporate Resources;
- (ii) Note the wider projects within the Burgess Hill fibre programme.

11. DISPOSAL OF SURPLUS COUNCIL LAND BRIGHTON ROAD (HANDCROSS)

The Leader confirmed that this item would start in open session and continue in the closed session of the meeting.

Peter Stuart, Head of Corporate Resources introduced the report and noted that it was the culmination of a year’s work for the sale of a small piece of land near the M23 which is currently used as a free car park.

The Cabinet Member for Services Delivery supported the discussion in the open session.

The Leader stated that they would move to the recommendation in the open report upon return to the open session of the meeting.

12. TO CONSIDER WHETHER TO EXCLUDE THE PRESS AND PUBLIC FROM THE MEETING DURING CONSIDERATION OF THE FOLLOWING ITEMS IN ACCORDANCE WITH SECTION 100A OF THE LOCAL GOVERNMENT ACT 1972 ON THE GROUNDS THAT IT INVOLVES THE LIKELY DISCLOSURE OF EXEMPT INFORMATION AS DEFINED IN PARAGRAPH 3 OF PART 1 OF SCHEDULE 12A OF THE SAID ACT.

The Leader proposed that the Press and Public be excluded from the meeting during consideration of the exempt business on the agenda. This was seconded by the Cabinet Member for Services Delivery and agreed unanimously.

RESOLVED

That the public and press be excluded from the meeting during consideration of the following item in accordance with Section 100A of the Local Government Act 1972, on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the said Act.

13. DISPOSAL OF SURPLUS COUNCIL LAND BRIGHTON ROAD (HANDCROSS) - EXEMPT

The Leader brought the meeting back into open session on completion of consideration of the exempt appendix and moved to the recommendations included in item 11 which were agreed unanimously.

RESOLVED

Cabinet resolved to:

- (a) Approve the disposal of the land at Brighton Road (Handcross) shown edged in red on the plan on Appendix A to this report (“the site”), to Bidder A for residential development in accordance with the terms set out in Exempt Appendix B; and
- (b) Authorise the Head of Corporate Resources and the Head Regulatory Services to complete the disposal of the site for residential development, and on such other terms and conditions as the Head of Regulatory Services recommends to protect the Council’s position.

14. PROPERTY INVESTMENT OPPORTUNITY

15. TO CONFIRM THE EXEMPT MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 14 JANUARY 2019.

The Leader brought the meeting back into open session at 5:14pm on the completion of the exempt business.

16. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10 DUE NOTICE OF WHICH HAS BEEN GIVEN.

None.

The meeting finished at 5.15 pm

Chairman

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STRATEGIC RISKS 2019/20

REPORT OF: Head of Corporate Resources
Contact Officer: Kate Wilson, Business Unit Leader, Community Services, Policy & Performance
Email: kate.wilson@midsussex.gov.uk Tel: 01444 477421
Wards Affected: All
Key Decision: No
Report to: Cabinet
11 March 2019

Purpose of Report

1. The purpose of this report is to consider the Council's key strategic risks for 2019/20 and the plans that have been developed for the mitigation and management of those risks.

Summary

2. Officers have identified three significant strategic risks for the Council in 2019/20. The risks have been assessed using the Council's Strategic Risk Management Policy which considers the likelihood of occurrence, and the level of impact on the organisation and/or the district should they occur. The small number of identified risks reflects the successful and careful management of risk that has taken place over recent years.
3. It is good practice that the Council's Strategic Risk Management Policy is reviewed on an annual basis. A copy of the current policy can be found at Appendix C.

Recommendations

4. **That Cabinet:**
 - (i) **Agrees the strategic risks for 2019/20 and management plans set out at appendices A and B; and**
 - (ii) **Agrees the existing Strategic Risk Management Policy, as set out at Appendix C with the only amendment being Officer and Member titles.**
-

Background

5. Council approved the Corporate Plan and Budget for 2019/20 on 27 February 2019. This Plan is the outcome of a robust service and financial planning process. However, like all plans, it is based on best known assumptions at the time. If these assumptions prove inaccurate because circumstances change during the year, there could be a potential impact on the Council's ability to fully deliver its plans during the year or to be able to do so within budget. It is therefore prudent that the Council identifies what significant factors or events might occur and to ensure it has in place appropriate arrangements for mitigating 'strategic risks'.

2019/20 Strategic Risk Profile

6. Consideration has been given to possible risks across the full range of matters including, financial, legal, reputational, partnership and other risks. Three key strategic risks have been assessed as sufficiently significant that Cabinet may want to record them on the risk profile. One of the three risks from 2018/19 has been retained and two of the risks, "Changes to ICT Infrastructure" and "Partnership Projects" have been recommended for removal in 2019/20 and replaced with alternatives. Subject to Cabinet's views, these strategic risks will require specific arrangements to manage them. Suggested management plans for each of these are the focus of this report. The proposed Strategic Risk Profile for 2019/20 together with that for 2018/19 is set out as Appendix A.
7. The three proposed strategic risks for 2019/20 are:
 - Risk 1 - Capacity of West Sussex County Council to support Mid Sussex District Council's ambitions
 - Risk 2 - West Sussex County Council budget cuts: housing related support, recycling credits and support services for vulnerable children & families
 - Risk 3 - Threat of No Deal Brexit
8. Fuller descriptions of each risk, together with the mitigating actions that are being undertaken to address them, and the relevant contingency plans should those risks materialise, are set out at Appendix B.

Risk Management through 2019/20

9. In order to ensure the on-going management of risks through the year, all committee reports contain a risk management section which highlights any associated strategic risks with the subject under examination in that report, and how these risks are being managed. Where reports are dealing with identified key strategic risk areas, the report will provide an update on the management of that risk and note any significant changes in likelihood or impact which may warrant a re-rating of the risk.
10. The individual risk assessments set out at Appendix B indicate what the main reporting mechanisms are for each of the risks over the coming year. It is the responsibility of the relevant Cabinet Portfolio Holder and Head of Service to regularly monitor each strategic risk throughout the year.

Strategic Risk Management Policy

11. In December 2006, Cabinet adopted a Strategic Risk Management Policy. This is reviewed on an annual basis to ensure it remains fit for purpose. The Policy is set out at Appendix C for Cabinet's consideration.

Policy Context

12. The Council has a robust and effective approach to strategic risk management. Strategic Risk Management is an important aspect of every organisation's service and budget processes and the achievement of its corporate priorities. Its application cannot fully insulate the Council from the impact of unexpected external events but it will ensure the Council is best placed to respond if such events occur

Financial Implications

13. There are no financial implications directly arising from this report.

Risk Management Implications

14. There are no other *strategic* risk implications aside from those set out in the report. However it should be noted that *operational* risk matters, such as specific business continuity issues, are handled separately through the Council's Corporate Safety and Risk Management Group.

Equalities Implications

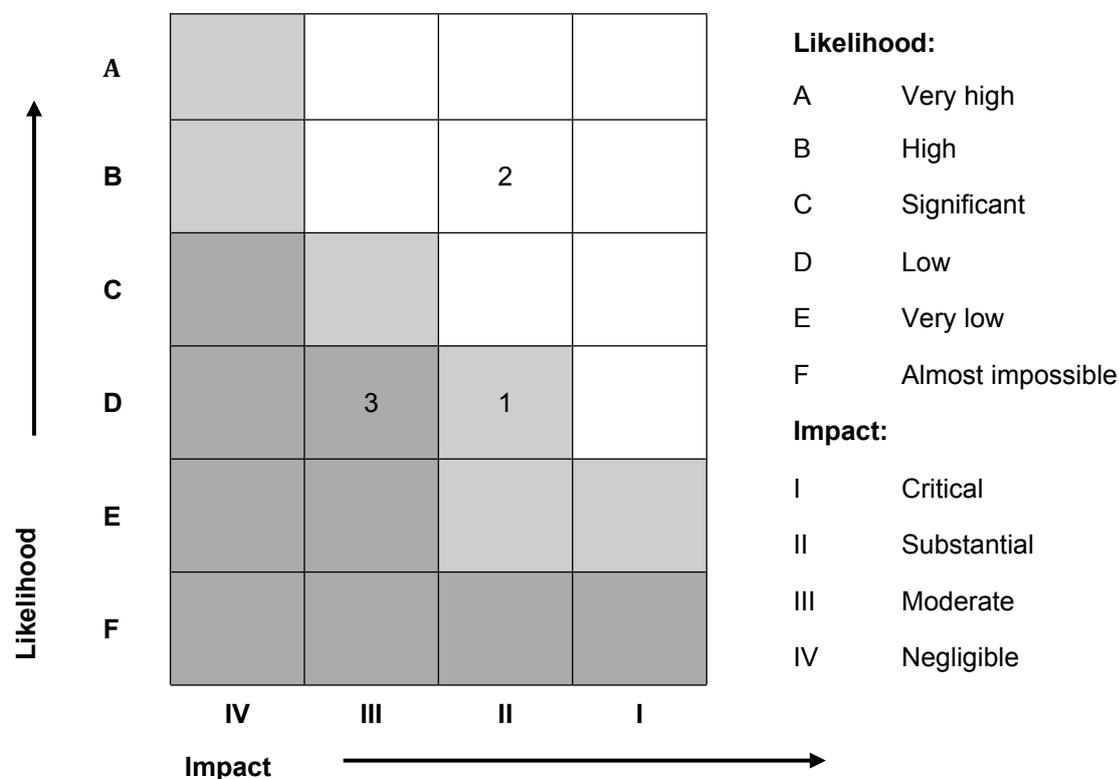
15. Effective management of risks is essential to protect those who are more vulnerable. Where appropriate, Equality Impact Assessments are undertaken where service or policy changes are taking place.

Background Papers

None.

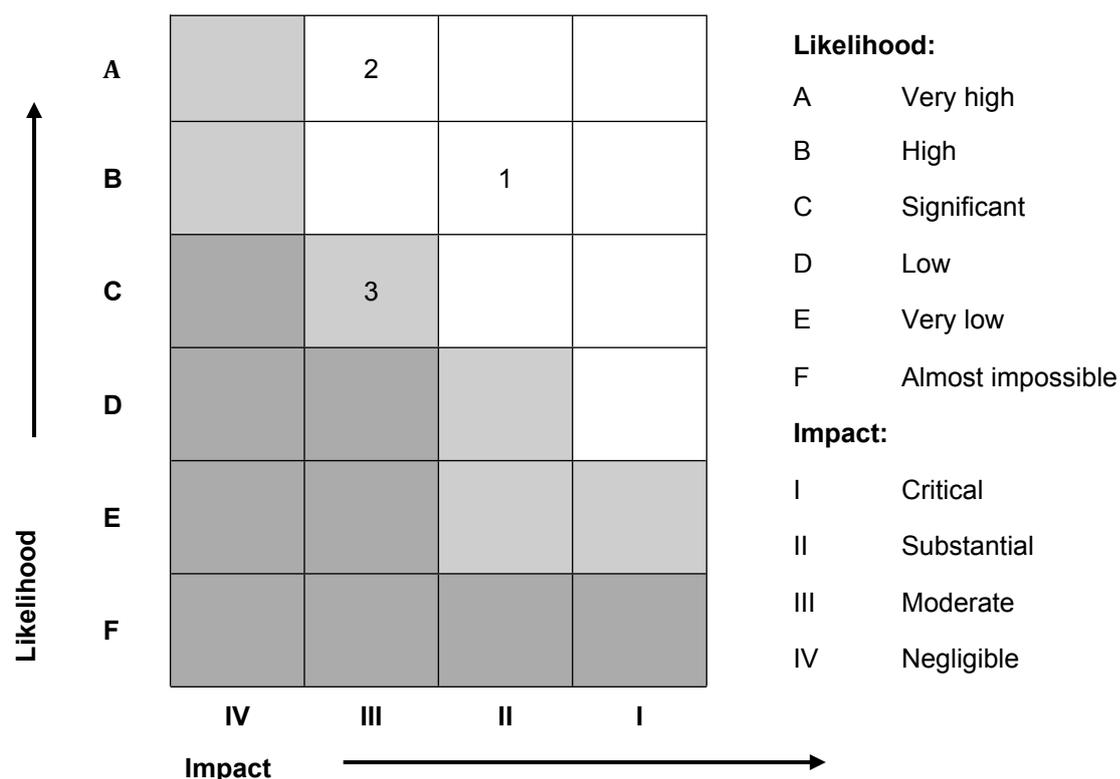
MSDC STRATEGIC RISK PROFILE

Current Risk Matrix 2018/19



Risk No.	Description of the Potential Strategic Risk / Vulnerability	Responsible Portfolio holder and Officer
1.	Changes to ICT Infrastructure	Cllr Mandy Thomas Atkin Simon Hughes
2.	Capacity of West Sussex County Council to support Mid Sussex District Council's ambitions	Cllrs Jonathan Ash Edwards and Andrew MacNaughton Judy Holmes
3.	Partnership Projects	Cllr Jonathan Ash Edwards Peter Stuart

Suggested Risk Matrix 2019/20



Risk No.	Description of the Potential Strategic Risk / Vulnerability	Responsible Portfolio holder and Officer
1.	Capacity of West Sussex County Council to support Mid Sussex District Council's ambitions	Cllrs Jonathan Ash Edwards and Andrew MacNaughton Judy Holmes
2.	West Sussex County Council budget cuts – housing related support, recycling credits and support services for vulnerable children & families	Cllrs Jonathan Ash Edwards, Andrew MacNaughton and Norman Webster Judy Holmes / Peter Stuart
3.	Threat of No Deal Brexit	Cllr Jonathan Ash Edwards Peter Stuart

MID SUSSEX STRATEGIC RISK MANAGEMENT PLANS 2019/20

Risk 1 - Capacity of West Sussex County Council to support MSDC's ambitions**Description of Risk:**

West Sussex County Council (WSSCC) is a key partner in progressing the Council's growth ambitions at Burgess Hill. In particular this Council is reliant on West Sussex County Council specialist advice and delivery of infrastructure requirements.

Whilst a new senior management team is in place and working relationships are good there remain capacity shortfalls in some of the key specialist teams, in particular highways and economic development.

The Burgess Hill programme is the largest Strategic Growth Programme in the sub region. As such it enjoys national recognition which increases delivery expectations and also the reputational risks. The Growth Programme comprises:

- The Northern Arc – a development of 3,500 homes plus three distinct neighbourhood centres, two primary and one secondary school, sports and leisure provision, and new employment space
- Town Centre redevelopment
- The Brow redevelopment
- The Science and Technology Park
- The Hub, a 15 hectare employment space
- The People and Place programme (formerly the Sustainable Transport Package).

Homes England has recognised the regional and national importance of the programme by making the largest intervention anywhere in the country by acquiring all of the land parcels that make up the 188 hectare Northern Arc site. Homes England have also committed to investing some £162m in strategic infrastructure for the Northern Arc which will be recovered through developer contributions. Taken together these interventions bring certainty and pace to the programme.

In addition to that intervention, the Council has successfully secured from Homes England:

- £14 million forward funding for site remediation works at Fairbridge Way
- £6.5 million from the Housing Infrastructure Fund (HIF) to fund odour remediation at Goddards Green Waste Water Treatment works to unlock land for 256 homes and to accelerate the delivery of the whole programme.

The Council has also successfully secured £31.9m funding from the LEP to support Burgess Hill Strategic Growth Programme. This is made up of:

- £4 million to match fund the odour remediation at Goddards Green Waste Water Treatment works
- £10.9 million to support the People and Place programme for Burgess Hill
- £17 million to support improvements to the A2300 corridor.

This Council is reliant on West Sussex County Council to utilise this funding to deliver the supporting infrastructure for the Northern Arc.

The key risks associated with the Strategic Growth Programme are summarised below.

Northern Arc:

- In Summer 2018 Homes England announced its acquisition of all of the land parcels that make up the 188 hectare Northern Arc site. Homes England have also committed to investing some £162m in strategic infrastructure for the Northern Arc which will be recovered through developer contributions.
- Provision of 3,500 homes and associated infrastructure is not only crucial to the vitality of the area but is a key component of the Council's District Plan.
- Failure to deliver the housing would put pressure on other areas of Mid Sussex to make up the housing shortfall.
- Delivery of the housing without the necessary infrastructure at the right time would result in an unsustainable development, increase pressure on the local infrastructure, particularly the road network, and significant damage to the reputation of the Council and the appetite of the community to accept future growth plans.
- Failure to deliver the associated infrastructure such as the schools and road improvements will place unsustainable pressure on existing infrastructure.

Town centre redevelopment

- Failure to deliver the redevelopment will result in the loss of £65m of private investment into the town centre and would be a missed opportunity to significantly improve the vitality and viability of the town centre. Delivery of the town centre without improvements in transport infrastructure is likely to impact the levels of footfall required to make the new town centre a success.

The Brow

- Failure to deliver public sector partners aspirations will result in a lost opportunity to provide a community hub which would include provision for health, police and ambulance services, and the loss of an opportunity to develop up to 440 new homes.

Science Park

- Failure to deliver this would present a lost opportunity to create a unique new employment space which could attract high value knowledge based industries including life sciences and bio tech, with an estimated gross value added to the economy of £350 million. The location of such a park within Mid Sussex would help attract other similar technology-led businesses to the district and ultimately result in a closer match between the highly skilled workforce in Mid Sussex and the workplace opportunities, improving opportunities for high GVA jobs for residents and therefore helping reduce the extent of out-commuting.

The Hub

- Failure to attract sufficient tenants of the type that will enhance the local economy will mean that the opportunity is lost to deliver sustainable and attractive jobs.

The People and Place programme

- Underspend of LGF funding caused by delays to Programme Delivery with impact on year end spend profile and conformance with March 2021 deadline. The main impact will be possible reputational damage to the Burgess Hill Programme and to MSDC and WSCC.

- Delay in signing off the Funding Agreement with Coast to Capital. This could impact on the LGF funding spend profile, with the potential for C2C to raise the RAG status of the programme which in turn will lead to closer project scrutiny from C2C which will require more time and resources to manage.

Assessment of Risk:

Likelihood: Significant (B)
Impact: Substantial (II)

Consequences if Risk Occurs:

In 2019/20;

(a) If not well managed the capacity challenges facing WSCC could have implications for this Council's growth ambitions. These implications include:

- Reputational impact with external funders, in particular the Local Enterprise Partnership, Homes England, and the Ministry of Housing, Community, and Local Government (MHCLG) resulting in a loss of confidence, putting future funding in jeopardy.
- An impact of the Council's ability to deliver timely, good quality advice on planning applications, negotiations with developers for infrastructure such as schools, highways and sustainable transport.
- Existing strong relationships may be significantly and negatively affected.
- Future and new joint working may be under threat which may stifle innovative joint working, for example projects may be delayed or not progressed.
- The timely delivery of key projects within the growth programme may be impacted, undermining political and local support and ultimately delaying the delivery of much needed housing and supporting infrastructure.

(b) In future years there could be an impact on opportunities for the Council to work in partnership with West Sussex County Council to provide sustainable planned growth. Specific possible impacts include:

- Loss of transport infrastructure improvements
- Loss of housing or housing in less sustainable locations.
- Loss of high value employment opportunities.
- Loss of community provision.

ACTION PLAN

PREVENTION	MITIGATION
<p>What we currently do to reduce likelihood of risk occurring during 2019/20:</p> <ul style="list-style-type: none"> • Established close working relationships with the WSCC team and developers. • Continued operation of the robust 	<p>What we currently do to reduce the negative consequences if the risk does occur during 2019/20:</p> <ul style="list-style-type: none"> • During 2017/18 we strengthened the governance arrangements supporting

<p>governance arrangements which were refreshed in January 2018, comprising a Project Officers' Group, Growth Programme Board, Leaders' Growth Board, Members' Steering Group, and Town and Parish Strategic Liaison Group.</p> <ul style="list-style-type: none"> • Maintaining close working relationships with Homes England as the principal landowner and developer for the Northern Arc • Maintaining close working relationships with NewRiver REIT as the principal landowner and developer of the Burgess Hill Town Centre regeneration scheme • Invest Council resources in employing a team of specialists to assist in the delivery of the developments. • Monitor the County Council's financial position. • Build, utilise and strengthen existing good working relationships with County Council colleagues at all levels including with the Chief Executive and Senior Management Team. This Council's Chief Executive meets regularly with WSCC Chief Executive. • Continue to support and promote partnership working with the County Council to protect existing and new projects and initiatives. • Continue to ensure strong political relationships between senior members at the County and District Councils. 	<p>key growth work.</p> <ul style="list-style-type: none"> • Earlier identification of issues through the refreshed governance and management arrangements. • Keep relationships, partnerships and arrangements under constant review. • Be vigilant and alert to all risks and share intelligence, using the monthly meetings of the Project Officers' Group and Growth Board to identify, escalate, and develop responses to any significant risks. • Hold regular meetings with stakeholders to ensure a detailed understanding of positions and any fall back options they may have. • An agreed "District Deal" with WSCC confirming both Councils' commitment to the planned growth. • Be alert to the risks at all levels of the Council and share intelligence with Management Team. • The senior management teams from both the Councils will start to meet regularly to build and nurture working relationships, through the monthly meetings of the Growth Board and other meetings. • Use established contacts at the County Council to deal with issues early. • Use of West Sussex Chief Executives group to raise issues of concern.
<p>What else are we going to do in 2019/20?</p> <p>Continue to secure funding from external bodies, including the Local Growth Fund (LGF) and Housing Infrastructure Fund (HIF) to forward fund critical infrastructure to unblock development where appropriate.</p> <p>Highlight emergent issues as soon as they begin to arise.</p> <p>Implement a coherent communications strategy to ensure all partners are fully engaged.</p> <p>Identify learning from other complex projects delivered by local authorities through partnership working.</p>	<p>What else are we going to do in 2019/20?</p> <p>Use the governance arrangements and project management process to highlight risks, escalate where appropriate, and identify mitigating actions.</p> <p>Use our regular meetings with the Chief Executive at the County Council and relevant Councillors to discuss the risks and identify and agree mitigating actions.</p> <p>Seek to influence key senior WSCC officers and Councillors to ensure WSCC supports delivery of the planned growth working is maintained.</p> <p>Where necessary, directly commission work</p>

We will keep an open dialogue and secure ongoing support and commitment from senior County Council colleagues.

Use all our business intelligence and our network of contacts to ensure proactive sharing of relevant information about emergent project issues and risks.

Use political networks to flag difficulties should they arise.

to support the Council's growth ambitions.

How and when will the risk be reviewed during 2019/20?

- Continually develop good working relationships with new members of the WSCC Senior Management Team.
- Encourage sharing intelligence at all levels of the Council with Management Team.
- Maintain regular meetings with senior colleagues (including Councillors) at the County Council.

Responsibility for the risk

Cabinet Members:

Councillors Ash Edwards and MacNaughton

Management Team Member:

Judy Holmes

Date of Assessment: 14 February 2019

Risk 2 - West Sussex County Council budget cuts: housing related support, recycling credits and support services for vulnerable children & families

Description of Risk:

Over the coming four years West Sussex County Council have identified a net budget gap of £46.1m. Whilst the full implications of this gap for this council in the coming years is unknown in setting the budget for 2019/20 WSCC are proposing to make cuts to some services which will have an impact on this Council's services and will negatively impact on residents. The housing related support budget will be cut by £6.3m. Recycling credit payments made to district and boroughs will be reduced by £1m. Funding for the Integrated Provider and Early Help (IPEH) service will be reduced by £4.9m. These cuts have an immediate impact on this Council as follows –

1. Housing related support budget for 2019/20 has been reduced from £6.3m to £4.6m. This means that all housing related support contracts currently supported by WSCC's budget will be terminated on the 1st of October 2019. From then WSCC will only provide £1.3m to meet their statutory duties. From April 2020 the budget will be £2.3m recurrently.
2. From April 2019 WSCC will revert to using the statutory minimum payment calculation for paying recycling credits to all districts in West Sussex. In Mid Sussex this will create a deficit of £52k in 2019/20. However, there are proposals by WSCC to consider further potential opportunities to reduce the budget.
3. Funding for Integrated Prevention and Earliest Help (IPEH) services have been cut from April 2019 by £4.9m over the coming two years.
4. In addition to the aforementioned known cuts some of this Council's services rely on funding from the County Council and there is a risk that future budget cuts could be imposed on those services by the County Council. Services most at risk are parking, planning and economic development and wellbeing.

Assessment of Risk:

Likelihood (A)
Impact (i)

Consequences if Risk Occurs:

a) In 2019/20

General

The key risk of any cuts is a reduction in services for residents and reputational damage for both Councils. Budget reductions if this significance also place a significant strain on partnership working if not managed well. There is also a potential for it to inhibit innovation.

Specific

Housing support

This budget provides support for a significant number of vulnerable people who have

complex social care and health needs. This support has a significant role in preventing homelessness and promoting independent living. The current ranges of services commissioned from this budget provide a diverse spread in terms of the client group and pattern of delivery. In some cases they provide housing as well as housing support. Removal/reduction of these services will have a negative effect on residents in the district. There will also be an impact on the Councils revenue budget in particular the temporary accommodation budgets there will also be an impact on the County Council's social care budgets. Housing related support provides an important function in maintaining tenancies and preventing homeless. If this Council is unable to house tenants due to a lack of appropriate support, this will place a burden on social care and health budgets and also on the voluntary sector. This area of social policy is complex; statutory responsibilities between the Social Care Act and Housing Act are blurred. These changes are likely to generate challenge from clients and their advocates.

Recycling

Whilst the impact of this reduction can be mitigated in 2019/20 there are significant potential implications in future years particularly for the delivery of the Waste Strategy and on the West Sussex Waste Partnership. This will negatively impact on production of a joint countywide waste strategy, recycling performance and innovation in services to improve performance. The uncertainty is detrimental to partnership working and is negatively impacting.

IPEH - This service provides support for vulnerable children and families in the district. There is a risk that these cuts to prevention services will negatively impact on families' potentially placing pressure on this Council's services in particular community services which includes; the wellbeing service, community safety, community development and family support programmes.

Other services – It is difficult to predict what other cuts the County Council may make to other services but it unlikely that in 2019/20 there will be cuts to other services which impact on this Council.

b) In future years

Housing – The lack of appropriate and adequate housing support will continue to be an issue particularly as other factors such as, universal credit, lack of affordable housing and further reductions in social care budgets also impact.

Recycling credits – Uncertainty in the County Council's intentions regarding recycling credits is significantly damaging relationships and impairing innovation work needed to improve services and increase recycling performance.

ACTION PLAN	
PREVENTION	MITIGATION
<p>What we currently do to reduce likelihood of risk occurring during 2019/20:</p> <ul style="list-style-type: none"> • Establish close working relationships with both District and County colleagues and partners to develop 	<p>What we currently do to reduce the negative consequences if the risk does occur during 2019/20:</p>

<p>joint strategic responses.</p> <ul style="list-style-type: none"> • Set up Task and Finish groups as appropriate to decommission and, where possible, recommission services. • Seek alternative forms of funding where possible, such as Government funding. • Continue to ensure strong political relationships between senior Members at both County and District Councils. 	
<p>What else are we going to do in 2019/20?</p> <ul style="list-style-type: none"> • Work with Supported Housing providers; • Explore alternative sources of funding for supporting housing. • Prepare a Countywide Waste Strategy; • Use political networks to flag difficulties should they arise; • Keep an open dialogue with and secure assurances from senior County Council colleagues. • Provide a formal response to WSCC regarding IPEH proposals outlining concerns. Advocate for slowing of decision making process • Use relevant local and partnership data to identify key areas of risk and focus (Strategic Intelligence Assessment) 	<p>What else are we going to do in 2019/20?</p> <ul style="list-style-type: none"> • Use the governance arrangements to highlight risks and identify mitigations. • Use our regular meetings with the Chief Executive at the County Council and relevant Councillors to discuss the risks and identify mitigations.
<p>How and when will the risk be reviewed during 2019/20:</p> <ul style="list-style-type: none"> • Regularly at MT meetings; countywide Chief executive meetings and West Sussex Leaders meetings. • MSP Board • At every meeting of the Housing Task and Finish group. • At the appropriate countywide West Sussex Waste Partnership meetings. 	
<p>Responsibility for the risk</p> <p>Cabinet Member: Cllrs Ash Edwards, MacNaughton and Webster</p> <p>Management Team Member: Judy Holmes & Peter Stuart</p>	
<p>Date of Assessment: 14 February 2019</p>	

Risk 3 - Threat of No Deal Brexit

Description of Risk:

The United Kingdom (UK) is expected to leave the European Union (EU) on the 29th March 2019. At the time of writing, the government has yet to negotiate a withdrawal agreement which poses the risk of the UK leaving without a deal, also known as a 'No Deal Brexit'. This scenario would mean that the UK would leave the EU without a 21 month transition period and local authorities and other public bodies would need to respond immediately to significant changes in legislation and impacts to critical services.

As part of the preparations for a No Deal scenario, the Cabinet Office and the Ministry of Housing, Communities and Local Government (MHCLG) have provided Category 1 partners with a list of planning assumptions on which to base their contingency planning. These assumptions are marked as Official-Sensitive and are not for dissemination outside of those who are involved in the planning process. However, a high level overview of these can be found below:

- Trade: The UK would revert to World Trade Organisation (WTO) rules on trade, meaning that it would face EU external tariffs and increased costs. There is also the potential that some UK goods would be rejected by the EU due to new certification requirements.

Manufacturers could choose to leave the UK, as was the case with Honda, due to concerns about supply chain vulnerabilities, increasing unemployment.

- Supply Chain: Due to new trade rules, the UK could find it difficult to obtain key goods and services such as fuel and data storage.
- People: EU citizens may choose to leave the UK in the event of a No Deal Brexit. This could impact staff resources within public bodies and contractors.

UK carriers may be prevented from flying to EU destinations post No Deal Brexit, leading to stranded UK nationals and increased traffic flow in the Gatwick area.

Returning ex-patriots claiming homelessness could place an additional strain on Housing Services.

There is a risk of civil disorder due to the national divide in how people voted.

- Legislation changes: There would not be any legislation in place immediately after a No Deal Brexit for enforcement of Environmental Health issues.

At present, the Council and its partners' preparations remain focused only on a No Deal scenario.

Assessment of Risk:

Likelihood: High

Impact: Substantial

Consequences if Risk Occurs:

a) In 2019/20;

If the Council fails to sufficiently prepare for a No Deal scenario, there could be significant implications for its critical activities such as Waste Collection, Revenues and Benefits, and Housing Services. In the short term this would cause the following impacts:

- Reputational damage resulting from failing to sufficiently provide key services.
- Legal action from failing to provide statutory services.

b) Despite the most significant impacts being expected in the short term, the Council's reputation could be affected for a sustained period of time following the incident if effective preparations were not made.

ACTION PLAN

PREVENTION	MITIGATION
<p>What we currently do to reduce likelihood of risk occurring during 2019/20:</p> <ul style="list-style-type: none">• The Council is unable to reduce the risk of a No Deal Brexit occurring.	<p>What we currently do to reduce the negative consequences if the risk does occur during 2019/20:</p> <ul style="list-style-type: none">• The Council has set up a Brexit Co-ordinating Group (BCG) to assess and prepare for the impacts of a No Deal scenario.• Identifying risks to supply chains/key services and planning against these.• Refreshing and embedding the Council's Business Continuity (BC) arrangements to increase organisational resilience.• Employed a Brexit/BC Consultant to support the BCG in discharging its duties.• Liaising with neighbouring local authorities and multi-agency partners to share best practice.• Promoting Business Continuity amongst internal staff, contractors and local businesses.• Sign-posting residents to government web pages on Brexit.
<p>What else are we going to do in 2019/20?</p> <ul style="list-style-type: none">• The Council is unable to reduce the risk of a No Deal Brexit occurring	<p>What else are we going to do in 2019/20?</p> <ul style="list-style-type: none">• Continue to hold BCG meetings post No Deal Brexit.• Continue to embed the Council's refreshed BC programme.

How and when will the risk be reviewed during 2019/20:

- The risk will be reviewed after the 29th March, when it will be known whether a No Deal Brexit has occurred.

Responsibility for the risk

Cabinet Member: Cllr Ash Edwards. . .

Management Team Member: Peter Stuart

Date of Assessment: 26 February 2019

Strategic Risk Management Policy - Mid Sussex District Council

1. Purpose

This is the Mid Sussex District Council Strategic Risk Management Policy approved by Cabinet in December 2006. It sets out the Council's approach to Strategic Risk Management.

2. Definition

Strategic risk management is the way that the Council responds to uncertainty in the external environment. It allows the Council to:

- Identify key strategic risks in the context of the Corporate Plan's objectives.
- Assess risks to determine the potential likelihood and impact of each risk.
- Determine the response that should be made to each risk.
- Develop the necessary actions, controls and processes to implement the chosen response to each risk.
- Communicate its approach to risk management and the results of risk management activity.
- Deal with each risk – either avoid, reduce, share or accept it.

Please Note: In addition to its *strategic* risk management, the Council has a well established approach to *operational* risk management and the principles and tools used to manage this are set out in a more detailed operational risk management strategy.

3. Risk Culture

A strong business wide risk culture is an important aspect of strong corporate governance. Risk Culture is the shared values, attitudes and practices that characterise how the Council considers risk on a day to day basis. The Risk Culture has developed at the Council over recent years so that as an organisation it is less risk averse. Our experience since 2004 has been that this improved risk culture has been influenced by the following factors:

- Awareness of risks faced by the Council
- Understanding of the business and the relevance of risk
- Clear ownership of risks
- Clearly defined responsibilities for risk management activity
- Effective monitoring and reporting of the effectiveness of risk

Whilst the Council is not risk averse, the principles contained within this policy ensure that the Council strikes the right balance in its approach to strategic risk management.

4. Responsibility

Cabinet

Cabinet is the body responsible for the Council's strategic risk management. Cabinet will approve the Council's strategic risks on an annual basis. Cabinet members will work with Heads of Service regarding the progress in managing risks that fall within their portfolio. In addition Cabinet will:

- Provide overall direction on strategic risk management.
- Promote a positive risk culture throughout the organisation including promoting its importance to other Members.
- Hold an annual workshop to agree the strategic risks for the following 12 months.
- Approve an annual Strategic Risk Profile.

The Cabinet Member for Finance and Service Delivery is recognised as the Member Risk Champion and works with the Officer Risk Champion to embed risk management into the organisation.

Management Team

Management Team is responsible for ensuring the Council's strategic risks are actively managed through the year. It will use its weekly meetings to monitor progress across all the risks and where it is found a risk has raised up the risk profile, a report will be submitted to Cabinet. In addition, Management Team has the following responsibilities:

- Implementing the strategic risk management policy.
- Reviewing the management of strategic risk.
- Monitoring the effectiveness of the controls developed to implement the chosen risk response.
- Integrating risk management into the service and budget planning process.
- Promoting a robust and proactive risk culture throughout the organisation.
- Ensuring that appropriate training is put in place for appropriate officers and that it is reflected in the Member Development programme.

The Assistant Chief Executive is recognised as the Officer Risk Champion and works with the Member Risk Champion to embed risk management into the organisation.

5. Reporting Framework

Report	Frequency	Responsible	Considered By
Risk Profile	Annual	Cabinet/Management Team	Cabinet
Management of Strategic Risks	Monthly	Management Team	Management Team
Review of Individual Risk Management	As required	Designated Lead Head of Service for each risk	Designated Committee

6. Review

This Policy will be reviewed on an annual basis by Cabinet.

COURT BUSHES COMMUNITY BUILDING PROPOSED LEASE DISPOSAL

REPORT OF: Head of Corporate Resources
Contact Officer: Elaine Clarke
Email: elainec@midsussex.gov.uk Tel: 01444 477275
Wards Affected: Hurstpierpoint and Downs
Key Decision: No
Report to: Cabinet

Purpose of Report

1. To provide Cabinet with an update on the negotiations with Hurstpierpoint and Sayers Common Parish Council (“the Parish Council”) on a proposed lease of the former Ex-Servicemen’s Club (“the Property”) to the Parish Council and to seek authority to grant a lease of the Property to the Parish Council for the purposes of operating it as a community building.

Recommendations

2. ***Cabinet are recommended to:***

- a) ***authorise the Head of Corporate Resources and the Head of Regulatory Services to grant a lease of the land and building at Court Bushes, Hurstpierpoint (shown edged in red on the plan in Appendix A) to Hurstpierpoint and Sayers Common Parish Council for purposes of operating the Property as a Community Building on the terms set out in paragraph 4 of this report and upon such other terms as the Head of Regulatory Services considers appropriate.***
- b) ***award Hurstpierpoint and Sayers Common Parish Council a Revenue Grant of up to £6,200 per annum for the first three years of operation toward the overhead costs***

Background

3. The Council took back control of the Property at Court Bushes, Hurstpierpoint in 2018 and is refurbishing it for future use as a community building. At a meeting of the Council’s Cabinet held on 11th February 2019, Cabinet considered an update report on Community Building Development Projects and awarded £54,071 from Section 106 and increase the capital budget for the proposed Community Building at Court Bushes by £96,650 to enable Estates and Facilities to complete the capital works. The report also referred to ongoing discussions with the Parish Council, who desire to take over the Property and operate it as a community building for the benefit of the local inhabitants and confirmed that a further report to Cabinet on this project would be made.

Court Bushes Lease

4. It is proposed to grant the Parish Council a full repairing lease of the land and building at Court Bushes, Hurstpierpoint for a period of thirty five years in accordance with the drafted Heads of Terms (Appendix B).
5. The Parish Council will contribute £46,000 toward the cost of furniture, equipment, fencing, signage, terracing and external lighting. To offset some of these initial expenses

and start-up costs it is proposed that a rent free period is granted the first three years of the term.

6. The District Valuer has undertaken a valuation of the property and has arrived at an annual rental value of £29,000 p.a. but an affordable rent of £5,000 per annum is proposed to reflect the non-profit making, community focussed nature of the facility.
7. The Parish Council is aiming to install the boundary fence, external lighting and furniture prior to opening the building, with Council approval. A website will go live in April to promote the facility and start taking booking reservations.

Revenue Grant

8. The Parish Council has produced a comprehensive business plan outlining the community benefits and outcomes of the scheme and the practical management arrangements. They have also prepared a raft of operational policies to ensure the facility will be compliant with legislation and managed effectively. The business plan identifies a range of activities that could be provided and potential hirers. A three year income and expenditure budget forecast has been prepared based on this information.
9. The financial projections show an estimated income of £18,722 increasing to £42,380 in year three and running costs of £52,475 to £57,130 per annum, including management charges. This creates an annual budget deficit which is expected to gradually reduce and will be covered by the Parish Council in the long term. The rateable value of the Property has not yet been determined so this may affect the expenditure estimates.
10. During the first three years as the project is being established, the Parish Council is seeking a contribution toward the running costs and a revenue grant of £6,200 per annum is proposed. Payments to be made six monthly in arrears and the arrangement will be reviewed annually against actual expenditure. If outgoings are less than expected the amount of the grant could be reduced accordingly.

Powers and Legal Advice

11. Local authorities are given powers under Section 123 of the Local Government Act 1972 Act (the 1972 Act) to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies of less than 7 years), unless the Secretary of State consents to the disposal.
12. Section 128(1) of the 1972 Act confers on the Secretary of State power to give a general consent for the purposes of land disposals by local authorities carried out under their powers in Part 7 of the 1972 Act. The Secretary of State's sole statutory function in respect of the exercise by local authorities of these disposal powers is to give or withhold consent to a proposed disposal in cases where his consent is required. General consent to dispose of land that can be disposed of under Section 123 of the 1972 Act is contained in Circular 06/03 Local Government Act 1972 General Disposal Consent (England) 2003.

13. Subject to meeting the criteria, the Consent removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land, where the authority considers it will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area and the difference between the unrestricted value of the interest to be disposed of and the consideration accepted ("the undervalue") is £2,000,000 (two million pounds) or less.
14. It has been necessary to undertake a valuation exercise to establish unrestricted value of the property and the restricted value of the property. The Valuation Certificate has determined these as follows:

Unrestricted Value	£160,000
Restricted Value	£36,000
Undervalue	£124,000

The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms and reflects that the building will be let for community purposes. The restricted value is based upon the proposed letting terms

These figures set out the maximum undervalue that could arise, which is within the parameters set by the General Disposal Consent and Cabinet can be assured that this transaction will not trigger the requirement for an application to the Secretary of State for a formal consent to this particular disposal. It is considered that the provision of a new community facility for the benefit of the local community will help to promote the economic and social well-being of the area.

15. The District Council's powers to grant a lease of the Court Bushes Community Building are set out in Section 123 of the Local Government Act 1972 permissive powers and must be exercised strictly in accordance with the provisions of Section 123(2)(A) of the Local Government Act 1972. The Act provides that the District Council cannot dispose of land consisting of or forming part of an area of open space unless prior to making the decision to grant the lease the District Council advertises its intention to do so for two consecutive weeks in a local newspaper circulating in the area in which the land is situated and invites members of the public who may oppose or object to such a disposal to make their views known and for the Council to consider such objections before deciding whether or not to grant the proposed lease.
16. The Court Bushes Recreation Ground constitutes public open space and the District Council is therefore, required to comply with Section 123 of the Local Government Act 1972. On 13 and 20 December the District Council advertised the proposed lease of the Court Bushes Recreation Ground site to Hurstpierpoint and Sayers Common Parish Council and invited members of the public who might object to the proposed lease to make their views known to the District Council by 14 January 2019. No objections were received and consequently the Council is able to grant the lease if the Council is minded to.

Policy Context

17. The Council has had a long standing policy of leasing facilities to sports club and community organisations since the early 1990's. This enables communities to provide space for the uses and needs of the local residents. Support of the Council in delivering this project through funding and the provision of the site is consistent with that long standing policy.

Financial Implications

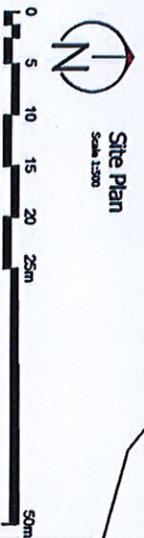
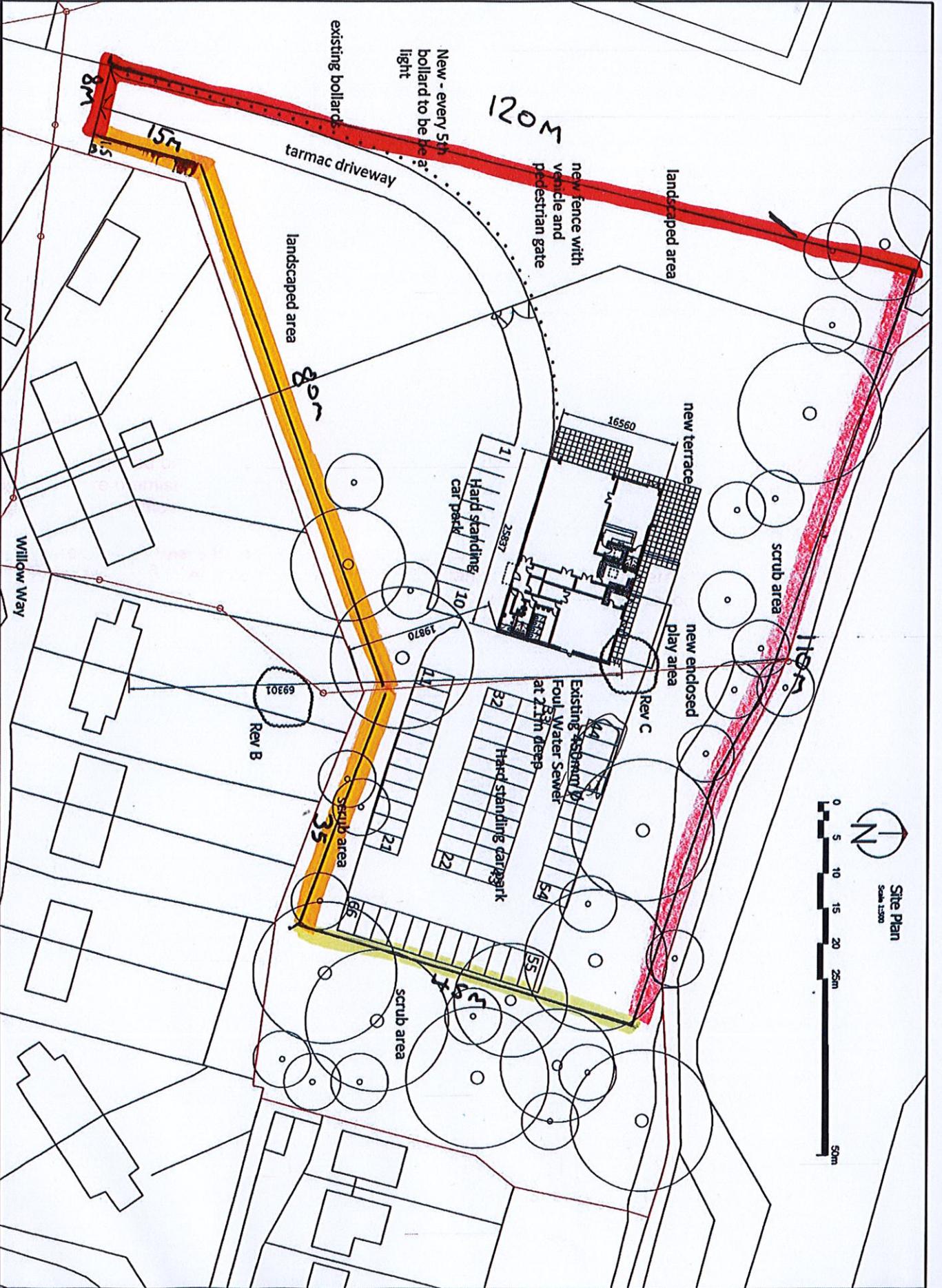
18. The Council will receive £5,000 rental income from the Property from expiry of the rent free period; will be relieved of the costs of maintaining and insuring the Property in the future and will no longer be responsible for the payment of Business Rates on the Property.
19. The annual Revenue Grant of £6,200 will be funded through the Council's Community & Economic Development Grants budget for a time limited three year period.

20. Risk Management Implications

21. The Council has worked to drive a proposal that best suits the interests of the Council and the local community. The risk of the cost of the operation of the building is proposed to be transferred to Hurstpierpoint and Sayers Common Parish Council. The Parish Council has prepared a detailed business plan, with the support of an Action in Rural Sussex Community Buildings specialist consultant, to ensure the proposal and budget forecasts are realistic. The budget includes a repairs and maintenance fund which will be set aside to cover future costs to protect the Council's asset.

Equality and customer service implications

22. As the Property will be managed by the Parish Council for the benefit of local residents and as the proposed operations manual for the Property includes an Equal Opportunities Policy it is not considered that this proposal will have any adverse equality and customer service implications.



Area Table
 Site Area - 4,988 H
 Building - 427,860m²

Mid Sussex District Council
 Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS

Plan to Scale

Tel: 01444 458166
 Web: www.midsex.gov.uk

MID SUSSEX DISTRICT COUNCIL
 Project Address:
 Court Bushes
 Willow Way
 Hurstpierpoint
 West Sussex
 BN9 9TH
 Project Title:
 Court Bushes
 Drawing Title:
 PROPOSED SITE PLAN
 Drawing Ref:
 PL 007
 Scale: 1:500@A3
 Date: 2018-06-19
 Revision: C
 Drawn By: jrw
 Dept: CEF
 Checked By:

Cabinet 11 March 2019

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Heads of Terms:
New lease
(WITHOUT PREJUDICE
SUBJECT TO CONTRACT, CLIENT APPROVAL AND CABINET
APPROVAL)

1.0	Property address	Court Bushes Community Building and adjoining land, Willow Way, Hurstpierpoint, BN6 9TH
	Plan attached	See Appendix A
1.1	Landlord	Mid-Sussex District Council,
	Tel/email:	01444 477490/ peter.benfield@midsussex.gov.uk
	Landlord's address	Oaklands Road, Haywards Heath RH16 1SS Contact: peter.benfield@midsussex.gov.uk/elaine.clarke@midsussex.gov.uk
1.2	Landlords solicitor	MSDC Legal Services
	Address	MSDC, Oaklands Road, Haywards Heath RH16 1SS
1.3	Tenant	Hurstpierpoint & Sayers Common Parish Council
	Tel/email:	C/o Stephen Hoyles, Clerk to the Council 01273 833264/ hurstpierpoint.pc@btinternet.com
	Tenant's address	Trinity Road, Hurstpierpoint, West Sussex BN6 9UY
1.4	Tenant solicitor / agent	TBC
	Tel/email:	TBC
	Address	
2.0	Guarantor	N/A
3.0	Type of lease	Head lease
4.0	Term start Date	TBC
	Length of lease	35 year term
5.0	Rent	£5,000 per annum exclusive of VAT. Quarterly in advance N/A
	Frequency	
	VAT/deposit	

5.1	Rent free period (and other incentives)	Three years																				
5.2	Rent reviews	5 yearly from commencement date based on RPI																				
6.0	Break clauses	Tenant only break option at year ten, subject to a minimum of 12 months notice.																				
7.0	1954 Act protection	To be contracted out of the 1954 Act.																				
8.0	Landlord's initial works (including timing)	None – the tenant will take the premises in the condition as at the start of the lease.																				
8.1	Tenant's initial works (including timing)	Exterior gate, fence and lighting in a form to be agreed and annexed to the lease. The tenant to be responsible for the planning application. Works to be completed within six months of lease start date. Upon lease expiry or tenant otherwise ceasing to occupy, these items shall remain in the ownership of the Landlord.																				
9.0	General Rights	The tenant and users of the Hall to have vehicular and pedestrian rights of access over the service road																				
10.0	Assignment and subletting	<table border="1"> <thead> <tr> <th></th> <th>Prohibited</th> <th>If not prohibited is CNUW</th> <th>Permitted without consent</th> </tr> </thead> <tbody> <tr> <td>Assignment of whole or part</td> <td>x</td> <td></td> <td></td> </tr> <tr> <td>Sub-Lease of whole or part</td> <td>x</td> <td></td> <td></td> </tr> <tr> <td>Group sharing</td> <td>x</td> <td></td> <td></td> </tr> <tr> <td>Charging</td> <td>x</td> <td></td> <td></td> </tr> </tbody> </table>		Prohibited	If not prohibited is CNUW	Permitted without consent	Assignment of whole or part	x			Sub-Lease of whole or part	x			Group sharing	x			Charging	x		
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Group sharing	x																					
Charging	x																					
		<p>CNUW = Consent not to be unreasonably withheld.</p> <p>The Tenant shall have the right to allow other organisations to occupy for a fee on the basis of Hire Agreements. No proprietary rights to be granted. Sub-leases and licences to occupy are specifically prohibited.</p> <p>The Tenant shall ensure that all other users abide by all contractual and regulatory requirements, specifically including that the nursery abides by planning restrictions with regard to external hours of use.</p> <p>The tenant to have the specific right to assign the lease to a charitable trust.</p>																				
11.0	Repairing & Decorating obligations	See below Tenant to decorate exterior every 5 years and interior every 3 years.																				
12.0	FRI and schedule of condition	FRI Tenant repairs at own cost. Internal and external including land, drains, pipes and roads included within the Property Photographic schedule of condition to be taken at start of tenancy																				
13.0	Services and service charge	N/A. Tenant to be directly responsible for all costs, maintenance and utilities. See below																				

14.0	Alterations		Prohibited	If not prohibited is CNUW	Permitted without consent
		External		X	
		External structural	X		
		Internal structural	X		
		Internal non structural		X	
15.0	Permitted use	For Parish Council to operate community related activities and operation of a nursery for up to 42 children			
	Planning (Use Classes)	Class D1 of the Town and Country (Use Classes) Order 1987. Tenant responsible for obtaining any planning and other necessary consents.			
	Hours of operation/days?	7am – 11pm Sun-Thurs, 7am – 12pm Fri - Sat Nursery 7.30am - 6.30pm Mon – Fri			
16.0	Insurance	Tenant to insure and provide relevant documents upon completion of the lease.			
16.1	Business Rates and utilities	Tenant is responsible. Tenant must check actual amount with Local Authority and utility providers.			
16.2	Landlord's costs	Landlord's reasonable professional fees are to be waived			
	Est. surveyor cost:	N/a			
	Est. legal cost:	N/a			
	Section 123 of Local Government Act 1972	Advertising costs estimated at no more than £1,000 to be paid by the Tenant			
17.0	Compliance	The tenant shall comply with all laws relating to the property and the occupation and use of the property.			
18.0	Timing and other matters	The granting of the lease will be subject to approval of the Council's Cabinet.			
19.0	Any Other Matters	The local football club have a storage container on the Property. This will be relocated prior to the lease being signed. Ex-Serviceman's Club lease which was forfeited on 6 December 2017 will be removed from the Land Registry. The landlord to have the right to connect to any service media or conduit servicing the hall for future development of their retained land. Landlord reserves the right to use the premises for election and emergency purposes.			

SUBJECT TO CONTRACT & CLIENT APPROVAL

These 'Heads of Terms' are intended to be statements of principle only and should not be construed as legally binding until formal agreements have been agreed and entered into by both parties.

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LAND AT HURST FARM, HURSTWOOD LANE, HAYWARDS HEATH

REPORT OF: Head of Corporate Resources
Contact Officer: Christopher Coppens, Property Lawyer and
David Kemp, Consultant Estates Surveyor
Email: christopher.coppens@midsussex.gov.uk
Tel: 01444 477213
Wards Affected: Haywards Heath - Franklands
Key Decision No
Report to: Cabinet
11th March 2019

Purpose of Report

1. To request Cabinet to approve:

(a) the disposal of:

- (i) the parcel of land on the east side of Hurstwood Lane and lying to the south of Birch Way and Greenhill Park, Haywards Heath, West Sussex and coloured in pink on the attached plan to this report at Appendix D, (“the Primary School Land”) comprising an area of approximately 2.4 hectares, which forms part of an area of open space, to West Sussex County Council for the provision of a primary school with early years provision on the basis set out in the Exempt Appendix F to this report;
- (ii) three parcels of land on the east side of Hurstwood Lane and lying to the south of Birch Way and Greenhill Park, Haywards Heath, West Sussex and coloured in blue, yellow and green within the thick black line boundary on the attached plan to this report at Appendix D, comprising an aggregated area of approximately 15.75 hectares to Haywards Heath Town Council, for the provision of a burial ground on the blue land (“the Burial Ground Land”), allotments on the yellow land (“the Allotment Land”), a country park and woodland on the green land (“the Country Park Land”) on the basis set out in the Exempt Appendix F to this report;
- (iii) the creation of an access road and car park on the hatched land coloured in grey on the attached plan to this report at Appendix D (“the Access Road and Car Park Land”); and
- (iv) in the light of part of the Burial Ground Land, the Allotment Land and the Country Park Land having been open for public use as informal open space, consider the objections received in response to the statutory advertisement.

(b) In the light of the considerations in (a)(iv) to decide whether to make the disposals in (a)(i) and (a)(ii) and to create the access road and car park, as part of a larger development scheme.

Summary

2. This report outlines proposals for the disposal of various parcels of land in connection with a proposed housing development on part of Hurst Farm and summarises the decisions previously made by the Council when the Council acquired the land. It explains the current status of the land, the Council's powers of disposal and seeks agreement, to the disposal of various parcels of Council owned land lying to the north-east of Hurstwood Lane, Haywards Heath comprising an area of 18.15 hectares on the basis set out in the Exempt Appendix F to this report for the provision of a school, burial ground, allotments and country park to facilitate, the erection of new homes as part of a larger development scheme briefly outlined in paragraphs 11 to 14 of this report.

Recommendations

3. ***Cabinet is recommended to:***
 - (a) ***note and consider the responses to the statutory advertisements placed in the Mid Sussex Times on 3rd and 10th January 2019 giving notice of the Council's intention to dispose of the Primary School Land shown coloured in pink on the plan, the Burial Ground Land shown coloured in blue on the plan, the Allotment Land shown coloured in yellow on the plan and the Country Park Land within the black line boundary shown coloured in green on the plan attached at Appendix D; and***
 - (b) ***authorise the Head of Corporate Resources and the Solicitor and Head of Regulatory Services to dispose of the Primary School Land to West Sussex County Council on the basis set out in the Exempt Appendix F to this report and on such other terms as the Solicitor and Head of Regulatory Services recommends to protect the Council's interests; and***
 - (c) ***authorise the Head of Corporate Resources and the Solicitor and Head of Regulatory Services to dispose of the Burial Ground Land, the Allotment Land and the Country Park Land to Haywards Heath Town Council on the basis set out in the Exempt Appendix F to this report and on such other terms as the Solicitor and Head of Regulatory Services recommends to protect the Council's interests; and***
 - (d) ***subject to agreeing appropriate terms for the future management and maintenance, authorise the Head of Corporate Resources to procure the provision of an access road and car park on the Access Road and Car Park Land.***

Background

4. In 1996, parts of Hurst Farm, Hurstwood Lane, Haywards Heath comprising the three lots of land in the vicinity of Hurstwood Lane shown for identification purposes only coloured in green, mauve and pink respectively on the plan attached to this report at Appendix B, were put on the market by Savills, Property Consultants, on behalf of the Secretary of State for Health. The land was described in the sale particulars as follows:

Lot 1: A pair of semi-detached cottages, Grade II Listed Sussex Barn and a range of additional buildings in approximately 2.2. acres lying to the south of the

proposed relief road and west of Hurstwood Farmhouse, which was then used for office purposes and was not part of the sale.

Lot 2: 49.06 acres of established pasture land and woodland to the north-west of Hurstwood Lane, including some modern farm buildings and a water pumping station.

Lot 3 45.19 acres of established pasture land, partly used for arable production in the past, together with an area of woodland to the south-east of Hurstwood Lane and mostly lying in Lewes District.

5. On the 3rd September 1996, the Council's Special Policy and Resources Committee received an exempt report on whether the Council should attempt to purchase part of Hurst Farm in the vicinity of Hurstwood Lane from the Secretary of State for Health. The report described the three lots of land as an important part of Haywards Heath and suggested that the land could be acquired with a view to protecting it from development in the longer term and providing an informal open space. The report stated that Lot 2 would appear to have the greatest potential if acquired by the Council. The report recommended that the Council should seek to purchase Lot 2. The Committee noted that the prospective purchaser of Lot 2 would be required to enter into an option to enable the necessary land to be available for the construction of the Haywards Heath Relief Road, in due course, and resolved that:

(1) *the Council should seek to purchase Lots 1, 2 and 3 as set out in Savills sale particulars for Hurst Farm, Hurstwood Lane, Haywards Heath;*

(2) *the Secretary and Solicitor to the Council be authorised to instruct a valuer to advise the Council on the proposed purchase;*

(3) *it be noted that, if the Council is successful, an assessment of the future retention, use and management of each Lot be considered by the appropriate Committee; and*

(4) *the Council's programme of Capital and Revenue Projects be amended as agreed by the Committee.*

6. On the 16th October 1996, the Council's Policy and Resources Committee received an exempt report, which informed the Committee that a Valuer had been appointed immediately following the September meeting, who had visited the site and after discussing the matter with Savills, had advised that the Council should submit three separate bids: one in respect of the whole site, Lots 1, 2 and 3; one in respect of Lots 2 and 3, and one in respect of Lot 2 only. Savills subsequently issued further particulars of sale in which it was stated that best and final bids should be submitted to them in a sealed envelope by noon on 20th September 1996, indicating that the Vendor was not bound to accept the highest or indeed any offer, and that a decision was expected to be made within 10 working days of the opening of tenders. Three bids on behalf of the Council, prepared in accordance with the Valuer's advice, were delivered to Savills on 19th September 1996. At the meeting of the 16th October 1996, the Committee were informed in an oral update by the Secretary and Solicitor to the Council that she was hopeful that the Council's bids for Lots 2 and 3 would be successful. The Committee resolved to note the report.

7. On the 27th November 1996, the Council's Leisure Services Committee received an exempt report on the Special Meeting of the Policy and Resources Committee held on 3rd September 1996 and the proposed purchase of Hurst Farm. They were informed that the Council's bid for Lots 2 and 3 had been successful, although an amended boundary for the eastern side of Lot 2 has been agreed, subject to agreement on a right of way to link, what would then be two parcels of land comprising Lot 2, and that if agreement could be reached the Council would purchase Lots 2 and 3 for the price of £231,117, subject to contract. The report noted that the future use of the land would need to be considered as part of the overall plan for informal open space in Haywards Heath, that accommodation works would be required to facilitate public access and stated that the land would continue to be managed as farm meadow land and pasture, the costs of which would be around £5,000. The Committee resolved to note the contents of the report.
8. On the 9th May 1997, the Council purchased the amended Lot 2 and the whole of Lot 3 from the Secretary of State for Health at the price of £231,117, subject to an option agreement made on the same date in respect of parts of Lot 2 to enable the Secretary of State to buy back the land necessary for the construction of the Haywards Heath Relief Road in due course. The option was exercised by the Secretary of State for Health's successors, the Urban Regeneration Agency (known as English Partnerships), on 14th December 2007 and the Haywards Heath Relief Road has been constructed, but awaits formal adoption by West Sussex County Council. As part of the same arrangement the large balancing pond constructed on part of the option land will be transferred back to the Council at nil consideration, subject to payment to the Council of a commuted maintenance sum to cover the future costs of maintaining the balancing pond.
9. Prior to the Council's purchase of Hurst Farm, the land was occupied by a local farmer for the purposes of grazing sheep under the terms of a grazing licence, which use commenced in or around March 1993 and was terminated by the Secretary of State for Health on or shortly before 9th May 1997.
10. Following completion of the Council's purchase and, in accordance with the earlier decisions of the Council made on the 3rd September 1996 namely, "*an assessment of the future retention, use and management of each Lot be considered by the appropriate Committee*" and on the 27th November 1996 namely, "*to continue with management of the land as farm meadow land and pasture*", the Council has entered into a series of licences with various local farmers to use and occupy the land edged and hatched in black on the attached plan marked "Hurst Farm Grazing Area" attached to this report at Appendix C, for the purposes of grazing sheep on the land, which use continues to the present day.
11. In April 2009, the Council entered into a letter of understanding with the owners of the Blue Land and the Yellow Land on the plan at Appendix A to promote the site edged in red on that plan for development.
12. On the 14th December 2016, the Council made the Haywards Heath Neighbourhood Plan, which includes the whole of the land acquired by the Council in 1997, as part of an allocation for 350 new homes recognising the need to provide sites for housing in accordance with Central Government requirements imposed on local authorities by successive Governments during the last 10 years.

13. On 30th June 2017, an application for outline planning permission (application reference DM/17/2739) for the development of up to 375 new homes, a 2 form entry primary school with Early Years provision, a new burial ground, allotments, Country Park, car parking, 'Green Way', new vehicular accesses and associated parking and landscaping was submitted by the Council jointly with Cross Stone Securities Limited.
14. On 9th August 2018, the Council's District Planning Committee considered a report on planning application DM/17/2739 and resolved:

"That permission is to be granted subject to the conditions listed in Appendix B, and additional conditions as listed in the Agenda Update Sheet, and the completion of a satisfactory legal agreement to secure the necessary affordable housing and infrastructure provision. In addition, that authority be delegated to Officers to negotiate and complete a satisfactory S106 planning obligation."

Present status and purpose

15. The Council has a general power to acquire land by agreement under Section 120(1) of the Local Government Act 1972, which provides as follows:

"For the purposes of:

- (a) any of their functions under this or any other enactment, or*
- (b) the benefit, improvement or development of their area,*

a principal council may acquire by agreement any land, whether situated inside or outside their area."

The Council is therefore, empowered to acquire land by agreement inside or outside the District of Mid Sussex for the purposes of any of the Council's functions or for the benefit, improvement or development of the District of Mid Sussex.

16. Section 120(2) of the Local Government Act 1972, provides that:

"A principal council may acquire by agreement any land for any purpose for which they are authorised by this or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the council's functions."

The Council is therefore, empowered to acquire land by agreement even though it is not immediately required for the purpose for which it was acquired.

17. When land is acquired by a local authority for a statutory purpose or function, it continues to be held by the local authority for that purpose or function until it is formally appropriated to another purpose or function.
18. Where land is acquired by a local authority for a particular statutory purpose or function and the statute under which the land was acquired restricts its use to that particular statutory purpose then the land can only be used by the local authority for that statutory purpose and this is the case, notwithstanding its designation in the local plan or the existence of any planning permission granted in respect of the land.

19. Although the report of the 3rd September 1996, suggested that the land could be acquired for use as informal open space, neither the recommendation in that report nor the resolution passed on the 3rd September 1996, authorising the purchase of the land stipulated that the land would be acquired for that purpose and, indeed, the exempt minutes of the meetings held on the 3rd September 1996 and the 27th November 1996 clearly stipulate that the future retention, use and management of each part of the land is to be determined by the Council at a later date.
20. No further reports on the future retention, use and management of the land have been considered by the Council and consequently the land is held by the Council as strategic corporate investment farmland until the Council resolves to appropriate the land for some specific statutory purposes or function of the Council.

Council's powers of disposal

21. The Council has a general power to dispose of land under Section 123(1) of the Local Government Act 1972 ("the 1972 Act"), which provides that:

"Subject to the following provisions of this section, a principal council may dispose of land held by them in any manner they wish."

These powers are permissive and must be exercised strictly in accordance with the provisions of Section 123(2) and Section 123(2A) of the 1972 Act.

Terms of disposal

22. Section 123(2) of the 1972 Act, provides that:

"Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained."

Section 123(7) of the 1972 Act, provides that:

"For the purposes of this section a disposal of land is a disposal by way of a short tenancy if it consists:

- (a) of a grant of a term of not exceeding seven years, or*
- (b) of the assignment of a term which at the date of assignment has not more than seven years to run."*

23. Local authorities are therefore, given powers under Section 123 of the 1972 Act to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term of a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies of less than 7 years), unless the Secretary of State consents to the disposal.

24. Section 128(1) of the 1972 Act confers on the Secretary of State power to give a general consent for the purposes of land disposals by local authorities carried out under their powers in Part 7 of the 1972 Act. The Secretary of State's sole statutory function in respect of the exercise by local authorities of these disposal powers is to give or withhold consent to a proposed disposal in cases where his consent is required. General consent to dispose of land that can be disposed of under Section 123 of the 1972 Act is contained in Circular 06/03 Local Government Act 1972 General Disposal Consent (England) 2003.
25. The Consent removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land, where the authority considers it will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area and the difference between the unrestricted value of the interest to be disposed of and the consideration accepted ("the undervalue") is £2,000,000 (two million pounds) or less.
26. In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific proposal to take such action falls within the terms of the Consent, the authority should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.
27. The meaning of "the best consideration reasonably obtainable" has been the subject of considerable judicial interpretation and the overriding duty to comply with normal and prudent commercial practices is well established.
28. The courts have held that consideration is confined to those elements of a transaction which are of commercial or monetary value and that the court will quash a decision to sell property where the authority has taken into account an irrelevant factor such as job creation, the creation of affordable housing units or payments promised under Section 106 of the Town and Country Planning Act 1990. Account could, however, be taken of nomination rights conferred on the Council by agreement.
29. At present the land is largely agricultural pasture land used for grazing sheep with limited public access. It is considered that the provision of a new primary school on the Primary School Land, the provision of a burial ground on the Burial Ground Land, the provision of allotments on the Allotment Land will contribute to social well-being and the provision of a country park managed as formal open space amenity land on the Country Park Land will encourage greater public use for recreational purposes and contribute to social and environmental well-being and therefore, these disposals will help the Council to secure the promotion or improvement of the economic, social or environmental well-being of its area and that the first test is therefore, satisfied.
30. The Council has obtained valuation advice from a qualified surveyor, which is set out in the Exempt Appendix F to this report and indicates that any undervalue in the proposed transactions is less than half the amount permitted by the general consent referred to in paragraph 25 above and therefore permitted in law.

Disposal of open space land

31. Section 123(2A) of the 1972 Act, provides that:

“A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.”

Open space is defined in Section 336(1) of the Town and Country Planning Act 1990 as *“any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground”* and it includes any land used informally by local inhabitants for recreation, although not formally laid out and not formally dedicated to public use under the Open Spaces Act 1906. Land that has been made available and used by local inhabitants for informal recreation is classed as *“de-facto open space”*. However, it must be noted that even if land is acquired for development as open space, if at the time of a proposed disposal, no steps have been taken to develop the land as open space and it had been successively let out for use inconsistent with use as open space, it will not be open space and Section 123(2A) will not apply.

32. The land at Hurst Farm acquired by the Council in 1997 was not acquired for use as open space, has never been laid out as a public garden, is not held or used for the purposes of public recreation and is not a disused burial ground. Public access to approximately 12.60 hectares of the land on the east side of Hurstwood Lane has been precluded by fencing and use of the land for grazing sheep since the Council acquired the land and before that, and therefore, the Primary School Land, the Burial Ground land and the Allotment Land do not constitute de-facto open space. However, limited public access to the land has occurred (in particular by dog walkers) from a public footpath running along the southern boundary of the Burial Ground Land and the Allotment Land. Consequently, sub-section 123(2A) of the 1972 Act applies and the Council is obliged to advertise its intention to dispose of the Primary School Land, the Burial Ground Land, the Allotment Land and the Country Park Land as they form part of an open space, albeit only informal access.

33. Section 123 deals with the disposal of land. There are similar requirements under Section 122 of the 1972 Act relating to the appropriation of land for different purposes. In particular, subsections 122(1) and 122(2A) of the 1972 Act state provides that:

“(1) Subject to the following provisions of this section, a principal council may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by a council by virtue of this subsection shall be subject to the rights of other persons in, over or in respect of the land concerned.

(2) ...

(2A) *A principal council may not appropriate under subsection (1) above any land consisting or forming part of an open space unless before appropriating the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them.*

34. In the present case, section 122 of the 1972 Act has no application because the land has not been held by the Council as open space. Rather, the Council must consider the proposed disposals under Section 123 (2A) of the 1972 Act because some of the land has been used as de facto open space. Unlike section 122(1), where the power to appropriate land is limited to situations where the land *“is no longer required for the purpose for which it is held immediately before the appropriation”*, the requirement under section 123 is simply to consider any objections to the disposal.

Section 123 Advertisements and Objections

35. As some of the Country Park Land has not been subject to grazing agreements and as general public access to that limited area is likely to have taken place since the Council acquired the land in 1997, the Council has treated the land as “de facto open space” and has caused notice of its intention to dispose of the Primary School Land, the Burial Ground Land, the Allotment Land and the Country Park Land to be advertised in two consecutive weeks in the Mid Sussex Times, being a newspaper circulating in the area in which the Primary School Land, the Burial Ground Land, the Allotment Land and the Country Park Land is situated namely, on 3rd and 10th January 2019 inviting members of the public who may object to the disposal of the Primary School Land, the Burial Ground Land, the Allotment Land and the Country Park land to make their objections known to the Council by 31st January 2019.
36. The Council has received four letters of objection from two individuals in response to the statutory advertisements published on 3rd and 10th January 2018.
37. While there is undoubtedly a link between the planning application considered by the Council’s District Planning Committee on the 9th August 2018 and the need for this disposal report, it is important to remember that they are completely independent processes that must be followed by the Council and that, as a matter of public policy and law, we must not conflate planning issues with property issues and vice versa. The consideration of planning applications is not an executive function of the Council and they must be determined by the Local Planning Authority through the planning committees in accordance with planning policy and law; decisions concerning the acquisition, use, management and disposal of Council land is an executive function of the Council and must be determined by the Council’s Cabinet in accordance with the Council’s corporate policies and procedures and local government law.
38. A significant numbers of issues raised in the objections relate to planning issues, policy and procedure, and fail to address the central issue of whether the Primary School Land, the Burial Ground Land, the Allotment Land and the Country Park Land should be retained for its present purpose as strategic corporate investment farmland. Copies of objections are annexed to this report in Appendix E and Cabinet must consider the objections contained in each of them.
39. The following points set out in italics below are most pertinent to the issue of whether the land is *“no longer required for the purpose for which it is currently held”*.

Email dated 15th January 2019 from a representative of Fox Hill Residents Association:

“does this sale involve any Ancient Woodland and will its full protection be guaranteed?”

“How does this sale relate to the land that was acquired by MSDC for public amenity? I am also awaiting notification of an application to put a TRO on Hurstwood Lane. How does the sale of this land to WSCC affect this application?”

Letter sent by email on 30th January 2019 from a representative of Fox Hill Residents Association:

“Neither area of land has access to a public highway. Designated Ancient Woodland, which is afforded an increased level of protection, would be destroyed forever if the proposed outline application is achieved. In my opinion, the property department should be made aware of the importance of protecting this area of Ancient Woodland before simply disposing of it.”

“the status of Ancient Woodland and the presence of protected species such as kingfishers and crested newts”

These comments allude to the premise that the land should remain undeveloped by the Council. A majority of the land will remain undeveloped and the Country Park Land will attract greater public access.

Email dated 15th January 2019 from an individual raises concerns about the planning application, best value, conflicts of interest, protection of the public interest and public finances, and due diligence. These issues are addressed in other sections of this report and the Exempt Appendix F deals with land valuations. An initial response to this email was given explaining that the Public Notices published in the Mid Sussex Times on 3rd and 10th January 2019, were not concerned with the planning application, but to the issue of whether the Council should make the disposals recommended in this report.

A further email dated 19th January 2019 from the same individual requested that the following be brought to Cabinet’s attention:

“Except with the consent of the Secretary of State, a council shall not dispose of land under section 123, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.”

“The disposal advertised clearly fails to meet this very simple test. Your claim that this disposal is unrelated to the Hurst Farm application is either commercially naive or wilfully misleading, The disposal of these parcels of land provides very significant value to Cross Stone and others in facilitation of their proposed development and as a headline part of the planning gains for the application the land value gains generated rests entirely upon them. No evidence has been provided that the council has fully received from all interested parties the value created on their behalf by the disposal of the council’s assets. Without such, any disposal or loss of public/open access to this land does not deliver the full commercial value created to the taxpayer from the disposal of their assets and the best value that can reasonably be obtained has not been achieved”

The latter paragraph alludes to the premise that the land should remain undeveloped by the Council, unless the proposed disposal is made at full commercial value. The facilities proposed will be of benefit to future residents of the homes proposed in the planning application and to the wider community. Adjustments will be made in the Section 106 financial contributions for that development to ensure all landowners contribute to the benefit afforded to the rest of the proposed development by the disposals proposed in this report. Any undervalue is less than the General exemption in paragraph 25.

Policy Context

40. This proposal is brought to Cabinet against a background of Central Government asking councils to maximise the value of their assets and bring forward land for potential housing development.

Other Options Considered

41. The Council could consider retaining the land as strategic corporate investment farmland and/or designating the land as informal open space. Such a proposal would see the Council forgo a much needed capital receipt and remove an allocated site from housing development.

Financial Implications

42. There are currently financial pressures for the Council in delivering public services in the District. Capital receipts can be used to invest to deliver income to help maintain public services in the District including supporting economic growth and job creation.

Risk Management Implications

43. As with any decision concerning the exercise of statutory powers by a local authority, there is a risk of judicial review. Provided that the Council makes its decision in good faith and for proper reasons the risk of judicial review is small.
44. As with any other application, the planning application may be refused. The Council would have the right to appeal any such refusal to the same extent that any other applicant may appeal.
45. Any planning permission issued in respect of the land may be called in by the Secretary of State or be subject to application for judicial review to the same extent as any other planning permission.

Equality and customer service implications

46. As the land is held as strategic corporate investment farmland and public access to and use of the majority of the land has been precluded by existence of fencing and grazing sheep on the land, and as the current use for grazing sheep is permitted by way of a licence, the Council is entitled to determine, there are no equality and customer service implications arising from the proposed disposal of land that has been subject to the grazing licence arrangements. As regards those limited areas to which the public have likely enjoyed public access, given that the Town Council will be required to maintain those areas as open space land, as part of the Country Park the Council is entitled to determine that there are no equality and customer service implications arising from this report and the proposed disposals.

Other Material Implications

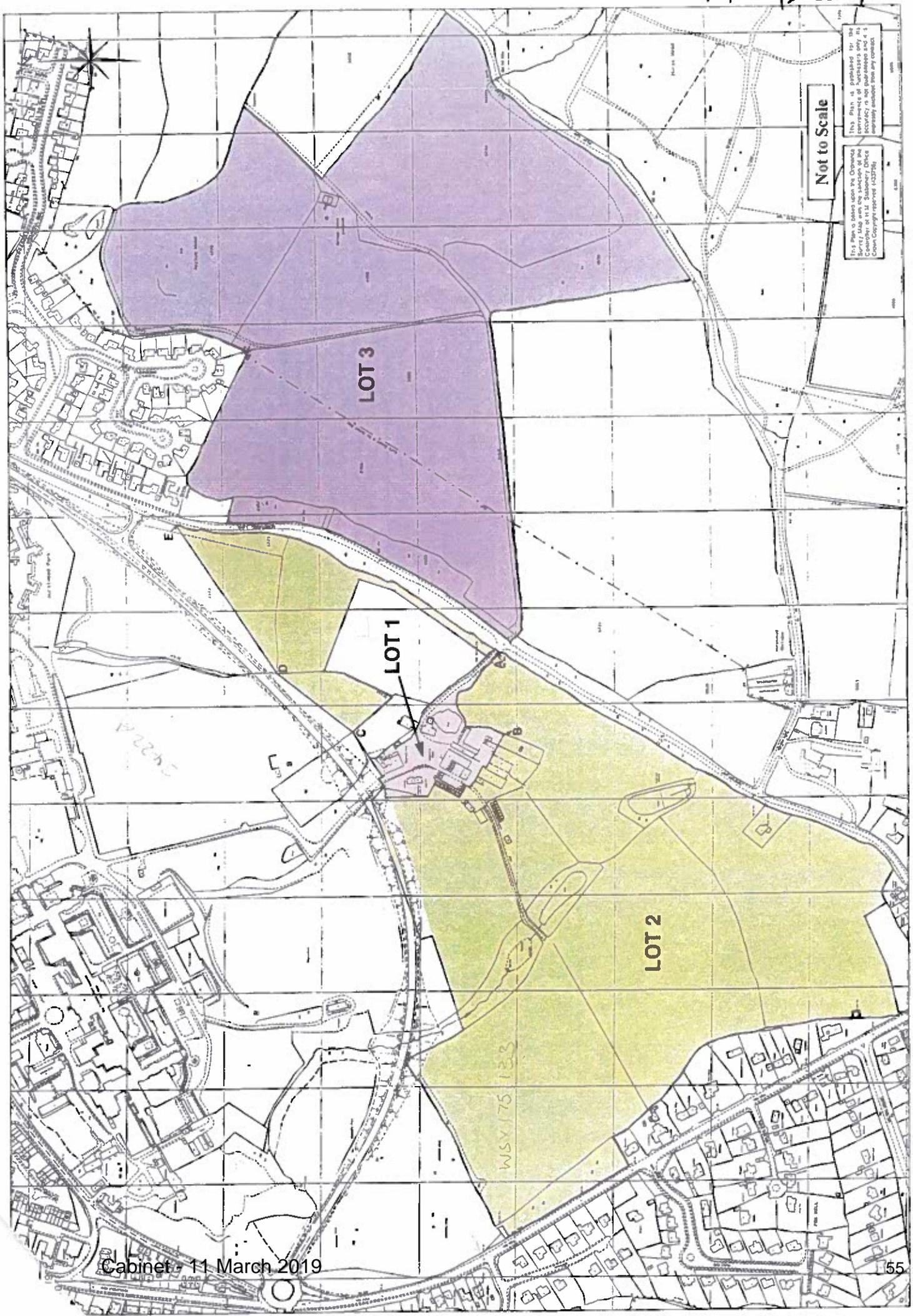
47. There are none, save as already disclosed in this report.

Background Papers

Legal File and earlier reports.

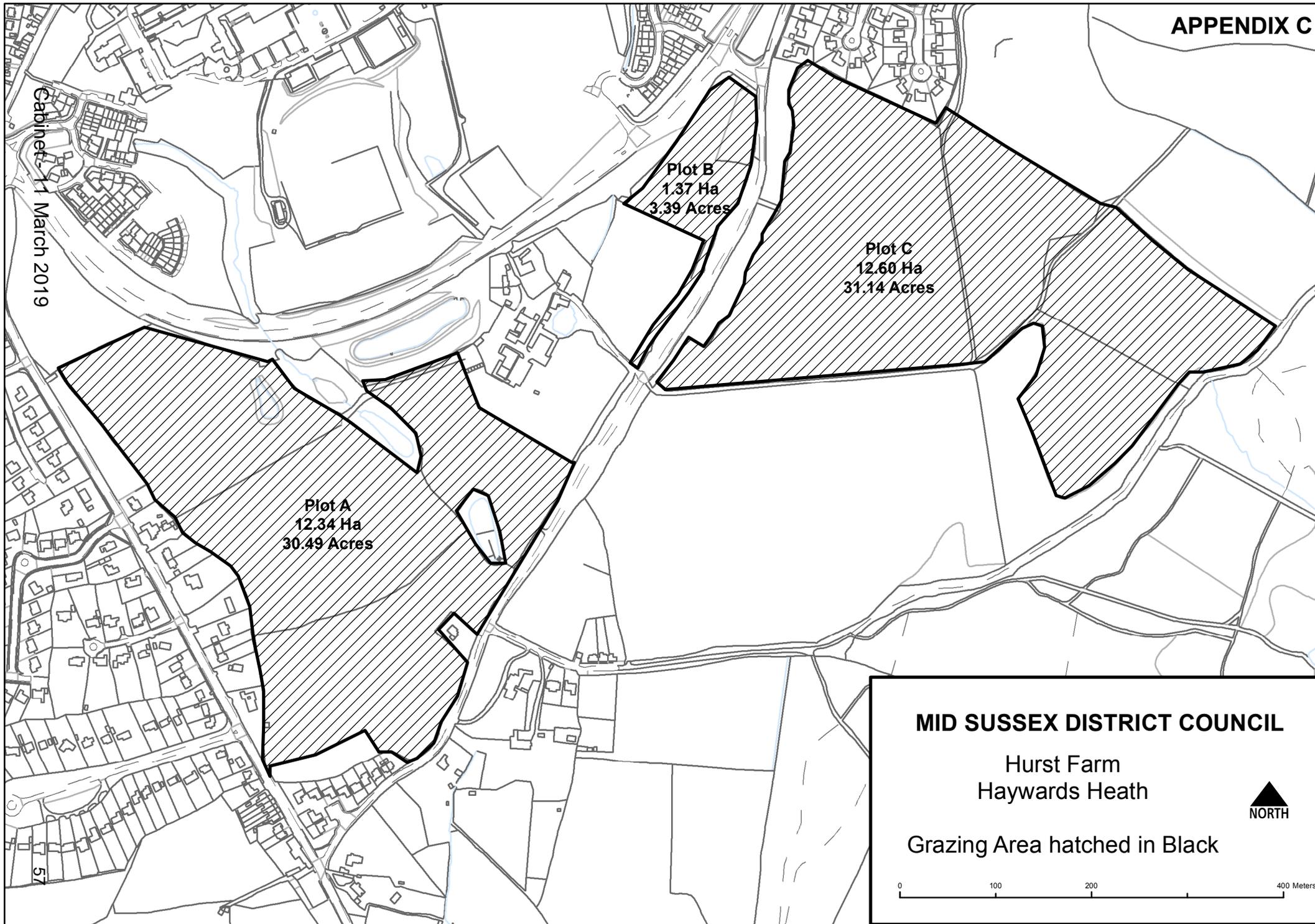
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Cabinet 11 March 2019



MID SUSSEX DISTRICT COUNCIL

Hurst Farm
Haywards Heath



Grazing Area hatched in Black



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From: [REDACTED]
Sent: 15 January 2019 10:53
To: property
Subject: for the attention of Peter Stuart and Tom Clark re TC/CPC/HURST/SCHOOL and TC/CPC/HURST/BACP- HHTC

Dear Mr Stuart and Mr Clark,

I am emailing for information regarding the notices posted in the Mid Sussex Times on 3rd January 2019.

They appear to relate directly with land included in the outline planning application DM/17/2739 which is 'awaiting decision' on the council website. If this is the case, it would be helpful to put as much information on the planning website in order that the public can make an informed comment / objection. For example, does this sale involve any Ancient Woodland and will its full protection be guaranteed? Maps of the areas involved would be helpful, along with an estimated time frame of how and when the sale might take place. How does this sale relate to the land that was acquired by MSDC for public amenity? I am also awaiting notification of an application to put a TRO on Hurstwood Lane. How does the sale of this land to WSCC affect this application?

I would appreciate your most comprehensive responses to my request for more information and a place to easily access this for other members of the public, so that I have good time to get my comments in.

Kind Regards,

[REDACTED]
Fox Hill Residents Association (FHA)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr Clark,

This letter forms my objection to the notices, TC/CPC/HURST/SCHOOL and TC/CPC/HURST/BACPHHTC, posted in the Mid Sussex Times on 3/1/19. My reasons are as follows –

An outline planning application currently exists on an area of land known as Hurst Farm which includes the areas mentioned in each notice. As it stands, this application is still 'awaiting decision'. The property department, charged with disposal of this land, must understand that the possibility of permission to build on any piece of land will significantly affect the price that the land may achieve. In the public interest, this land should not be sold or disposed of before its full value can be assessed. The property department must surely be liaising with the planning department to understand the issues that remain unresolved regarding full permission of this outline application.

Mid Sussex District Council appears to be disposing of land which is within the boundary of East Sussex according to the plan emailed to me by Mr Coppens.

Neither area of land has access to a public highway. Designated Ancient Woodland which is afforded an increased level of protection, would be destroyed forever if the proposed outline application is achieved. In my opinion, the property department should be made aware of the importance of protecting this area of Ancient Woodland before simply disposing of it. Once again it seems obvious that the outline planning application would inform the property department on these matters and particularly on information and advice which may need revisiting and updating such as the status of Ancient Woodland and the presence of protected species such as kingfishers and crested newts. To date, the current research on the width of Ancient Woodland buffer zones in relation to the size of development has been completely ignored by every planning application for a large development that has come before the MSDC planning committee.

It is foolish to place all the proposed public amenities in this area of Haywards Heath because the road traffic network on the southern side of Haywards Heath is already congested. Traffic surveys, carried out as part of the outline planning application, are out of date and inaccurate. The proposed Traffic Regulation Order (TRO), required to close Hurstwood Lane, as part of this outline application, will increase this congestion. This in turn will cause air pollution along the affected roads to remain at potentially dangerous levels. In my opinion, air pollution has not been properly considered by the District Planning Committee to date and up to date emission figures were not available at the outline planning meeting.

Thank you for considering these concerns regarding the proposed disposal of this land.

Kind Regards,

[REDACTED]

[REDACTED] (Fox Hill Association)

From: [REDACTED]
Sent: 15 January 2019 15:02
To: Tom Clark
Cc: Steven King; Garry Wall (Cllr); [REDACTED]; Haywards Heath Town Clerk
Subject: Proposed Land Sale TC/CPC/HURST/SCHOOL, TC/CPC/HURST/BACP-HHTC

With reference to the notices posted TC/CPC/HURST/SCHOOL and TC/CPC/HURST/BACP-HHTC these presumably refer to section 106 obligations in respect of planning application DM/17/2739 (Hurst Farm). It is disappointing that the application has not been updated to reflect the proposed section 106 agreement and I note that the WSCC section 106 consultation response lapsed on the 9th November and has not been updated or revised as required after 3 months. It is impossible for the council or the public to scrutinise this application or the section 106 arrangements and asset disposals that underpin it from the outdated and incomplete information provided.

Additionally in order to assess if these disposals are in the public interest and represent best value it is essential to know what commercial and compensation arrangements are in place with the developer Cross Stone; a significant beneficiary from these disposals. Mr Stuart has previously made clear that the council have outsourced all and any obligations for procurement to Cross Stone whose appointed design team has drawn up plans which will involve a considerable amount of MSDC land being sacrificed under section 106 to facilitate development by Cross Stone concentrated upon land owned by Cross Stone. I note no land or assets of Cross Stone are being disposed of in facilitation of this scheme under section 106.

No documents have been forthcoming as to how the obvious conflicts of interest have been managed, monitored or mitigated; nor how MSDC is to be compensated for the considerable costs and capital losses it faces as all the undeveloped space under Cross Stones design and all land allocated by Cross Stone under section 106 for planning gains is to be disposed of below market value by MSDC to facilitate development on Cross Stones land. It would be unlawful to dispose of public assets without clarifying how the value of MSDCs land holdings are protected and evidence that the full cost of all section 106 contributions facilitating Cross Stones development are to be restored to MSDC by the developer. Cross Stone stands to gain considerably from the facilitation of MSDC disposing of public land. At no point has MSDC provided any evidence that the maximum value of taxpayer assets has been sought or protected, this is the first duty of the council in disposing of public assets, especially land of such significant value.

For clarity, none of the land owned by Cross Stone land is being used for public benefit, planning gains or in any way to facilitate development under section 106. Instead Cross Stone elected to zone the 20% of the land they own 100% for the highest density of development. MSDC has failed to protect either the public interest or public finances by proposing to dispose of valuable public assets without any due diligence or compensation. Before MSDC can dispose of its land in this way it must demonstrate that Cross Stone has acted to deliver the best value of the public assets being disposed of

including full compensation for the value any facilitation by such a disposal will deliver for future land value or development gains by Cross Stone.



From: [REDACTED]
Sent: 19 January 2019 09:57
To: Chris Coppens
Cc: Tom Clark; Peter Stuart; Thuso Selelo
Subject: Re: Proposed Land Sale TC/CPC/HURST/SCHOOL, TC/CPC/HURST/BACP-HHTC

Thank you for your letter which I note is entirely identical to that provided to other substantively different objections. As you were unable to speak to most of the concerns raised I hope Mr Clark or your planning lawyers will directly respond to the resining points.

With reference to the disposal(s) TC/CPC/HURST/SCHOOL, TC/CPC/HURST/BACP-HHTC, the following objection should be brought to the committees attention.

Except with the consent of the Secretary of State, a council shall not dispose of land under section 123, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.

The disposal advertised clearly fails to meet this very simple test. Your claim that this disposal is unrelated to the Hurst Farm application is either commercially naive or wilfully misleading. The disposal of these parcels of land provides very significant value to Cross Stone and others in facilitation of their proposed development and as a headline part of the planning gains for the application the land value gains generated rests entirely upon them. No evidence has been provided that the council has fully received from all interested parties the value created on their behalf by the disposal of the councils assets. Without such, any disposal or loss of public/open access to this land does not deliver the full commercial value created to the taxpayer from the disposal of their assets and the best value that can reasonably be obtained has not been achieved.

Without prejudice

[REDACTED]

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