





**Brighton & Hove
City Council**

Policy, Resources & Growth Committee

Title:	Policy, Resources & Growth Committee
Date:	12 October 2017
Time:	4.00pm
Venue	Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 4AH
Members:	Councillors: Morgan (Chair), Hamilton (Deputy Chair), Janio (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bell, Mitchell, Peltzer Dunn, Sykes, Wealls and Yates
Contact:	John Peel Democratic Services Officer 01273 291058 john.peel@brighton-hove.gov.uk

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Democratic Services: Policy, Resources & Growth Committee

Monitoring Officer	Councillor Morgan Chair	Chief Executive	Democratic Services Officer
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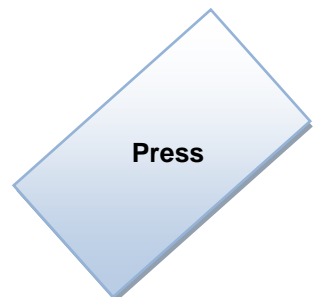
Exec. Director Finance & Resources
Exec. Director Economy, Environment & Culture
Exec. Director Neighbourhoods, Communities & Housing
Exec. Director Families, Children & Learning
Exec. Director Adult Care & Health

Councillor Hamilton Deputy Chair
Councillor Mitchell
Councillor Yates

Councillor Peltzer Dunn
Councillor Wealls
Councillor Bell
Councillor Janio Opposition Spokesperson
Councillor Mac Cafferty Group Spokesperson
Councillor Sykes



Public Speaker	Councillor Speaking
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Public Seating



Public Seating



AGENDA

PROCEDURAL MATTERS

37 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: *Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

38 MINUTES

To consider the minutes of the meeting held on the 13 July 2017 (copy attached).

POLICY, RESOURCES & GROWTH COMMITTEE

Contact Officer: John Peel
Ward Affected: All Wards

Tel: 01273 291058

39 CHAIR'S COMMUNICATIONS

40 CALL OVER

- (a) Items (43 – 53) will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

GENERAL MATTERS

41 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented by members of the public to the full Council or as notified for presentation at the meeting by the due of (10 days);
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the 5th October, 2017;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 5th October, 2017.

42 MEMBER INVOLVEMENT

29 - 30

To consider the following matters raised by councillors:

- (a) **Written Questions:** to consider the following written questions submitted by Members (copy attached).

FINANCIAL MATTERS

43 TARGETED BUDGET MANAGEMENT (TBM) 2017/18: MONTH 5

31 - 84

Report of the Executive Director for Finance & Resources (copy attached).

Contact Officer: Jeff Coates
Ward Affected: All Wards

Tel: 01273 292364

44 REVALUATION DISCRETIONARY RATE RELIEF FOR BUSINESS RATE PAYERS

85 - 98

Report of the Executive Director for Finance & Resources (copy attached).

Contact Officer: Paul Ross-Dale

Tel: 01273 291969

POLICY, RESOURCES & GROWTH COMMITTEE

Ward Affected: All Wards

CONTRACTUAL MATTERS

45 SOCIAL CARE IT SYSTEM PROCUREMENT 99 - 110

Report of the Executive Director for Finance & Resources (copy attached).

Contact Officer: Mo Lawless

Tel: 01273 295975

Ward Affected: All Wards

REGENERATION & PROPERTY MATTERS

46 FORMER PETER PAN SITE, MADEIRA DRIVE - SEA LANES 111 - 114

Report of the Executive Director, Economy, Environment & Culture (copy attached).

Contact Officer: Angela Dymott

Tel: 01273 291450

Ward Affected: East Brighton

GENERAL MATTERS

47 REVIEW OF THE CONSTITUTION - OCTOBER 2017 115 - 148

Report of the Executive Lead, Strategy, Governance & Law (copy attached).

Contact Officer: Elizabeth Culbert

Tel: 01273 291515

Ward Affected: All Wards

STRATEGIC & POLICY MATTERS

48 LOCAL HEALTH AND SOCIAL CARE INTEGRATION 149 - 162

Joint report of the Chief Executive and the Accountable Officer for the CCG (copy attached).

Contact Officer: Richard Fullagar

Tel: 01273 293846

Ward Affected: All Wards

49 HOME PURCHASE POLICY 163 - 182

Extract from the proceedings of the Housing & New Homes Committee meeting held on the 20 September 2017 together with a report of the Executive Director Neighbourhoods, Communities & Housing (copies attached).

Contact Officer: Diane Hughes

Tel: 01273 293841

Ward Affected: All Wards

50 LIVING WAGE JOINT VENTURE BUSINESS PLAN

183 - 244

Extract from the proceedings of the Special Housing & New Homes Committee meeting held on the 25 September, 2017; together with a report of the Executive Director for Economy, Environment & Culture (copies attached).

Contact Officer: Sam Smith,
Martin Reid
Ward Affected: All Wards

Tel: 01273 291383
Tel: 01273 293321

51 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to the 2 November 2017 Council meeting for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, each Group may specify one further item to be included by notifying the Chief Executive no later than 10.00am on [Insert Date] 2013 (the eighth working day before the Council meeting to which the report is to be made), or if the Committee meeting takes place after this deadline, immediately at the conclusion of the Committee meeting.

PART TWO

PAGE

STRATEGIC & POLICY MATTERS

52 LIVING WAGE JOINT VENTURE BUSINESS PLAN - EXEMPT CATEGORY 3

245 - 324

Extract from the proceedings of the Special Housing & New Homes Committee meeting held on the 25 September, 2017; together with confidential appendices No's 7 – 10 – Exempt Category 3 to Item 47, Living Wage Joint Venture Business Plan, report of the Executive Director for Economy, Environment & Culture (circulated to Members only).

Contact Officer: Sam Smith,
Martin Reid
Ward Affected: All Wards

Tel: 01273 291383
Tel: 01273 293321

PROCEDURAL MATTERS

53 PART TWO MINUTES

325 - 328

To consider the part two minutes of the meeting held on the 13 July 2017 (circulated to Members only).

Contact Officer: John Peel
Ward Affected: All Wards

Tel: 01273 291058

54 PART TWO PROCEEDINGS

To consider whether the items listed in Part Two of the agenda and decisions thereon should remain exempt from disclosure to the press and public.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions and deputations to committees and details of how questions and deputations can be raised can be found on the website and/or on agendas for the meetings.

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Electronic agendas can also be accessed through our meetings app available through www.moderngov.co.uk

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For further details and general enquiries about this meeting contact Mark Wall, (01273 291058, email john.peel@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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BRIGHTON & HOVE CITY COUNCIL

POLICY, RESOURCES & GROWTH COMMITTEE

4.00pm 13 JULY 2017

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Morgan (Chair), Hamilton (Deputy Chair), Janio (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bell, Mitchell, Peltzer Dunn, Sykes, Wealls and Yates.

PART ONE

1 PROCEDURAL BUSINESS

1(a) Declarations of Substitutes

1.1 There were none.

1(b) Declarations of Interest

1.2 Councillor Bell declared a non-pecuniary interest in Item 21 as an acquaintance of one of the tenants.

1.3 Councillor Sykes declared a non-pecuniary interest in Item 26 as he is currently employed by the Environment Agency.

1(c) Exclusion of Press and Public

1.4 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

1.5 **RESOLVED:** That the press and public be excluded from the meeting during consideration of the items contained in part two of the agenda.

2 MINUTES

2.1 **RESOLVED-** That the minutes of the previous meeting held on 4 May 2017 be approved and signed as the correct record.

3 CHAIR'S COMMUNICATIONS

- 3.1 The Chair relayed to those present that the meeting would be webcast and capable of repeated viewing.

4 POLICY, RESOURCES & GROWTH URGENCY SUB-COMMITTEE

- 4.1 **RESOLVED-** That the decision of the Policy, Resources & Growth Urgency Sub-Committee held on 27 April 2017 be noted.

5 CALL OVER

- 5.1 The following items were reserved for discussion:

- Item 9: Revenue & Capital Budget Planning and Resources Update 2018/19
- Item 10: Targeted Budget Management (TBM) 2017/18: Month 2
- Item 11: Health & Social Care Integration
- Item 12: Annual Progress Update Corporate Key Performance Indicators 2016-17
- Item 13: Key Performance Indicators Target Setting 2017-18
- Item 14: Progress report on the Workforce Equalities Action Plan
- Item 15: Policy Review Panel outcomes- Urban & Rural Estate
- Item 17: New Homes for Neighbourhoods- Scheme and appropriation approval- Lynchet Close
- Item 18: Proposal for a new GP Surgery at 62/63 Old Steine and 3 Palace Place
- Item 21: Court Farm surrender
- Item 22: Bartholomew Square, Moshimo lease alternation and skylight development proposal
- Item 25: Procurement of the council's commercial portfolio's estate management consultancy contract
- Item 26: Grant of new leases Shoreham Airport
- Item 27: Orbis Joint Committee
- Item 33: Supported Bus Network- Contracts 2017-21 (Exempt Category 3)

- 5.2 The Democratic Services Officer confirmed that the items listed above had been reserved for discussion, and that the following reports of the agenda, with the recommendations therein had been agreed and adopted:

- Item 8: Treasury Management Policy Statement 2016-17- End of year review
- Item 16: New Homes for Neighbourhoods Modular Pilot- Y:Cube proposal
- Item 19: 39-41 Whitehawk Way
- Item 20: Disposal of flat 2 St James Mansions, Brighton
- Item 23: Housing Management System Procurement
- Item 24: Procurement of a new contract to service and install warden call systems in senior housing

6 PUBLIC INVOLVEMENT

- 6.1 There were none.

7 MEMBER INVOLVEMENT

7.1 There were none.

8 TREASURY MANAGEMENT POLICY STATEMENT 2016/17 – END OF YEAR REVIEW**8.1 RESOLVED-**

- 1) That Policy, Resources & Growth Committee endorses the key actions taken during the second half of 2016/17 to meet the TMPS and practices (including the investment strategy) as set out in this report.
- 2) That Policy, Resources & Growth Committee notes the reported compliance with the AIS for the period under review.
- 3) That Policy, Resources & Growth Committee notes that the approved maximum indicator for investment risk of 0.05% has been adhered to and the authorised borrowing limit and operational boundary have not been exceeded.

9 REVENUE & CAPITAL BUDGET PLANNING AND RESOURCES UPDATE 2018/19

- 9.1 The Committee considered a report of the Executive Director, Finance & Resources that provided a budget planning and resource update for the 2018/19 budget process including an updated Medium Term Financial Strategy (MTFS) based on latest information and resource projections.
- 9.2 Councillor Sykes queried the reduction in working balance from £9 million to £7.5 million when the council's external auditors had appeared content with £9 million and that would release a further £1.5 million for investment in services.
- 9.3 The Executive Director, Finance & Resources explained that in previous years £1.5 million had been held back as a risk provision and the rationale behind the decision to reduce the working balance was to increase accountable of services and that meant moving the risk provision into the general reserves.
- 9.4 Councillor Sykes expressed his disappointment that the council now undertook little or no public and stakeholder consultation of its budget process as it previously had done as he believed it had value in terms of public input into service continuity. Councillor Sykes stated that he had some sympathy with officers and the administration relating to the extraordinary circumstances of budget setting meaning it was very difficult to plan and was overall a chaotic process. Councillor Sykes reflected that the majority of decisions made in dealing with austerity had been made by the previous administration including resolving equal pay issues and funding for the i360. Councillor Sykes observed that he believed more could have been done by the current administration to resist making cuts to services as it was very difficult to reinstate those services once they had been removed.

- 9.5 In relation to the provisional 1% pay award for 2018/19/20, Councillor Wealls noted that did not include escalation through pay scales. Councillor Wealls noted that the council's pension contribution rate would rise from 20.5% to 21% and reflected that employer contributions in the private sector were on average 6%.
- 9.6 In relation to budget consultation, Councillor Hamilton noted that whilst he supported such exercises in principle, in some areas, specifically council tax reduction, the response rate was very low meaning the consultation was costly. Councillor Hamilton noted that the current administration had been obligated to make an immediate £8 million of budgetary savings upon taking office and a further £60m over the course of the next two years. Councillor Hamilton stated that whilst the council's financial position was looking better, there would be significant challenges over the following two years with a number of issues unclear such as business rate retention and overall support from central government.
- 9.7 **RESOLVED-** That the Policy, Resources & Growth Committee:
- 1) Note the resource and net expenditure projections for 2018/19 and the Medium Term Financial Strategy (MTFS) projections set out in the body of the report and appendices 1 and 2 based on annual 1.99% Council Tax increases and a 3% Adult Social Care precept in 2018/19 only.
 - 2) Note the revised savings requirement of £21.5 million over the 2 years 2018/19 to 2019/20, including £11.6 million in 2018/19, to be used for budget setting purposes as detailed at paragraph 3.49.
 - 3) Instruct the Executive Leadership Team (ELT) to refresh the current 4 Year Service & Financial Plans and develop further savings proposals to address any outstanding budget gaps for 2018/19 and 2019/20, based on the MTFS assumptions in this report for consideration by Policy, Resources & Growth Committee.
 - 4) Agree the proposed approach to reviewing the Council Tax Reduction Scheme as set out in paragraphs 3.18 to 3.20.
 - 5) Note the resource projections for the Capital Investment Programme as shown in appendix 3.

10 TARGETED BUDGET MANAGEMENT (TBM) 2017/18: MONTH 2

- 10.1 The Committee considered a report of the Executive Director for Finance & Resources in relation to Targeted Budget Management (TBM) 2017/18 Month 2. The report set out an early indication of forecast risks as at Month 2 on the council's revenue and capital budgets for the financial year 2017/18.
- 10.2 Councillor Sykes noted the significant potential overspends for legal support services and enquired what impact that may have upon the Orbis Partnership.
- 10.3 The Executive Director, Finance & Resources stated that this related to increased demand on legal services associated with child safeguarding. It was a part of a wider issue that would need to be returned to during the budget process relating to increase demand related pressures on central services that had reached tipping point. The Executive Director, Strategy, Governance & Law clarified that Orbis was not yet an

integrated service and supplemented that the increase in demand for legal services was a national trend.

10.4 Councillor Janio asked what the variance of the final outturn position could be predicted to be based on previous years' experience.

10.5 The Executive Director, Finance & Resources explained that in previous years, TBM Month 2 had forecast a larger outturn and higher overspend than the eventual result. In previous years, there had been a need for the finance team to intervene and implement service recovery plans where an overspend had been forecast. The above had meant historically, the forecast had gradually reduced through the year. The Executive Director, Finance & Resources explained that based on historical evidence and new approaches such as clearly identifying expected service pressures through the budget process, he would expect the forecast to similarly decrease through this financial year.

10.6 Councillor Hamilton noted that the TBM forecast table on page 34 of the addendum clearly demonstrated that monthly forecast variances had decreased toward year end in each of the past three years. Furthermore, £14.2 million had been set aside for service pressures in this financial year, something that had not been possible in the previous year.

10.7 On behalf of the Labour Group, Councillor Hamilton moved a motion to add a recommendation 2.11 and 2.12 as shown in bold italics below:

2.11 That the Committee agree that £100,000 is committed to the Madeira Terrace crowdfunding campaign from the i360 reserve, subject to the crowdfunding target being achieved; and

2.12 That in addition to the funding set out at 2.11 above, the Committee agree to earmark a further £1m from the i360 reserve to support the regeneration and refurbishment of Madeira Terrace, subject to the approval of a business case by Policy, Resources & Growth Committee.

10.8 Introducing the motion, Councillor Hamilton provided an apology that the recommendations had been omitted from the report stating that they should have been included in the allocation of 2016/17 outturn underspend. Councillor Hamilton noted that crowdfunding campaign had been identified at the previous committee as one of the methods in driving investment in Madeira Terrace. The second amendment was a commit to the residents of Brighton & Hove that action to refurbish and restore Madeira Terrace was being actioned and the investment would be subject to a business case being approved by the committee.

10.9 Councillor Mitchell formally seconded the motion.

10.10 Councillor Wealls expressed his concern that the motion had been received by the committee an hour and a half before the meeting. Furthermore, his group intended to move a motion to amend the recommendations on the back of the motion put forward by the Labour Group.

- 10.11 Councillor Mitchell countered that their motion had been emailed to the Leader of the Conservative Group the day before the meeting.
- 10.12 Councillor Wealls noted that the motion set out £1.1 million of funding and he did not believe an email to the Leader of his Group, which had not found its way to the other committee members, was a sufficient way to make decisions. Councillor Wealls added that in that context, his group would also be tabling a motion to amend to the recommendations
- 10.13 The Chair requested legal clarification on the procedural rules on tabling a motion.
- 10.14 The Executive Lead, Strategy Governance & Law clarified that the Constitution set a deadline of 10am on the day of the meeting for the submission of motions to amend the recommendations. If that deadline was not met, it was the discretion of the Chair whether to accept the amendment or not.
- 10.15 The Chair stated that sufficient time had been provided for submission of the amendment and therefore he would not use his discretion to accept the motion.
- 10.16 Councillor Peltzer Dunn asked for clarification as to what time the Labour Group motion proposed by Councillor Hamilton had been circulated to the committee.
- 10.17 The Executive Lead, Strategy Governance & Law confirmed that all motions relating to Item 10 with the exception of the motion tabled by Councillor Wealls had been received and accepted before the 10am deadline.
- 10.18 Councillor Peltzer Dunn asked what time the Labour Group motion had been circulated in print to the members of the committee.
- 10.19 The Democratic Services Officer confirmed that the all motions received by the 10am deadline had been circulated to committee members in print at approximately 2.45pm on the day of the meeting. Furthermore, all the motions had been published on the council website and emailed to committee members at approximately 12.45pm that day.
- 10.20 Councillor Peltzer Dunn stated that he did not believe the Labour Group motion had been circulated in sufficient time for Members to consider.
- 10.21 On behalf of the Conservative Group, Councillor Janio moved a motion to amend recommendation 2.7 and add an additional recommendation 2.7.1 as shown in bold italics below:
- 2.7 That the Committee ~~approve the allocation of the available~~ **notes the** 2016/17 outturn underspend as set out in paragraph 3.26 **and, in light of the projected 2017/18 overspend outlined in 2.1, agrees that the money be held in reserve until such time as the Council's overall financial position becomes clearer later in the year, subject to 2.7.1 below.**
- 2.7.1 That the following items be funded from the net capital receipt surplus of £7.5 million identified in paragraph 3.69 of item 9 on this agenda:**
- **Shoreham Memorial contribution**

- **Saltdean Lido loan**
- **Madeira Terraces project costs**
- **Parks and playgrounds improvements**

10.22 Introducing the amendment, Councillor Janio explained that he strongly believed in responsible financial management. Councillor Janio stated that the underspend from the previous year should have been discussed with the opposition groups as a mini budget round and agreed by all members of the Council. Councillor Janio noted that the outcomes of the recent LGA Peer Review were currently confidential. However, there appeared in the motion an attempt to address the outcomes before a wider discussion had taken place. Councillor Janio stated that the end of year financial position was unknown and therefore, the motion would, with the exception of important, specific issues, hold the underspend in reserve until the end year result was known

10.23 Councillor Wealls formally seconded the motion.

10.24 The Chair stated the underspend had been discussed by the three group leaders and he had spoken directly with Councillor Janio at the recently held Urgency Sub-Committee.

10.25 On behalf of the Green, Councillor Sykes moved a motion to amend recommendation 2.7 with the insertion of the words ***“the revised”*** in the second line as shown in bold italics below and to amend paragraph 3.26 and the table that appeared in the report with the deletion of text as struck through and the insertion of wording in bold italics as shown below:

2.7 That the Committee approve the allocation of the available 2016/17 outturn underspend as set out in ***the revised*** paragraph 0.

Amended paragraph 3.26 of the report:

3.26 The allocation of the available one-off 2016/17 outturn underspend resources of £0.642m is proposed as follows ~~set out in the table below:~~

Theme	Item	Sum £'000	Reason for proposal
Supported LGA Peer Review draft report	Ward Member Community Budget Scheme	270 60	To set aside resources to support a new scheme in 2017/18 (providing £5,000 per ward member) subject to approval of the scheme's detailed principles by this Committee in October. Future ongoing funding for the scheme will be considered as part of the annual budget setting process however it is intended that this will be recurrent. <i>To provide a pilot scheme including part-year administrative costs, to be centrally held, and to be bid from by Members up to £2,000 on a first come first served basis, encouraging a seed-funding model.</i>
	Ward Member Community Budget Scheme set-	25	Initial set-up costs of £15,000 and ongoing administration costs of £10,000 per annum.

	up and admin costs		
Budget council proposal	Third Sector Investment Programme	208	As originally proposed in Green amendments at the 23 February 2017 Budget Council. This one-off and future ongoing funding for this area will be considered as part of the annual budget setting process and it is intended that this will be recurrent.
Agreed at Leaders Group	Shoreham Memorial Contribution	15	To approve BHCC's contribution towards design and feasibility for the Shoreham Air crash memorial.
	Saltdean Lido Loan	30	To reflect the decision made under urgency powers as per paragraph 6.3 of this report
Responses to changing circumstances	Trade Union Facility Time	50	To defer the approved 2017/18 budget saving subject to further review and negotiation. This is due to increased current demands on Trade Union support for complex staffing changes including the outsourcing of a range of Learning Disability Services, the transfer of Royal Pavilion services to a Trust, re-structures relating to the Orbis partnership with Surrey and East Sussex county councils, and the potential increased integration of health and adult social care services.
	Safeguarding	20	To respond to an Internal Audit review of building and access controls and specifically a recommendation relating to staff who require access to the homes of residents.
Priority Items	Weekend park manager and grass-cutting	50 + 27 = 77	Funding for Park Manager cover at weekends (and busier weekday evenings) at busier parks in response to growing anti-social behaviour concerns in some of the busiest city parks, most notably The Level. Additional summer grass cutting: the service is currently struggling to keep up with grass cutting across the city and it is proposed to emulate the model used for the seafront and beach where additional, temporary staff are recruited. For the future, these changes will be reviewed to inform the annual budget setting process.
	Madeira Terraces project costs	80	Project funding to continue the next stage of plans to restore and refurbish the Madeira Terraces including the establishment of a Crowdfunding campaign and the preparation of future bids for grant funding to support the project as required.
	Parks & Playgrounds	102	Improvements for parks and playgrounds including inter alia paving, seating, general environment e.g. planting, play equipment etc. as identified and subject to the funding available.
Total		642	

- 10.26 Introducing the amendment, Councillor Sykes stated that whilst a ward member community budget scheme may have its merits, it should be a pilot scheme and therefore begin at a reduced budget until a judgement could be made on its success or otherwise. Furthermore, Councillor Sykes stated that his group had disagreed with many of the decisions made at Budget Council in February 2017 and the current underspend position should be used to redress some of those decisions, specifically the Third Sector Investment Programme.
- 10.27 Councillor Mac Cafferty formally seconded the motion.
- 10.28 Councillor Mitchell welcomed the reported that demonstrated good financial management and the fact that the committee were discussing allocation of an underspend should be a position welcomed by the opposition groups. Councillor Mitchell noted that LGA Reviews consistently assessed the role of ward councillors and the support they received and introducing a ward member community budget was an attempt to respond to that. Councillor Mitchell added that the other items proposed demonstrated a responsive attitude to address need and demand where that occurred. One such issue was increased seasonal grass cutting and further staff in the cities busy parks. Councillor Mitchell relayed that she would be support the Green Group motion in full. In relation to the Third Sector, Councillor Mitchell noted that in the autumn, thousands of residents would be affected by the introduction of universal credit and although contingency funding had been identified in the council's budget, she would encourage the third sector to mitigate those particular measures wherever possible.
- 10.29 In reference to the proposed motion that had not been accepted, Councillor Wealls stated that this would have sought to amend the proposals for Madeira Terrace and for the committee to receive a business plan before allocating funding on the basis that the funding levels required were unknown until a business plan had been undertaken. Councillor Wealls noted that there was still a great deal of uncertainty about the delivery of the savings plan and with an overspend forecast, it was not correct to allocate the underspend. Councillor Wealls stated that there had not been a reasonable consultation process between the political groups ahead of the committee and on the decisions to be made. Councillor Wealls noted that ward member community budgets had not been discussed or reported to the Neighbourhoods, Inclusion, Communities & Equalities Committee as portfolio holder and he could not understand how the figure of £5,000 per Member had been reached. Furthermore, Councillor Wealls queried the intention behind deferring the 2017/18 budget saving relating to Trade Union facility time. Councillor Wealls expressed his belief that the administration had acted entirely inappropriately and the correct action for the committee to undertake was to adhere to the commitments made and review the financial position later in the year.
- 10.30 In relation to Madeira Terraces, the Chair explained that the council had received legitimate lobbying and complaints from residents to halt and reverse the decline and neglect of the Terraces. In response, the council had pledged to come forward with a solution. The previous meeting of the committee had agreed a strategy for Madeira Terrace and one of those options was to initiate crowdfunding. The £1 million of funding identified was subject to a business case coming before and agreed by the committee and no extra money would be spent before then. The Chair added that Heritage England viewed such initiatives and commitments favourably and that could bring further benefits.

- 10.31 Councillor Sykes thanked the Chair for providing further clarification on the financial commitments made regarding Madeira Terraces that had provided him with assurance. Councillor Sykes stated that given the historical budget trajectory from TBM Month 2 to the outturn position, it was appropriate to address budget cuts where that could be done and therefore, he would not be supporting the Conservative Group motion.
- 10.32 In relation to Madeira Terraces, the Executive Director, Economy, Environment & Culture explained that the aim of the crowdfunding campaign was to raise sufficient resource to allow for the first few arches to be restored and that had a specific target of £400,000. In committing the first £100,000, the council would be signalling their support and the investment would only be spent if the target was reached. Furthermore, there was evidence to show that public funding bodies looked favourably upon crowdfunding campaigns when considering bids as it demonstrated a positive public response to the project.
- 10.33 Councillor Yates stated that it was entirely reasonable to place a figure upon potential investment as it would provide a clear demonstration of commitment to the regeneration of Madeira Terrace and would be subject to the agreement of a business case defining the precise figure necessary.
- 10.34 Councillor Janio expressed his disappointment that the details of a private conversation had been brought up in a public meeting by the Chair. Councillor Janio stated that the approach of the administration with regard to governance processes for the committee meeting had been very flawed. Councillor Janio noted his confusion in that the committee report identified £80,000 of funding to Madeira Terraces and the Labour Group motion identified an additional £100,000 and he could not distinguish whether the final commitment was £100,000 or £180,000. Councillor Janio stated that it was unreasonable and irresponsible to discuss such a level of investment at such short notice.
- 10.35 The Executive Director, Economy, Environment & Culture clarified that the £80,000 figure identified at paragraph 3.26 of the report was for project funding for the entirety of the Madeira Terraces project. The Madeira Terraces was a long-term, capital regeneration project and the necessary support was required to deliver it.
- 10.36 Councillor Bell stated that committees were often given insufficient time to make decisions that often requested significant resource and as an opposition member of the council; he did not feel he was being provided a full picture of information.
- 10.37 The Chair then put the Labour Group motion to the vote which was carried.
- 10.38 The Chair then put the Conservative Group motion to the vote which failed.
- 10.39 The Chair then put the Green Group motion to the vote which was carried.
- 10.40 The Chair then put the recommendations as amended, to the vote which was carried.
- 10.41 **RESOVLED-**

- 1) That the Committee note the forecast risk position for the General Fund, which indicates a budget pressure of £1.375m. This includes a break-even position on the council's share of the NHS managed Section 75 services;
- 2) That the Committee note that total recurrent and one-off risk provisions of £1.500m are available to mitigate the forecast risk if the risks cannot be completely eliminated by year-end;
- 3) That the Committee note the forecast for the Housing Revenue Account (HRA), which is currently a break-even position;
- 4) That the Committee note the forecast risk position for the Dedicated Schools Grant which is an overspend of £0.242m;
- 5) That the Committee note the forecast outturn position on the capital programme and approve the variations and slippage in Appendix 4 and the new schemes as set out in Appendix 5;
- 6) That the Committee approve a virement within the ring-fenced HRA transferring £0.750m from the revenue repairs and gas services budgets to investment in the HRA capital programme (paragraph 3.11);
- 7) That the Committee approve the allocation of the available 2016/17 outturn underspend as set out in the revised paragraph 0;
- 8) That the Committee approve the allocation of the additional £0.250m Concessionary Fares saving as set out in paragraph 3.27.
- 9) That the Committee approve a virement allocating Improved Better Care Funding of £4.643m to Health & Adult Social Care and £0.450m to Families, Children & Learning (see Adult Social Care section of Appendix 2)
- 10) That the Committee note that the Chief Executive exercised urgency powers in accordance with the constitution, after consultation with the Chair of this Committee, to provide £0.030m of short term loan financing to the Saltdean Lido Community Interest Company (paragraph 6.3).
- 11) That the Committee agree that £100,000 is committed to the Madeira Terrace crowdfunding campaign from the i360 reserve, subject to the crowdfunding target being achieved; and
- 12) That in addition to the funding set out at 2.11 above, the Committee agree to earmark a further £1m from the i360 reserve to support the regeneration and refurbishment of Madeira Terrace, subject to the approval of a business case by Policy, Resources & Growth Committee.

11 HEALTH & SOCIAL CARE INTEGRATION

- 11.1 The Committee considered a report of the Executive Director, Health & Adult Social Care that set out the proposed shared commissioning arrangements between the council and Clinical Commissioning Group (CCG).

- 11.2 Councillor Yates stated that the proposals could be taken out of a national policy context and be seen as something that should be undertaken in a local context as the social care and health care systems should be closely conjoined. Councillor Yates stated that integration should take place slowly and sensible steps made forward. Councillor Yates conveyed that the public engagement sessions on this stage of integration had been very comprehensive, genuine and well received.
- 11.3 On behalf of the Green Group, Councillor Sykes moved a motion to amend recommendation 2.1 as shown in bold italics below:
- 2.1 That Policy, Resources & Growth Committee note the report and;
- ~~Agree the principle of further integration between the CCG and Council and the local direction of travel towards a new model of city-wide health and social care.~~
 - Authorise officers to work with CCG colleagues and other NHS Providers in order to bring detailed proposals to the Policy Resources and Growth Committee in October 2017.
 - ~~Note the direction of national policy.~~ ***Express concern about funding gaps in drafts STPs and authorise officers to raise this in relevant fora***
- 11.4 Councillor Mac Cafferty formally seconded the motion.
- 11.5 Introducing the amendment, Councillor Sykes stated that he was unclear as to the purpose of the report. Councillor Sykes noted that the committee had received a report in September 2016 that was much clearer on the next steps in health and social care integration and timescales. Councillor Sykes added that the recommendations in this report were vague and did not necessarily keep in context of what had been previously agreed. Councillor Sykes noted his concern that there was no specific mention of Sustainable Transformation Plans (STP's) in the report although it was implicitly referenced.
- 11.6 Councillor Mac Cafferty stated that more evidence was needed on the need for change. Councillor Mc Cafferty noted a paper produced by the National Audit Office in February 2017 entitled '*Health & Social Care Integration*'. Councillor Mc Cafferty relayed that the paper was damning of health and social care integration and cast extensive doubt on outcomes for patients and the scope for integration process to realise savings. Councillor Mac Cafferty stated that he had great concern for the impact of STP's and integration for residents and that the likely funding gap would affect those most vulnerable.
- 11.7 Councillor Bell stated he agreed with the comments made by Councillor Yates. Councillor Bell stated closer integration was something that needed to be done and encouraged. Councillor Bell added that the additional funding from central government was welcome and the position of funding was still uncertain.

11.8 The Chair then put the Green Group motion to the vote that failed.

11.9 The Chair put the recommendations to the vote that passed.

11.10 **RESOLVED-**

- 1) That Policy, Resources & Growth Committee note the report and;
 - Agree the principle of further integration between the CCG and Council and the local direction of travel towards a new model of city-wide health and social care.
 - Authorise officers to work with CCG colleagues and other NHS Providers in order to bring detailed proposals to the Policy Resources and Growth Committee in October 2017.
 - Note the direction of national policy.

12 ANNUAL PROGRESS UPDATE CORPORATE KEY PERFORMANCE INDICATORS 2016-17

12.1 The Committee considered a report of the Chief Executive that set out the year-end 2016/17 performance progress in relation to Corporate Key Performance Indicators (KPI's).

12.2 Councillor Sykes noted his concern that the number of KPI's classified as red had increased since July 2014 and the customer satisfaction rate with the performance of the council was lower than the national average. Councillor Sykes expressed concern that the Staff Survey question relating to bullying and harassment had been changed significantly with the phrasing much more likely to receive a positive response. Furthermore, Councillor Sykes noted that there were a number of red indicators that were of particular worry including fuel poverty, levels of violent crime, air quality and the number of children with Child Protection Plans and Children in Care.

12.3 Councillor Wealls noted that it would be beneficial for the data on Planning performance to be separated out to highlight where planning applications had been subject to extensions and show the length of time taken to determine an application from submission to determination. Councillor Wealls stated that he believed that the KPI for average Progress 8 score should be increased as the target was under ambitious had had been exceeded in actual performance. Councillor Wealls expressed his disappointment not only that the KPI target for average Progress 8 score for disadvantaged children was -0.31 but actual performance was below that target at -0.44. Councillor Wealls stated that there was a lack of clarity about who owned targets and he would welcome Member input into target setting.

12.4 The Executive Director, Economy, Environment & Culture confirmed that Planning performance and data on use of extension data could be provided.

12.5 In relation to the question raised on Progress 8, the Executive Director, Families, Children & Learning clarified that there were significant changes to the assessment regime for GCSE's and there was still some uncertainty about what those changes

would mean in terms of outcomes. KPI's would be something looked at carefully once results for this year were announced.

- 12.6 In relation to the questions raised on ownership and accountability, the Executive Lead, Strategy, Governance & Law clarified that a change would be made to the system whereby indicators and associated targets would be agreed by the committee as detailed in Item 12 of the agenda. The Head of Performance Improvement & Programmes added that the setting of targets was much more rigorous and in some instances, as detailed at paragraph 4.7 of the report, the target was stretched beyond that of comparator authorities that occasionally led to more red and amber rated KPI's and that as the indicator set for 2016-17 has been different to the previous years, it was difficult to make direct comparison on the overall proportion of the RAG ratings.
- 12.7 **RESOLVED-** To review progress in relation to Corporate KPIs particularly corrective measures outlined for 'red' and 'amber' indicators and provide ongoing support and challenge to lead officers to bring performance back on track.

13 KEY PERFORMANCE INDICATORS TARGET SETTING 2017-18

- 13.1 The Committee considered a report of the Chief Executive that set out draft Corporate Key Performance Indicator targets and associated rationales for the 2017/18 year.
- 13.2 Councillor Sykes noted that a number of important KPI's were proposed to be removed for 2017/18 and enquired as to the process in removing those indicators.
- 13.3 The Head of Performance Improvement & Programmes clarified that each directorate determined their KPI's with an emphasis on managing fewer KPI's but managing them well and that as an example a KPI would be removed if there was duplication in reporting through other means such as capital receipts through the regular Targeted Budget Management reports.
- 13.4 **RESOLVED-**
1. To review and approve the Corporate KPI set and associated targets proposed by Leadership Board as set out in Appendix 2
 2. To note that target figures may change during the year if new benchmarking figures become available. PR&G approval will be sought if there is a proposal from Directorates to change the rationale for particular targets.

14 PROGRESS REPORT ON THE WORKFORCE EQUALITIES ACTION PLAN

- 14.1 The Committee considered a report of the Executive Director, Finance & Resources that provided an update on how the council is performing against its Workforce Equalities Action Plan.
- 14.2 Councillor Mitchell welcomed the report noting that slow but steady progress was being made. Councillor Mitchell stated that she was pleased to see an increase in applications

and noted that realistic ambitions were set out in the 5 year plan. Councillor Mitchell stated that she hoped a further report could be received by the committee in the not too distant future.

14.3 **RESOLVED-**

- 1) That the Committee note the progress made during Year 4 of the Workforce Equalities Action Plan as summarised in paragraphs 3.7-3.28.
- 2) That the Committee approve the areas of focus of the work programme under the Action Plan for the year.

15 **POLICY REVIEW PANEL OUTCOMES - URBAN & RURAL ESTATE**

- 15.1 The Committee considered a report of the Executive Director, Economy, Environment & Culture that outlined the key findings and recommendations of the Policy Review Panel established in February 2017 to review policy, governance and strategy relating to managing the council's urban and rural estates.
- 15.2 Councillor Mitchell welcomed the report as a very good and thorough piece of work and commended the Panel's findings. Councillor Mitchell stated the Panel was a worthwhile exercise for increasing Members understanding, specifically in relation to the balance between best value and the wider social and environmental considerations. Councillor Mitchell thanked officers for establishing a Panel at short notice and for identifying experts in the field and arranging for them to attend meetings of the Panel. Councillor Mitchell also thanked Councillors Janio and Sykes for their valuable involvement and the report provided a sound basis for newly established Asset Management Property Board (AMPB) to take the Panel's work further.
- 15.3 Councillor Sykes stated that it had been a privilege to hear from experts in downland estate and rural management. Councillor Sykes stated that he did not believe the report reflected the richness of the debate and discussion of the Panel with its emphasis on land as a financial asset and did not establish the benefit of public ownership of the freehold of the land. Councillor Sykes surmised that the report was a misinterpretation of the Panel's discussion and he would be abstaining in the vote.
- 15.4 Councillor Janio welcomed the findings of the report and noted the benefit for Members and officers of political oversight of decisions.
- 15.5 Councillor Peltzer Dunn congratulated the Panel for an extensive and very detailed report. Councillor Peltzer Dunn noted that the recommended Terms of Reference for the AMPB set out a two working day timeframe for distribution of agendas. Councillor Peltzer Dunn found this to be too short a timeframe and that it should be extended to five working days.
- 15.6 The Committee agreed to extend the deadline for circulation of agendas to five working days ahead of the meeting.
- 15.7 **RESOLVED-** That Policy Resource & Growth Committee:-

- 1) Notes and approves the Policy Review Panel's report (Appendix 1) and their recommendations (section 4 of Appendix 1).
- 2) Approves the proposal and draft Terms of Reference to establish a cross party Asset Management Board as set out at paragraph 4.4 and Appendix 3.
- 3) Authorises the Council's Monitoring Officer to update the Council's constitution to incorporate the new Board.
- 4) Notes that the Asset Management Board will provide regular updates on progress and report to this Committee.
- 5) Agrees to review the operation of the Asset Management Board after a period of 12 months (or earlier if considered appropriate).

16 NEW HOMES FOR NEIGHBOURHOODS MODULAR PILOT - Y:CUBE PROPOSAL

16.1 **RESOLVED-** That Policy, Resources and Growth Committee take note and approve the recommendations as set out below, as recommended for approval by Housing and New Homes Committee:

- 1) That the land at Eastergate Road, Brighton as identified in the plan at Appendix 1 be made available for leasing for the development of affordable rented housing.
- 2) That there be delegated authority to the Executive Directors for Economy, Environment & Culture, Finance and Resources and Neighbourhoods, Communities & Housing (in consultation with each other) to enter into the necessary contracts with YMCA DownsLink Group to lease the largely cleared council housing garage site at Eastergate Road, Brighton in order to secure the building of modular Y:Cube homes for affordable rent by the YMCA. The granting of the lease is subject to YMCA DownsLink Group obtaining planning consent, funding and entering into a nominations agreement with the council.

17 NEW HOMES FOR NEIGHBOURHOODS – SCHEME AND APPROPRIATION APPROVAL - LYNCHET CLOSE

- 17.1 The Committee considered a report of the Executive Director, Economy, Environment and Culture which included the findings of the business case for eight new council homes for rent at a primarily HRA owned, grassed site at Lynchet Close, Hollingdean and sought scheme and budget approval to develop them and requested approval to appropriate a small strip of land from the council's Environmental Services department to the HRA in order to let the development proceed. The report had been referred from the Housing & New Homes Committee recommended for approval.
- 17.2 Councillor Sykes enquired as to nil valuation of the strip of land situated alongside the site.
- 17.3 The Project Manager clarified that this was a small, oddly shaped piece of land that was unlikely to be put to any other purpose and therefore had nil value.

- 17.4 On behalf of the Conservative Group, Councillor Bell moved a motion to add a recommendation 2.2 as shown in bold italics below:
- 2.2 That Policy, Resources & Growth Committee instructs the Executive Director, Finance & Resources to carry out a thorough audit and value for money exercise into the base build costs of the Council's house building programme with the results to be reported to the Audit & Standards Committee and any recommendations therein referred to the Housing & New Homes Committee as soon as possible***
- 17.5 Introducing the motion, Councillor Bell explained that there had been several meetings on the issue that had failed to provide a breakdown of costs and had not provided sufficient detail that had facilitated uncertainty. Councillor Bell noted that there was a build cost of sixty years matched against a budget cost of forty years that had also prompted uncertainty. Councillor Bell surmised that the motion was an attempt to ensure a thorough audit and value for money exercise was conducted for the entirety of the council's house building programme.
- 17.6 Councillor Janio formally seconded the motion.
- 17.7 Councillor Yates asked for clarification on the motion as it did not identify where the cost of conducting an audit would be found.
- 17.8 The Executive Director, Finance & Resources answered that extra work was not currently budgeted for so would be charged against the overall HRA programme cost.
- 17.9 Councillor Yates enquired as to whether the extra work and increased cost of the programme would therefore lead to an increase in rents.
- 17.10 The Executive Director, Finance & Resources stated that the extra work would require the appointment of an external audit firm to ensure it was an independent review. The extra cost would reduce the HRA surplus or lead to an increase in service charges.
- 17.11 Councillor Sykes noted that the programme had used independent cost consultants and that was something the council was now doing widely as a developer. Councillor Sykes added that he had been sufficiently assured by the detail of the report and so would not be supporting the motion as it would likely lead to a duplication of work and was not a sensible use of money.
- 17.12 Councillor Janio stated that the intention of the motion was to give clarity on consistent, reliable build costs for the council as a developer.
- 17.13 The Chair asked whether that all projects under the New Homes for Neighbourhoods scheme were externally costed and audited.
- 17.14 The Executive Director, Economy, Environment and Culture answered that the council used independent quantity surveying consultants to scrutinise costs throughout the design and development process and they had a duty of care to the council in doing so. The Executive Director, Economy, Environment and Culture added that at the end of the project, the consultants would provide a best value review to confirm that the council

had achieved value for money. The Executive Director, Economy, Environment and Culture noted that the estimated costs compared favourably with the closest comparator costs for builds of the kind. The Executive Director, Economy, Environment and Culture noted that there had been an internal audit review of the New Homes for Neighbourhoods programme that gave substantial assurance that each project delivered value for money, excellent project management was in place and each had comprehensive budget management arrangements.

- 17.15 Councillor Bell stated that he had found it very difficult to obtain financial information of any assurance on the project. Councillor Bell stated that he could not understand why the council did not engage architects and engineers on fixed-term contracts and only engaged an open ended book. Councillor Bell stated that the intention of the motion was to review processes.
- 17.16 The Executive Director, Economy, Environment and Culture stated that it was usual practice to provide estimated costs rather than actual cost at this stage in the project process. Then, as with any capital project, there would be further reports on any variations. Furthermore, there was a cross-party Board who would be reviewing the project as it progressed and there would be a report on costs to the Housing & New Homes Committee as well as a dedicated workshop for all Members.
- 17.17 Councillor Janio stated that he had been comprehensively assured by the update and therefore, the motion would be withdrawn.
- 17.18 **RESOLVED-** That Policy, Resources and Growth Committee note and approve the recommendations as set out below, as recommended for approval by Housing and New Homes Committee:
- i. Approve that the Environmental Services land marked with hatching in Appendix 1 be appropriated to the Housing Revenue Account for a nil capital receipt for planning purposes to enable the whole vacant Lynchet Close site to be developed for new council housing;
 - ii. Approve a budget of £2.532m for the Lynchet Close scheme in the HRA Capital Programme which will be financed through a mixture of HRA borrowing and retained Right to Buy capital receipts.

Note: The meeting was adjourned at 6:15pm and reconvened at 6:28pm

18 PROPOSAL FOR A NEW GP SURGERY AT 62/63 OLD STEINE AND 3 PALACE PLACE

- 18.1 The Committee considered a report of the Executive Director, Finance & Resources that relayed the agreement for the grant of a new 20 year lease for 62/63 Old Steine and 3 Palace Pier to the GP's from Ardingly Court Surgery at market rent and sought agreement for the council to borrow approximately £0.850million to add to the £0.813 million funds from the NHS England's Estates and Technology Transformation Fund (ETTF) for the development and fit out of the new GP surgery.

18.2 Councillor Sykes noted that for 7,5,00 sq ft of floor space, the council should be expecting £105,000 rental income per annum and asked if that was the case and whether there would be uplift under the new arrangement.

18.3 The Senior Estates Surveyor confirmed that was approximately the current rental income and there would be 20% uplift under the new arrangement.

18.4 **RESOLVED-**

- 1) That, subject to final agreement with the NHS and GP Surgery, the Committee notes the grant of a new 20 year Lease at market rent of 62/63 Old Steine and 3 Palace Place to Ardingly Court Surgery for use as a GP Surgery under officer delegations.
- 2) That the Committee agrees to provide an estimated £0.850million investment, funded through borrowing, to be added to the £0.813 million of ETTF grant funding to enable the redevelopment of the property for the delivery of modern fit for purposes GP facilities.
- 3) That the committee agrees to add the total scheme costs of £1.663 million to the council's capital investment programme with the financing costs of the borrowing recovered from the NHS CCG over the 20 year lease.
- 4) That committee delegates authority to the Executive Director Economy, Environment & Culture following consultation with the Assistant Director Property & Design and Head of Legal Services to approve terms.

19 **39-41 WHITEHAWK WAY**

19.1 **RESOLVED-** That the Committee authorises the disposal of the subject properties to SHA by way of long leasehold (option 4) and that delegated powers be given to the Executive Director of Economy, Environment & Culture, Assistant Director Property & Design and Head of Legal Services to approve terms.

20 **DISPOSAL OF FLAT 2 ST JAMES MANSIONS, BRIGHTON**

23.1 **RESOLVED-** That the Committee authorises the disposal by way of long leasehold of Flat 2 St James Mansions and that delegated powers be given to the Executive Director of Economy, Environment & Culture, Assistant Director Property & Design and Head of Legal Services to approve terms

21 **COURT FARM SURRENDER**

21.1 The Committee considered a report of the Executive Director, Economy, Environment & Culture that sought authorisation for surrender of the major part of the existing Agricultural Holding Act (AHA) tenancy of Court Farm for authorisation of the letting of the land surrendered by way of two Farm Business Tenancies (FBT).

- 21.2 Councillor Sykes stated that whilst he welcomed the report, he had concerns that commercialisation of the remaining land under AHA tenancy may occur, specifically that it may be developed for overflow parking from the AMEX Stadium and whether there was opportunity under the new tenancies for the council to have some influence of the use of the land for social and ecological ends.
- 21.3 The council's agent from Savill's explained that in relation to use of the remaining land, no agreement had been made on its use and any alteration from agricultural use would need to be agreed by the council and planning consent obtained from the South Downs National Park Authority (SDNPA).
- 21.4 **RESOLVED-** That the Committee:
- 1) Authorise the surrender of the Agricultural Holdings Act Tenancy on the terms proposed at paragraph 3.3.
 - 2) Authorise the letting of the land surrendered by way of 2 Farm Business Tenancies to existing council farm tenants, of adjacent farms, terms to be approved by the Assistant Director Property & Design in consultation with the Executive Director of Economy, Environment & Culture.

22 BARTHOLOMEW SQUARE, MOSHIMO LEASE ALTERATION AND SKYLIGHT DEVELOPMENT PROPOSAL

- 22.1 The Committee considered a report of the Executive Director, Economy, Environment & Culture that requested approval of the proposed extension of the lease demise for the ground floor Moshimo restaurant that would enable the implementation of planning permission already granted under reference BH2016/03008. The report also requested approval of terms for the proposed Skylight extension; for a lease of the airspace of Bartholomew Square and roof space at Bartholomew House to enable the development of a new restaurant as proposed under the consented planning permission BH2016/03008.
- 22.2 Councillor Peltzer Dunn noted that professional advice and been sought on the proposal and rejected although the report did detail the grounds for that rejection. Referring to paragraph 3.9 of the report, Councillor Peltzer Dunn stated that it was unclear precisely how many jobs would be created during and after the construction, and that whilst the council would generate an increased business rate income, that would also mean a higher level of compensation should the council choose to re-acquire the site. Councillor Peltzer Dunn noted that Bartholomew Square was occupied by ordinary modern buildings that typically had a limited life and therefore, if the council decided to undertake redevelopment of the site, it would be hamstrung by the Moshimo development, should it go ahead. Councillor Peltzer Dunn stated that he believed paragraph 3.5 to be a fair assessment and he was surprised that expert advice had been rejected. Councillor Peltzer Dunn added that there was an inconsistency in the council's approach when compared to Item 25 of the meeting's agenda. Councillor Peltzer Dunn asked whether an expected capital value was asked for on the site. Councillor Peltzer Dunn surmised that he believed that Option 1 was not sensible, Option 3 left the council hamstrung and therefore, Option 2 was the reasonable course.

- 22.3 The Executive Director, Economy, Environment & Culture provided reassurance the officers had not gone against the professional advice obtained and they had been included throughout the negotiations. The professional advice on purely commercial terms was that the council may not want to lease the roof space at Bartholomew House. However, further advice had been given as outlined in the Part Two report on the wider benefits to the city, the council's role in the city as asset owners and wider social and economic objectives and terms that might reflect that.
- 22.4 The Senior Estates Surveyor clarified that advice had not been sought on the developments impact on the council's existing interests Bartholomew Square as that would be a very broad exercise and it would be difficult to assign value.
- 22.5 Councillor Bell stated that he was initially encouraged by the development however; he had increasing concerns about the liability to the council in terms of fire safety and fire escapes and security. Councillor Bell added that he did not see anything in the report in terms of cost-recovery for the increased measures the council would have to undertake. Councillor Bell noted his concern that the council would be liable to pay compensation of twice the rateable value if it wished to receive the site back at the end of the lease and the restriction the development would place on the opportunity to redevelop Bartholomew Square.
- 22.6 The Senior Estates Surveyor clarified that the additional costs accrued by the council in relation to the development, specifically fire safety plans and additional security would be met by the tenant. In addition, agreement had been made that the tenants would provide contribution to the repair and upkeep of Bartholomew House. On the issue of compensation at the end of the lease, this was a statutory obligation afforded to businesses under the Landlord & Tenant Act.
- 22.7 Councillor Wealls asked for clarification on whether the recommendations were steered by the administration or was an assessment and proposal put forward by officers adding that he would be interested to hear the view of the administration on the development proposal.
- 22.8 The Executive Lead, Strategy Governance & Law clarified that the protocol for reports was that the recommendations were consulted with Lead Members but ultimately, the report and recommendations therein were in the name of and put forward by, the relevant Executive Director.
- 22.9 Councillor Yates stated that the council had to consider the wider economic, regeneration and tourism benefits to the development and not commercial interest alone. Councillor Yates added that the proposals put forward were reached by balancing a number of factors with consideration of the medium term outlook for Bartholomew Square. Councillor Yates stated that overall, the proposals provided social, economic and tourism opportunities and made best use of the current space.
- 22.10 Councillor Peltzer Dunn asked for clarification that the terms negotiated were in accordance with Section 123 of the Local Government Act 1972.
- 22.11 The Executive Director, Economy, Environment & Culture confirmed that was the case and that was set out in paragraph 3.2 of the Part Two report.

22.12 Councillor Peltzer Dunn stated that in his view, an agent demonstrating prudent commercial property management would not have rejected the initial advice and there appeared an attempt to justify the scheme on other grounds. Councillor Peltzer Dunn stated that there may be short-term benefits to the development but this consideration was outweighed by the significant long-term financial risk to the council and he would not be supporting the proposals.

22.13 **RESOLVED-** That Committee:

- 1) Approves the grant of a new lease for the skylight extension including use of roof space at Bartholomew House. In principle terms are summarised in Part 2 of this report.
- 2) Approves the extension of the ground floor demise of the existing restaurant by way of a lease surrender and re-grant, to enable the expansion of the existing restaurant. In principle terms are summarised in Part 2 of this report.
- 3) Delegates authority to the Executive Director of Economy, Environment & Culture, Assistant Director Property & Design and Head of Legal Services to approve detailed lease terms.

23 HOUSING MANAGEMENT SYSTEM PROCUREMENT

23.1 **RESOLVED-** That the Policy, Resources & Growth Committee agree that:

- 1) The Executive Director Neighbourhoods, Communities & Housing is granted delegated authority to:
 - (i) Carry out a procurement of a new housing management IT system for council housing services and;
 - (ii) Award and let a contract with the preferred supplier for a period of 5 years with an option to extend by 2 years.
- 2) A budget of £1.200m for a contract for a new housing management IT system, funded by Housing Revenue Account reserves, is approved.

24 PROCUREMENT OF A NEW CONTRACT TO SERVICE AND INSTALL WARDEN CALL SYSTEMS IN SENIORS HOUSING

24.1 **RESOLVED-**

- 1) That Housing & New Homes Committee recommends to Policy, Resources & Growth Committee that delegated authority is granted to the Executive Director with responsibility for Neighbourhoods, Communities & Housing, following consultation with the Executive Director of Finance & Resources to:
 - (i) Launch a competitive procurement process to secure a contractor to supply, install, service and repair all equipment needed to provide Warden Call systems in Seniors Housing;

- (ii) Award a contract with a term of 4 years to the bidder offering the best value in terms of price and quality;
- (iii) Approve an extension (or extensions) of the contract for up to a further period of 2 years if required and dependant on performance.

25 PROCUREMENT OF THE COUNCIL'S COMMERCIAL PORTFOLIO'S ESTATE MANAGEMENT CONSULTANCY CONTRACT

- 25.1 The Committee considered a report of the Executive Director, Economy, Environment & Culture that sought authority to competitively tender the council's commercial portfolio Estate Management service for the urban and agricultural property portfolios in accordance with The Public Contracts Regulations 2015.
- 25.2 Councillor Sykes asked why the report detailed TUPE implications when those concerned were not council employees.
- 25.3 The Assistant Director, Property & Design clarified that TUPE implications would apply if an alternative contractor won the tender and staff would most likely transfer.
- 25.4 Councillor Sykes stated that he believed a number of factors should be taken into account when undertaking such a tendering process specifically, the way consultants dealt with disposals and the opportunity in contracts to go beyond financial considerations and take account, and promote, environmental and social factors.
- 25.5 The Assistant Director, Property & Design replied that she had attended a meeting of the Procurement Advisory Board and the latter issue would be a point reviewed for inclusion in tendering specification.
- 25.6 **RESOLVED-** That Policy, Resources & Growth Committee:
- 1) Authorises the procurement of the new Estate Management service contracts for:
 - (i) the council's urban property portfolio; and
 - (ii) the council's agricultural property portfolio

each with an initial term of 5 years and an option to extend the initial term by up to a further 2 years.
 - 2) Delegates authority to the Executive Director, Economy Environment and Culture following consultation with the Assistant Director, Property & Design to:
 - (i) Award the contracts referred to in 2.1 above following the recommendations of the working group evaluation panel and the results of the tendering process; and
 - (ii) Approve any extension(s) to the initial term of the contracts of up to 2 years, dependent upon performance.

- 3) Note that the tender specifications for the new contracts will be reviewed and updated to take into account relevant recommendations from the recent Policy Review Panel as well as any additional relevant recommendations from the proposed Asset Management Board.

26 GRANT OF NEW LEASES SHOREHAM AIRPORT

- 26.1 The Committee considered a report of the Executive Director, Economy, Environment & Culture that summarised the current negotiating position with the administrators of Shoreham Airport and sought agreement to enter into new leases.
- 26.2 Councillor Janio thanked officers for their work on the matter and stressed the importance of a unanimous position from the committee to demonstrate its full support to partner authorities.
- 26.3 The Chair agreed with the comments made by Councillor Janio adding that he too fully supported the recommendations. The Chair welcomed the land dedicated as memorial garden to the Shoreham Airshow Crash which was a very important issue for residents across the region.
- 26.4 **RESOLVED-** That Committee notes the approach made by the administrators and authorises:-
 - 1) The surrender of the existing head leases.
 - 2) The grant of a new 350 year lease on the whole site outlined red on the plan at Appendix 1 in return for:
 - (i) the payment of the £1 million outstanding debt owed
 - (ii) the payment of a lease premium detailed in the part 2 report
 - (iii) the dedication of approximately 8 acres of land to facilitate the Environment Agency's flood defence project
 - (iv) dedication of land for a memorial garden for the Shoreham Airshow CrashSuch lease to contain a wider user clause than the existing lease to enable commercial use and development of the land shown coloured blue on the plan at Appendix 1, and permit the underletting of further parts of the airport as shown on the indicative lotting plan at Appendix 1.
 - 3) That the Committee delegates agreement of the detailed lease terms and all other steps necessary to enable the proposals outlined in this report to proceed to the Executive Director Economy Environment & Culture and Assistant Director of Property.
 - 4) That Committee notes that the two previous schemes approved by Policy & Resources Committee on 1 May and 16 October 2014 are no longer proceeding.

27 ORBIS JOINT COMMITTEE

- 27.1 The Committee considered a report of the Executive Lead, Strategy, Governance & Law that sought endorsement of the planned governance arrangements for the Orbis Partnership, prior to the arrangements being presented to Full Council for approval.
- 27.2 Councillor Yates asked how far the other partners had progressed with approving the arrangements.
- 27.3 The Executive Lead, Strategy, Governance & Law clarified that Surrey County Council and East Sussex County Council were already members of the Orbis Joint Committee and their respective Cabinet meetings had approved that decision. This element of the process was to approve Brighton & Hove City Council join that partnership.
- 27.4 Councillor Wealls asked how the Chair of the Orbis Joint Committee would be appointed and how the agenda would be set.
- 27.5 The Executive Lead, Strategy, Governance & Law stated that the partnership was one of equals and the Terms of Reference set out that the Chair for each meeting would be a Member of the Council from where the meeting was being held with venues rotating between ESCC, SCC and BHCC. The Executive Director, Finance & Resource clarified that the agenda was underpinned by proposals from the three members of the Orbis Joint Management Board. A proposed agenda was sent to the Members of the Orbis Committee and feedback taken into account. In doing so, the founding principles of equal partnership are observed..
- 27.6 Councillor Mac Cafferty noted that the membership principles for the Orbis Joint Committee were similar to that of the Greater Brighton Economic Board whereby the council was represented by Members from the administration and official opposition group. Councillor Mac Cafferty noted that the Greater Brighton Economic Board had a call-in provision and asked if there was some oversight in the Terms of Reference for the Orbis Joint Committee as it did not detail the same.
- 27.7 The Executive Lead, Strategy, Governance & Law stated that whilst the Terms of Reference did not explicitly refer to a call-in function, paragraph 3.1 set out that the Orbis Joint Committee had a role of oversight and performance management and any key decisions would have to be considered by each authority separately. In the unlikely event that was necessary, any key decisions would be reported to the Policy, Resources & Growth Committee. The Executive Director, Finance & Resource supplemented that the next major decision to be taken by the Orbis Joint Committee would concern consideration and potential approval of the three year business plan and that would be reported to this committee for decision.
- 27.8 **RESOLVED-** That the Policy, Resources & Growth Committee recommends to Full Council on 20th July 2017 the establishment of the Orbis Joint Committee with effect from 1st April 2017, details of which are set out in Appendix 1 of this report.

28 ITEMS REFERRED FOR COUNCIL

- 28.1 No items were referred to Full Council for information.

PART TWO SUMMARY**29 NEW HOMES FOR NEIGHBOURHOODS – SCHEME AND APPROPRIATION APPROVAL - LYNCHET CLOSE- EXEMPT CATEGORY 3**

29.1 **RESOLVED** – That the Committee note the information contained in the Part Two appendix.

30 COURT FARM SURRENDER - EXEMPT CATEGORY 3

30.1 **RESOLVED** – That the Committee note the information contained in the Part Two appendix.

31 BARTHOLOMEW SQUARE, MOSHIMO LEASE ALTERATION AND SKYLIGHT DEVELOPMENT PROPOSAL- EXEMPT CATEGORY 3

31.1 **RESOLVED** – That the Committee note the information contained in the Part Two appendix.

32 GRANT OF NEW LEASES AT SHOREHAM AIRPORT - EXEMPT CATEGORY 3

32.1 That the Committee agree the recommendations contained in the Part Two appendix to item 26 on the main agenda.

33 SUPPORTED BUS NETWORK - CONTRACTS 2017-21- EXEMPT CATEGORY 3

33.1 That the Committee agree the recommendations contained in the Part Two report.

34 PART TWO MINUTES

34.1 **RESOLVED-** That the Part Two minutes of the previous meeting held on 4 May 2017 be approved and signed as the correct record.

35 POLICY, RESOURCES & GROWTH URGENCY SUB-COMMITTEE- EXEMPT CATEGORY 3

35.1 **RESOLVED** – That the decision of the Policy, Resources & Growth Urgency Sub-Committee held on 30 June 2017 be noted.

36 PART TWO PROCEEDINGS

36.1 **RESOLVED-** – That the information contained in Part Two remain exempt from disclosure to the press and public.

The meeting concluded at 7.40pm

Signed

Chair

Dated this

day of

2017

WRITTEN QUESTIONS FROM COUNCILLORS

The following questions have been received from Councillors and will be taken as read along with the written answer from the Chair; which will be included in an addendum that will be circulated prior to the meeting:

The Chair will give an opportunity for the councillor who submitted a question to ask one supplementary question at the meeting.

(a) Councillor Sykes

“With respect to the Council’s expanding Contract Management team, can I please be informed of the team’s target and expected cashable savings across the breadth of Council activities, for the current financial year and the 18-19 financial year?”

Subject:	Targeted Budget Management (TBM) 2017/18: Month 5		
Date of Meeting:	12 October 2017		
Report of:	Executive Director of Finance & Resources		
Contact Officer:	Name:	Nigel Manvell	Tel: 29-3104
	Email:	Nigel.manvell@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1 SUMMARY AND POLICY CONTEXT:

- 1.1 The Targeted Budget Monitoring (TBM) report is a key component of the council's overall performance monitoring and control framework. This report sets out an early indication of forecast risks as at Month 5 on the council's revenue and capital budgets for the financial year 2017/18.
- 1.2 As set out in the General Fund Revenue Budget 2017/18 report to Budget Council, £14.7m was provided for in the budget to meet identified service pressures across social care and homelessness services. This sum substantially covered identified demand led pressures. As a result, maintaining a risk provision at £1.500m, as in previous years, was considered adequate to meet potential demand risks and/or difficulties in delivering savings targets. The report highlighted that with demand led pressures funded, the focus in 2017/18 would be on strengthening budget accountability, managing demand effectively and localising risk management in services wherever possible, rather than reliance being placed on corporate mitigations or controls.
- 1.3 The forecast risk for 2017/18 as we approach the mid point of the year is £1.678m on the General Fund reflecting the situation outlined above. This includes a forecast overspend of £0.088m on the council's share of the NHS managed Section 75 services.
- 1.4 Taking into account the available risk provision of £1.500m, the council's financial position therefore remains in a manageable position but the upward trend in Children's Social Care costs needs to be addressed.
- 1.5 The report also indicates that a significant element of the substantial savings package in 2017/18 of £21.367m is on track with £18.497m either achieved or anticipated to be achieved. Savings at risk (£3.329m) are included in the overall service forecasts.

2 RECOMMENDATIONS:

- 2.1 That the Committee note the forecast risk position for the General Fund, which indicates a budget pressure of £1.678m. This includes a forecast overspend of £0.088m on the council's share of the NHS managed Section 75 services.
- 2.2 That the committee approve one-off funding of the additional cost of Communal Bin rounds of £0.050m detailed in Appendix 3 under City Environmental Services from the council's available risk provision of £1.500m.
- 2.3 That the Committee note, subject to approval of recommendation 2.2 above, that total recurrent and one-off risk provisions of £1.450m are available to mitigate the forecast General Fund risk if the risks cannot be completely eliminated by year-end.
- 2.4 That the Committee note the forecast for the Housing Revenue Account (HRA), which is an underspend of £0.490m.
- 2.5 That the Committee note the forecast risk position for the Dedicated Schools Grant which is an overspend of £0.422m.
- 2.6 That the Committee note the forecast outturn position on the capital programme and approve the variations and slippage in Appendix 5.
- 2.7 That the Committee agree to release the 2018/19 contingency of £0.079m within the Welfare Reform Reserve to support the Local Discretionary Social Fund in 2017/18 if required (para 6.3)

3 RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Targeted Budget Management (TBM) Reporting Framework

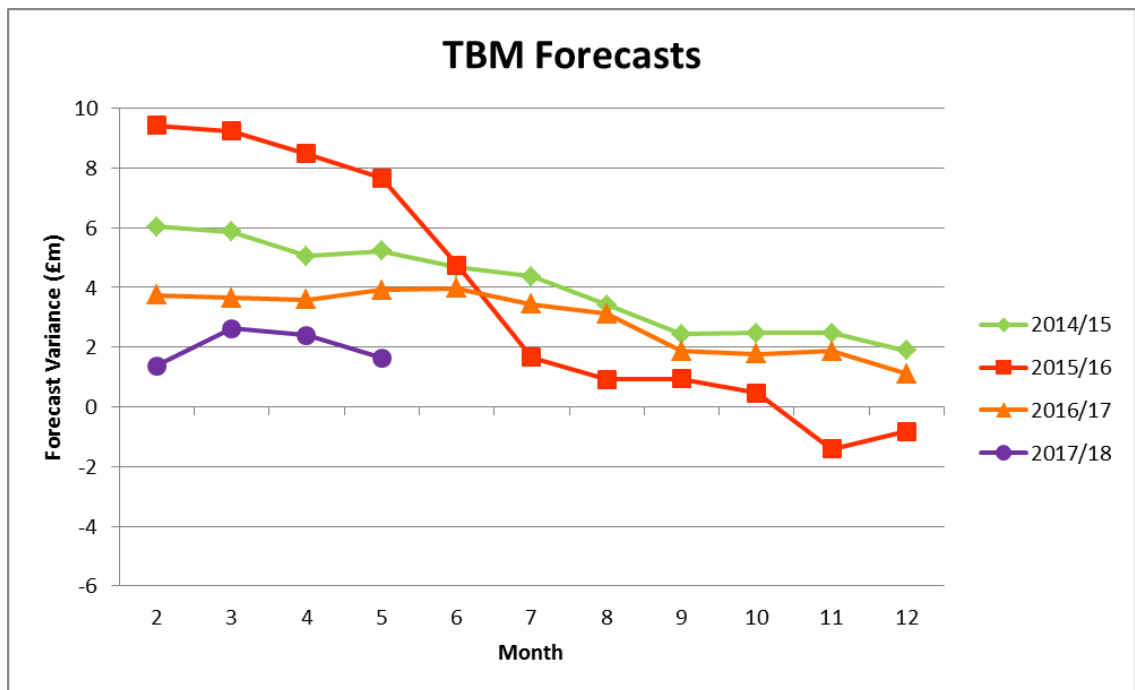
- 3.1 The TBM framework focuses on identifying and managing financial risks on a regular basis throughout the year. This is applied at all levels of the organisation from Budget Managers through to Policy, Resources & Growth Committee. Services monitor their TBM position on a monthly or quarterly basis depending on the size, complexity or risks apparent within a budget area. TBM therefore operates on a risk-based approach, paying particular attention to mitigation of growing cost pressures, demands or overspending through effective financial recovery planning together with more regular monitoring of high risk demand-led areas as detailed below.
- 3.2 The TBM report is normally split into 8 sections as follows:
 - i) General Fund Revenue Budget Performance
 - ii) Housing Revenue Account (HRA) Performance
 - iii) Dedicated Schools Grant (DSG) Performance
 - iv) NHS Controlled S75 Partnership Performance
 - v) Capital Investment Programme Performance
 - vi) Capital Programme Changes
 - vii) Implications for the Medium Term Financial Strategy (MTFS)
 - viii) Comments of the Director of Finance & Resources (statutory S151 officer)

General Fund Revenue Budget Performance (Appendix 2)

3.3 The table below shows the provisional outturn for Council controlled revenue budgets within the General Fund. These are budgets under the direct control and management of the Executive Leadership Team. More detailed explanation of the variances can be found in Appendix 3.

Forecast Variance Month 2 £'000	Directorate	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
1,657	Families, Children & Learning	83,653	86,216	2,563	3.1%
0	Health & Adult Social Care	49,881	49,881	0	0.0%
275	Economy, Environment & Culture	28,821	28,488	(333)	-1.2%
0	Neighbourhood, Communities & Housing	15,584	15,504	(80)	-0.5%
(470)	Finance & Resources	18,159	17,796	(363)	-2.0%
0	Strategy, Governance & Law	4,876	4,914	38	0.8%
1,462	Sub Total	200,974	202,799	1,825	0.9%
(87)	Corporate Budgets	10,952	10,805	(147)	-1.3%
1,375	Total General Fund	211,926	213,604	1,678	0.8%

3.4 The General Fund includes general council services, corporate budgets and central support services. Corporate budgets include centrally held provisions and budgets (e.g. insurance) as well as some cross-cutting value for money savings targets. Note that General Fund services are accounted for separately to the Housing Revenue Account (Council Housing). Note also that although part of the General Fund, financial information for the Dedicated Schools Grant is shown separately as this is ring-fenced to education provision (i.e. Schools). The chart below shows the monthly forecast variances for 2017/18 and the previous three years for comparative purposes.



Demand-led Budgets

- 3.5 There are a number of budgets that carry potentially higher financial risks and therefore could have a material impact on the council's overall financial position. These are budgets of corporate significance where demand or activity is difficult to predict and where relatively small changes in demand can have significant implications for the council's budget strategy. These can include income related budgets. These therefore undergo more frequent and detailed analysis.

Forecast Variance Month 2 £'000	Demand-led Budget	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
1,796	Child Agency & In House Placements	20,835	23,108	2,273	10.9%
497	Community Care	55,772	56,507	735	1.3%
0	Temporary Accommodation	2,642	2,812	170	6.4%
2,293	Total Demand-led Budget	79,249	82,427	3,178	4.0%

Summary of the position at Month 5

Clearly, the main pressures identified at Month 5 are across the Families, Children & Learning directorate but pressures in other directorates are being contained as summarised below:

- 3.6 **Families, Children & Learning:** The initial forecast budget risk across Families, Children and Learning was £3.024m primarily resulting from increased demand pressures on services for Children in Care, particularly adolescents with very complex needs and adults with learning disabilities.

Some of the social work cost pressures have continued through from last year. Subsequently the directorate has put together a financial recovery plan to address the financial risks. There still remain significant financial pressures on services for Children in Care and adults with learning disabilities. In addition there are a number of significant financial risks in: supported employment; respite services for children with disabilities; legal fees, supporting families with no recourse to public funds and day services for adults with learning disabilities. These are being closely monitored but have had an adverse impact on the Families, Children and Learning Directorate 2017/18 budget position.

The current projected position has identified potential cost pressures of £0.694m on services for adults with learning disabilities, £0.315m on legal fees and £2.286m on placement budgets. Together with other underspending budgets of £0.076m, explaining the forecast risk of £3.219m as at Month 5. After taking into account the Financial recovery measures of £0.656m the net position currently shows an overspend of £2.563m. Further actions are taking place to reduce this level of projected overspend.

3.7 Adults Services: The service is facing significant challenges in 2017/18 in mitigating the risks arising from increasing demands from client needs, supporting more people to be discharged from hospital when they are ready and maintaining the provider market. This is alongside delivering a significant budget savings programme and developing integration plans through the Better Care Fund.

- A break-even budget position is forecast at Month 5 after the implementation of a number of initiatives to improve the financial stability of the directorate in previous years, which have helped to contain the forecast risk. The recovery measures focused on attempting to manage demands on and costs of community care placements across Assessment Services and making the most efficient use of available funds.
- There are continued potential forecast risks concerning increased complexity of need, increasing numbers of older people being discharged from hospital requiring social care services for the first time, pressures on the in house older people resource centres and Deprivation of Liberty Standards (DoLS) cases. Following service pressure funding and improved Better Care funding, there is currently no financial risk being reported against these areas.
- The forecast includes the fee uplifts agreed at Health & Wellbeing Board on 31st January 2017 across care in the community and residential care. In order to manage the local market and address the significant under-supply of providers in the city who will accept publicly funded residents, fee increases were essential.
- At this stage, £0.600m of the total approved budget savings of £4.873m are being forecast as unachievable in this financial year.
- Service pressure funding of over £3m, including the Adult Social Care precept, has been applied in 2017/18 and used to fund budget pressures

resulting from the increased demands and complexity, DoLS, the national living wage and fee rates.

The funding of all care packages is scrutinised for Value for Money, ensuring that eligible needs are met in the most cost-effective manner which will not always meet people's aspirations. This forms a key part of the savings implementation plan. Adult Services are also using benchmarking information to support the driving down of unit costs but are faced with increased complexity and demand (demographic) growth which is also a national picture. Through regional and other social care networks the service has been looking at best practice in delivering cost effective services in order to influence future direction - this includes demand management strategies and identifying opportunities through Housing provision.

- 3.8 **Housing Services and Temporary Accommodation:** Temporary accommodation overspent by £1.062m in 2016/17. This was driven by a combination of external factors including a large decant programme, a shortage of alternative contracted accommodation and high replacement housing costs. In 2017/18 the temporary accommodation budget has been supported by additional funding to address the budget pressures. The service has also been given substantial budget savings to deliver.

The latest forecast position for 2017/18, if no action is taken, is that Temporary Accommodation will overspend by £0.170m (TBM4 on budget). The main reason for this overspend is higher than budgeted repairs costs in temporary accommodation. This is a result of a greater volume of move-ons into permanent housing which creates more voids. In addition, there are a number of vacancies amongst the caretakers which has led to more expensive contractors being required to cover this work. The service is aiming to mitigate this overspend by employing staff to fill vacancies and undertake these works which is more cost effective. If these measures do not mitigate the overspend, there is a contingency sum built into the flexible homelessness grant that can be used as a last resort. So the overall forecast for temporary accommodation is to break-even.

Following the introduction of the new housing allocation policy both the costs and volumes of spot purchasing of emergency accommodation have already significantly reduced. The forecast assumes that the £1.300m trailblazer project should deliver initial reductions in accommodation volumes by the final quarter of 2017-18 and then substantial reduction in households in temporary accommodation by the end of 2018/19. There are risks associated with this in terms of the roll out of Universal Credit and the impact that will have on homelessness in the city, and the likely introduction of the Homeless Reduction Act which places more duties upon the local authority but this will be closely monitored.

Housing Benefit for households in temporary accommodation changed this year so that the £60pw management element has been replaced by the Flexible Homelessness Support Grant. The forecast number of households in temporary accommodation requires £4.500m of this grant to enable the service to break-even. An additional allocation of £0.200m is required to cover unmet savings in the short term, in order to allow lead in time for the delivery

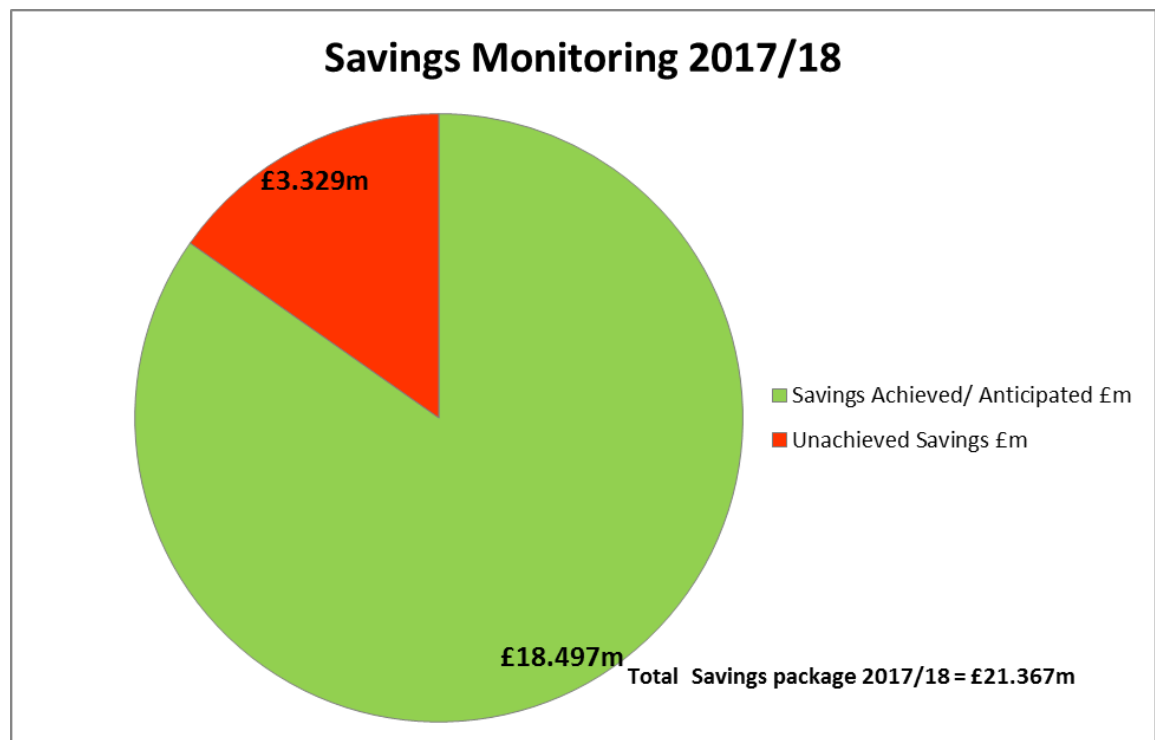
of the Trailblazer project and the transformation of the service. This forecast is subject to the following risks:

- Delays in the delivery of the Trailblazer project (mobilisation time);
- A budget pressure may arise as a result of the transfer of budgets to Housing which may prove to be insufficient for the work carried out to house Adults and Children's Services clients;
- The roll out of Universal Credit from Autumn 2017 (reduction in benefit recovery from clients);
- External pressures outside of the service control (higher than forecast private sector rent increases, greater numbers of homeless acceptances).

Monitoring Savings

3.9 The savings package approved by full Council to support the revenue budget position in 2017/18 was £21.367m following directly on from a similar-sized savings package in 2016/17. This is very significant and follows 6 years of substantial packages totalling nearly £119m that have been essential to enable cost and demand increases to be funded.

3.10 Appendix 3 provides a summary of savings in each directorate and indicates in total what is anticipated/achieved or is at risk. Appendix 4 summarises the position across all directorates and presents the entire savings programme. The graph below provides a summary of the position as at Month 5 which is an early indication. This shows that delivery is broadly on track with £3.329m (16%) currently at risk. Mitigation of these risks is included in the development of services' financial recovery actions.



Note: Savings Achieved/Anticipated includes an overachievement of savings of £0.459m

Housing Revenue Account Performance (Appendix 3)

- 3.11 The Housing Revenue Account is a separate ring-fenced account which covers income and expenditure related to the management and operation of the council's housing stock. Expenditure is generally funded by Council Tenants' rents. The forecast outturn is currently an underspend of £0.490m and more details are provided in Appendix 3.

Dedicated Schools Grant Performance (Appendix 3)

- 3.12 The Dedicated Schools Grant (DSG) is a ring-fenced grant which can only be used to fund expenditure on the schools budget. The schools budget includes elements for a range of services provided on an authority-wide basis including early years education provided by the Private, Voluntary and Independent (PVI) sector, and the Individual Schools Budget (ISB) which is divided into a budget share for each maintained school. The forecast outturn is an overspend of £0.422m and more details are provided in Appendix 3. Under the Schools Finance Regulations any underspend must be carried forward to support the schools budget in future years.

NHS Managed S75 Partnership Performance (Appendix 3)

- 3.13 The NHS Trust-managed Section 75 Services represent those services for which local NHS Trusts act as the Host Provider under Section 75 Agreements. Services are managed by Sussex Partnership Foundation Trust (SPFT) and include health and social care services for Adult Mental Health and Memory and Cognitive Support Services.
- 3.14 This partnership is subject to separate annual risk-sharing arrangements and the monitoring of financial performance is the responsibility of the respective host NHS Trust provider. Risk-sharing arrangements result in financial implications for the council where a partnership is underspent or overspent at year-end and hence the performance of the partnership is included within the forecast outturn for the Health & Adult Social Care directorate. An overspend of £0.088m is currently forecast and more details are provided in Appendix 2.

Capital Programme Performance and Changes

- 3.15 The table below provides a summary of capital programme performance by Directorate and shows that there is a forecast underspend of £1.555m at this stage. More details are provided in Appendix 5.

2017/18 Forecast Variance £'000		2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Families, Children & Learning	8,744	8,744	0	0.0%
0	Health & Adult Social Care	268	268	0	0.0%
0	Economy, Environment & Culture	52,389	52,414	25	0.0%
0	Neighbourhood, Comms & Housing	2,633	2,633	0	0.0%
(1,124)	Housing Revenue Account	42,940	41,360	(1,580)	-3.7%
0	Finance & Resources	4,019	4,019	0	0.0%
0	Strategy, Governance & Law	0	0	0	0.0%
0	Corporate Services	0	0	0	0.0%
(1,124)	Total Capital	110,993	109,438	(1,555)	-1.4%

(Note: Summary may include minor rounding differences to Appendix 5)

3.16 Appendix 5 shows the changes to the budget which are included in the budget figures above. Policy, Resources & Growth Committee's approval for these changes is required under the council's Financial Regulations. The following table shows the movement in the capital budget since approval at TBM2 Policy, Resources & Growth Committee.

Summary of Capital Budget Movement	2017/18 Budget £'000
Budget approved at TBM2.	132,144
Reported at other Policy, Resources & Growth Committees for inclusion into 2017/18.	158
New schemes to be approved in this report	0
Variations to Budget (to be approved – see Appendix 5)	(32)
Reprofiling of Budget (to be approved – see Appendix 5)	(21,277)
Slippage	0
Total Capital	110,993

Implications for the Medium Term Financial Strategy (MTFS)

3.17 The council's MTFS sets out resource assumptions and projections over a longer term. It is periodically updated including a major annual update which is included in the annual revenue budget report to Policy, Resources & Growth Committee and Full Council. This section highlights any potential implications for the current MTFS arising from in-year TBM monitoring above and details any changes to financial risks together with any impact on associated risk provisions, reserves and contingencies. Details of Capital Receipts and

Collection Fund performance are also given below because of their potential impact on future resources.

Capital Receipts Performance

- 3.18 Capital receipts are used to support the capital programme. Any changes to the level of receipts during the year will impact on future years' capital programmes and may impact on the level of future investment for corporate funds and projects such as the Strategic Investment Fund, Asset Management Fund and Digital First. The planned profile of capital receipts for 2017/18, as at Month 5, is £6.480m excluding the receipt associated with the disposal of Kings House which is ring-fenced to support Workstyles and supporting the Integrated Service and Financial Plans. To date there have been receipts of £1.750m in relation to receipt for Circus Street redevelopment plus some minor lease extensions at the Marina and improvement grant repayments. The deposit for Kings House has been received and is held within a separate account as per the contract agreement with the developers. This is not included within the balance of receipts above. The capital receipts performance will be monitored over the coming months against capital commitments.
- 3.19 The forecast for the 'right to buy sales' in 2017/18 (after allowable costs, repayment of housing debt and forecast receipt to central government) is that an estimated 50 homes will be sold with a maximum useable receipt of £0.500m to fund the corporate capital programme and net retained receipt of £4.610m available to re-invest in replacement homes. To date 22 homes have been sold in 2017/18.

Collection Fund Performance

- 3.20 The collection fund is a separate account for transactions in relation to council tax and business rates. Any deficit or surplus forecast on the collection fund relating to council tax is distributed between the council, Sussex Police and Crime Commissioner and East Sussex Fire Authority, whereas any forecast deficit or surplus relating to business rates is shared between the council, East Sussex Fire Authority and the government.
- 3.21 The council tax collection fund is forecast to be in surplus by (£2.315m) at year end which incorporates a brought forward surplus of (£1.029m). This is a £0.090m reduction in surplus from the position reported at TBM2 mainly due to the level of SMI exemptions increasing at higher levels than anticipated and the backdated cost of awarding in respect of previous years. The in year forecast breaks down as a reduction of (£1.500m) in the amount set aside for losses in resources from changes to the contribution to bad debt provision and previous year's liability whereby the collection rate on the tax base is being amended to 99% from 98.33%. Other changes are a greater than forecast reduction in Council Tax Reduction awards (£0.300m), higher than forecast increase in Severely Mentally Impaired (SMI) exemptions of £0.425m and other exemptions £0.100m. The council's share of the overall forecast council tax surplus is (£1.985m).
- 3.22 The business rates collection fund is forecast to be in deficit by £0.106m at year-end which relates entirely to a brought forward deficit. The in year

business rates collection fund is forecast to breakeven. New business rates relief schemes were announced at the Spring Budget to deal with the impact of business rates revaluation on individual ratepayers which include a £300m discretionary fund over four years from 2017/18, supporting small businesses from large increases due to loss of relief and eligible pubs receiving a £1,000 discount. The discretionary business rates relief fund is to be used on local schemes to assist businesses that are facing rising bills as a result of the revaluation and the allocation for Brighton & Hove ratepayers over the four years is £1.925m of which £1.123m is in 2017/18. With the introduction of the new 2017 rating list and spring budget changes there are still a number of methodology adjustments to the business rates forecasts, tariff payments and section 31 grants that need to be confirmed between central government and local authorities. The council's share of the overall forecast business rates deficit is £0.052m.

- 3.23 The council's share of the combined collection funds is a surplus of (£1.933m) and is included in the budget forecast for 2018/19.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The provisional outturn position on the General Fund is an overspend of £1.678m. This includes a forecast overspend of £0.088m on the council's share of the NHS managed Section 75 services. Risk provisions of £1.500m are available to substantially mitigate the position. Any overspend at the year-end would need to be funded from general reserves which would then need to be replenished to ensure that the working balance did not remain below £9.000m. Any underspend would release one off resources that can be used to aid budget planning for 2018/19.

- 4.2 The one-off funding of in-year pressures on Communal Bin rounds of £0.050m from the available General Fund risk provision will reduce the risk provision from £1.500m to £1.450m. Therefore, if the council reduces the forecast General Fund risk to £1.450m or lower by year-end it will achieve break-even or better. Funding the pressure in this way effectively treats this pressure as a corporate pressure rather than the alternative of requiring the service to mitigate this pressure internally. The use of the risk provision is recommended given the current forecast risks on this service and the intention to bring forward the full-year impact of this service pressure as part of the 2018/19 revenue budget proposals.

5 COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 No specific consultation has been undertaken in relation to this report.

6 CONCLUSION AND COMMENTS OF THE DIRECTOR OF FINANCE & RESOURCES (S151 OFFICER)

- 6.1 Although the forecast position continues to be an improvement on last year, there are still concerning trends on expenditure for Children in Care. Although there is some evidence of national pressures on Children's Social Care, the growth in costs locally continues to be higher than all but the most deprived council areas and is above the significant service pressure funding provided for in the budget. To ensure effective management of this situation, the local

context needs to be understood more clearly and the position in relation to escalating provider fees and charges also needs to be kept under review.

- 6.2 While the forecast risk at Month 5 remains manageable in the context of available risk provisions it is important that these early signs of cost pressures are addressed and mitigated as far as possible either directly or through alternative recovery action.
- 6.3 On a separate matter the Committee is being asked to release £0.079m of the Welfare Reform Reserve. In February 2017 Budget Council agreed to set aside an estimated £0.100m of the Welfare Reform Reserve as a contingency for any issues that may arise in 2018/19. Due to higher than anticipated expenditure in 2016/17 the actual amount available is only £0.079m. It is now anticipated that the roll out of Universal Credit in the city from October 2017 could create a pressure on the council's Local Discretionary Social Fund. The committee is therefore asked to agree to release this funding to meet this pressure if required.

7 FINANCIAL AND OTHER IMPLICATIONS

Financial Implications:

- 7.1 The financial implications are covered in the main body of the report. Financial performance is kept under review on a monthly basis by the Cross-Party Budget Review Group and the management and treatment of forecast risks is considered by the Audit & Standards Committee.

Finance Officer Consulted: Jeff Coates

Date: 18/09/2017

Legal Implications:

- 7.2 Decisions taken in relation to the budget must enable the council to observe its legal duty to achieve best value by securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The council must also comply with its general fiduciary duties to its Council Tax payers by acting with financial prudence, and bear in mind the reserve powers of the Secretary of State under the Local Government Act 1999 to limit Council Tax & precepts.

Lawyer Consulted: Elizabeth Culbert

Date: 22/09/2017

Equalities Implications:

- 7.3 There are no direct equalities implications arising from this report.

Sustainability Implications:

- 7.4 Although there are no direct sustainability implications arising from this report, the council's financial position is an important aspect of its ability to meet Corporate Plan and Medium Term Financial Strategy priorities. The achievement of a break-even position or better is therefore important in the context of ensuring that there are no adverse impacts on future financial years from performance in 2017/18.

Risk and Opportunity Management Implications:

- 7.5 The Council's revenue budget and Medium Term Financial Strategy contain risk provisions to accommodate emergency spending, even out cash flow movements and/or meet exceptional items. The council maintains a recommended minimum working balance of £9.000m to mitigate these risks. The council also maintains other general and earmarked reserves and contingencies to cover specific project or contractual risks and commitments.

SUPPORTING DOCUMENTATION

Appendices:

1. Revenue Budget RAG Rating
2. Revenue Budget Movement
3. Revenue Budget Performance
4. Summary of 2017/18 Savings Progress
5. Capital Programme Performance

Documents in Members' Rooms:

None.

Background Documents

None.

Appendix 1 – Revenue Budget RAG Ratings

RAG Rating Key:	RAG for Directorates ⁽¹⁾	RAG for Service Areas
Red	Forecast overspend of 5% or more or £0.250m whichever is lower	Forecast overspend of 5% or more or £0.100m whichever is lower
Amber	Forecast overspend of less than 5% of budget or £0.250m, whichever is lower.	Forecast overspend of less than 5% of budget or £0.100m, whichever is lower.
Green	Breakeven or forecast underspend	Breakeven or forecast underspend

Service	2017/18 Budget Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	RAG Rating Month 5
Director of Families, Children & Learning	161	0	0.0%	Green
Health, SEN & Disability Services	36,159	791	2.2%	Red
Education & Skills	7,034	116	1.7%	Red
Children's Safeguarding & Care	38,797	1,701	4.4%	Red
Quality Assurance & Performance	1,502	(45)	-3.0%	Green
Total Families, Children & Learning	83,653	2,563	3.1%	Red
Adult Social Care	32,311	2	0.0%	Amber
Integrated Commissioning	3,787	(90)	-2.4%	Green
S75 Sussex Partnership Foundation Trust (SPFT)	12,680	88	0.7%	Amber
Public Health	1,103	0	0.0%	Green
Total Health & Adult Social Care	49,881	0	0.0%	Green
Transport	(7,269)	(718)	-9.9%	Green
City Environmental Management	27,747	59	0.2%	Amber
City Development & Regeneration	2,792	169	6.1%	Red
Culture	4,395	(25)	-0.6%	Green
Property	1,156	182	15.7%	Red
Total Economy, Environment & Culture	28,821	(333)	-1.2%	Green
Housing General Fund	5,278	0	0.0%	Green
Libraries	4,842	0	0.0%	Green
Communities, Equalities & Third Sector	2,720	0	0.0%	Green
Regulatory Services	1,507	(80)	-5.3%	Green
Community Safety	1,237	0	0.0%	Green
Total Neighbourhood, Communities & Housing	15,584	(80)	-0.5%	Green
Finance	9,692	61	0.6%	Amber
Housing Benefit Subsidy	(835)	(514)	-61.6%	Green
HR & Organisational Development	2,892	(10)	-0.3%	Green
ICT	6,410	100	1.6%	Red
Total Finance & Resources	18,159	(363)	-2.0%	Green
Corporate Policy	691	(10)	-1.4%	Green
Legal Services	1,305	(25)	-1.9%	Green
Democratic & Civic Office Services	1,762	(3)	-0.2%	Green
Life Events	(225)	124	55.1%	Red

Appendix 1 – Revenue Budget RAG Ratings

Service	2017/18 Budget Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	RAG Rating Month 5
Performance, Improvement & Programmes	692	(10)	-1.4%	Green
Communications	651	(38)	-5.8%	Green
Total Strategy, Governance & Law	4,876	38	0.8%	Amber
Sub Total	200,974	1,825	0.9%	
Bulk Insurance Premia	0	0	0.0%	Green
Concessionary Fares	11,197	0	0.0%	Green
Capital Financing Costs	6,700	(69)	-1.0%	Green
Levies & Precepts	205	0	0.0%	Green
Unallocated Contingency & Risk Provisions	3,234	0	0.0%	Green
Unringfenced Grants	(15,648)	(20)	-0.1%	Green
Other Corporate Items	5,264	(58)	-1.1%	Green
Total Corporate Budgets	10,952	(147)	-1.3%	Green
Total General Fund	211,926	1,678	0.8%	

Individual Schools Budget (ISB)	124,679	0	0.0%	Green
Early Years Block (inc delegated to Schools)	12,461	163	1.3%	Red
High Needs Block (exc delegated to Schools)	19,359	291	1.5%	Red
Exceptions and Growth Fund	3,848	(32)	-0.8%	Green
Grant Income	(159,762)	0	0.0%	Green
Total Dedicated Schools Grant (DSG)	585	422	72.1%	Red

Capital Financing	32,312	0	0.0%	Green
Head of Housing HRA	3,572	0	0.0%	Green
Head of City Development & Regeneration	345	(40)	-11.6%	Green
Housing Strategy	750	0	0.0%	Green
Income Involvement Improvement	(46,398)	(270)	-0.6%	Green
Property & Investment	7,537	(180)	-2.4%	Green
Tenancy Services	1,881	0	0.0%	Green
Total Housing Revenue Account	0	(490)	0.0%	Green

(¹) In the above tables the Dedicated Schools Grant and Housing Revenue Account are treated as Directorates for the purposes of RAG rating.

Appendix 2 – Revenue Budget Movement Since Month 2

Service	Forecast	Forecast	Movement	Explanation of Main Movements
	Variance	Variance		
	Month 2	Month 5		
	£'000	£'000	£'000	
Director of Families, Children & Learning	0	0	0	
Health, SEN & Disability Services	790	871	81	Learning Disability Adults - Community Care
Education & Skills	4	116	112	Supported Employment which was previously part of Health SEN & Disability Services
Children's Safeguarding & Care	1,982	2,277	295	Child Agency Placements
Quality Assurance & Performance	0	(45)	(45)	
Further Financial Recovery Measures	(1,119)	(656)	463	
Total Families, Children & Learning	1,657	2,563	906	
Adult Social Care	0	2	2	
Integrated Commissioning	0	(90)	(90)	Due to temporary vacancies within the Commissioning teams
S75 Sussex Partnership Foundation Trust (SPFT)	0	88	88	Increased residential dementia placements above the expected growth
Public Health	0	0	0	
Further Financial Recovery Measures	0	0	0	
Total Health & Adult Social Care	0	0	0	
Transport	(21)	(718)	(697)	A movement of (£0.614m) within Parking Services due to new Parking Schemes approved at Environment, Transport & Sustainability Committee on 27th June 2017 and an updated forecast for unsupported borrowing. Also an increased income forecast for streetworks fines of (£0.049m) and other minor net movements.
City Environmental Management	(3)	59	62	Minor net movement
City Development & Regeneration	116	169	53	Minor net movement
Culture	(9)	(25)	(16)	Minor net movement
Property	249	182	(67)	Minor net movement

Appendix 2 – Revenue Budget Movement Since Month 2

Service	Forecast Variance Month 2 £'000	Forecast Variance Month 5 £'000	Movement £'000	Explanation of Main Movements
Further Financial Recovery Measures	(57)	0	57	Minor net movement
Total Economy, Environment & Culture	275	(333)	(608)	
Housing General Fund	0	170	170	This is a forecast net overspend within temporary accommodation mainly driven by higher than budgeted property repairs and voids costs.
Libraries	0	0	0	
Communities, Equalities & Third Sector	0	0	0	
Regulatory Services	0	(80)	(80)	This forecast underspend is the result of Regulatory Services posts being held vacant ahead of a directorate restructure/service reconfiguration.
Community Safety	0	0	0	
Further Financial Recovery Measures	0	(170)	(170)	
Total Neighbourhood, Communities & Housing	0	(80)	(80)	
Finance	30	61	31	Management of vacancies. Identification of pressure of £0.126m on Orbis integration arrangements.
Housing Benefit Subsidy	(500)	(514)	(14)	
HR & Organisational Development	0	(10)	(10)	
ICT	0	100	100	General budgetary pressures especially around contracts and increased income targets
Further Financial Recovery Measures	0	0	0	
Total Finance & Resources	(470)	(363)	107	
Corporate Policy	0	(10)	(10)	Vacancies.
Legal Services	0	(25)	(25)	Projected over-achievement of income.
Democratic & Civic Office Services	0	(3)	(3)	
Life Events	0	124	124	Bereavement income shortfalls, offset by vacancies and other underspends

Appendix 2 – Revenue Budget Movement Since Month 2

Service	Forecast Variance Month 2 £'000	Forecast Variance Month 5 £'000	Movement £'000	Explanation of Main Movements
Performance, Improvement & Programmes	0	(10)	(10)	Various small underspends.
Communications	0	(38)	(38)	Vacancies.
Further Financial Recovery Measures	0	0	0	
Total Strategy, Governance & Law	0	38	38	
Bulk Insurance Premia	0	0	0	
Concessionary Fares	0	0	0	
Capital Financing Costs	(29)	(69)	(40)	Increases in Cash balances has resulted in increased income from investments.
Levies & Precepts	0	0	0	
Unallocated Contingency & Risk Provisions	0	0	0	
Unringfenced Grants	0	(20)	(20)	Dept for Health Local Reform & Community Voice grant
Other Corporate Items	(58)	(58)	0	
Further Financial Recovery Measures	0	0	0	
Total Corporate Budgets	(87)	(147)	(60)	
Total General Fund	1,375	1,678	303	

Families, Children & Learning

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Director of Families, Children & Learning	161	161	0	0.0%	0	0	0
790	Health, SEN & Disability Services	36,159	37,030	871	2.4%	1,731	1,141	613
4	Education & Skills	7,034	7,150	116	1.7%	1,710	1,878	10
1,982	Children's Safeguarding & Care	38,797	41,074	2,277	5.9%	2,039	758	1,511
0	Quality Assurance & Performance	1,502	1,457	(45)	-3.0%	0	0	0
2,776	Total Families, Children & Learning	83,653	86,872	3,219	3.8%	5,480	3,777	2,134
(1,119)	Further Financial Recovery Measures (see below)	-	(656)	(656)	-	-	-	-
1,657	Residual Risk After Financial Recovery Measures	83,653	86,216	2,563	3.1%	5,480	3,777	2,134

Explanation of Key Variances (Note: FTE/WTE = Full/Whole Time Equivalent)

Key Variances £'000	Service Area	Variance or Financial Recovery Measure Description
Further Directorate Financial Recovery Measures		
(656)	Further Financial Recovery Measures projection	The directorate has developed an over-arching Financial Recovery Plan to address the pressures detailed below across the various service headings. A number of these measures have already been incorporated in the projections, below but some have yet to fully materialise. The Financial Recovery Plan included the following measures:
		• Extending the Move-on project in Adult learning Disability Services and review the maintenance budget
		• Targeted reviews of existing Adult Learning Disability provision.
		• Increasing the number of in-house foster carers.

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
		• Review of children's residential placements.
		• Reducing the number of agency social workers.
		• Reviewing parent & baby placements
		• Reviewing the use of secure placements
		• Brighton and Hove Inclusion Support Service – recovery of projected overspend
Health, SEN & Disability Services		
205	In-house residential and respite services	Increasing use of overtime and agency staff providing residential and respite care for disabled children with complex needs. These services are contributing to the reduced spending on Disability Agency Placements.
505	Demand Led - Learning Disability Adults - Community Care	<p>There has been an increase in the level of clients presenting with greater complexity of need in recent months. This has resulted in an increase in the average unit costs for Learning Disability (LD) Care packages. The overspend predominantly relates to Supported Accommodation and Day Services which have shown a significant increase in activity since April 2015.</p> <p>In addition, examples are described below of the issues that need to be responded to which bring additional pressures to the Adult Learning Disability budget and of where costs have reduced due to the work of the Move on project for adults with LD:</p> <p>X is a young man with a severe learning disability and autism who used to live at home with his family until a sudden deterioration of behaviour, linked to autism and high anxiety. Due to high levels of self harm and frequent trips to A&E, his family could no longer care for him at home and he was admitted to the council's respite facility in an emergency. Although intensive support was provided by both health and social care staff it was not possible for him to return to the family home and so long term residential provision was required. Only one Provider came forward, after an extensive search, to offer suitable accommodation and support. The cost of his service is £87,000 per year and this is shared with the Clinical Commissioning Group (NHS) due to his high health needs.</p> <p>Y is a young man with a learning disability, who was taken into full time care at 17 following a breakdown in the family situation. He had minimal independence skills and some offending behaviours. When he became an adult he moved into a shared group tenancy with support available 24 hours a day. This was necessary due to the risks he could</p>

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
		present to others and also his own vulnerability. He spent 3 years living in this service, during which time he explored his interests in music and radio, as well as developing his independence skills and learning important social boundaries of acceptable behaviour. Y expressed his desire to move on to greater independence and has been subsequently supported to move on to a different service where he now has his own flat with some shared communal space with other adult with learning disabilities and a less intensive support arrangement that reflects the growth he has made in his ability to live independently. He is very happy there and coping well with the lower level of support provided. This has resulted in a saving of £36,000 per year to the council.
170	Learning Disability Adults - In house day centre	Unachieved saving of £0.225m from previous years offset by underspends elsewhere in this service.
(9)	Other	
Education & Skills		
(76)	Early Years Youth & Family Support	This is comprised of Council nurseries, children's centres, youth provision and the integrated team for families. There is an overspend on the council nurseries budgets caused by pressures as a result of the cost of maternity cover and staff sickness, apprentices not yet working in ratio, costs of agency staff to maintain statutory ratios, protected pay for staff who changed grades during the restructure, and a reduction in numbers attending in some nurseries. However there are significant underspends in the budgets for children's centres and the integrated team for families as a result of vacancies. The budget for the Youth Service is forecast to be on target.
49	Home To School Transport	The overspend is due to additional recoupment travel costs and increased costs in 16-19 travel.
158	Supported Employment	Due to underachievement of income targets
(15)	Other	

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
Children's Safeguarding & Care		
1,548	Demand-Led - Residential Agency Placements	<p>The projected number of residential placements (38.47 FTE) is broken down as 34.05 FTE social care residential placements (children's homes), 4.41 FTE schools placements and 0.00 FTE family assessment placements. The budget allowed for 25.60 FTE social care residential care placements, 3.50 FTE schools placements and 0.30 FTE family assessment placements. The average unit cost of these placements is slightly higher than the budgeted level due to the high proportion in residential homes. In addition, The number of children placed is 9.07 FTE above the budgeted level resulting in the overspend of £1.548m. A case study is shown below:</p> <p>M, a 12 year-old, has a history of neglect together with interrupted care from different family members over a number of years. As a consequence of such instability in his early life, M lacks trust in care-givers and has struggled to establish meaningful relationships. He has been diagnosed with a serious attachment disorder and has significant behavioural problems as a consequence.</p> <p>Following failed foster care placements he was placed in residential care in November 2015. The residential provider found M's needs challenging to meet and their assessment was that he required a highly specialised residential care environment with a clinical team of child psychologist, psychotherapist and education on site. This increased costs significantly. Following an internal reassessment of both the child and the provider, an alternative provision was identified that was felt to better meet his attachment difficulties and reduce dependency on high staff ratios. This has worked well and M has made sufficient progress to be tentatively considered for a step-down to family based care within the next 12 months. In 2016 the weekly cost for the placement was £6,460 per week, together with an extra £17,000 paid in additional staff fees for 5 months and termly education fees of £7,083. Weekly costs have now reduced to £4,495 and in 12 months' time with a move to a more family-based provision, costs should reduce further.</p>

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
859	Demand-Led - Independent Foster Agency (IFA) Placements	The number of children placed in Independent Foster Agency placements has decreased in recent years. During 2016/17 there were 132.14 FTE (compared with 158.06 FTE for 2015/16). The current projected number of placements in 2017/18 is 121.58 FTE, a reduction of 8.0%. The budget for IFA placements included significant levels of savings and was set at 101.00 FTE. The numbers being higher than the budget by 20.58 FTE results in a projected overspend of £0.859m.
(13)	Demand-Led - Secure Accommodation	It is estimated that during 2017/18 there will be 1.43 FTE secure (welfare) placements and 0.99 FTE secure (justice) placements. The budget allowed for 1.45 FTE welfare and 1.15 FTE justice placements during the year. There are currently two children in a secure (welfare) placement and none in a secure (criminal) placement resulting in a projected underspend of £0.013m.
786	Demand-Led - Semi-independent/Supported placements	The number of semi-independent and supported living placements is projected to be 33.42 FTE and this is 4.42 FTE above the budgeted level. However, the average unit cost of these placements has increased considerably recently and is now £256.67 per week higher than the budget and this results in an overspend of £0.786m.
(844)	Demand-Led - In-House Fostering	As at 31 August 2017 there were 156 children placed with 'in-house' foster carers and 150.61 FTE for the year. The budget, based on an increasing trend over the last few years and the drive to increase recruitment of in-house carers, was set at 180.00 FTE placements. This has resulted in the current projected underspend of £0.844m. If the ongoing work to increase the number of in-house foster carers is successful, this should result in a net reduction in costs.
125	Demand-Led - Family & Friends placements, Child Arrangement Orders and Special Guardianship Orders	The budget allows for 282.00 FTE placements of these types. It is currently anticipated that there will be 306.51 FTE children in these placements during 2017/18 and this results in the overspend of £0.125m.
(299)	Demand-Led - Care Leavers	The projected number of care leaver placements in 2017/18 is 96.57 FTE. The budget allows for 93.90 FTE placements. The increase in numbers of unaccompanied asylum seeking children in recent years has resulted in a rise in the number of ex-asylum seeking care leavers. This has now passed the threshold to be eligible for the grant and it is anticipated that £0.126m grant funding will be received in 2017/18. This together with lower than anticipated unit costs has resulted in the underspend of £0.299m.

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
124	Demand-Led Unaccompanied Asylum Seeking Children (UASC) Grant	The numbers of unaccompanied asylum seeking children has increased considerably in the last 12 months. The costs of looking after these children is funded by a grant from the Home Office, however a number of asylum seekers have now left care (see above) and there has been an increase in other, non accommodation costs resulting in the overspend of £0.124m.
60	Social Work teams	Use of agency social workers is continuing into 2017/18 but at a significantly lower level than 2016/17. Spend to date is £0.359m. The Social Work agency budget is £0.134m and was reduced by £0.092m as one-off funding in 2016/17 is not available in 2017/18. The current number of agency workers reported is 11, down 3 from Month 4, and it is anticipated that this will reduce to 0 FTE by 1 October 2017 and on this basis will result in a potential overspend against the agency budget of £0.349m. This is an increase on the Month 4 projection due to the agreed extension of 2 Agency posts. The underspend currently projected against permanent staffing budgets is £0.314m and non staff costs are currently estimated to be overspent by £0.025m.
315	Legal Fees	<p>There has been a significant increase in legal costs over the last couple of months and if this level of expenditure continues throughout 2017/18 this will result in an overspend in the region of £0.315m.</p> <p>Across the region there has been higher demand on legal teams and this has been reflected in our legal expenditure and especially in Counsel fees a plan is in place to:</p> <ul style="list-style-type: none"> • Review of all budget codes to identify and areas for savings in short and long term and establish oversight of large budget commitments and monitoring • A plan for how to bring the expenditure within budget. • Review cases in last year looking particularly at ‘one offs’ with large expenditure • Establish policy of approval levels for expenditure
(225)	Adoption Payments	Increase income received through inter agency adoptions
(159)	Other	Includes the youth offending and foster and adoption teams.
Quality Assurance & Performance		
(45)	Independent Reviewing Officer Team	Early achievement of 2018/19 budget savings

Health & Adult Social Care (HASC)

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Adult Social Care	32,311	32,313	2	0.0%	2,285	1,685	600
0	Integrated Commissioning	3,787	3,697	(90)	-2.4%	147	147	0
0	S75 Sussex Partnership Foundation Trust (SPFT)	12,680	12,768	88	0.7%	293	293	0
0	Public Health	1,103	1,103	0	0.0%	2,148	2,148	0
0	Total Health & Adult Social Care	49,881	49,881	0	0.0%	4,873	4,273	600
0	Further Financial Recovery Measures (see below)	-	0	0	-	-	-	-
0	Residual Risk After Financial Recovery Measures	49,881	49,881	0	0.0%	4,873	4,273	600

Explanation of Key Variances (Note: FTE/WTE = Full/Whole Time Equivalent)

Key Variances £'000	Service Area	Variance or Financial Recovery Measure Description
Adult Social Care		
(35)	Demand-Led Community Care - No Recourse to Public Funds	The average unit cost is slightly lower than the budgeted unit cost and the number of clients being supported is less than budgeted resulting in the underspend of £0.034m.
132	Demand-Led Community Care - Physical & Sensory Support	There are increasing numbers of 'new' older people being discharged from hospital requiring social care services for the first time, as well as increased community demand. This additional financial pressure is being partly met by the Improved Better Care fund for 2017/18.
48	Demand-Led Community Care - Substance Misuse	There are relatively small numbers of clients within this service and this is in line with the expected demand. The average unit cost is higher than the budgeted unit cost resulting in the overspend of £0.078m.

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
43	In house provision - Older people	This is due to increased agency spend within the in house residential units
84	Hostel Accommodation	There has been a delay in the transfer of a Hostel to a new building which has resulted in pressures on rent costs and Housing Benefit income.
(300)	Assessment teams	This is due to a number of vacancies across the Assessment teams.
Integrated Commissioning		
(90)	Commissioning Support Team	Due to temporary vacancies within the Commissioning teams
S75 Sussex Partnership Foundation Trust (SPFT)		
162	Demand-Led - Memory Cognition Support	There are higher numbers of WTE care packages than are funded in the budget; the unit costs are also higher than had been anticipated resulting in the overspend of £0.162m. This is due to a current lack of affordable residential and nursing home placements within the city.
(72)	Demand-Led - Mental Health Support	Numbers of WTE clients are higher than the budget allocation but the average unit costs are lower than and this results in the underspend of £0.072m. There is an increasing need and complexity within this client group.
(3)	Demand-Led - Staff teams	

Economy, Environment & Culture

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
(21)	Transport	(7,269)	(7,987)	(718)	-9.9%	1,238	1,238	0
(3)	City Environmental Management	27,747	27,806	59	0.2%	1,025	875	150
116	City Development & Regeneration	2,792	2,961	169	6.1%	420	420	0
(9)	Culture	4,395	4,370	(25)	-0.6%	335	335	0
249	Property	1,156	1,338	182	15.7%	1,668	1,668	0
332	Total Economy, Environment & Culture	28,821	28,488	(333)	-1.2%	4,686	4,536	150
(57)	Further Financial Recovery Measures (see below)	-	0	0	-	-	-	-
275	Residual Risk After Financial Recovery Measures	28,821	28,488	(333)	-1.2%	4,686	4,536	150

Explanation of Key Variances

Key Variances £'000	Service Area	Variance or Financial Recovery Measure Description
Transport		
(614)	Parking Services	Forecast over-achievement of permit fee income of (£0.376m) due to 5 new parking schemes starting in October 2017, as well as suspension permit parking due to a number of major developments in the city. An underspend of (£0.275m) on unsupported borrowing costs due to the delayed Pay & Display machine replacement programme and repayment of borrowing in 2016-17. Other net variances totalling £0.037m. Parking income is monitored on a monthly basis as there are a number of variable factors that can impact on parking activity. Minor variations in demand can result in significant financial implications. The current forecast variance represents 2.12% of the parking income budget.

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
(124)	Traffic Management	An overachievement of income from skips & scaffold, hoardings and A boards of (£0.059m). The hoarding income reflecting increased development activity in the City. An overachievement of income of (£0.048m) from Section 74 fines from streetworks.
20	Other Variances	
City Environmental Management		
59	Other Variances	<p>Due to pressures on the service that have come to light over the first half of the year, an additional 4 Communal Bin Operative posts need to be provided to ensure the third communal bin round can be provided to acceptable standards. It is proposed that this pressure is funded as a first call on the £1.5m risk provision set aside by full Council when setting the 2017/18 budget. The projected cost of the posts in 2017/18 is £0.050m (part-year cost). This will reduce the risk available provision to £1.450m.</p> <p>For 2018/19, the full year cost of the additional posts, £0.130m, will be presented to Policy, Resources & Growth Committee in February 2018 for consideration as part of the 2018/19 revenue budget proposals.</p> <p>There are also 4 vacant posts across the Commercial Waste and Garden Waste services that will be filled following the agreed review of these new services. The ongoing cost of these services will be further reviewed as running costs and income streams firm up and will be considered as part of the 2018/19 budget setting process.</p>
City Development & Regeneration		
135	Applications	A forecast underachievement of Building Control income of £0.070m and an overspend of £0.040m due to legal advice and anticipated Public Inquiry costs in particular from appeals. There are also other minor variances of £0.025m.
34	Other Variances	
Culture		
(25)	Other Variances	

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
Property		
270	Rents	Currently there is a much reduced forecast shortfall in expected rental income mainly associated with The Contracted Property Portfolio (CPP), New England House and Hove Town Hall. Included within this is the £0.050m saving applied to the CPP budget. The CPP budget pressure is the variance between the year on year inflated rental income figure compared to the forecast provided by the Council's property advisors Cluttons. The rent forecast is subject to close monthly monitoring and will be adjusted as new information is received through the year. A further pressure of £0.070m has been identified following the loss of a security contract.
(88)	Other Variances	

Neighbourhood, Communities & Housing

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Housing General Fund	5,278	5,448	170	3.2%	1,689	1,689	0
0	Libraries	4,842	4,842	0	0.0%	142	142	0
0	Communities, Equalities & Third Sector	2,720	2,720	0	0.0%	480	437	43
0	Regulatory Services	1,507	1,427	(80)	-5.3%	220	220	0
0	Community Safety	1,237	1,237	0	0.0%	71	71	0
0	Total Neighbourhood, Communities & Housing	15,584	15,674	90	0.6%	2,602	2,559	43
0	Further Financial Recovery Measures (see below)	-	(170)	(170)	-	-	-	-
0	Residual Risk After Financial Recovery Measures	15,584	15,504	(80)	-0.5%	2,602	2,559	43

Explanation of Key Variances

Key Variances £'000	Service Area	Variance or Financial Recovery Measure Description
Further Directorate Financial Recovery Measures		
(170)	Further Financial Recovery Measures projection	The directorate has developed a Financial Recovery Plan to address the pressure. This plan aims to fill caretaker posts as soon as possible to undertake minor repairs works as this is more cost effective.
		If these measures are unsuccessful, the Flexible Homelessness grant (which has a built in contingency) can be used as a last resort to mitigate this in-year overspend.

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
Housing General Fund		
170	Temporary Accommodation	The forecast net overspend is mainly due to an increase in reactive repairs that had to be outsourced due to caretakers leaving. This has been exacerbated by higher turnover (increases in voids). Higher turnover is the result of moving on households to more permanent accommodation. The projected overspend has partly been mitigated by a reduction in both volumes and costs of spot purchased accommodation.
Regulatory Services		
(80)	Environmental Health and Licensing	This forecast underspend is the result of posts which are being held vacant ahead of a directorate restructure/service reconfiguration.

Finance & Resources

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
30	Finance	9,692	9,753	61	0.6%	1,102	1,102	0
(500)	Housing Benefit Subsidy	(835)	(1,349)	(514)	-61.6%	120	120	0
0	HR & Organisational Development	2,892	2,882	(10)	-0.3%	354	304	50
0	ICT	6,410	6,510	100	1.6%	657	319	338
(470)	Total Finance & Resources	18,159	17,796	(363)	-2.0%	2,233	1,845	388
0	Further Financial Recovery Measures (see below)	-	0	0	-	-	-	-
(470)	Residual Risk After Financial Recovery Measures	18,159	17,796	(363)	-2.0%	2,233	1,845	388

Explanation of Key Variances

Key Variances £'000	Service Area	Variance or Financial Recovery Measure Description
Finance		
0	Revenues & Benefits - shortfall in court costs income	There is a forecast shortfall in court costs income of £0.115m arising from Enforcement Officer vacancies. This is offset through a combination of staff vacancies and grant income.
(65)	Finance Services	Management of vacancies
126	Orbis wide cross charging	There is a one-off pressure of £0.126m arising from the cost activities necessary to integrate Orbis during the current year in advance of pooling budgets from 1st April 2018, however we will seek to reduce this.

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
Housing Benefit Subsidy		
(514)		There is an expected surplus of £0.214m in the recovery of overpaid council tax benefits, based on receipts to date. On the main subsidy budgets there is insufficient data available to make a detailed forecast, but at present a £0.300m surplus is forecast.
HR & Organisational Development		
(10)	HR&OD	Minor underspends
ICT		
100	ICT	There are budget pressures in some areas particularly around ICT contracts, the MS Enterprise contract and an increased schools ICT income target. A detailed review of costs and potential mitigations will be carried out with the aim of minimising this pressure. Potential mitigation might include appropriate use of the ICT reserve, Digital First funding and potential capitalisation of legitimate costs.

Strategy, Governance & Law

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Corporate Policy	691	681	(10)	-1.4%	60	60	0
0	Legal Services	1,305	1,280	(25)	-1.9%	120	120	0
0	Democratic & Civic Office Services	1,762	1,759	(3)	-0.2%	87	87	0
0	Life Events	(225)	(101)	124	55.1%	251	237	14
0	Performance, Improvement & Programmes	692	682	(10)	-1.4%	113	113	0
0	Communications	651	613	(38)	-5.8%	76	76	0
0	Total Strategy, Governance & Law	4,876	4,914	38	0.8%	707	693	14
0	Further Financial Recovery Measures (see below)	-	0	0	-	-	-	-
0	Residual Risk After Financial Recovery Measures	4,876	4,914	38	0.8%	707	693	14

Explanation of Key Variances

Key Variances £'000	Service Area	Variance or Financial Recovery Measure Description
Corporate Policy		
(10)	Policy & Partnerships	Underspends due to vacancies.
Legal Services		
(25)	Legal Services	Overachievement of income
Democratic & Civic Office Services		

Appendix 3 – Revenue Budget Performance

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
(3)		<p>Small underspends.</p> <p>Note however that at Budget Council a decision was taken to reduce members' allowances by £0.043m (part-year of £0.033m in 2017/18 and full-year effect of £0.010m in 2018/19). This saving proposal was subject to consideration by the Independent Remuneration Panel and the Committee are due to receive an update in November 2017. This decision is later than originally anticipated and it is not clear what the outcome of the IRP review is likely to be. It is possible that the saving may therefore be at risk in both years, with the position likely to be confirmed by Month 7.</p>
Life Events		
164	Bereavement Services	<p>£0.268m income shortfall due to falling numbers of burials and cremations in the first quarter. Offset slightly by vacancy management savings of £0.053m and various underspends elsewhere of £0.051m.</p> <p>The Life Events Budget Review Group (attended by Service Management and Finance and HR Business Partners) has already implemented a training programme for Bereavement managers and staff to deal with issues raised by an Internal Audit report. The group will continue to discuss the on-going service redesign which is hoped, amongst other things, will improve marketing of the service to try and increase customer numbers.</p>
(40)	Local Land Charges	Expected over-achievement of Land charges fees.
Performance, Improvement & Programmes		
(10)	Performance Team	Minor underspends
Communications		
(38)	Communications	Vacancy savings of £0.072m offset by supplies and services overspends of £0.034m

Appendix 3 – Revenue Budget Performance

Corporate Services

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Bulk Insurance Premia	0	0	0	0.0%	0	0	0
0	Concessionary Fares	11,197	11,197	0	0.0%	250	250	0
(29)	Capital Financing Costs	6,700	6,631	(69)	-1.0%	0	0	0
0	Levies & Precepts	205	205	0	0.0%	0	0	0
0	Unallocated Contingency & Risk Provisions	3,234	3,234	0	0.0%	0	0	0
0	Unringfenced Grants	(15,648)	(15,668)	(20)	-0.1%	0	0	0
(58)	Other Corporate Items	5,264	5,206	(58)	-1.1%	195	223	0
(87)	Total Corporate Budgets	10,952	10,805	(147)	-1.3%	445	473	0
0	Further Financial Recovery Measures (see below)	-	0	0	-	-	-	-
(87)	Residual Risk After Financial Recovery Measures	10,952	10,805	(147)	-1.3%	445	473	0

Explanation of Key Variances

Key Variances		
£'000	Service Area	Variance or Financial Recovery Measure Description
Concessionary Fares		
(250)	Concessionary Fares	Fixed deal reimbursements reported to committee in May 2017 have resulted in a further saving.

Housing Revenue Account (HRA)

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Capital Financing	32,312	32,312	0	0.0%	0	0	0
0	Head of Housing HRA	3,572	3,572	0	0.0%	106	106	0
0	Head of City Development & Regeneration	345	305	(40)	-11.6%	0	0	0
0	Housing Strategy	750	750	0	0.0%	0	0	0
0	Income Involvement Improvement	(46,398)	(46,668)	(270)	-0.6%	181	181	0
0	Property & Investment	7,537	7,357	(180)	-2.4%	570	570	0
0	Tenancy Services	1,881	1,881	0	0.0%	75	75	0
0	Total Housing Revenue Account	0	(490)	(490)	0.0%	932	932	0

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Head of City Development & Regeneration			
(40)	Staffing and supplies and services costs	The forecast underspend is the net result of a range of underspends including employees costs due to a staff secondment.	
Income Involvement Improvement			
(175)	Contribution to bad debt provision	Later than planned implementation of Universal Credit means that this budget is forecast to be underspent in 2017/18.	

Appendix 3 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
(95)	Employees costs	The forecast underspend is due to staffing vacancies mainly in the Income Management team. Recruitment is due to take place before the end of the financial year.	
Property & Investment			
(100)	Supplies and services	Underspend mainly due to the delay in commissioning consultancy support for the re-procurement of the repairs contract.	
(80)	Employees costs	Forecast underspend due to the delay in commissioning consultancy support for the re-procurement of the repairs contract.	

Appendix 3 – Revenue Budget Performance

Dedicated Schools Grant (DSG)

Revenue Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Individual Schools Budget (ISB)	124,679	124,679	0	0.0%
119	Early Years Block (including delegated to Schools) <i>(This includes Private Voluntary & Independent (PVI) Early Years 3 & 4 year old funding for the 15 hours free entitlement to early years education)</i>	12,461	12,624	163	1.3%
145	High Needs Block (excluding delegated to Schools)	19,359	19,650	291	1.5%
(22)	Exceptions and Growth Fund	3,848	3,816	(32)	-0.8%
0	Grant Income	(159,762)	(159,762)	0	0.0%
242	Total Dedicated Schools Grant (DSG)	585	1,007	422	72.1%

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Early Years Block (including delegated to Schools)			
158	Additional Support Funding for 2,3 & 4 year olds	Significant increase in the number of children receiving additional support funding in the Summer term and impact of increased free entitlement available to working parents from September 2017	Meeting to review assessment process for additional support funding and subsequent impact on top up funding in mainstream schools
5	2 Year olds	Based on Summer term numbers	

Appendix 3 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
High Needs Block (excluding delegated to Schools)			
200	High Needs top-up for Special Schools	Additional support packages for several pupils to avoid more expensive agency placements	
131	High Needs top-up for mainstream Schools	Additional costs for Primary of £0.123m and Secondary of £0.008m.	Meeting to review assessment process for additional support funding and subsequent impact on top up funding in mainstream schools
42	Inclusion Support Service	Loss of exception funding previously received for the Behaviour & Inclusive Learning Team(BILT).	Vacancy control
8	FE Colleges High Needs payments	Changes in legislation leading to increased costs.	
(21)	Unallocated DSG	Unallocated High Needs Block	
(29)	Other	Balance of variances on other cost centres	
(40)	Educational Agency Placements	Change in placements in the new academic year	
Exceptions and Growth Fund			
30	Historic pension costs	Historic pension liabilities.	
(12)	Exception 1 - Union Duties and other reimbursement	Underspent in reimbursement to schools for Union duties and Jury service.	
(50)	Access to Education	Increase in fines income	

Savings Monitoring 2017/18

General Fund

Directorate	2017/18 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
Families, Children & Learning	5,480	3,777	2,134
Health & Adult Social Care	4,873	4,273	600
Economy, Environment & Culture	4,686	4,536	150
Neighbourhood, Communities & Housing	2,602	2,559	43
Finance & Resources	2,233	1,845	388
Strategy, Governance & Law	707	693	14
Corporate Budgets	445	473	0
Total Directorate Savings	21,026	18,156	3,329
Tax Base Savings	341	341	0
Total General Fund Savings	21,367	18,497	3,329

Housing Revenue Account

Directorate	2017/18 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
Housing Revenue Account	932	932	0
Total HRA Savings	932	932	0

Families, Children & Learning – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 6 £'000	Variation, Slippage/ reprofile £'000	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Children's Safeguarding & Care	40	0	0	0	40	40	0	0.0%
0	Health & Disability Services	36	0	0	30	66	66	0	0.0%
0	Education & Skills	23,466	0	0	(15,006)	8,460	8,460	0	0.0%
0	Schools	178	0	0	0	178	178	0	0.0%
0	Stronger Families Youth & Communities	0	0	0	0	0	0	0	0.0%
0	Total Families, Children & Learning	23,720	0	0	(14,976)	8,744	8,744	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Health & Disability Services				
Variation	30	Short Breaks for Disabled Children	Variation to budget of less than £0.100m.	
Education & Skills				
Reprofile	(15,000)	New Pupil Places	Purchase of a suitable site for a new secondary school is now unlikely to occur in this financial year. The confirmation, given in February 2016, to open the new school was made without an	

Appendix 5 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
			<p>identified site for the new school. Extensive work was then undertaken to identify and secure a site for the school. A preferred site has now been confirmed: the Sussex Community NHS Foundation Trust's Brighton General Hospital site. In June 2017 confirmation was received from the Education and Skills Funding Agency (ESFA) that the opening of The Brighton and Hove Academy would be postponed until September 2019. Funding set aside for the purchase of the site will therefore be reprofiled into 2018/19.</p>	
Variation	(6)	Devolved Formula Capital	Variation to budget of less than £0.100m.	

Health & Adult Social Care – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 6 £'000	Variation, Slippage/ reprofile £'000	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Adult Social Care	256	0	0	10	266	266	0	0.0%
0	Integrated Commissioning	64	0	0	(62)	2	2	0	0.0%
0	Provider Services	0	0	0	0	0	0	0	0.0%
0	Public Health	0	0	0	0	0	0	0	0.0%
0	Total Health & Adult Social Care	320	0	0	(52)	268	268	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Adult Social Care				
Variation	10	Telecare	Variation to budget of less than £0.100m.	
Integrated Commissioning				
Variation	(62)	Drovers Close	Variation to budget of less than £0.100m.	

Appendix 5 – Capital Programme Performance

Economy, Environment & Culture (excluding Housing Revenue Account) – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 6 £'000	Variation, Slippage/ reprofile £'000	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	City Development & Regen	6,325	100	0	50	6,475	6,475	0	0.0%
0	City Environmental Management	8,823	0	0	0	8,823	8,823	0	0.0%
0	Culture	12,457	0	0	(9)	12,448	12,448	0	0.0%
0	Planning & Building Control	0	0	0	0	0	0	0	0.0%
0	Property	4,599	0	0	(241)	4,358	4,383	25	0.6%
0	Transport	21,499	0	0	(1,214)	20,285	20,285	0	0.0%
0	Total Economy, Environment & Culture	53,703	100	0	(1,414)	52,389	52,414	25	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
City Development & Regen				
Reported at Other Committees	100	Madeira Terraces Crowd Funding Contribution	This relates to the Labour Group amendment agreed as part of the TBM month 2 report to Policy, Resources & Growth Committee on 13 July 2017 with funding being provided from the i360 reserve.	

Appendix 5 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
Variation	50	Madeira Terraces Regeneration	Variation to budget of less than £0.100m.	
Culture				
Variation	(9)	Royal Pavilion Estate	Variation to budget of less than £0.100m	
Property				
Reprofile	(241)	Barts House Cladding & Windows Replacement	Reprofile of budget to 2018/19.	
Transport				
Reprofile	(1,214)	Street Lighting Maintenance	Reprofile of budget to 2018/19. The need to undertake a contract re-let has resulted in an extended procurement timetable which impacts on the profile of project expenditure. The re-profiling of the budget will enable the council to commence the upgrade project with the current contractor during a period of contract extension whilst enabling the contract re-let. It is anticipated that the reprofile will not delay the completion of the project or impact on the timing and value of related saving proposals.	

Appendix 5 – Capital Programme Performance

Neighbourhood, Communities & Housing (excluding Housing Revenue Account) – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 6 £'000	Variation, Slippage/ reprofile £'000	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Communities, Equalities & Third Sector	0	0	0	0	0	0	0	0.0%
0	Community Safety	0	0	0	0	0	0	0	0.0%
0	Housing - GF	2,563	0	0	0	2,563	2,563	0	0.0%
0	Libraries	7	58	0	0	65	65	0	0.0%
0	Regulatory Services	5	0	0	0	5	5	0	0.0%
0	Total Neighbourhood, Communities & Housing	2,575	58	0	0	2,633	2,633	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Libraries				
Reported at Other Committees	58	Hollingbury Library	Hollingbury Library changes approved within the minutes of PR&G committee 14 th July 2016. Original Libraries report went to PR&G Committee in June 2016.	

Housing Revenue Account – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 6 £'000	Variation, Slippage/ reprofile £'000	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
(946)	City Development & Regen	16,228	0	0	(1,276)	14,952	14,086	(866)	-5.8%
(178)	Housing - HRA	31,580	0	0	(3,592)	27,988	27,274	(714)	-2.6%
(1,124)	Total Housing Revenue Account	47,808	0	0	(4,868)	42,940	41,360	(1,580)	-3.7%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
City Development & Regeneration				
Reprofile	(1,262)	Various	Reprofile of budget for following schemes: - <ul style="list-style-type: none"> Guinness Garage Sites (£0.363m) Lynchet Close (£0.899m) 	No action required – scheme construction to continue into 2018/19.
Variation	(14)	Lynchet Close	Variation to ensure budget reflects the decision made for the scheme at July's PR&G committee meeting.	No action required.
Underspend	(328)	Brooke Mead Development	Projected underspend for 2017/18 budget. The overall cost of the scheme, across all years, is projected to overspend by £0.016m (which represents 0.1% of the total project cost). Completion is expected in October 2017.	

Appendix 5 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
Underspend	(167)	Findon Road Development	Projected underspend for 2017/18 budget.	No action required.
Underspend	(371)	Wellsbourne Development	Projected underspend for 2017/18 budget.	No action required.
Housing HRA				
Reprofile	(3,592)	Various	Reprofile of budget for various schemes: - <ul style="list-style-type: none"> • Structural Repairs (£1.275m) • Cyclical Decorations (£0.720m) • Portslade Police Station (£0.127m) • Home Energy & Efficiency (£0.450m) • Oxford Street conversion (£1.020m) 	No action required – projects will continue into 2018/19.
Variation	(85)	Structural Repairs	Underspend to be moved to Cyclical Decorations budget to enable the enhancing of the current Tyfoam properties programme.	
Variation	300	Roofing	Bring forward spend on planned roofing programme.	This investment will contribute to an ongoing reduction in repair costs.
Variation	300	Windows	Bring forward spend on planned window replacement programme.	As above
Variation	299	Cyclical Decorations	Increase the current programme to rectify poorly performing insulation material (Tyfoam) on individual street properties, enhancing residents thermal benefits and quality due to damp issues.	Positive impact on residents and reduction in condensation/damp works and associated costs.
Variation	220	Fire Safety & Asbestos	Increased investment in Fire Health & Safety	Positive impact on residents.
Variation	(1,034)	Lifts	Programme review has resulted in a lower funding requirement for 2017/18.	

Appendix 5 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
Underspend	(341)	Hidden Homes	Some of the planned conversions are not expected to be completed this financial year. There is sufficient budget allocated in 2018/19, therefore no reprofiling is required.	
Underspend	(235)	Cyclical Decorations	Projected underspend against 2017/18 budget.	
Underspend	(138)	Various	<p>Under and overspends of less than £0.100m across various schemes: -</p> <ul style="list-style-type: none"> • Structural Repairs (£0.090m) • Roofing (£0.054m) • Windows (£0.023m) • Sheltered Housing Conversions (£0.007m) • Capital Works Assessment £0.057m • Feasibility and Design £0.019m • Pre Lease Conversion Works £0.029m • Future Proofing Assets £0.011m • Minor Capital Works £0.008m • Empty Properties (£0.005m) • Doors £0.031m • BHCC Projects (£0.022m) • Communal & Domestic Rewire £0.021m • Condensation & Damp Works (£0.091m) • Insulation (£0.032m) • Bathrooms & Kitchens £0.047m • Water Tanks (£0.037m) 	

Finance & Resources - Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2017/18 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 6 £'000	Variation, Slippage/ reprofile £'000	2017/18 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Finance	0	0	0	0	0	0	0	0.0%
0	HR & Organisational Develop	0	0	0	0	0	0	0	0.0%
0	ICT	4,019	0	0	0	4,019	4,019	0	0.0%
0	Total Finance & Resources	4,019	0	0	0	4,019	4,019	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Finance & Resources				
No changes to report for Month 5				

Note: There are currently no capital budgets to report on for Strategy, Governance & Law and Corporate Services.

Subject:	Revaluation Discretionary Rate Relief for Business Rate Payers		
Date of Meeting:	12 October 2017		
Report of:	Executive Director – Finance & Resources		
Contact Officer:	Name:	Paul Ross-Dale	Tel: 01273 291969
	Email:	paul.ross-dale@brighton-hove.org.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 On 1 April 2017, the Government's Valuation Office Agency (VOA) implemented their nationwide Revaluation of all Business Rates properties. A significant number of businesses have seen changes to their liabilities as a result. Councils have no control or influence over the implementation of the new Rateable Values (RVs). However, the government is providing funding to Local Authorities to support businesses affected most severely. This support takes the form of a Discretionary Rate Relief scheme.
- 1.2 Government have stipulated that the 4-year funding must be deployed in the year denoted, starting this year, and therefore the timescales for drafting and approval of a scheme are of the essence to meet this requirement. Proposals have therefore been drafted following brief consultation with the sector and key stakeholders in order to bring a report to the October 2017 Policy, Resources & Growth Committee for members' consideration. This report outlines how the local scheme is proposed to operate.

2. RECOMMENDATIONS:

- 2.1 That Policy, Resource & Growth Committee approves the proposed 2017/18 Discretionary Rate Relief Scheme.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Revaluation was carried out by the government's Valuation Office Agency to ensure that all RVs accurately reflected changes in the property market. Revaluations usually happen every 5 years, although the government deferred the expected 2015 revaluation for a further 2 years.
- 3.2 The review resulted in significant increases in Business Rates for some ratepayers, and decreases or minimal changes for others. The council has no control or influence over the implementation of the new RVs.
- 3.3 RV is the starting point of calculating a ratepayer's Business Rates bill. Although the RV may have gone up for a property, the percentage increase they actually experience could be different, once all relevant calculations are taken into

account. The design of this scheme is therefore based on the amount they actually have to pay after all permitted adjustments have been applied.

- 3.4 In line with previous revaluations, the government had already provided a scheme of transitional relief in time for when the annual bills were sent out in March 2017. Some of the larger RV increases were therefore already reduced initially with changes to be brought in gradually over the following years. Where there were decreases to RV, the more significant of these changes were also to be brought in gradually. However, even after transitional relief, some businesses were still left with significant increases.
- 3.5 There are 11,002 Non-Domestic properties where there is a liability to pay Business Rates. 3,579 (32.5%) of these properties have seen an increase of more than 2%. 2,910 had an increase of 0-2% (26.5%), and 3,181 (28.9%) had a decrease. 1,332(12.1%) were not paying Rate Relief last year (for example because they were not in occupation) and so did not experience an increase.
- 3.6 Increases vary dramatically, sometimes even within the same sector. For example, in the category of shops, where there are 4,282 liabilities, the average change to bills (not RV, but rather the final amount payable) is -1.02%. However, whereas some premises have seen significant decreases, others are up by percentages generally between 0 and 15%, and some significantly higher, with a handful over 100%.
- 3.7 Small Business Rate Relief thresholds were changed by the government for 2017/18. This means that more small businesses became entitled to 100% relief. In 2017/18, most ratepayers with an RV of up to £12,000 can receive 100% relief, whereas in 2016/17, the threshold was £6,000. For RV's of £12,001 to £15,000 the amount of relief goes down gradually from 100% to 0%.
- 3.8 The government announced its discretionary rate relief scheme outline proposals in the spring budget giving insufficient time or detail for 2017/18 Business Rates bills to be amended. The bills did include transitional relief and the new amounts of Small Business Rate Relief. The details of the scheme were further delayed by parliamentary business being suspended because of the general election.
- 3.9 The spring budget also introduced two other support measures, again too late to be included in the Annual Bills:
 - Pub relief – a £1,000 discount for pubs with a Rateable Value of less than £100,000 (see Appendix 1 for the government's eligibility criteria); and
 - A cap on any increases resulting from businesses losing some or all of their Small Business Rate Relief (increase capped to £600 for the year).
- 3.10 Both pub relief and the small business rate relief cap were implemented by September 2017, once the relevant software updates had been provided by our software company.

Design of the Discretionary Scheme

- 3.11 Although the discretionary scheme is to be designed locally, the government has stipulated that it must be used for the most significant increases of Business Rates resulting from revaluation.
- 3.12 The scheme proposal aims to provide a meaningful amount of relief to a broad range of ratepayers, without spreading the relief too thinly and therefore limiting the benefit or impact. In line with other reliefs and discretions, the scheme is designed to be fair, simple and transparent, with minimal administrative burden on businesses and the council.
- 3.13 Other Local Authorities are putting their schemes into place. Some councils designed their schemes before the government confirmed key details around the funding but most are bringing proposals for approval imminently.
- 3.14 The funding allocated to Brighton & Hove is as follows:

Financial Year	Funding £
2017/18	1,123,000
2018/19	546,000
2019/20	225,000
2020/21	32,000
	1,926,000

- 3.15 Government have confirmed that unspent budget cannot be carried forward to future years, so in designing how the scheme will operate, the aim is to maximise the allocation of £1.123m in 2017/18.
- 3.16 In other proposed schemes we have seen to date, there are variations on the qualifying criteria, thresholds and amount of relief. The maximum range of qualifying RV in some other authorities is £200,000, but with a smaller amount of relief awarded to the recipients. Some authorities have excluded certain types of property, for example financial institutions and betting shops among others. Another theme is whether national and multi-national companies should have access to the relief.
- 3.17 The Brighton & Hove scheme is designed with simplicity and transparency in mind and has a £125,000 Rateable Value threshold that would allow for a more generous and meaningful relief to be applied to the qualifying properties. The scheme also aims to reflect the importance of small business to the health of city's economy.
- 3.18 It is therefore proposed that ratepayers will be eligible for relief if they meet the following criteria:
- Rateable Value is £125,000 or less, and;
 - Increase of Rateable Value is 5% or greater, and;
 - Increase of bill is 5% or greater.
- 3.19 Those qualifying for relief will have the increase in their bill capped at 5%.

3.20 The following do not qualify for Discretionary Rate Relief:

- National and multi-national companies and organisations.
- Properties occupied by the council or a precepting authority (such as the fire authority or police).
- New occupants since 1 April 2017.
- Those experiencing an increase solely because last year's bill was not a full bill (for example because of part year occupancy, or temporary reliefs being applied).

3.21 New occupants since 1 April 2017 do not qualify for this rate relief, because the government stipulates that the ratepayer must have experienced an increase of Rateable Value since last year. This is not possible if the ratepayer was not in occupation of the property last year. Rateable Values are publicly available on the Valuation Office Agency's website, so new businesses are able to see what their RV would be before they commit to a property.

3.22 National and multi-national companies and organisations are excluded from receiving Revaluation Discretionary Rate Relief, so that the focus of the policy can be on supporting local business. Larger companies are likely to be better placed to manage Business Rates changes across their whole portfolios, which may include reductions in some areas.

3.23 A range of factors will be considered in determining whether an organisation has a national or multi-national identity. Each case will be looked at on its own merits, and some or all of the following may help to determine an organisation's status for the purpose of this policy:

- Number of known properties outside of Brighton & Hove
- Location of the organisation's registered office
- Information on the organisation's website and other publicly available records

3.24 The scheme is intended to be easy for ratepayers to access and for the council to administer. Therefore there will not be an application process. Where the criteria are met, relief will be applied by the Business Rates team automatically.

3.25 There will be no right of appeal since the relief is to be applied if a ratepayer meets the criteria. If a dispute arises concerning the application of the relief, it would be dealt with as a query through the Business Rates team. If the ratepayer is not satisfied with the response, they will then follow the established corporate complaint procedure.

3.26 On the basis of the Business Rates caseload in September 2017, only 394 Rateable Values are higher than £125,000. However, once we take into account those who have not experienced an increase, and after applying the criteria outlined in this policy, around 1950 ratepayers (approximately 18%) will receive Revaluation Rate Relief.

3.27 With any scheme adopting simple criteria there can be a small number of cases where a ratepayer does not meet the set criteria but where other extenuating or

exceptional circumstances would have made it desirable to apply a relief. The Business Rates team will consider such applications on a case by case basis. However, the core criteria would still have to apply, namely that there must be an increase in Rateable Value due to the Revaluation. Relief will already have been awarded to those meeting the policy criteria, so funding will be limited. Therefore, in relations to these potential additional cases, preference will be given to any ratepayer affected by exceptional circumstances, where there is a significant impact on their business.

3.28 In the subsequent 3 years of the scheme, the aim is to maintain similar criteria, but adjust the thresholds to adapt to the budget for that year. This approach also means that there will be an opportunity to incorporate lessons learnt from year one of the scheme. The scheme will become significantly smaller as the funding reduces by roughly half for the next 2 years, and is minimal in the final year.

3.29 Other types of rate relief are available and are summarised in Appendix 2.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The government's overarching transitional relief scheme reduces each year, meaning that full rates increases will not be felt until future years. To reflect this, the main alternative consideration was to profile the scheme to be more generous in years two and three. However, the government later confirmed that funding is set for each year and may not be reallocated into other years, so the local scheme must follow the amounts set by government.

4.2 Changes were made to the scheme as a result of the consultation (see below).

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 A public consultation ran from 18 August 2017 to 18 September 2017.

5.2 The consultation was available on the website and publicised on social media and via a press release. The link was sent to the Federation of Small Business, who agreed to publicise the consultation in their newsletter. Additionally the consultation details were sent to the Chamber of Commerce for circulation, along with the Brighton and Hove Economic Partnership Board and the Brighton BID.

5.3 There were 21 submissions. Further feedback was received from the Brighton and Hove Economic Partnership board meeting on 19 September 2017.

5.4 Although the number of submissions was relatively low, there was broad support for the proposals. However, there was one common area of disagreement, and that was to do with national and multi-national companies.

5.5 In the original proposals, the only proposed exclusion was council properties. We did not exclude national and multi-national companies, due partly to the potential complexities involved in administering such an exclusion. 43% disagreed with this part of the proposal. The comments reflected strongly that we should not need to support national and multi-national companies. Upon consideration of the feedback we have decided that the policy should exclude such organisations after all, for the reasons stated in section 3.

- 5.6 The Rateable Value threshold in the consultation was £120,000 and this was felt to be reasonable. 47% agreed or strongly agreed, whereas 19% disagreed. The proposed method of dealing with disputes received 53% support and 34% disagreement. In light of removing national and multi-national organisations, we are able to increase the threshold to £125,000.
- 5.7 There was a representation from the Brighton and Hove Food Partnership that we should prioritise 1) small retailers supplying fresh or frozen fruit and veg, especially in deprived areas where people have limited access to fresh food; and 2) food social enterprises, and community owned cafes/pubs. We considered these points and felt that the existing criteria should be used to establish eligibility. It is likely that small to medium retailers and operations will already come into scope for support.
- 5.8 The final representation, also from the Brighton and Hove Food Partnership, was that we should provide support to businesses who have signed up to the Living Wage. The council is committed to Brighton and Hove becoming a Living Wage city. There are currently 347 businesses who have pledged to pay the living wage in Brighton and Hove (www.livingwagebrighton.co.uk). However, to introduce any criteria or additional support for Living Wage employers, we would need to establish an untested administrative process that proves they are following through with their pledge, and this may be prohibitively complex. Legal advice suggested that we may also need to re-consult as a significant change to the basic criteria of the policy. This would be counter-productive for businesses who need the help as soon as possible. However, we can consider options around a Living Wage criteria for future years of the scheme, and also look into whether any other Local Authorities have similar criteria.
- 5.9 Other comments were made about the impact of the Revaluation itself on small businesses and in particular, guest houses and small hotels. The council has no control over the setting of the Rateable Values, but this scheme is designed to provide additional mitigation for the impact of increases, on top of measures already announced by the government to support small businesses.

6. CONCLUSION

- 6.1 Revaluation Discretionary Rate Relief will have a beneficial impact on local business and therefore should be implemented as soon as possible after approval.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The council will receive section 31 grant funding from government equivalent to 49% of the actual cost of the scheme up to the scheme limits in paragraph 3.14 so there is no cost to the council through this discretionary relief. This means for 2017/18 the section 31 grant due to the council will be up to £0.550m of the £1.123m.

Finance Officer Consulted: James Hengeveld

Date: 14/09/17

Legal Implications:

- 6 The grant has been made available to the council under section 31 of the Local Government Act 2003. This is a general power allowing Government to pay grant to local authorities towards expenditure to be incurred. Conditions may be imposed on the use of the grant. It is required to be administered by the council under its discretionary relief powers in section 47 of the Local Government Finance Act 1988. The power is subject to a requirement that the council is satisfied that reducing the amount payable is reasonable, having regard to the interests of persons liable to pay council tax. In that the proposed scheme is funded by the grant, it cannot affect other ratepayers, and as such is a reasonable. As the committee responsible for exercising the council's functions in relation to the administration, collection and enforcement of National Non-Domestic Rates, it is within the committee's power to approve the 2017/18 Business Rates Revaluation Discretionary Rate Relief Scheme.

Lawyer Consulted:

Liz Woodley

Date: 17/09/17

Equalities Implications:

- 7.1 Rate Relief support may mean that some organisations are better able to survive financially than they were without the support. Charitable rate relief already exists for many organisations that provide support to individuals and communities.

Sustainability Implications:

- 7.2 none

SUPPORTING DOCUMENTATION

Appendices:

1. Definition of Pub Relief
2. Other types of available relief.

Documents in Members' Rooms

None

Background Documents

None

Criteria for Pub Relief (and a note on State Aid)

The following is an extract from the government's guidance on Pub Relief, which was included in the Department for Communities and Local Government's Business Rates Information Letter 4/17 (www.gov.uk/government/publications/42017-spring-budget-update).

3. Pub Relief eligibility criteria - which properties should benefit

- 3.1 This section describes in principle the Pubs Relief Scheme. Local authorities should use this section to determine eligibility for the relief. The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements (see section 5 of this guidance).
- 3.2 There is no definitive description of a traditional pub or public house in law which could be readily used by local authorities to determine eligibility. The objective has been to adopt an approach that makes the design and eligibility of the scheme easy to implement by local authorities in a clear and consistent way, is widely accepted by the industry and which is consistent with the Government's policy intention as set out in this section.
- 3.3 The Government's policy intention is that eligible pubs should:
- be open to the general public
 - allow free entry other than when occasional entertainment is provided
 - allow drinking without requiring food to be consumed
 - permit drinks to be purchased at a bar.

For these purposes, it should exclude:

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

- 3.4 The proposed exclusions in the list at para 3.3 is not intended to be exhaustive and it will be for the local authority to determine those cases where eligibility is unclear. We believe that billing authorities will already have a good understanding of the licensed premises in their areas and will be able to readily form a view on eligibility in the majority of cases. We expect local authorities to design the implementation of the scheme with regard to their business rates base and existing collection practices.
- 3.5 Where eligibility is unclear authorities should also consider broader factors in their considerations – i.e., in meeting the stated intent of policy that it demonstrates the characteristics that would lead it to be classified as a pub, for example being owned and operated by a brewery. Additionally, local authorities may also wish to consider other methods of classification, such as the planning system and the use classes order to help them decide whether a property is a pub or not. However, permission for a particular use class will not necessarily mean that the property meets the definition of a pub.

Note on State Aid

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid.

The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a rolling three year period (consisting of the current financial year and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)) and the requirement to convert the aid into Euros . They should ensure each business has not exceeded its threshold through all sources of state funding.

To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance.

Reliefs available to Business Rate payers

Small Business Rate Relief

You may qualify for a reduction in business rates if the rateable value of your property is less than £15,000.

For a Rateable Value of £12,000 and below, you can get 100% relief. For Rateable Values between £12,000 and £14,999, you can get tapered relief of 0% to 100%.

When you get a second property, you'll keep getting any existing relief on your main property for 12 months.

You can still get small business rate relief on your main property after this if both the following apply:

- none of your other properties have a rateable value above £2,899
- the total rateable value of all your properties is less than £20,000

Supporting Small Business (extra Rate Relief)

If you have lost Small Business Rate Relief as a result of the 2017 Revaluation, the increase in your bill is capped for 2017/18 to a maximum of £50 a month (£600 for the year). You may also qualify for the new Revaluation Discretionary Rate Relief as well.

Empty Rates

Shops and offices are exempt from rates for the first three months after the property becomes empty. After this period full rates become payable.

Industrial properties are exempt from rates for the first six months after the property becomes empty. After this period full rates will become payable.

Some properties are exempt from empty property rates, such as:

- properties with a rateable value under £2,900
- empty properties of companies in administration or liquidation
- listed buildings

Charities and Discretionary Reliefs

Reliefs available to Business Rate payers

Charities are entitled to 80% relief on properties that are wholly or mainly used for charitable purposes. Registered Community Amateur Sports Clubs are also eligible to claim relief of 80%. The council can grant the additional 20% at its discretion.

The council can also grant 100% discretionary relief for a property if it is occupied by an organisation that is not established or conducted for profit.

Partly Occupied Property Relief - Section 44(A) Relief

Ratepayers are liable for the full non-domestic rate whether the property is fully or only partly occupied. However, in certain circumstances, where a property is partly occupied for a short time, the Council has discretion to award relief for the unoccupied part. As examples, relief may be appropriate if part of your premises can not be occupied following a fire, or if parts are being refurbished.

Public House Relief Scheme

This scheme is available during 2017/2018 only. It applies to eligible occupied pubs with a rateable value of £100,000 or less, for one year from 1 April 2017. The relief is aimed at independently owned pubs that are not part of a chain and this relief is subject to state aid limits for businesses with multiple properties.

Eligible pubs should:

be open to the general public

allow free entry other than when occasional entertainment is provided

allow drinking without requiring food to be consumed

permit drinks to be purchased at a bar.

For these purposes, it excludes:

restaurants

cafes

nightclubs

hotels

snack bars

guesthouses

Reliefs available to Business Rate payers

boarding houses

sporting venues

music venues

festival sites

theatres

museums

exhibition halls

cinemas

concert halls

casinos

This relief will be applied directly to the rate account of eligible pubs. You do not need to make an application.

Relief for Local Newspapers

If you are a local newspaper paying Business Rates for office space, we can provide a discount of up to £1,500 a year for two years from 1 April 2017. There is only one discount available per local newspaper title and per property and subject any state aid limits your organisation are in receipt of.

Hardship Relief

If you are experiencing hardship, the council will consider relief if your circumstances are exceptional. We are also required to consider the interests of the local taxpayer before providing hardship relief.

Subject:	Social Care IT System Procurement		
Date of Meeting:	12 October 2017		
Report of:	Executive Director Finance & Resources		
Contact Officer:	Name:	Mo Lawless/Jo D’Arcy	Tel: 01273 295975/5123
	Email:	<u>mo.lawless@brighton-hove.gov.uk</u> <u>jo.d’arcy@brighton-hove.gov.uk</u>	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Brighton & Hove City Council (the council) uses CareFirst Case Management system supplied by OLM as its main IT system to support and deliver services to social care for children and adults. This system is a ‘life support system’ for these services, and the council must therefore take this programme forward.
- 1.2 An original contract was signed in 1999 and there have been subsequent contracts for further modules and support services. The council is now planning to competitively test the market in order to award a contract for a new system.
- 1.3 This report seeks formal approval for the council to conduct a procurement process and award a new social work case management IT system contract with a term of 5 years with an option to extend the term by 2 years and to request access to funding to procure a new system.

2. RECOMMENDATIONS:

- 2.1 That the Executive Director for Finance & Resources be granted delegated authority to:
 - (i) Carry out the procurement and award of a new social work case management IT system contract for children’s and adult services for an initial term of 5 years;
 - (ii) Agree an extension to the contract referred to in 2.1(i) above of up to 2 years; and
 - (iii) Approve the allocation of £2.5m for the contract referred to in 2.1(i) above from unallocated capital resources and include within the capital investment programme.
 - (iv) Note that the figure set out in 2.1 (iii) above is an estimate based on current information. A more detailed breakdown of costs is being worked on and will be submitted in a full business case on the project. An update report will be presented to Policy, Resources & Growth Committee based on this full business case.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 The CareFirst case management system, provided by the software company OLM, has been in place since 1999, supporting services provided to social work clients for children and adults. This is a critical system supporting some of our most vulnerable clients in the city; as such there is no option but to replace CareFirst. The current contract arrangements are due to expire in March 2018. With advancing technology and changing business needs, social care services are typically reviewing their IT system needs every 5-10 years. The council's Procurement Team have advised that a procurement process is necessary in order to test the market, meet legislative requirements and to ensure value for money.

3.2 CareFirst supports day to day case management of social work processes and financial transactions. Further peripheral applications include:

System	Function
Guardian	Supports Multi-Agency Safeguarding Hub – part of the Front Door for Families Team (FCL)
MyLife	External Citizen Portal (HASC). Supports Care Act requirements in enabling carers and citizens to self-assess, online
CM2000	Service provider & rostering system for Health & Adult Social Care (HASC)
ADAM	Provider services and transactional system (HASC)
CP-IS	National Child Protection Information System (FCL). A notification system to alert FCL if a child who is looked after or subject to Child Protection present at A & E.
Civica Financials	The council's debtors system for General Ledger, Creditor and Debtor transactions
IDOX	The council's document management system e.g. electronic storage of case files

The system has over 1,100 council staff users, with the **newly** launched MyLife customer portal having approximately 120 clients accessing online services.

3.3 An outline business case was agreed by the Corporate Modernisation Delivery Board in January 2017. This approval was to explore opportunities to implement a new social work case management system as the current system, CareFirst, is due to have its software replaced by a new version called Eclipse (estimated date of readiness December 17).

- 3.4 A project board, led by the Executive Director for Finance & Resources has been set up to manage the procurement process, test the market, identify funding and resources and implement the chosen option.

Procurement approach

- 3.5 Procurement advice has been sought with respect to the new contract in order to ensure that the council is compliant with both The Public Contracts Regulations 2015 and CSOs, as well as establishing a value for money solution to meet the council's requirements for a social work case management system.
- 3.6 A fully compliant EU procurement procedure is required as the estimated value of the new contract is over the OJEU threshold for services (currently at £164,176). This will include exploring the use of existing frameworks where available as this can offer a quicker and more streamlined approach (for example, the Local Authority Software Agreement Framework (LASA – Framework 1059)).
- 3.7 The LASA framework includes most of the leading software providers and, if suitable, would allow BHCC to hold a mini-competition with registered and relevant suppliers.
- 3.8 Alternatively the council could run its own procurement process using an open, restricted or dialogue procedure. A decision on the preferred procurement approach for the contract will be made once a full specification is developed.
- 3.9 Officers are also assessing whether it would be possible for the council to use/call off from the contract which East Sussex County Council has in place with their case management system provider, Liquid Logic. Having the same provider may be financially beneficial and help to align the Orbis partner systems for greater collaboration down the line.
- 3.10 As the existing contract arrangements expire in March 2018, the plan is to extend these arrangements by way of a new short term contract in order to allow for the time necessary to undertake a proper procurement process for the new long term contract.

Investment requirements

- 3.11 The indicative cost of procuring a new social work case management IT system is likely to be approximately £2.5m. This includes the new system and the costs of a project team, estimated at £0.5m, which will be required for around 18 months to facilitate implementation. These costs are estimated at this stage and detailed costs are being calculated as part of a full business case. An updated report will be presented to Policy, Resources & Growth Committee based on this full business case. Support and maintenance costs of the current CareFirst system are already built into the General Fund budget. Should any additional costs be identified as a result of the new system, these will be incorporated as part of the budget setting process for 2018/19 and subsequent years.
- 3.12 As well as the cost of the system, it is important to invest in the cost of the implementation. We will learn lessons from other ICT projects both within the

council and from speaking to other Local Authorities. Officers have met with ESCC and are planning to meet with WSCC to ensure that we learn lessons from their experiences of implementing new system. Officers will ensure we have the right resources in terms of project and technical expertise. The Project Board will ensure that the scope of the project is clear and be responsible for managing key risks and issues as they arise, keeping stakeholders informed of key developments. Generic project risks such as scope creep, cost escalation, optimism bias, etc. will all be carefully monitored and reported through the Project Board.

Next steps

3.13 If the recommendations are approved, the following provisional timescales will apply:

Autumn 2017	Soft Marking Testing/Exploration of Procurement options
January 2018	Scoping of specification and decision/work on procurement route and documents
Summer 2018	Procurement process starts
February 2019	Contract awarded and contract mobilisation
Feb 2019 – Mar 2020	Implementation phase
April 2020	Go live

4. ANALYSIS & CONSIDERATION OF ANY OPTIONS

4.1 Option 1 – Do nothing

- This option is not suitable. Advice from the council’s Procurement Team is that as we have not tested the market for value for money options for around 20 years we need to engage in a compliant procurement process.
- The current CareFirst system is being replaced by Eclipse so we would need to undertake a change of system (albeit with the same provider), but cannot do this within procurement rules. It will not be possible to continue with the existing CareFirst system as it will be unsupported by OLM.

4.2 Option 2 – Procurement of a new social work case management IT system

- This is the preferred option.
- The option focuses upon the replacement of CareFirst with a modern social work case management IT system. With this model some of the peripheral applications (paragraph 3.2) may still be required but it is more likely that the depth and breadth of functionality of a new system will reduce the number.
- This would provide the option for the council to procure a system which is more customer-centric and designed to support the customer self-service options and mobile working aspirations of a modern organisation.

- Officers will explore the procurement options for a new system as outlined in sections 3.6 to 3.9 above. Officers will also explore whether it would be possible for East Sussex County Council to add a separate area to their existing database and administer it on the council's behalf.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 To ensure the project is a success we need to consult with all our stakeholders from as early on as possible. To this end the Project Board has prepared a stakeholder analysis and engagement plan which will be used as the basis for our communications plan on the project. (See Appendix A)
- 5.2 Once a system is procured, service users will be invited to work with the council on the MyLife portal to ensure that it provides the functionality and transactions that will be of most value to service users accessing council information and services online.
- 5.3 We will consider involving relevant Directors as appropriate.

6. CONCLUSION

- 6.1 The council has a requirement to ensure that its systems and software are fit for purpose and that we are able to ensure that services are provided as effectively and efficiently as possible.
- 6.2 Procurement of a new system will lead to long term operational efficiencies, improve the customer experience, and make a significant contribution to service delivery that is fit for the future.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 Procurement of this new social work case management system will enable the service to provide a system which is designed to support more effective staff working. This should reduce management costs, thereby improving the value for money of the social work services but no assumptions of direct savings are assumed at this time. The estimated cost of purchasing and implementing the new Social Work Case Management IT System is £2.5m. The Revenue & Capital Budget Planning and Resources Update report to this committee in July 2017 included the identification of £7.5m unallocated capital resources. It is proposed to allocate £2.5m of these resources to support this project by adding to the councils Modernisation Fund. The profile of the planned investment will be identified through the detailed business case and the capital investment programme will be updated accordingly.
- 7.2 £0.108m is already built into the General Fund budget for annual support and maintenance of the current system with a further £0.44m to OLM to provide database administration. Any additional budget requirements will be included as part of the 2018/19 and subsequent annual budget setting process.

Finance Officer James Hengeveld

Date: 14/09/17

Legal Implications:

- 7.3 The council's CSOs require that authority to enter into a contract valued at £500,000 or more be obtained from the relevant committee prior to inviting expressions of interest from potential bidders.
- 7.4 The authority of Policy, Resources & Growth Committee is required for matters with corporate budgetary implications such as the contract for a new social work case management IT system contract for children's and adult services. Accordingly the committee is entitled to agree the recommendations at section 2 above.
- 7.5 The procurement of contracts must comply with all relevant European and UK public procurement legislation as well as the council's CSOs.
- 7.6 The procurement of a new case management system will enable Children's Services and Adult Social Care to meet their statutory duties more efficiently.

Lawyer Consulted: Isabella Sidoli and Hilary Priestley Date: 14/09/17

Equalities Implications:

- 7.7 None arising from this report. An Equality Impact Assessment will be carried out to inform the specification for the new system. Primarily, this will ensure the customer facing portal is accessible, that personal and sensitive data are stored in line with legislation, and that the new system is able to deliver best practice guidance for example including gender non-binary options in honorifics and gender choices as relevant. The system should also meet equalities requirements for staff users.

Sustainability Implications:

- 7.9 Procurement of a new system with mobile working capabilities aligns with the council's Sustainability Strategy. A reduction in printing through mobile working will help reduce paperwork. Reduced travel requirements through more effective working will lead to reduced carbon emissions.

Public Health Implications:

- 7.10 None arising directly from this report.

Crime & Disorder Implications:

- 7.11 None arising directly from this report.

Risk and Opportunity Management Implications:

- 7.12 This is a significant change project for the service with substantial costs to procure and implement a new system. This is business critical and any delays in getting a new system implemented will impact service delivery. It provides the service with an opportunity to procure a system that meets our current and future needs, placing the customer at the heart of our IT. It presents an opportunity to

reduce the number of systems we use, thus reducing costs and complexity within the service. We need to ensure that any new system is compliant with the new GDPR legislation particularly in view of the sensitive data held in this area.

Corporate / Citywide Implications:

- 7.13 This project and transformation programme supports the Corporate Plan principles of public accountability and ensures we are citizen focused. It is also integral to the modernisation agenda and requires strong links to the council's 'Digital First' programme incorporating, for example, My Account, Customer Relationship Management and mobile working technologies.

SUPPORTING DOCUMENTATION

Appendices

Appendix A (Communications & Engagement Plan)

Documents in Members' Rooms

None

Background Documents

None

Stakeholder category	Stakeholder	Influence and Interest (using the matrix over the page)	What do we need to tell them? Why?	How?	How often?
Governance	Project Sponsors (Rob Persey/Pinaki Ghoshal)	High/high	Keep up to date on project development, key risks/issues, resource requirements, business impact Need to involve in governance and decision making around funding, resources, timescales, impact on business area	Via representatives on Project Board/Project updates from Programme Manager. Pinaki would like board minutes cc'd.	Project Board members to keep updated at 121s/ PM to share project board minutes when available.
	SRO – Dave Kuenssberg	High/high	Lead on governing and driving forward project Key decision maker on project around governance, funding, additional resources	Project Board and 121s with Project Manager	Boards monthly and 121s monthly (more often as progresses)

	ELT	High/high	Keep up to date on project development, key risks/issues, resource requirements, business impact as 2 key departments affected by change and most vulnerable client groups	Via highlight reports	Quarterly
	Project Board	High/high	Involved in delivery of project and considering implications for staff/business/customers. Some are in advisory capacity e.g. procurement/legal	Via project board meetings and separate ad-hoc meetings as and when required	Monthly
	Lead Members (Dan Yates/Karen Barford and Dan Chapman and for ICT Caroline Penn)	High/high	Need to keep up to date on developments on system replacement, budget and service implications for initial phase. Subsequent phases may need less information.	Via Dave Kuenssberg (SRO)	To be agreed by Board

Users	Project Teams (including staff from FCL, HASC, Finance, ICT, Business Reporting representatives)	Low/high	Keep involved in helping to specify user requirements, be part of analysing best systems, user testing, training, changes to processes/procedures	Project Team meetings Initial visits to ESCC for overview/comment of Liquid Logic	To be set up.
	Staff in FCL/HASC/Finance/ Business Reporting (users of CareFirst)	Low/high	Need to know when systems are changing, impact on processes and procedures. Will need training in new system and support to continue BAU.	Newsletter – link in with FCL newsletter (headlines with link to FCL/ASC staff newsletter on wave). Carolyn Bristow drafts and goes to DMT each week. Team briefings/meetings Training sessions	To be agreed by Board – Monthly updates
	Staff in other departments using CareFirst	Low/low	Need to know when systems are changing. Also consider if access should continue. Training in new system as appropriate	Identify, review and then agree e.g. via email updates?	TBC

Suppliers	CareFirst ICT team	Low/high	Key to delivering successful project. Will need to be involved in project planning, specifying requirements, assessing best systems, data migration, system readiness, testing of new systems, helping with training	Project Team meetings Part of visits to ESCC	To be set up
	OLM – Account Manager/Data Migration support	Low/High	Will be heavily involved in change to system, regardless of new supplier	Some conversations around pricing for waiver and may need quote for Eclipse via ICT manager	As and when required.
	New software provider	Low/High	Will be crucial in change to system, including data migration, system set up, testing, support arrangements, maintenance, contract discussions etc.	Part of procurement process. Once identified, regular project meetings – sit on Project Board. Project Manager from supplier	To be confirmed
	ICT infrastructure team/ICT Technical Lead	Low/High	Will be involved in system set up e.g. server requirements, data migration? and support going forward and ensuring meets internal requirements	Should there be a rep on Project Board? Otherwise via ICT manager	Will liaise with Phil Williamson ICT Change Manager re CAB process and engagement

<p>Service Users/Beneficiaries</p>	<p>Clients on CareFirst database</p>	<p>Low/low</p>	<p>Changes to system could affect service delivery and how services are delivered e.g. any invoicing/payments. Need to review personal data held against GDPR requirements. Any personal/user gateway system considerations?</p>	<p>Need to agree list of different service users, who needs to be informed as some may be affected but might not need a direct communication and best way of communicating and how often</p>	<p>TBC</p>
<p>Partner organisations</p>	<p>Orbis Partners (ESCC, Surrey) specifically IT & Digital, Finance, Procurement</p>	<p>Low/Low</p>	<p>Need to link in re procurement and system replacement due to potential for joint working/budget saving.</p>	<p>Working with them around procurement of new system, project management approach and system demos (ESCC). Les reports via Orbis Business Operations Management Team weekly</p>	<p>As and when required. Weekly meetings</p>

Subject:	Former Peter Pan site, Madeira Drive – Sea Lanes		
Date of Meeting:	12 October 2017		
Report of:	Executive Director Economy, Environment & Culture		
Contact Officer:	Name:	Angela Dymott	Tel: 01273 291450
		Jessica Hamilton	
		Jane Pinnock	
	Email:	Angela.Dymott@brighton-hove.gov.uk	
		Jessica.Hamilton@brighton-hove.gov.uk	
		Jane.Pinnock@brighton-hove.gov.uk	
Ward(s) affected:	East Brighton		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Sea Lanes consortium are proposing a change to the proposed development of the former Peter Pan site on Madeira Drive that was approved by Special Policy & Resources Committee in 2016. The developers would like to take an agreement for lease for a 5 year lease with an option to take an agreement for lease for a 150 year lease at the end of the term, subject to planning approval. The change for a 'meanwhile' use has come about due to the desire of the consortium to test the market for commercial uses in this yet unproven location. The proposed mixed use development includes retail, office, catering and a variety of leisure uses, some of which have not been trialled on Madeira Drive.
- 1.2 The experience and verified data achieved during this 5 year period will enable the consortium to finesse the business model and provide the foundations on which to progress the permanent scheme. Creating a 'destination' is key to the success of the site and attracting anchor tenants with proven status is central to this. Alongside the constraints of the site there is also uncertainty around the timescales for the redevelopment of Madeira Terrace which when combined limits interest from leading and viable operators. This amendment to the agreement provides for welcomed activity on the site in the short term whilst providing assurance to balance uncertainties for the longer term. This proposal was discussed at the Leaders Group on 4th September, the decision to grant this lease has been made under delegated powers in consultation with the Council Leader and the report is for noting.

2. RECOMMENDATIONS:

- 2.1 That the Policy Resources and Growth Committee notes the decision made using Officer urgency powers (7 (2) in Part 6 Scheme of delegation to Officers) in consultation with the Council Leader, to grant an agreement for lease for a 5 year lease with an option to take an agreement for lease for a 150 year lease at the end of the term, subject to planning approval.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 In April 2016, following a marketing exercise, a Special Policy and Resources Committee authorised the granting of an agreement for lease and a 150 year lease to a development consortium known as Sea Lanes, subject to planning approval and an agreed set of Heads of Terms. The £5m development was conceived as an open water swimming venue comprising a 50m pool, associated changing facilities and a mix of retail, office, leisure and catering uses. The developer did not submit a subsequent planning application due to their concerns over the future of Madeira Terrace and the scheme in its initial scope stalled.
- 3.2 The former Peter Pan site has been derelict for decades and despite several attempts the council has been unable to secure a viable development for this site. The council is keen to encourage 'meanwhile' uses on Madeira Drive whilst the redevelopment of the Terraces is secured. The site has been advertised in recent months for a short term temporary use but there has been no interest.
- 3.3 The Sea Lanes consortium remains committed to developing the site and has submitted a scaled down temporary version of their original proposal which whilst still including many of the original uses now comprises pre-fabricated modular units and a prefabricated 25m pool. The pool will be located on the beach adjacent to Yellowwave and secured with fencing, subject to planning approval. The intention is to remove all buildings and pool at the end of the 5 year term.
- 3.4 The rationale for this temporary scheme is to test the market for mixed commercial uses in this as yet unproven location and to monitor progress on the redevelopment of Madeira Terrace. The developers have indicated that funding for the permanent scheme has been hampered by the uncertainties over the future of Madeira Terrace.
- 3.5 Terms have been agreed for a 5 year lease to Sea Lanes Brighton Ltd. Assignment will not be permitted during the term. There will be an option at the end of the 5 years for Sea Lanes to take an agreement for lease and a 150 year lease based on the agreed set of Heads of Terms given Committee approval in April 2016. The broad terms were the provision of an open air 50m pool with associated changing facilities and commercial units for retail office and leisure use. The option of a long lease at the end of the temporary scheme gives the developer some comfort that their initial investment and commitment to the regeneration of Madeira Drive will be worthwhile and lessens their commercial risk. Both the 5 year lease and the terms of the 150 year lease have been confirmed by the Council's Valuer to represent the best value which could reasonably have been obtained for this site.
- 3.6 There is a critical timeline to ensure that the site is developed and providing a leisure attraction and an active frontage along Madeira Drive next summer. The consortium required signed Heads of Terms which are now in place and this has given them the comfort to go ahead with their design proposals, pre-application planning advice and planning approval before the end of the year, whilst the agreement for lease and 5 year lease is being finalised. Groundworks and construction of the scheme can then proceed in the New Year with completion of the development to be open and trading by the end of May 2018. It was therefore

not possible to wait for this meeting of the Policy, Resources & Growth Committee so the Chief Executive used his urgency powers to make the decision to proceed with the revised arrangements. It is anticipated that the agreement for lease will have been signed by the date of this Policy, Resources & Growth Committee and the developer is proceeding with preparing a planning application.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The site has been marketed several times over the years for both short term uses and for permanent development without success. The last national marketing of the site in late 2014 was prior to the closure of Madeira Terraces. Two developers were interviewed and the panel's decision was that the Sea Lanes proposal was the strongest submission for the site. Sea Lanes remain committed to developing the site but have been unable to secure funding due to the uncertainties around the closure of Madeira Terrace. A temporary mixed use development will allow the location to be tested for viability.

5 COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Officers within the Seafront, Tourism and Visit Brighton teams welcome this development and consider it meets a latent visitor demand.
- 5.2 The developer has sought pre-application advice from the Planning department and has consulted with Sport England as well as potential leisure user groups in the local area.

6 CONCLUSION

- 6.1 The development of this site is a key part of the regeneration of Madeira Drive. The granting of a 5 year temporary lease will enable the developer to test the market for a swimming pool and mixed use scheme in this location before proceeding with a significant long term investment.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The council will secure a ground rent income stream for the five year period. The ground rent reflects the rents achieved on sub-leases for that period. The rental income will support the council's revenue income budget targets. Sea Lanes Brighton Ltd will be responsible for all running costs including utilities, security, maintenance and business rates. The operators will also be required to invest in any initial installations such as electrical sites and security fencing required to commence business. The council will not incur any liability for costs associated with the site during that period.

Finance Officer Consulted: Rob Allen

Date: 14/09/17

Legal Implications:

- 7.2 Section 123 of the Local Government Act 1972 (“the Act”) enables a local authority to dispose of land provided it achieves the best consideration reasonably obtainable. Recommendation 2.1 is proposing the grant of an initial agreement for lease for a 5 year lease with an option for the lessee to take a further 150 year lease. This report confirms that steps have been taken to ensure best consideration.

Section 7(2) in Part 6 of the Scheme of Delegation to Officers gives Chief Officers the power to take decisions if there is a case of urgency. The Chief Officer is required to consult with the Chair of the relevant Committee and the power can only be used if it is not reasonably practicable to obtain prior approval of a Committee or Sub-Committee. The reasons it was not practical to wait for this meeting of the Policy, Resources & Growth Committee are set out in this report. The Chief Executive consulted with the Chair prior to exercising this power.

Lawyer Consulted:

Joanne Dougnaglo

Date: 14/09/17

Equalities Implications:

- 7.2 The site has been widely marketed.

Sustainability Implications:

- 7.3 These will be dealt with through planning conditions.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members’ Rooms

None

Background Documents

None

Subject:	Review of the Constitution : October 2017		
Date of Meeting:	12 October 2017 Full Council – 2 nd November 2017		
Report of:	Executive Lead Strategy Governance and Law		
Contact Officer:	Name:	Elizabeth Culbert	Tel: 29-1515
	Email:	elizabeth.culbert@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report proposes changes to the Council's Constitution for approval by Policy, Resources & Growth Committee and full Council. The issues set out in the report have been considered by the cross party Constitution Working Group.

2. RECOMMENDATIONS:

Policy, Resources & Growth Committee

- 2.1 That the Policy, Resources & Growth Committee approves the recommendations set out at paragraphs 3.2 to 3.11 (Scheme of Officer Delegations) and Appendices 1-3.
- 2.2 That the Policy, Resources & Growth Committee recommends to full Council the proposed changes to the Council's constitution as set out at paragraphs 3.12 to 3.19 in the report and Appendices 4-6.

Full Council

- 2.3 That the proposed changes to the Council's constitution recommended in paragraph 2. 2 above be approved and adopted.

Both Policy, Resources & Growth Committee and Full Council

- 2.3 That the Chief Executive and Monitoring Officer be authorised to take all steps necessary or incidental to the implementation of the changes agreed by the Council and that the Monitoring Officer be authorised to amend and re-publish the Council's constitutional documents to incorporate the changes.
- 2.4 That the changes come into force immediately following approval by PR&G and full Council.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Council is required to keep its constitution under review with a view to achieving efficiency, economy and effectiveness. The Cross-Party Constitutional

Working Group (CWG) was set up to assist with this by considering proposals and advising the Council on proposed changes to the constitution. The current Members of the CWG are Councillors Clare Moonan; Lee Wares and Leo Littman. This report sets out the proposals agreed by the CWG in July 2017.

Officer Delegations – Executive Director, Neighbourhoods, Communities and Equalities

- 3.2 It is proposed that the Executive Director, Neighbourhoods, Communities and Equalities formally takes responsibility for the delivery of the Council's Customer Services and Digital First transformation programme and that the Scheme of Officer Delegations is amended and updated accordingly. This programme is not currently referred to in the Scheme of Delegations to Officers
- 3.3 Amended wording is also proposed in relation to the management of community and voluntary sector discretionary grants to reflect the current commissioning based approach of the Third Sector Investment Programme. The wording proposed is amended to reflect the current practice whereby the budget for community and voluntary sector grants is set at full Council and the framework, including principles, priorities and outcomes is approved by the Neighbourhoods, Inclusion, Communities and Equalities Committee.
- 3.4 The proposed amended wording is shown at **Appendix 1** with tracked changes.

Officer Delegations – Assistant Director, Property

- 3.5 Currently the Assistant Director, Property has delegated powers to acquire or dispose of land of up to £250k in value, with the exception of 'housing land' which is delegated to the Executive Director, Neighbourhoods, Communities and Housing. The reference to 'Housing Land' has caused uncertainty and it is proposed to amend this to 'Housing Revenue Account Land' so that the respective responsibilities of the Executive Director, Neighbourhoods, Communities and Housing and the Assistant Director, Property are clear.
- 3.6 The threshold of delegations to officers in relation to property transactions has been discussed by the recent Policy Review Panel, which indicated that it considered the existing thresholds to be sufficient and therefore there are no recommendations from the CWG to alter these at this time.

Officer Delegations – Emergency Planning

- 3.7 Currently the scheme of delegations to Officers and the Emergency Planning/Civil Contingencies guidance do not consistently use the same terms, thereby raising the risk of a lack of clarity and/or of decisions not being authorised. It is proposed that authority be given to permit the Monitoring Officer to amend the Scheme of Delegations to Officers to reflect the requirements of the Council's emergency planning and major incidents guidance, once the review of it (which is currently underway) has been completed.

Officer Delegations – Orbis Partnership

- 3.8 The Council has entered shared services agreements for support services. Currently, the Scheme of Delegations to Officers does not deal with the issue of officers exercising powers on behalf of other partner authorities. It is therefore proposed that BHCC's Scheme of Delegations to Officers be amended to make specific reference to the practice of cross- authority working.
- 3.9 A draft of the proposed amendments is attached as **Appendix 2**.

Planning Committee – Member call-in procedure

- 3.10 Under current procedures, Members have the right to refer planning applications to Planning Committee that would otherwise be dealt with under Officers' delegated powers. The Planning Working Group has recommended that Members referring such applications to Committee be required to give reasons as these have not been consistently provided and this principle was supported by the CWG.
- 3.11 The proposed amended wording is attached with tracked changes at **Appendix 3**.

Information Governance

- 3.12 Information Governance is the way the Council handles information, in particular, the personal and sensitive data relating to our customers and employees. The focus on this area is set to increase given the use of technology in delivering the Council's modernisation programmes and the rapid legislative changes in this area, including the new General Data Protection Regulation due to come into force from May 2018.
- 3.13 It is recommended that Audit & Standards Committee be delegated the function of oversight of the Council's information governance arrangements concurrently with Policy, Resources and Growth Committee. This area of work is not currently explicitly referred to in the Council's constitution.
- 3.14 The proposed amended terms of reference for Audit & Standards Committee are attached at **Appendix 4** with tracked changes. In addition, it is proposed to amend the delegation to the Executive Director, Finance and Resources to include reference to Information Governance.

Terms of Reference for Committees – Neighbourhoods, Communities and Equalities Committee

- 3.15 In accordance with the ongoing mandate to review the Council's constitutional arrangements for carrying out its business, the remit of the Neighbourhoods, Communities and Equalities Committee has been reviewed.
- 3.16 There are a number of recommendations which aim to align the remit of this Committee with delegations to Officers and to reinforce the Committee's community-facing responsibilities, organising those in a logical way so as to use this Committee and others as effectively as possible.

3.17 It is proposed to implement the following changes:

- NICE Committee to be responsible for the development and oversight of support to the Council's enforcement functions, including Field Officers;
- NICE Committee to include the functions of the Council insofar as they relate to Customer Services, including Digital First. These functions are not currently delegated to any Committee.
- The responsibility for Libraries to move from Economy, Development and Culture Committee to NICE Committee, to bring the Committees into line with changes already made in relation to the Directorate. The CWG noted that the EDC Committee retains an overarching responsibility for 'culture, including arts, entertainment, cultural facilities and heritage' and therefore this remit can extend to look at cultural matters wherever they arise, including as part of the library service.
- Social impact bonds to be included in the NICE Committee delegations. Social impact bonds are a method of funding social policy through a payment-by-results contract with initial funding coming from a social investor. The example that the Council is currently engaged with relates to rough sleepers. This function is not currently delegated to any Committee.
- NICE Committee to be delegated responsibility for developing and overseeing the pilot of the new ward budgets approved by PR&G.

3.18 A copy of the proposed amendments to the NICE Committee delegations is attached as **Appendix 5**.

Council Procedure Rules

3.19 The CWG considered a proposal to clarify the rules around substitution at meetings. The proposed amended Council Procedure Rule 18 is attached at **Appendix 6** with tracked changes. The key change is to making explicit the requirement that a substitute may only be appointed where the Member for whom they are substituting is absent for the whole meeting. This is to ensure effective and lawful decision making, where those Members taking decisions are apprised of the relevant issues before the decision is taken.

Petition Reports

3.20 The Constitution Working Group was asked by full Council to review the application of the Council Procedure Rules on amendments to petitions. The CWG reviewed the arrangements and agreed that the usual rules in relation to Petitions should apply. The CWG proposed that the covering reports supporting Petitions should be amended to make clear that the Council Procedure Rules in relation to amendments to Petitions are the same as those for other reports. The rule in relation to amendments is set out below for information:-

Extract from Council Procedure Rule 15 Notice of Amendments

15.4 Copies of amendments will be prepared and circulated prior to the start of a Council meeting only if such amendments are presented to the Chief Executive by 10.00am on the day of the Council meeting. Amendments for which notice has not been given may be permitted at any time at the discretion of the Mayor or Chair if s/he considers it appropriate with regard to the complexity of the matter, the question of whether notice has been given as soon as is reasonably practicable and any other circumstances that appear to be relevant. Such amendments shall be put in writing unless the Mayor or Chair exercises his to her discretion to allow an amendment to be put orally.

Review of Councillor numbers – Boundary Commission review

- 3.21 The CWG requested officers to contact the Local Government Boundary Commission in order to consider the possibility of an electoral review. The Council's current electoral arrangements were reviewed against the Boundary Commission's detailed criteria and, having considered those, the Commission indicated that it did not consider the electoral variance at BHCC to be significant. As a result it confirmed that BHCC does not meet its criteria for initiating a review at the current time.
- 3.22 A table showing the Commission's calculations is appended as well as a chart indicating where BHCC's arrangements sit in relation to those of neighbouring authorities. This is attached as **Appendices 7a & 7b**.

Decision making arrangements

The CWG considered the current committee system decision making arrangements in Brighton & Hove in the context of the recent LGA Peer review, which recommended that the issue of the governance arrangements for the Council be settled. The CWG did not have a unanimous position in relation to a preferred model of decision making but the majority view was that at this time the Committee system worked well for the Council and should be retained. There is therefore no recommendation to change decision making arrangements at this time.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The Committee or Council could decide not to implement the changes set out in the report.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The Cross Party Constitutional Working Group have been consulted and Leaders group considered the proposals set out in the report.

6. CONCLUSION

- 6.1 The proposals reflect the Council's ongoing efforts to review and streamline its processes in an ongoing way so as to achieve both financial savings and increased efficiency. It is therefore recommended that they are pursued.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

There are no direct financial implications arising from this report.

Finance Officer Consulted: James Hengeveld Date:4/9/2017

Legal Implications:

- 7.1 PRG and where specified in the report, full Council, have the authority to make the changes to the Council's constitution as set out in the report. The intention is for the proposals to be implemented with immediate effect unless otherwise indicated.

Lawyer Consulted: Elizabeth Culbert Date: 4/9/2017

Equalities Implications:

- 7.2 None

Sustainability Implications:

- 7.3 None

Any Other Significant Implications:

- 7.4 None identified

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1 – Officer Delegations – Executive Director, Neighbourhoods, Communities and Housing

Appendix 2 – General Officer Delegations – Orbis Partnerships

Appendix 3 – Officer Delegations – Executive Director Economy, Environment and Culture

Appendix 4 – Terms of Reference for Audit and Standards Committee

Appendix 5 – Terms of Reference for Neighbourhoods, Inclusion, Communities and Equalities Committee

Appendix 6 – Council Procedure Rules – substitution

Appendix 7a and 7b – Boundary Commission data

Documents in Members' Rooms

1. None

Background Documents

1. None

Appendix 1 – delegations to Executive Director Neighbourhoods, Communities and Housing with tracked changes

VII DELEGATIONS TO EXECUTIVE DIRECTOR NEIGHBOURHOODS, COMMUNITIES AND HOUSING

1. Gypsies, Roma and Travellers

To exercise the Council's functions regarding all issues relating to Gypsies, Roma and Travellers including management of authorised sites.

2. Neighbourhood Renewal

To exercise the Council's functions in respect of neighbourhood renewal, which include:-

(a) Developing and implementing the neighbourhood renewal strategy for the City in order to narrow the gap between the most deprived neighbourhoods and the rest of the City, under the themes set by national Government of: housing, health, liveability, crime, education and employment and

(b) acting as the accountable body for the neighbourhood renewal fund on behalf of the Local Strategic Partnership.

3. Housing Related Support Services

Subject to any instructions of the Chief Executive given from time to time, to exercise the Council's functions in relation to housing related support services for adults generally.

Note: this power is delegated concurrently to the Executive Director Health and Adult Social Care.

4. Housing

(1) General

To manage the Council's housing services.

(2) Housing Revenue Account (H.R.A.) Properties

(a) To manage property within the Housing Revenue Account and associated property;

(b) Without prejudice to (a) above, exercise the housing functions listed in **Schedule 5** to this Scheme of Delegation.

(3) **Right to Buy**

To administer the right to buy scheme.

(4) **Housing Strategy**

- (a) To exercise the Council's functions as a local housing authority.
- (b) Without prejudice to (a) above, to exercise the Council's functions in respect of the preparation and development of the Council's housing strategy including the housing investment programme.

(4A) **Housing Related Property Transactions**

Without prejudice to the generality of the housing related powers granted under this part of the constitution, and for the avoidance of doubt, the delegations to the Executive Director shall include the powers described in paragraphs 21(7) to 21(13) of the delegations to the Assistant Director of Property in so far as they relate to land or property held by the Council for housing purposes, this with the express proviso that the requirement that the certification of the Valuer be obtained shall not apply to leases entered into for a period of up to 10 years for the purposes of providing temporary accommodation

(5) **Homelessness and Allocations**

(i) Subject to sub-paragraph (5)(ii) below, to discharge the Council's functions regarding homeless persons under the Homelessness legislation, and exercise the Council's functions regarding the allocation of dwellings generally, including the Council's functions under Part VI of the Housing Act 1996.

(ii) Sub-paragraph 5(i) above shall not apply in relation to the management of hostels for vulnerable adults.

(6) **Housing Grants**

To carry out the Council's functions in relation to grants for the improvement and repair of housing under Part 1 of the Housing Grants, Construction and Regeneration Act 1996 and earlier and any later grants legislation.

(7) **Standards of Housing**

- (a) To exercise the Council's functions regarding standards of housing in its area.
- (b) Without prejudice to the generality of (a) above, the Executive Director shall have the power to deal with the enforcement of housing standards

additional control measures in residential accommodation and licensing of houses in multiple occupation, selective licensing of other residential accommodation and overcrowding under the Housing Act 2004 and all other relevant legislative provisions, provided that any decision involving the making of demolition orders and prohibition orders, but not Emergency Prohibition Orders under sections 43 and 44, shall not be taken unless the Chair of the Housing and New Homes Committee and the Executive Lead for Strategy, Governance and Law (and Monitoring Officer) have been consulted and have no objections.

- (c) Without prejudice to the generality of (a) above, to serve enforcement notices or take other appropriate action under statutory provisions for the abatement of nuisances or requiring works to be done to remedy nuisances, hazards to health or other matters in residential premises.

(8) Tenancy Relations

To exercise the Council's functions regarding tenancy relations and in particular the Council's functions under the Protection from Eviction Act 1977 and the Landlord and Tenant Act 1985.

(9) Housing Advice

To discharge the Council's functions regarding the provision of advice on housing matters and the publication of information.

(10) Access to Personal Files

To exercise the Council's functions regarding access to personal files or information under the Data Protection Act 1998.

(11) Licensing and Registration of HMOs

To exercise the Council's functions regarding the licensing of Houses in Multiple Occupation under the Housing Act 2004 and any other relevant legislation and the maintenance of all registers required in respect of licensing, Housing Notices and Orders and Interim and Final Management Orders and Empty Dwelling Management Orders.

(12) Power to issue Notices

- (a) To issue and sign Notices of Seeking Possession and Notices to Quit in relation to any secure or non-secure housing tenancies.
- (b) To issue and sign statutory notices that relate to private sector residential properties and otherwise to exercise the Council's functions in relation to the functions listed here, this including (but not limited to) the functions exercisable by the Council pursuant to the following legislation:-

Anti Social Behaviour Crime and Policing Act 2014 Parts 1, 4, 5 and 6
Housing Act 1985 Parts VI, VIII, IX, X, XI, XVI;
Housing Act 1996 Part II;
Housing Grants, Construction and Regeneration Act 1996 Parts 1 and V;
Local Government (Miscellaneous Provisions) Act 1976 ss. 16 and 33;
Local Government (Miscellaneous Provisions) Act 1982 s.29;
Public Health Act 1936 ss.45,48,49,83,84 and 275;
Public Health Act 1961 ss. 17 and 22;
Building Act 1984 ss. 59, 64,66,67,70,72,76,84 and 97;
Environmental Protection Act 1990 Parts III and IX;
Prevention of Damage by Pests Act 1949 s.4;
Health and Safety at Work, etc. Act 1974 s.4;
Housing Act 2004 Parts 1, 2, 3, 4, Part 6 section 216 only, Part 7.

5. Emergency Planning

To exercise the Council's functions in respect of emergency planning and business continuity, including the council's functions under the Civil Contingencies Act 2004.

6. Community Safety and Drug Action Team

- (1) To exercise the functions of the Council in relation to Community Safety and in particular the power to:-
 - (a) co-ordinate the Council's functions regarding the police and public safety and to take such corporate action as is necessary, including:-
 - (i) making the consultative arrangements under the Police Act 1996;
 - (ii) drawing up community safety plans;
 - (iii) co-ordinating the Council's functions under the Crime and Disorder Act 1998 including the formulation, with other responsible authorities, of strategies for reducing crime and disorder and the making of child curfew schemes.
 - (b) To take any action or steps under the Crime and Disorder Act 1998, the Criminal Justice and Police Act 2001, the Anti-Social Behaviour Act 2003 and such other legislation as appears necessary in the interests of the Council and in accordance with the Council's community safety, youth crime and other safer streets strategies.
- (1) To exercise the Council's functions regarding drug and substance misuse.

- (2) To exercise the Council's functions under the Counter Terrorism and Security Act 2015.

7. Environmental Health

- (1) To exercise the Council's functions in respect of environmental health matters including but not limited to the functions listed in **Schedule 1** to this Scheme of Delegations.
- (3) To exercise the power to issue and sign notices and orders in respect of environmental health matters and to take all other necessary steps to discharge the Council's enforcement powers in this area.

8. Licensing and Registration

- (1) To exercise the functions of the Council in relation to licensing and registration, including but not limited to functions under the Licensing Act 2003 and the Gambling Act 2005 to the extent that such functions may be delegated to an officer under those Acts.
- (2) To exercise the power to grant licences, permits, consents or registrations, as the case may be, in relation to the Council's licensing and registration functions including but not limited to those listed in **Schedule 2** to this Scheme of Delegations.
- (3) The power to grant licences etc. under (1) and (2) above shall not apply:-
 - (i) where the granting of the licence would be contrary to any existing policy of the Council, provided that the above qualification shall not apply where the Council has no power to refuse applications.
 - (ii) in relation to the following matters under the Licensing Act 2003:-
 - (a) the determination of an application for a premises licence where representations have been made;
 - (b) the determination of an application for a provisional statement where representations have been made;
 - (c) the determination of an application for variation of a premises licence where representations have been made;
 - (d) the determination of an application to vary the designated premises supervisor following Police objections;
 - (e) the determination of an application for the transfer of a premises licence following Police objections;
 - (f) consideration of a Police objection made to an interim authority notice;
 - (g) the determination of an application for a club premises certificate where representations have been made;
 - (h) the decision to give counter notice following Police objections to a temporary event order;

- (i) the determination of an application for the grant of a personal licence following Police objections.
- (iii) In relation to the following matters under the Gambling Act 2005:-
- (a) the determination of an application for a premises licence where representations have been made and not withdrawn;
 - (b) the determination of an application for a variation of a premises licence where representations have been made and not withdrawn;
 - (c) the determination of an application for the transfer of a premises licence where representations have been received from the Commission;
 - (d) the determination of an application for a provisional statement where representations have been received and not withdrawn;
 - (e) the determination of an application for a review of a premises licence;
 - (f) the determination of an application for club gaming / club machine permits where objections have been made;
 - (g) the cancellation of club gaming / club machine permits;
 - (h) the decision to give a counter notice to a temporary use notice.
- (4) Where, in the opinion of the Director, after consultation with the Chair of the Licensing Committee, the application is considered to be a major application, having regard to licensing objectives, the matter may be referred to the full Licensing Committee. Major applications which are unopposed may be dealt with under officer delegated powers.
- (5) The power to grant licences under sub-paragraphs (1) and (2) above shall include the power to renew, transfer, vary, refuse, suspend or revoke such licence, registration etc. and the power to impose conditions.

9. Trading Standards

To exercise the Council's functions with regard to trading standards, including but not only in the following areas:

- Animal health and welfare
 - Consumer protection
 - Fair trading and consumer protection
 - Food and feed
 - Food safety
 - Health and Safety at Work
 - Product safety
 - Weights and measures
- (2) Without prejudice to the generality of (1) above, to discharge the Council's functions under the legislative provisions listed under **Schedule 3** to this Scheme of Delegations, this including (but not limited to) the following:

- To appoint and designate officers as inspectors, sampling officers or authorised officers in respect of the above functions.
- To grant, amend, refuse, suspend and transfer licenses or certificates, and
- To register persons or premises, pursuant to legislation made in relation to the above areas.

10. Communities

(1) To manage community and voluntary sector discretionary grants, as follows:-

(a) In relation to the [Third Sector Investment Programme](#)~~Three-Year Corporate Grant Programme~~

(i) to process applications for grants from communities and non-profit making bodies in the area of the Council and make recommendations to the [Neighbourhoods, Inclusion, Communities and Equalities Committee](#)~~Policy, Resources & Growth Committee for approval~~; and

(ii) following approval of grants pursuant to sub-paragraph (i) above, to amend any or all such grants in response to budget changes, after consultation with the Members Advisory Group.

(b) In relation to all other grants administered by the Executive Director Neighbourhoods, Communities and Housing (including [the Communities Fund](#))~~grants to smaller organisations, specialist programme grants and, community grants~~, to receive, commission and process grant applications and to approve grants after consultation with either (i) the Chair of the Members' Advisory Group for grants of £3,000 or less, or (ii) the Members' Advisory Group for grants in excess of £3,000.

(2) To develop the Council's approaches to tackling inequality and discrimination both within the Council as an employer and across the City.

11. Libraries

(1) To exercise the functions of the Council in relation to libraries and in particular the power to:-

- (a) fix the opening and closing hours of libraries;
- (b) set the fees and charges made by the Business Information Services;
- (c) take such other steps as appear to the Executive Director Neighbourhoods, Communities and Housing to be necessary or conducive to the effective and efficient running of the library service.

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(2) To manage the Grange, Rottingdean

12. Customer services, including Digital First

To exercise the customer services functions of the Council. This shall include overseeing the provision of advice and assistance in relation to the delivery of Council services (including those services provided by other directorates), including (but not be limited to) the Council's Digital First transformation programme.

13 The Prevent Duty

To exercise the functions of the Council listed above with due regard to the need to prevent people from being drawn into terrorism, and otherwise to agree risk and to co-ordinate Prevent activity across the Council so as to ensure the Council's implementation and delivery of its statutory Prevent duty in the exercise of its functions.

Appendix 2 – Proposed Amendments to the Scheme of Delegations to Officers to reflect Orbis arrangements

Extract from Part 6 – Scheme of Delegations to Officers

[..]

PART 6.1 INTRODUCTION

1. The delegations set out in Parts A and B of this Scheme of Delegation shall be construed and applied in accordance with the following paragraphs.
2. The following expressions shall have the meanings assigned to them :-

“Chief Officer” means any one of the Chief Executive, Executive Directors of Finance & Resources; Economy, Environment and Transport; Health and Adult Social Care; Families, Children and Learning; Neighbourhoods, Communities and, Housing or the Executive Lead for Strategy, Governance and Law (and Monitoring Officer) or any of their successors including any person appointed to undertake the functions of the Chief Officer by whatever name called unless the context suggests otherwise.

“Executive Leadership Team” means the Team consisting of the Chief Officers.

“Corporate Landlord” means the model adopted by the council under which the council’s property assets are managed with the aim of bringing together all property functions (except for operational service issues) under Property & Design to improve the utilisation, efficiency and effectiveness of the council’s land & buildings.

“the Orbis Partnership” shall mean the public sector partnership which has been entered into by Brighton & Hove City Council with East Sussex County Council and Surrey County Council and the Orbis Public Law Partnership which has been entered into by Brighton & Hove City Council with East Sussex County Council, Surrey County Council and West Sussex County Council in order to deliver certain of the Council’s corporate services via a shared arrangement.

3. The functions of the Ccouncil specified in Part A of this Scheme are delegated to the Chief Officers in relation to their areas of responsibility (and subject to the Corporate Landlord model).
4. The functions of the Council specified in Part B of this Scheme are delegated to the officer/s described therein.
5. The functions delegated under this Scheme of Delegation shall be subject to the Council’s standing orders, financial regulations, policies

and procedures and to any instruction or guidance of the Council or the appropriate Committee or Sub-Committee acting under its delegated powers. The functions shall be carried out subject to the duty to have due regard to the need to prevent people from being drawn into terrorism.

6. Except in relation to any statutory function vested directly in the officer concerned, each officer shall, in exercising his/her delegated functions, comply with any instructions of the Chief Executive. The Chief Executive is authorised to rule on any questions arising under this scheme including the extent to which any function is delegated.
7. Where a function is delegated to an officer, he/she may authorise the carrying out of that function, in his/her name, by other officers within his/her department, directorate, team, unit or section (or such other officers as report to him/her directly or indirectly) either fully or under the general supervision and control of the authorising officer. Without prejudice to the generality of the foregoing, such authorisation may include authorisation to issue and sign statutory notices in the name of the relevant officer or any other person with delegated functions.

8 Without prejudice to the other provisions of this Scheme, employees of Orbis Partnership authorities may be authorised by Brighton & Hove City Council to carry out work on the authority's behalf by the relevant Executive Director or other authorised officer of BHCC. This may occur on a basis agreed between Brighton & Hove City Council and the relevant authority/ies, provided that the work in question may lawfully be carried out by a person who (whilst not an officer of Brighton & Hove City Council) may be directed to act on this Council's behalf either by professional practice or at the Monitoring Officer or other officer's discretion.

9. All such matters as may be regarded as included by inference shall be comprised within the delegated functions of officers; and any delegation to an officer shall include all consequential or ancillary matters as necessary. For example, where the exercise of a function has been delegated, it shall include, subject to any express reservations in this scheme, the power to serve notices or orders, authorise agreements, authorise proceedings or fix or vary fees and charges.

Appendix 3 – Proposed Amendments to the delegations to the ED – E, E & C

Extract from the Delegations to the Executive Director - Economy, Environment and Culture

[..]

15. Town and Country Planning

- (1) To determine applications in relation to matters listed under Part I of **Schedule 4** to this Scheme of Delegation having regard to the Council's relevant planning policies and published guidelines.

PROVIDED THAT the powers delegated under the above shall NOT apply where:-

- (a) 5 or more individual written objections relating to material planning considerations pertinent to the application in question have been received within the public consultation period from separate persons or bodies in relation to applications that officers are minded to approve, or where 5 or more individual written expressions of support from separate bodies or persons have been received within the public consultation period in relation to applications that officers are minded to refuse. Only written objections or expressions of support received from persons who live in the immediate vicinity of the application site or who otherwise may reasonably be considered to be potentially directly affected by the proposed development will be taken into account in determining the relevant number of representations required by this paragraph ; or
- (b) Conservation Advisory Group (CAG) or Disabled Access Advisory Group (DAAG) requests, within the public consultation period, that an application is determined by the Planning Committee. In making the request CAG or DAAG shall state whether it would be seeking an approval or refusal of the application. If officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn; or
- (c) a ward Councillor requests, within the public consultation period, that an application within his or her ward is determined by the Planning Committee. In making that request the Councillor shall state whether he/she would be supporting/seeking an approval or refusal of the application and shall give their reason or reasons in writing as to why they consider the application should be determined by Committee and shall set out their representations on the application as part of their request. Ward Councillors making such requests may, -attend and address the Committee when the application falls to be determined, or may ask for their representations to be read out at the meeting.-. If officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn. (NB In any case where the Ward Councillor is also a member of the Planning Committee and the application is referred to the Committee for determination, he/she will, if present, having exercised his/her right to make an oral representation to the Committee, need to leave the meeting during the consideration of the application); ~~or~~

[..]

Appendix 4 – Proposed Delegations to Audit & Standards Committee – showing tracked changes

AUDIT & STANDARDS COMMITTEE

Explanatory Note

The Audit functions of this Committee relate to the Council's arrangements for the discharge of its powers and duties in connection with financial governance and stewardship, risk management and audit. It plays a key role in acting as a critical friend to the Council and in helping to build trust in the Council's arrangements. The Committee receives referrals from and makes recommendations to the Council, Policy & Resources Committee, Officers or other relevant body within the Council.

The Standards functions of this Committee seek to ensure that the Members, Co-opted Members and Officers of the Council observe high ethical standards in performing their duties. These functions include advising the Council on its Codes of Conduct and administering related complaints and dispensation procedures.

In addition to the Councillors who serve on the Audit and Standards Committee, the Committee includes at least two independent persons who are not Councillors. They are appointed under Chapter 7 of the Localism Act, or otherwise co-opted, and act in an advisory capacity with no voting powers.

In the terms of reference of this Committee a "Member" is an elected Councillor and a "Co-opted Member" is a person co-opted by the Council, for example to advise or assist a Committee or Sub-Committee of the Council.

General Audit and Standards Delegated Functions

To review such parts of the constitution as may be referred to the Committee by the Policy and Resources Committee and to make recommendations to the Policy Resources Committee and the Council.

To appoint, co-opt or (in any case where only the Council has power) to recommend the appointment or co-option of a minimum of two independent persons:

- to give general assistance to the Committee in the exercise of its functions; and
- to give views on allegations of failure to comply with a Code of Conduct as required by Chapter 7 of the Localism Act.

To:

- review and agree the Council's whistleblowing policy
- have an overview of complaints handling and Local Ombudsman investigations
- review and agree activity, policy and guidance in relation to the Regulation of Investigatory Powers Act 2000

To deal with any audit or ethical standards issues which may arise in relation to partnership working, joint committees and other local authorities or bodies.

To oversee the Council's information governance arrangements. This will include oversight of those of the Council's policies, procedures and processes which concern information governance and which operate across the Council's internal and external-facing activities.

To ensure arrangements are made for the training and development of Members, Co-opted Members and Officers on audit, ethical and probity matters, including Code of Conduct issues.

To support and advise the Chief Finance Officer and the Monitoring Officer in their statutory roles.

Delegated Audit Functions

To carry out independent scrutiny and examination of the Council's financial and non-financial processes, procedures and practices to the extent that they affect the Council's control environment and exposure to risk, with a view to providing assurance on the adequacy and effectiveness of:

- the work of internal and external audit;
- the governance arrangements of the council and its services;
- the risk management and performance management frameworks and the associated control environment;
- the arrangements to secure value for money;
- the financial management process;
- arrangements for the prevention and detection of fraud and corruption

To meet the requirements of the Accounts and Audit Regulations 2015 in respect of:

- conducting an annual review of the effectiveness of the system of internal control;
- conducting an annual review of the effectiveness of internal audit;
- reviewing the outcome of annual review of governance arrangements and approving the Annual Governance Statement, ensuring it contains any actions for improvement; and
- considering and approving the Council's annual Statement of Accounts.

To consider the External Auditor's Annual Audit Plan, Audit Results Report, Annual Audit Letter and other relevant reports.

To consider and agree the Internal Strategy and Annual Audit Plan, Head of Internal Audit's Annual Internal Audit Report including Opinion, periodic progress reports and other relevant internal audit reports.

To consider and agree the Head of Internal Audit's Annual Fraud & Corruption Report and consider and approve the Council's Counter Fraud Strategy.

Delegated Standards Functions

To advise the Council on the adoption, revision or replacement of Codes of Conduct for (a) Members and Co-opted Members and (b) Officers;

To exercise all other functions of the Council in relation to ethical standards, in particular those under Chapter 7 of the Localism Act, including the following:

- promoting and maintaining high standards of conduct within the Council and monitoring the operations of the Council's Codes of Conduct and registers of interests;
- in relation to allegations that a Member or Co-opted Member has failed to comply with the Code of Conduct, putting in place arrangements to investigate and make decisions;
- supporting the Monitoring Officer in the exercise of that Officer's ethical standards functions, in particular the duty to establish & maintain registers of interests for the Council and for Rottingdean Parish Council;
- in relation to Members or Co-opted Members with pecuniary interests, putting in place arrangements to grant dispensations, in appropriate cases, from the restrictions on speaking and/or voting.

NOTE: With the exception of the adoption, revision or replacement of the Codes of Conduct referred to above, the Audit and Standards Committee may develop and adopt its own procedures and protocols.

Appendix 5 – delegations to NICE Committee

NEIGHBOURHOODS, INCLUSION, COMMUNITIES AND EQUALITIES COMMITTEE

PROPOSED SCHEME SHOWING TRACKED CHANGES

Explanatory Note

This committee has overall responsibility for co-ordinating the Council's approach ~~to~~ regarding communities and neighbourhoods ~~and the~~ third sector, including all matters relating to libraries, community safety and resilience, equalities and inclusion. ~~The Committee~~ discharges its functions by either making decisions itself or, as necessary, making recommendations to the most appropriate body. Some of its terms of reference overlap with other committees. Where this is the case, the relevant committees have concurrent delegations. It consists of 10 Members, but it may invite representatives from communities, LATs and others to attend as invitees with speaking rights.

Delegated functions

To discharge the Council's functions relating to libraries, community safety, neighbourhoods and community development including councillor budgets and also the Council's customer-facing services, ~~the~~ third sector, street homelessness, equalities and fairness, as well as the development of proposals in relation to its front-line enforcement functions. It exercises its functions and to do so with due regard to the need to prevent people from being drawn into terrorism, while co-ordinating and to co-ordinate the Council's delivery of its statutory Prevent duty imposed by the Counter-Terrorism and Security Act 2015:

1. Community safety

To discharge the Council's functions regarding community safety, crime and disorder and associated matters in particular where these require member-level engagement and consultation with the community.

NOTE: The committee will work in conjunction with the Safe in the City Partnership and the work of the two bodies will be co-ordinated to ensure that they complement each other and avoid duplication where possible.

2. Crime and Disorder Committee

To be the designated Crime and Disorder Committee as required under the Police and Justice Act 2006.

3. Neighbourhood and community development

- a) To consider options and develop proposals for neighbourhood arrangements, including capacity building, use of assets and devolving powers and services to neighbourhoods and making recommendations to the Policy, Resources and Growth Committee.

- b) To monitor and review the operation of any neighbourhood based delivery of services and make recommendations as necessary.

4. Development of proposals relating to the Council's frontline enforcement functions-

To develop and oversee proposals for Field Officers and the vision for the provision of integrated support to the Council's frontline enforcement functions.

5. Active Citizenship and Community Resilience

- a) To develop, oversee and make decisions regarding the proposals to increase active citizenship and make recommendations to Policy, Resources and Growth Committee.
- b) To develop, oversee and make decisions regarding the proposals to improve community resilience and make recommendations to Policy, Resources and Growth Committee.

65. Community and voluntary sector, including social impact bonds

- a) To develop, oversee and make decisions regarding the implementation of the Council's Communities and Third Sector Policy, investment in and support to the community and voluntary sector.
- b) To exercise the Council's functions in relation to social impact bonds.

7. Councillor budgets

- a) To develop the Council's approach to councillor budgets within the framework set by Policy, Resources & Growth Committee.
- b) To oversee all aspects of the delivery of the councillor budget process.

8. Customer Services, including Digital First (and Digital Brighton & Hove)

To monitor and review the Council's delivery of its customer services across all areas including its Digital First transformation programme as well as digital inclusion.

9. Libraries

To exercise the Council's functions in relation to libraries.

106. Street homelessness

To coordinate the Council's policies and actions with the view to reducing and eliminating street homelessness and, in conjunction with the Policy, Resources and Growth and Housing and New Homes Committee and the Health & Wellbeing Board, to ensure that appropriate action is taken.

117. Equalities

- a) To discharge the Council's functions regarding equalities and inclusion.
- b) Implementation of equalities related scrutiny or other recommendations, including Trans Scrutiny Report.

128. Fairness

- a) To develop proposals for a Fairness Commission and make recommendations to the Policy, Resources and Growth Committee.
- b) To consider proposals or recommendations submitted by the Fairness Commission and advise the Council or Policy, Resources and Growth Committee on implementation.
- c) To monitor implementation of recommendations of the Fairness Commission.
- d) Working with other committees and partners to promote fairness in the delivery of services.

139. Prevent duty

- a) Carrying out its functions with due regard to the statutory Prevent duty imposed by the Counter-Terrorism and Security Act 2015, which requires the Council to have due regard to the need to prevent people being drawn into terrorism.
- b) Monitoring risk and otherwise co-ordinating Prevent activity across the Council's functions.

Appendix 5 – the Council’s Procedure Rules

18.14 Substitutes

The Council recognises that the purpose of the Local Government (Committees and Political Groups) Regulations is to ensure that the political balance of and representation on committees and sub-committees is maintained in the decision making process. These rules for the use of substitutes have been adopted to ensure this principle is maintained.

18.15 Appointing a substitute

Subject to Rules 18.16 to 18.22 below, where Members of the Council who are Members of Committees or Sub-Committees are unable to attend a meeting for whatever reason, a substitute Member may attend and speak and vote in their place for that meeting.

18.16 The substitute Member shall be a Member of the Council drawn from the same political group as the Member who is unable to attend the meeting, and must not already be a Member of the relevant Committee or Sub-Committee. The substitute Member must declare themselves as a substitute, and be minuted as such, at the beginning of the meeting or as soon as they arrive.

18.17 It shall be the responsibility of the individual substitute Member to ensure that he or she is apprised of the items on the agenda of the relevant meeting in order to facilitate effective decision making.

18.18 A substitute may only serve as a Member at a meeting when the Member for which s/he is substituting is absent for the entire meeting. A substitute may not be appointed for a specific item. Once a meeting has started with a Member in place then no substitution may be made during the course of the meeting to replace that Member.

18.19 If a substitute has not arrived by the commencement of the meeting and the original appointed Member is present, then the appointed member will continue as a voting member of the committee.

18.20 Where a substitute Member has attended a meeting which is adjourned, the original appointed Member may attend the reconvened meeting as the voting member, provided that the meeting is not part way through the consideration of an item or issue.

18.21 Any Member attending as a substitute will be entitled to travelling and subsistence allowance in accordance with the scheme approved by the Council.

18.22 Voting

The substitute Member will be entitled to speak and vote in his or her own capacity, and is not constrained by the views of the Member for whom he or she is substituting.

18.23 Substitutes on Policy Panels

The provisions of Procedure Rules 18.15 regarding the ability to appoint substitute Members shall not apply in respect of meetings of Policy Panels.

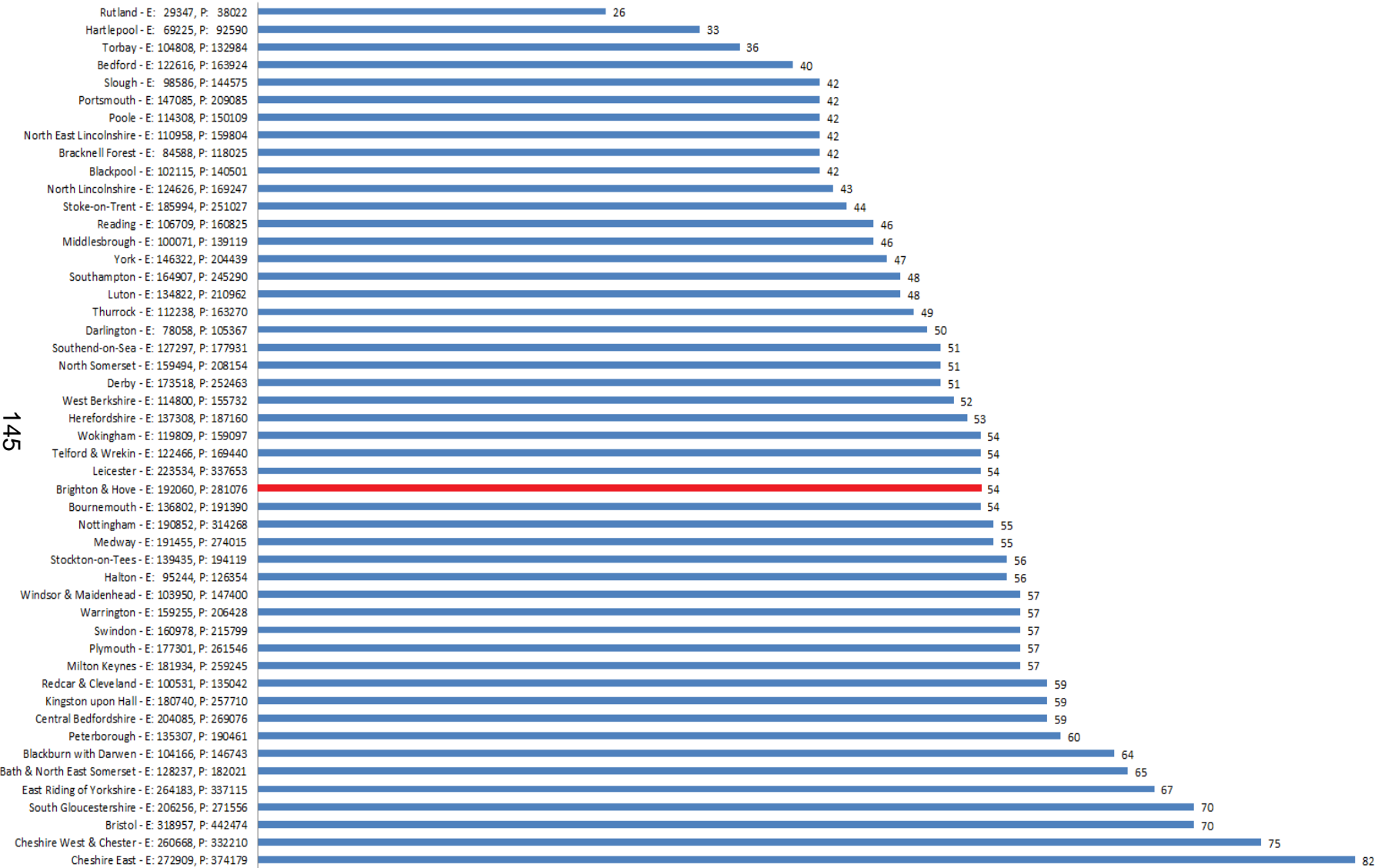
18.23 Substitutes in Licensing

The requirement under Council Procedure Rule 18.16 for a substitute Member to be drawn from the same political group as the Member who is unable to attend the meeting shall not apply to the Licensing Act 2003 Sub-Committee/Panel.

18.26 Substitution on Standards Panel

Once a Standards Panel has been appointed in accordance with the approved procedure for investigating allegations of a breach of the Members' Code of Conduct, no substitution to that Panel shall be allowed.

Council Size



E = Electorates P = Population

Appendix 1b – electoral review information

Table prepared by the LGBCE demonstrating their calculations calculations (based on December 2016 electorate data.

Ward Name	Electorate	Councillors	District Voter Ratio	Ward Voter Ratio	% Variance
Brunswick & Adelaide	7,567	2	3,672	3,784	3.03%
Central Hove	7,139	2	3,672	3,570	-2.80%
East Brighton	10,330	3	3,672	3,443	-6.24%
Goldsmid	11,939	3	3,672	3,980	8.37%
Hangleton & Knoll	11,019	3	3,672	3,673	0.02%
Hanover & Elm Grove	10,755	3	3,672	3,585	-2.38%
Hollingdean & Stanmer	9,065	3	3,672	3,022	-17.72%
Hove Park	8,254	2	3,672	4,127	12.38%
Moulsecoomb & Bevendean	10,285	3	3,672	3,428	-6.65%
North Portslade	7,605	2	3,672	3,803	3.54%
Patcham	11,119	3	3,672	3,706	0.92%
Preston Park	10,949	3	3,672	3,650	-0.62%
Queen`s Park	11,164	3	3,672	3,721	1.33%
Regency	7,401	2	3,672	3,701	0.77%
Rottingdean Coastal	10,956	3	3,672	3,652	-0.56%
South Portslade	7,163	2	3,672	3,582	-2.47%
St.Peter`s & North Laine	12,310	3	3,672	4,103	11.73%
Westbourne	7,320	2	3,672	3,660	-0.34%
Wish	7,190	2	3,672	3,595	-2.11%
Withdean	11,229	3	3,672	3,743	1.92%
Woodingdean	7,550	2	3,672	3,775	2.79%

Electoral Forecasts – A Guide for Practitioners: extract taken from page 2:

“When variances in representation become significant, we consider the need for an electoral review. We regard variances as significant when more than 30% of an authority’s wards/divisions have an electoral imbalance of more than 10% from the average for that authority; and/or it has one ward/division with an electoral imbalance of more than 30%; and the imbalance is unlikely to be corrected by population change within a reasonable period.”

Subject: Local Health and Social Care Integration
Date of Meeting: 12th October 2017
Report of: Chief Executive BHCC
Chief Accountable Officer CCG
Contact Officer: Name: Richard Fullagar **Tel:** 01273 293846
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Ward(s) affected: All

FOR GENERAL RELEASE

Glossary of Terms

BCF – Better Care Fund
BHCC – Brighton and Hove City Council
CCG GB – Clinical Commissioning Group Governing Body
DPH – Director of Public Health
GP – General Practitioner
HASC – Health and Adult Social Care
HOSC – Health Overview and Scrutiny Committee
HWB – Health and Wellbeing Board
NHS – National Health Service
PR&G – Policy Resources and Growth Committee

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report builds upon the report approved by the council's PR&G committee and the CCG Governing body in July 2017 that outlined the requirement and rationale for local health and social care integration and made the following recommendations:
- To agree the principle of further integration between the CCG and Council and the local direction of travel towards a new model of city-wide health and social care.
 - To authorise officers to work with CCG colleagues and other NHS Providers in order to bring detailed proposals to the PR&G Committee in October 2017.
 - To note the direction of national policy.
- 1.2 This report updates on recent progress confirming what is in scope and proposing an interim governance arrangement to enable effective and accountable operation through the shadow year of operation, 2018/19.
- 1.3 It also sets out the roles of Councillors and CCG Governing Body members during the shadow period.

2 RECOMMENDATIONS

- 2.1 That the establishment of a shadow operational year commencing on 1st April 2018 during which officers from BHCC and the CCG will prepare for full integration in April 2019 be agreed;
- 2.2 That the formation of a joint officer board (BHCC and CCG) that will be tasked with planning the smooth introduction of the new integrated services be noted;
- 2.3 That the initial scope of the activities to be included from the outset of the shadow year, through which period the confirmed longer term scope will be identified and brought back for formal agreement (see para 3.10), be noted;
- 2.4 That an interim governance arrangement for 18/19 that gives authority for HWB to have oversight of the integrated budget as set out in appendix 1, be agreed;
- 2.5 That the design principles set out in para 3.18 which will guide the development of the partnership be agreed;
- 2.6 That authority be delegated to the Chief Executive, in consultation with the Chair and Deputy Chairs of the HWB, to take all steps necessary or incidental to progressing the project;
- 2.7 That it be noted the CCG Governing Body will delegate to the Chief Accountable Officer authority to take all steps necessary or incidental to progressing the project; and
- 2.8 That it be noted the proposals listed above do not change existing delegated powers or the constitution of either party.

3 CONTEXT/ BACKGROUND INFORMATION

Case for change

- 3.1 Nationally, there is a strategic mandate to integrate health and social care across England and Wales by 2020. The rationale informing the national strategy stems from the emerging health and wellbeing challenges that include a rapidly ageing population living longer, many with increasingly complex needs, and the opportunity to use resources across the whole system more effectively. More immediately, concerns about the current performance of the NHS, particularly in the acute sector, and sustainable funding of adult social care receive a consistently high profile in the national media. The policy expectation is that taking a whole system approach to future commissioning and performance arrangements across health and social care will both enable more effective use of resources and importantly improve the experience and outcomes for the patient/resident.
- 3.2 Across the country and indeed, closer to home in Sussex, we see emerging a number of CCGs sharing management structure and exploring closer structural alignment with local authorities. While this will potentially secure economies of scale, particularly where commissioning services from acute hospitals, we must ensure that the focus of what is being proposed at the city place based level remains on improved patient/ service user outcomes for residents in Brighton and Hove with a particular focus upon community based services.

- 3.3 Whilst there will be an interface and relationship between services commissioned and delivered locally and those at scale on a wider geographical area, the focus for this report is to describe how we are working to progress integrated commissioning as the driver to support the future delivery of health and social care at the city level.
- 3.4 The Council and CCG have an established record of joint working including:
- delivering more effective frontline services e.g. hospital discharge team teams and the piloting of Home First where we work together on a shared pathway to support timely discharge from hospital beds where patients are medically stable,
 - successful management of S75 agreements e.g. the Better Care Fund where we have pooled funding and shared performance metrics to deliver a range of services that support system wide outcomes
 - a number of services already jointly commissioned e.g. Carers
 - joint working and contract monitoring across key services including mental health, learning disability, children and young people as well as older people.
- 3.5 In the shadow year the Council and CCG will further develop approaches to joint working including preparation of a work programme to address shared priorities across the city. Reflecting its increasing priority and profile within the city, one subject the HWB may wish to consider is a review of mental health services and how they are commissioned, delivered and received in Brighton and Hove.
- 3.6 As integration becomes more embedded the focus of performance will expand from being largely activity and performance based to focus equally on improved health and wellbeing outcomes.
- 3.7 Central to this will be a shared emphasis on prevention:
- Focusing on whole population as well as addressing inequalities within the system that adversely impact on individuals,
 - Improving access to health and social care for patients and people with eligible social care needs.

Scope

- 3.8 While the list below identifies the main service areas within scope discussions are still ongoing about the individual activities and budget lines that contribute to each area. Whilst this work is due to be largely completed prior to April 2018, within certain areas, primary and community care being one example, there are some specific services that will need to be reviewed through the shadow year to confirm whether they should or should not be in scope in the longer term. Down the line some of these decisions may be influenced by other NHS commissioning structural arrangements being considered across Sussex, and whilst we will have the opportunity to contribute, they will not be within the direct control of the Council or CCG.
- 3.9 For clarity, acute services commissioning which buys the vast majority of services from BSUH are not within scope. Acute hospital services across Sussex will continue to be commissioned at scale across the county though there will be local interfaces into some of the services that link to community provision, discharge to assess/ HomeFirst services being one such example.

3.10 Those areas in scope include:

- Community Health Services
- Community mental health
- Learning Disability
- Primary care (including public health contracts) – excluding GP contracts and employment
- Community pharmacies (outside the nationally commissioned work)
- Health and Adult Social Care including Preventative Services currently commissioned from both e.g. quality, safeguarding etc.
- Children community health and care services (including CAHMS)
- Transitions (as relates to children and young people with health and /or social care needs moving into adulthood)
- Continuing Health Care assessment and provision
- Hospital discharge and short term services (step up and step down services) – incl HASC provider services

It is also important to note the areas that are not in currently in scope. These areas are commissioned from other including NHSE. The areas out of scope are:

- Acute Hospital Commissioning
- GP contracts and employment
- Some Mental Health delivery
- Cross CCG connected activity. B&H CCG will need to work with other CCGs on some areas of regional commissioning and this will be out of scope.

Governance

Interim arrangements for the shadow year commencing 1st April 2018

(See Appendix 1 for diagram)

3.11 During the shadow year the role of the Health and Wellbeing board will be enhanced with it becoming more strategic, concentrating on health and social care policy and the integration agenda. It will also be given oversight of the integrated health and social care budget during this period.

3.12 The formal governance arrangements will remain unchanged during the shadow year with the new officer board reporting to the HWB, PR&G and the CCG Governing body as appropriate.

3.13 There will be a formal review of the HWB including membership and the outcome of this review will be part of the report that comes to PRG at an appropriate future date to be agreed.

3.14 With the expectation that the HWB will become more strategic in its consideration of health and social care issues it is proposed that the current HWB pre meeting will continue. However the pre meeting will be provided with an additional responsibility to, not only review the reports going to the Board, but also to develop and agree a Forward Plan ensuring that future Board agenda items reflect the direction of travel. The final decisions for agenda items will remain with the Chair.

- 3.15 The officer board will be renamed the “Health and Social Care Integration Board” to give it the additional responsibility for coordinating those services that will be ‘in scope’ during the shadow year. This will help to facilitate a better shared understanding of operational and financial aspects of the services falling within the scope of the new integrated offer. (Membership of the board is detailed in appendix 2). It is important to note that these interim solutions will work within the existing governance arrangement. This board will also be responsible for monitoring the performances of a number of steering groups which are established to ensure the wheel keeps turning on ‘business as usual’. The groups that have been established but are not shown on Appendix One as they are not part of the formal Interim Governance arrangement are:
- Joint Commissioning Steering Group
 - Joint Finance and Performance Group (see para 6.2)
 - Joint Governance Steering Group
 - Joint Workforce Development Group
- 3.16 Also established but not shown on Appendix 1 for the same reason, is the Cross Party Member Working Group which will continue to meet in its present form to discuss relevant Council specific issues as they arise. This meeting will continue to be chaired by the Chair of the HWB and its membership is made up from the councillors who currently sit on the HWB.
- 3.17 The quality and performance of services currently commissioned by and delivered on behalf of Social Care are not subject to regular scrutiny. Whilst not requiring any formal change to existing governance arrangements the shadow year 2018/19 will see an additional role directed to Health Overview and Scrutiny Committee to undertake this function within its existing Terms of Reference. Applying this discipline will enable HOSC to scrutinise both Health and Social Care on an equal and consistent basis and release this capacity from HWB allowing greater focus upon strategic matters.
- 3.18 The design principles that have been adopted when drawing up the proposed arrangements for the shadow year are detailed below:
- **Partnership of Equals:** both parties sharing their functions but with each remaining statutorily responsible for the delivery of its functions.
 - **Pragmatic and Flexible:** the arrangements will be guided by what works best and not necessarily the way that the Council or the CCG do things and will be flexible to accommodate and respond to national, regional and local policy.
 - **Based on existing legislation:** Integration will be developed on the assumption that we will be working within the existing legislative framework
 - **Creating an effective streamlined structure:** compatible with delivering
 - Economy, efficiency and effectiveness; and
 - Greater public and democratic accountability
 - **Place Based Integrated Commissioning:** engaged with and responsive to wider commissioning arrangements outside of our local control the focus of integrated arrangements will be on the coterminous city boundary maintaining and building up on existing relationships with providers and other stakeholders.

- **Due Diligence** - a formal process will be in place
- Ensure there is also improved reporting and oversight of Adult Social Care finance and performance through both HWB and HOSC as appropriate to their current ToR.
- More focused and informed policy making, resource allocation and consideration of patient experience to better shape service design and improve health and care outcomes for the city region.
- A collaborative approach to change which secures buy-in of national, regional and local partners, budget holders and regulatory agencies.
- Securing the best health and social care outcomes for local communities that resources afforded to the health and social care system can deliver.
- Co-governance between the local authority and the NHS.

Governance arrangements from 1st April 2019

- 3.19 Governance arrangements as we move into full operation from April 2019 will be considered and developed over the coming 12 months with options and recommendations being presented to HWB, PR&G and full council (depending on the level of recommendation and potential change to future governance arrangements). However, whilst as stated above formal powers and delegations will remain unchanged through the shadow year, reflecting the significant development and partnership that integration heralds, an interim governance arrangement does need to be designed and agreed.
- 3.20 In undertaking this work it is clear that there are improvements to our current joint practices which can be improved now. These include:
- Opening a communication channel from CCG for council ward based queries.
 - Briefings - joint sessions for CCG and council colleagues regarding health and social care including how the whole system works in practice.

Finance

- 3.21 The financial implication of the proposal and the size of the integrated budget for the services managed by the Health and Social Care Integration Board will be determined alongside the work to finalise the scope. It is intended that this work will be completed by December 2017 and will include:
- a) Detail of the services at will be covered by the scope
 - b) The budget associated with each service within scope and its source. (BHCC, CCG or pooled within the Better Care Fund)
 - c) Performance indication / KPI's associated with those services that are in scope.
- 3.22 The table below provides a high level indication of the shared financial resources that are going through due diligence. It should be noted that minor revisions will need to be made in light of final BCF and iBCF allocations. Ultimately budgets will be jointly planned and monitored in an agreed format that will allow for impact enquiry, service and financial risk, and local policy opportunity to be fully explored.

CCG & BHCC Shadow Account Summary 2017/18 - Budget

	CCG (£'m)	BHCC (£'m)	Total (£'m)
Service	2017/18 Net Budget	2017/18 Net Budget	2017/18 Net Budget
Community Health Services	46.331	7.742	54.073
Continuing Care Services	29.043	0.000	29.043
Hostel Accommodation	0.000	1.128	1.128
Learning Disabilities	2.196	29.899	32.095
Mental Health Services	49.731	9.834	59.565
Social Care/Other Programme Services	3.433	19.889	23.322
Primary Care Services	87.382	0.000	87.382
Running Costs	8.550	12.852	21.402
BHCC Support Service Costs	0.000	6.056	6.056
Service Total	226.667	87.399	314.067
Contingency	2.056		2.056
Reserves	3.924		3.924
Grand Total	226.673	87.399	320.047

3.23 It should also be noted that not all budgets identified above will be 'in scope' for the new interim arrangements. For example decisions around acute budgets are likely to be taken at regional and national NHS level albeit steps will be taken to ensure that the implications on the local health and social care system as a whole are understood and acknowledged.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Central Government and NHS England require the integration of health and social care arrangements by April 2020.
- 4.2 The proposals and recommendations for the shadow year contained within this report will reinforce, through the adoption a clearer interim governance structure, the already close working relationship between the Council and CCG.
- 4.3 Without these changes the roles of the HWB, CCG Governing Body and Council will become increasingly unclear as the proposals for the first year of full integration are developed.
- 4.4 This could lead to a loss of democratic accountability for councillors and accountability for the CCG and the fragmentation of the Health and Social Care system with potential adverse consequences for those in the city who are most vulnerable.
- 4.5 Delaying or rushing the process will preclude the joint learning and sharing that a shadow year will deliver.

5 COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 A communications and engagement strategy to support the Caring Together

agenda was presented to the HWB on 11th July. ¹ This strategy will be used and amended accordingly to support this programme of work.

- 5.2 It includes an engagement campaign called the “Big Health and Care Conversation” that will be ongoing throughout the city for at least the next six months. This will involve a significant amount of public engagement activity across the city to find out what matters most to local residents in health and social care. The campaign represents a recognisable brand for engagement that is clearly identifiable with the public and will provide more opportunities to listen to residents and stakeholders and act on their feedback. It builds on previous feedback from our patients, carers and the public, and will ensure that people’s views and experiences are heard, acted on and help shape the way health and care is planned and delivered in the future. A launch event for the campaign was held on 4th July where the Caring Together programme was discussed.

6 FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 6.1 Clearly it has been accepted that one of the key drivers for integration is the need to use finite resources more effectively.
- 6.2 To this end, the council and CCG agreed to set up the Finance & Performance Group, co-chaired by the respective Finance Directors, in order to:
- Commission jointly the management information required to understand the demand and costs for adult social healthcare in Brighton & Hove.
 - Identify key risks, issues, and mitigations and recommend system changes as appropriate.
 - Schedule and monitor required improvements to ensure service leaders can be held to account for delivery.
 - Share information with service leaders and into wider governance structures as appropriate.
 - Oversee ‘shadow’ financial accounts covering health sector and local government income and expenditure on adult social healthcare (including pooled funds such as Section 75 and Better Care Fund) in Brighton & Hove.
 - Understand best practice from elsewhere.
 - Ensure that links and interdependencies with the STP, Caring Together, and other programmes are appropriately reflected in plans and proposals.
 - Report to the H&SC Integration board and share its findings with ‘health and care partners’.
- 6.3 While joint work is under way and draft ‘shadow accounts’ covering the resources of both organisations have been produced, this work stream requires further focus, for the objectives set out above to be met.

Finance Officer Consulted: David Kuenssberg

Date: 8/09/17

¹ [https://present.brighton-hove.gov.uk/Published/C00000826/M00006663/\\$\\$ADocPackPublic.pdf](https://present.brighton-hove.gov.uk/Published/C00000826/M00006663/$$ADocPackPublic.pdf)

Legal Implications:

- 6.4 The proposed partnership will be developed using existing legislation, mainly the National Health Service Act 2006 and the Health & Social Care Act 2012. It will require a legal agreement under section 75 of the 2006 Act. It may also be necessary to put further legal agreements in place.
- 6.5 The design principles guiding the governance arrangements will reflect the desire to make this a partnership of equals. Both the Council and the CCG will continue as two separate independent corporate bodies and retain sovereign legal responsibility for their statutory functions albeit they are delivered jointly. The section 75 arrangements have sufficient flexibility to provide for pooling or co-managing funds, risk sharing, dispute resolution, termination etc.
- 6.6 The details of the governance agreements and an outline of the key principles underpinning the section 75 agreement will be reported in due course to the Policy & Resources Committee and Full Council as well as the Health & Wellbeing Board.
- 6.7 A Member Reference Group consisting of councillors sitting on the HWB has been established to enable observation and direction to the development of the proposals.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 8/09/17

Equalities Implications:

- 6.8 Specific changes to health and social care service commissioning and provision will need to be considered at relevant stages through a programme of change and community engagement. Equalities Impact Assessments will be completed as plans are developed.

Any Other Significant Implications:

- 6.9 There are a number of significant implications of the proposed further integration of health and social care within Brighton and Hove. These include funding challenges, governance, organisational capacity and reputational issues with local residents, health professional, employees, partners and NHS England.
- 6.10 In addition the national picture is still developing and final proposals for the integration of health and social care within the city will need to take account of any future developments.

Risk and Opportunity Management Implications:

- 6.11 The BHCC's Strategic Risk Register (SRR) recognises the importance of Health and Social Care Integration and its potential to affect achievement of BHCC's Corporate Plan. The BHCC SRR is reviewed quarterly by the Executive Leadership Team (last review 26/7/2017) and its Audit & Standards Committee has a role to monitor the effectiveness of risk management and internal control and form an opinion. This includes risk focus items, where at least three strategic risks are scheduled at each of their meetings. Members invite the Risk Owners to attend to answer their questions on specific Strategic Risks.

- 6.12 On the BHCC SRR, the relevant risk is Strategic Risk SR20 'Inability to integrate health and social care services at a local level and deliver timely and appropriate interventions' and the Executive Director, Health & Social Care, is the risk owner. It has a residual risk score, recognising controls (activity and arrangements) in place to mitigate this risk, of Likelihood 3 (Possible) and Impact of 4 (Major).
- 6.13 A shared risk register and control process will be developed during the shadow.

Public Health Implications:

- 6.14 The recent DPH report that was presented to the HWB in July 2017 contained information on the health inequalities that exist in the city. The integration agenda aims to support reductions in health inequalities, focus on targeting services to areas of most need and increase access to health and social care services as appropriate.

Corporate / Citywide Implications:

- 6.15 The integration plans address one of the key council outcomes "a good life; ensuring a city for all ages, inclusive of everyone and protecting the most vulnerable". It also supports all our key principles; Public accountability, Citizen focussed, Increasing equality and Active citizenship.
- 6.16 Finally this programme support the city partnership priorities (which the council and CCG are key members) of Health and Wellbeing
- 6.17 Closer integration will bring specific benefits to both democratically elected councillors and clinicians:
- for Members
- Increase access to clinicians to support evidence based decision making.
 - A voice in the policy development of the health aspects of the newly integrated services
- for Clinicians
- An opportunity to influence the whole system development of Health and Social Care within the city
 - To be able to engage in the wider impacts of health inequalities as outlined in the Marmot review as written by Professor Sir Michael Marmot. (A review into Health inequalities pub 2010)
- for both
- A co-ordinated approach to the deployment of national policy and plans to local needs.

SUPPORTING DOCUMENTATION

Appendices:

1. Proposed shadow year governance arrangements commencing April 2018
2. Membership of Health and Social Care integration Board
3. Terms of Reference of the Cross Party Health & Social Care Integration Members working group

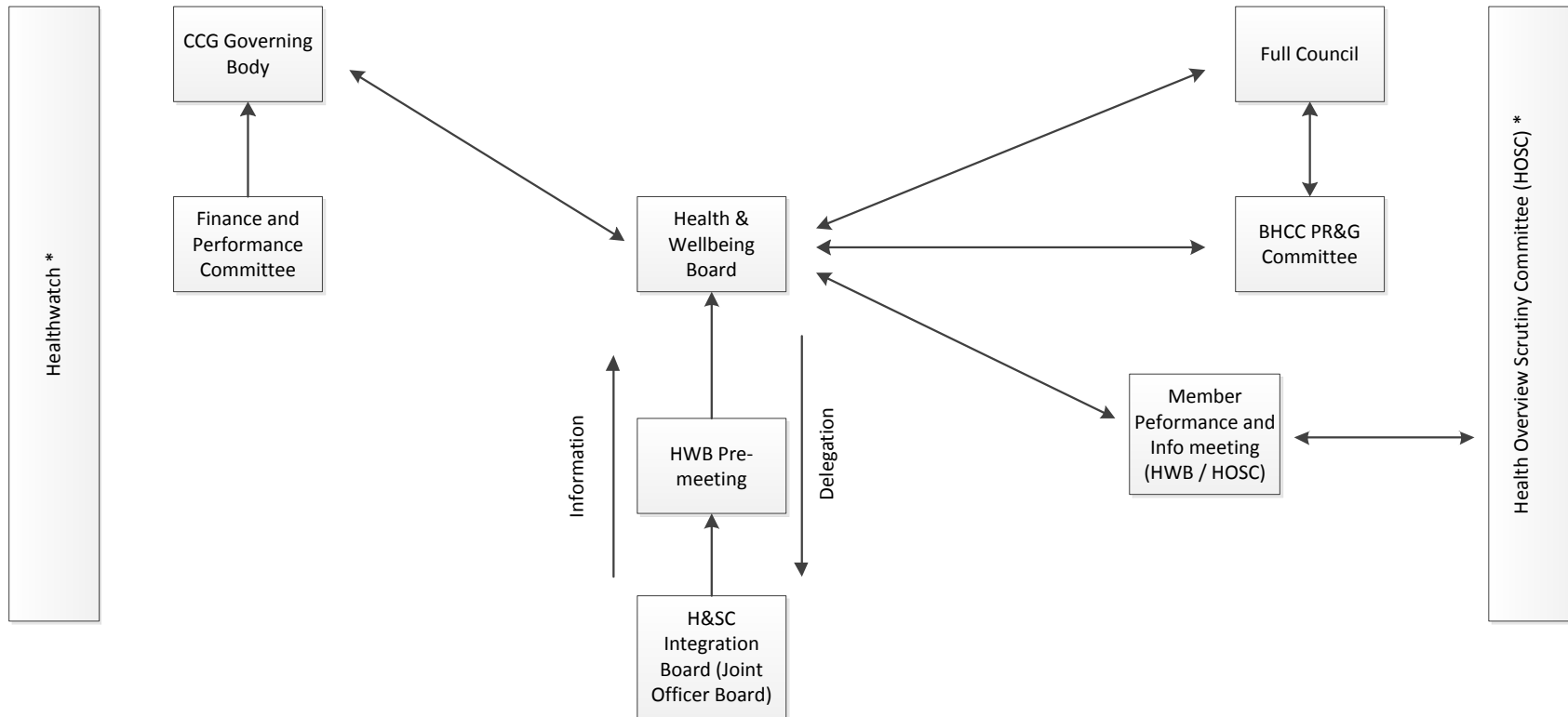
Documents in Members' Rooms

1. None

Background Documents

1. Report on Local Health and Social Care Integration to PR&G Committee 8th December 2016
2. Report on Health and Social Care Integration to PR& G Committee 13th July 2017.

Proposed shadow year Governance arrangements commencing April 2018



Hove Caring Together.
 * Whole system scrutiny

Membership of Health and Social Care integration Board

Position
Chief Executive BHCC
Chief Accountable Officer B&H CCG
Executive Director, Health and Adult Social Care (HASC) BHCC
Director of Commissioning CCG
Executive Director Families, Children & Learning BHCC
Chief Nurse CCG
Executive Director Finance & Resources BHCC
Chief Finance Director CCG
Executive Lead Officer Strategy Governance and Law BHCC
Director of Corporate Affairs CCG

Proposed Cross Party Health and Social Care Integration Working Group – Draft Terms of Reference

Purpose

The purposes of the Cross Party Health and Social Care Working Group will be:

- To consider the consequences of the recent PR&G Committee decision about Health and Social Care integration as the direction of travel work progresses
- To oversee the development of proposals and raise issues with officers

Membership and Chairing Arrangements

Membership of the Working Group will include:

Chair of Health & Wellbeing Board

Lead Member for Adult Social Care

The Lead Opposition spokesperson

The Lead Member for Health and Wellbeing from the Green Party

supported by an Executive Director from the Council and the CCG. Initially this will be the Executive Director for Health and Adult Social Care. However other Executive Directors from BHCC and CCG will attend as necessary.

The Working Group will be advised by the Executive Director Strategy, Governance and Law, together with other officers of the council as required.

The first meeting of the Working Group will initially be chaired by the Executive Director for Health and Adult Social Care. Future meetings will be chaired by the chair of the Health & Wellbeing Board.

Operating principles

It is intended that the Working Group operate in partnership and its goal is to attempt to reach decisions by consensus.

The Working Group may call upon specialist advice from legal, financial, HR and other officers of the Council as it sees fit.

Papers and minutes of each meeting will be issued within seven days before subsequent meetings and will be confidential; Members will decide at the end of the meeting those items which may be discussed more widely.

Administration for the Working Group will be provided by officers. The agenda and accompanying papers will normally be circulated one week in advance of meetings, but additional material may be sent later or tabled where necessary.

Subject: Home Purchase Policy
Date of Meeting: 12 October 2017
Report of: Executive Lead for Strategy, Governance & Law
Contact Officer: Name: **Caroline De Marco** Tel: **29-1063**
E-mail: caroline.demarco@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

Action Required of the Committee:

To receive the item referred from the Housing & New Homes Committee for approval:

Recommendation:

- (1) That a budget of £2.000m within the HRA Capital Programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (£0.600m) and HRA borrowing and/or reserves (£1.4m) be approved; and
- (2) That it be agreed that for the duration of the pilot scheme, the allocation should seek to provide 75% general needs accommodation unless the business case is not viable, then 25% to temporary accommodation, and will charge social rents up to living wage rents, subject to the business case model (appendix 2 shows that no subsidy is needed).

BRIGHTON & HOVE CITY COUNCIL

HOUSING & NEW HOMES COMMITTEE

20 SEPTEMBER 2017

COUNCIL CHAMBER, HOVE TOWN HALL

Present: Councillor Meadows (Chair) Councillor Hill (Deputy Chair), Councillor Mears (Opposition Spokesperson), Councillor Gibson (Group Spokesperson), Councillors Barnett, Druitt, Janio, Lewry, Moonan and Yates.

DRAFT MINUTES

PART ONE

28 HOME PURCHASE POLICY

- 28.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities & Housing which explained that the Housing service required a policy on the purchase of homes funded by the Housing Revenue Account (HRA). The council had statutory powers to purchase properties. There was currently no policy framework that enabled officers to decide whether to make offers to buy properties. The report and the accompanying draft policy at Appendix 1 sought to fulfil this requirement and requested budget approval. The criteria for a Home Purchase Policy was detailed in paragraph 4.1. If agreed the policy would be trialled for a year. The report was presented by the Housing Strategy & Enabling Manager.
- 28.2 The Chair reported that two amendments had been received, One from the Green Group and one from the Conservative Group. She invited Councillor Gibson to set out the Green amendment.
- 28.3 Councillor Gibson proposed the Green amendment as follows:
"To amend the recommendations as shown below in bold italics:

That Housing & New Homes Committee:

- 2.4 Recommends to Policy Resources & Growth Committee to approve a budget of ***£1.000m £2.000m*** within the HRA capital programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (***£0.300m £0.600m***) and HRA borrowing and/or reserves (***£0.700m £1.4m***).

That Policy, Resources & Growth Committee:

- 2.5 Approves a budget of ***£1.000m £2.000m*** within the HRA capital programme 2017/18 for the purpose of purchasing former council homes, to be funded from

Right to Buy receipts ~~(£0.300m)~~ (£0.600m) and HRA borrowing and/or reserves ~~(£0.700m)~~-(£1.4m)

2.6 For the duration of the pilot, purchases should seek to provide 50% temporary accommodation and 50% general needs. The general needs accommodation will charge living wage rents, providing the business case model, (as calculated in appendix 2) indicates that no subsidy is needed."

28.4 The amendment was seconded by Councillor Druitt.

28.5 Councillor Gibson made the following points: The policy was a positive initiative that was bringing homes from the private sector and making them available for public use. Paragraphs 2.4 and 2.5 of the amendment was saying that the recommendations needed to be bolder than the proposals in the committee report. The Green proposal would double the budget for the purchase of former council houses. Funds were clearly available for the pilot scheme and the pilot would be more representative. There was a need to achieve as much as possible in a time of housing crisis and the Green proposal would give the council more options to spend Right to Buy receipts. 2.6 of the amendment would double the programme and the accommodation achieved through that programme. It was clear that initially, general needs housing could be let in most cases modelled on living wage rents without resort to any subsidy.

28.6 Councillor Mears proposed the Conservative Group amendment as follows:

"To add the new recommendation as shown in bold italics.

That Housing and New Homes Committee add a new 2.6 to state.

2.6 That for the duration of the pilot scheme, the allocation should be for 100% general needs accommodation and will charge living wage rents, subject to the business case model (appendix 2 shows that no subsidy is needed)."

28.7 The amendment was seconded by Councillor Barnett.

28.8 Councillor Mears explained the reasons for the Conservative Group amendment at 2.6 as follows: The council had changed the allocations policy and the majority of all council properties available on Homemove were going to temporary accommodation and Homelessness. This led to concerns that there was little chance of people being allocated property under general needs. The reasons for changing 2.6 to general needs was to provide balance to people on the waiting list to ensure that the council is mindful of all the housing needs in the city. The proposal would release property for temporary accommodation and provide continuity on the estates.

28.9 Councillor Yates pointed out that the policy would be trialed for a year but the money would only be available up to 31st March. He asked for clarity about at what point the money could be considered spent and whether the money could be carried over into the next financial year. Councillor Yates stressed that the living wage rent was higher than social rent. If tenants were to move they would pay a higher rent. It was clarified that the budget agreed would be for 2017/18 up to the end of March. However, if it was felt that the money was not going to be spent in time, officers would with permission, be able to carry the money over through the TBM process. It was confirmed that Living wage rents

were higher than social rents. If tenants moved to a flat that was being purchased by the council, that rent would be higher than rents paid by other tenants in the block.

- 28.10 Councillor Druitt stated that the report did not commit to social rents in the short term. The Green amendment was suggesting that for the pilot rents would be no more than the Living Rent, which was less than the report appeared to propose for the long term.
- 28.11 Councillor Moonan considered the policy to be an excellent initiative and made the following points: Councillor Moonan's understanding of Paragraph 4.4 of the report was that the local housing allowance would be for any temporary or emergency accommodation and the social rent would be for any general needs accommodation, in which case the council would be starting a programme for those tenants on social rent. With regard to the debate around how much was general needs and how much was temporary accommodation, Councillor Moonan was more favourable to the Green Group amendment. Some of the properties that come forward might be appropriate for general needs but other properties might be more appropriate for emergency accommodation and she would want to retain that flexibility. Councillor Moonan stressed that there was a dire need for people in emergency accommodation and she would like to see some of these properties available for these people to move into for more long term sustainable temporary accommodation, and eventually for them to move into the permanent housing stock.
- 28.12 Councillor Mears made the following points: It was important to remember that the council's new homes rents were higher than social rents. The council was building homes at rates that people on low incomes could not afford. The Conservative amendment gave a small shift to general needs and still released people from temporary accommodation. Paragraphs 2.4 and 2.5 of the Green amendment would be supported by the Conservative Group.
- 28.13 The Chair proposed a short break to discuss the amendments. The Committee adjourned at 6.00pm and restarted the meeting at 6.13pm.
- 28.14 Following the adjournment Councillor Mears proposed the following amendment to her amendment.
- "That Housing and New Homes Committee add a new 2.6 to state.***
- 2.6 That for the duration of the pilot scheme, the allocation should be for 100% general needs accommodation and will charge social rents up to the living wage rents, subject to the business case model (appendix 2 shows that no subsidy is needed)."***
- 28.15 Councillor Druitt commented that he was minded to support the Conservative amendment as amended above. Councillor Gibson stated that he was happy with either amendment. When someone transferred in general need that released property for temporary accommodation.
- 28.16 Councillor Moonan stressed that there needed to be flexibility for officers. Property was not always freed up for temporary accommodation. A 50/50 mix would give officers flexibility and let them test the system. This could be changed in a year's time.

- 28.17 The Chair remarked that it was dear to her heart to increase social housing in the city. However, she was mindful of how little council run, council owned, temporary accommodation there was in the city and how this impacted on the council's budget.
- 28.18 Councillor Druitt proposed that amendment 2.6 could state that there should be 75% general needs and 25% temporary accommodation, with social rents up to living wage rents. This proposal was seconded by Councillor Gibson.
- 28.19 The Committee adjourned to further discuss the amendments.
- 28.20 Following the adjournment Councillor Mears proposed the following:

“That Housing and New Homes Committee add a new 2.6 to state.

That for the duration of the pilot scheme, the allocation should seek to provide 75% general needs accommodation unless the business case is not viable, then 25% to temporary accommodation, and will charge social rents up to living wage rents, subject to the business case model (appendix 2 shows that no subsidy is needed).

- 28.21 Councillor Janio seconded the amendment.
- 28.22 The Committee voted on the Conservative Group amendment as set out in paragraph 28.24 above. The amendment was agreed unanimously.
- 28.23 The Committee voted on the Green amendment relating to recommendations 2.4 and 2.5 proposed by Councillor Gibson and seconded by Councillor Druitt as follows: (Councillor Gibson withdrew the Green Group recommendation 2.6).

That Housing & New Homes Committee:

- 2.4 Recommends to Policy Resources & Growth Committee to approve a budget of ~~£1.000m~~ **£2.000m** within the HRA capital programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (~~£0.300m~~ **£0.600m**) and HRA borrowing and/or reserves (~~£0.700m~~ **£1.4m**).

That Policy, Resources & Growth Committee:

- 2.5 Approves a budget of ~~£1.000m~~ **£2.000m** within the HRA capital programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (~~£0.300m~~ **£0.600m**) and HRA borrowing and/or reserves (~~£0.700m~~ **£1.4m**).

- 28.24 The Green amendment above relating to recommendations 2.4 and 2.5 was agreed unanimously.
- 28.25 The Committee then voted on the substantive recommendations. Recommendations 2.1, 2.2 and 2.3 were agreed as set out in the report. These were approved unanimously.
- 28.26 Recommendations 2.4, 2.5 and 2.6 were approved unanimously as amended.

28.27 RESOLVED:-

- (1) That the Committee agrees the Home Purchase Policy at Appendix 1 which enables the HRA to purchase homes, both through the right of first refusal and on the open market (subject to business case).
- (2) That it is noted that the policy allows the purchase of accommodation up to £250,000 subject to the purchase meeting the policy criteria.
- (3) That it is noted that that the scheme and future budget allocation will be reviewed as part of the HRA budget setting process for 2018/19.
- (4) That the Committee recommends to Policy Resources & Growth Committee to approve a budget of £2.000m within the HRA capital programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (£0.600m) and HRA borrowing and/or reserves (£1.4m).

That the Policy, Resources & Growth Committee:

- (1) Approve a budget of £2.000m within the HRA Capital Programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (£0.600m) and HRA borrowing and/or reserves (£1.4m).
- (2) Agree that for the duration of the pilot scheme, the allocation should seek to provide 75% general needs accommodation unless the business case is not viable, then 25% to temporary accommodation, and will charge social rents up to living wage rents, subject to the business case model (appendix 2 shows that no subsidy is needed).

Subject:	Home Purchase Policy		
Date of Meeting:	12 October 2017 20 September 2017 – Housing & New Homes Committee		
Report of:	Executive Director Neighbourhoods, Communities & Housing		
Contact Officer:	Name:	Diane Hughes	Tel: 01273 293159
	Email:	Diane.Hughes@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 The Housing service requires a policy on the purchase of homes funded by the Housing Revenue Account (HRA). This would enable the service to:

- Maximise the supply of affordable homes in the city in support of the Housing Strategy
- Meet housing need through the housing register
- Utilise retained Right to Buy receipts thereby avoiding the need to return capital funds to the government and reducing the impact on the HRA's borrowing headroom.

1.2 The council has statutory powers to purchase properties. The Executive Director Neighbourhoods, Communities and Housing has delegated authority to purchase properties up to £250,000 after consultation with the Chairs of Housing & New Homes Committee and Policy Resources & Growth Committee.

1.3 There is currently no policy framework that enables officers to decide whether to make offers to buy properties. This report and the accompanying draft policy at Appendix 1 seeks to fulfil this requirement and requests budget approval.

2. RECOMMENDATIONS:

That Housing & New Homes Committee:

2.1 Agrees the Home Purchase Policy at Appendix 1 which enables the HRA to purchase homes, both through the right of first refusal and on the open market (subject to business case).

2.2 Note that the policy allows the purchase of accommodation up to £250,000 subject to the purchase meeting the policy criteria.

- 2.3 Note that the scheme and future budget allocation will be reviewed as part of the HRA budget setting process for 2018/19.
- 2.4 Recommends to Policy Resources & Growth Committee to approve a budget of £1.000m within the HRA capital programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (£0.300m) and HRA borrowing and/or reserves (£0.700m).

That Policy, Resources & Growth Committee:

- 2.5 Approves a budget of £1.000m within the HRA capital programme 2017/18 for the purpose of purchasing former council homes, to be funded from Right to Buy receipts (£0.300m) and HRA borrowing and/or reserves (£0.700m).

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The city wide Housing Strategy adopted by council in March 2015 has as priority one - improving housing supply with a commitment to prioritise affordable housing provision in the city. The city has an Affordable Housing Brief based on evidenced housing needs in the city and this brief reflects the very pressing need for affordable homes in the city.

- 3.2 A Home Purchase Policy which supports the purchase of the right property, for which there is demand, at the right price would support this priority. The properties could be used to help meet demand for temporary accommodation for homeless households in the short term. Longer term the accommodation could be used for general needs housing applicants where there is a duty for the council to house. There are a number of ways this could be achieved. These include:

3.3 Buy back of properties sold under the Right to Buy

The council has statutory powers under The Housing (Right of First Refusal) (England) Regulations 2005. Since August 2005 the council's Right to Buy leases have placed a legal obligation on the former secure tenant who exercised their right to buy and their successors to offer the council first refusal if they decide to sell within 10 years of the original purchase.

The council has not to date exercised this right as there is no policy or budgetary framework for the council to take this opportunity. In 2016/17 the council has been notified of 17 'first refusal' opportunities (15 of which were under £250,000).

The regulations require that offers are accepted or refused within 8 weeks, otherwise the owner can sell the property as they see fit. Delegated authority will therefore support the potential purchase of these properties enabling us to work to the timescales prescribed.

3.4 Former council properties for sale on the open market

Where there is no right of first refusal, there may still be good value opportunities for the council to buy former council homes back, when they come to our attention through estate agents or auctions.

3.5 **Purchasing properties on the open market**

This would present a wider range of properties from which to meet housing needs, but would often attract higher values and would not provide the management benefits of properties already situated on housing estates.

3.6 **Other opportunities**

Alongside the purchase of homes, other opportunities may become available to purchase properties or land for housing. These opportunities would need to be subject to business case approval by Housing & New Homes Committee with formal approval sought through Housing & New Homes, Planning and Policy, Resources and Growth Committee (as required).

4. **Criteria for a Home Purchase Policy for the purchase of homes**

4.1 The decision to purchase properties will be dependent on a business case on a property by property basis but which would be determined by the following factors:

- The purchase price and availability of capital funds
- The cost of any refurbishment work required to bring the property up to the Brighton & Hove Standard (ideally to a maximum of 10% of purchase price)
- Whether on going maintenance costs are considered to be excessive (or greater than average stock levels)
- Whether the property is situated amongst existing Brighton & Hove City Council housing stock
- Whether there is a specific housing need for the type of property that is being offered, as established by the Housing Register
- Whether a purchase of a property would free up land or enable access to a site suitable for development of affordable housing
- Savings to the council through reduced need for temporary accommodation or specialist accommodation.

4.2 A budget of £1m is sought for 2017/18 to purchase properties funded by RTB receipts (£0.300m) and from HRA reserves and/or HRA borrowing of (£0.700m) depending on the rent levels set. In future years the budget will be set as part of the annual HRA Budget and Investment Programme report.

4.3 An initial viability study over 40 years of a cross section of ex-council properties on the market (Source: Right move at 5 June 17) is attached at Appendix 2. This details the viability of purchases applying both Local Housing Allowance level rent, living wage rent and social rent to demonstrate the impact of different rent levels on the amount of subsidy required.

4.4 The accommodation could be used for either temporary accommodation or general needs housing subject to demand and affordability. The viability of purchases is stronger when rents are set at Local Housing Allowance level rents supporting the use of these properties for temporary accommodation initially, with the longer term aim to add to the council's general needs stock at social rent if/when viable. These decisions will be taken on a case by case basis and rents will be set at a minimum of social rent to a maximum of LHA rent depending on

the use of the property. The future use of the properties will be considered as part of the review of the scheme after a year.

- 4.5 Initially using the properties for temporary accommodation will reduce cost pressures in the general fund because housing benefit (where applicable) will cover the rental costs. The shortage of supply of affordable accommodation in the city together with the implementation of further welfare reforms means that the pressure on the temporary accommodation budget continues for 2017/18, so any extra low cost units of accommodation will help mitigate the pressures.

5. ANALYSIS & CONSIDERATION OF OPTIONS

	Option	Benefits	Risks
Option 1	Adopt a Home Purchase Policy to purchase former council homes	<p>Increase supply of affordable housing</p> <p>Pressing housing needs are met</p> <p>Right to Buy receipts are spent and therefore not returned to the government and not incurring interest at 4%</p> <p>The use of Right to Buy receipts will free up some of the borrowing headroom</p> <p>The council has knowledge of the stock and there are cost efficiencies in management (because they will be on our estates)</p> <p>Good value purchase that meets a housing need.</p>	<p>Disappointment from vendors where the budget has run out for the year or if they do not meet the criteria</p> <p>The exercise of the Right to Buy and eligibility for a discount a second time in the case of the property being allocated under a secure tenancy. However, the discount would be reduced by the 'cost floor' rule. This applies if the home has recently been purchased or built or the council has spent money on repairing or maintaining it in the previous 15 years. The discount could be reduced to nil if the cost floor is more than the discount. The risk is also mitigated by a good value purchase that meets a housing need</p> <p>HRA borrowing to support this policy in future years may impact on borrowing headroom which could affect the councils new build programme.</p>

Option 2 (preferred option)	Adopt a Home Purchase Policy to include former council owned homes, homes which are not ex-council properties and other opportunities	Benefits as per option 1 A wider range of properties from which to meet housing needs Ability to unlock and/or strengthen the viability of potential development sites RTB receipts could be used to fund 30% of the purchase The council has knowledge of the stock and there are cost efficiencies in management (because some will be on our estates).	Risks as per option 1 The non council properties may be 'unknown quantities' and expensive to maintain in the future Reduced management efficiencies due to non council properties not being located on housing owned land/buildings By purchasing flats in privately owned blocks, the council will become a leaseholder without the benefits of being a freeholder.
Option 3	Do nothing	The removal of the risks listed for option 1 and 2	Not taking advantage of opportunities to improve the supply of affordable housing Inability to spend retained RTB receipts at the required level with repayment to the government with 4% interest Not meeting housing needs identified in the city.

6. COMMUNITY ENGAGEMENT & CONSULTATION

- 6.1 Estate Regeneration Members Board considered this report on 4 September 2017.
- 6.2 Area Panels were consulted in September 2017. All panels were supportive about the introduction of the policy. Discussions were held about the Right to Buy process and repayment of discounts and the funds available for the first year and whether this should be more. A question was raised about whether there would be a 'bidding war' for the properties we wish to buy back. 4.5 of the policy outlines what would happen in the event that a valuation could not be agreed between both parties.

7. CONCLUSION

- 7.1 The purchase by the council of additional affordable homes will help meet the council's strategic objectives to increase housing supply as set out in the council's Housing Strategy.
- 7.2 A Home Purchase Policy would be reviewed after a year to determine the success of the scheme and to inform future budget decisions.

8. FINANCIAL & OTHER IMPLICATIONS:

Financial implications

- 8.1 In June 2012, the council signed an agreement to retain Right to Buy (RTB) Receipts, which can be used to fund up to 30% of a new build development or purchase of a property. The agreement requires these amounts to be spent within 3 years of receipt otherwise the council will be required to repay them to the Government with interest at a rate of 4% above the base rate.
- 8.2 Since the agreement was signed in 2012, £18.745m in RTB receipts has been retained, requiring the council to spend £62.483m by 30th June 2020, either by building new homes, acquiring ex council properties from tenants, acquiring houses not being used as social housing or passing the receipts onto another affordable housing provider for them to utilise.
- 8.3 To date £5.780m of receipts has been used to fund the New Homes for Neighbourhoods (NHFN) programme expenditure of £19.332m. There have been no purchases of properties that have enabled the use of retained receipts and so currently there is just a reliance on the NHFN programme to spend the required amount by 30th June 2020. It is therefore important that there are other streams of expenditure in place, such as the Home Purchase Policy recommended in this report, to keep the cash flow moving whilst decisions are made on larger schemes. Otherwise there is a risk that the Council will have to pay back receipts, losing valuable resources for new homes as well as paying interest to the Government.
- 8.4 For 2017/18, a budget of £1.000m is recommended for this purpose, 30% or £0.300m to be funded by RTB receipts with the balance of up to £0.700m funded by the use of HRA borrowing and/or HRA general reserves. For 2018/19 and future years, this expenditure will form part of the HRA Budget and Investment Programme Report to Housing and New Homes Committee and Policy Resources & Growth Committee (PR&G). Future years' funding will come from RTB receipts and a combination of borrowing (up to the amount funded by new rental income) with any balance (subsidy) being paid for from direct revenue funding (current HRA income).
- 8.5 Appendix 2 shows some examples of indicative costs of buying back homes and calculates the subsidies/surpluses required from the HRA depending on rents being set at either LHA rates, Living Wage rents or social rent levels. The table shows that for all the examples given, if rents are set a social rent levels, a subsidy would be required from the HRA.

8.6 As at 1 April 2017 the HRA general reserves totals £8.159m (subject to audit of 2016/17 annual accounts). A minimum working balance of £3.000m is recommended leaving £5.159m available to use. PR&G have recently approved the use of £1.200m for the new Housing Management IT system leaving £3.959m of useable reserves. Any underspends on the HRA during 2017/18, that are not earmarked for specific purposes, will be added back to reserves to increase this balance. At month 4, the HRA is currently forecasting an underspend of £0.310m,

Finance Officer Consulted: Monica Brooks

Date: 29/08/17

Legal Implications:

8.7 The council has statutory powers under The Housing (Right of First Refusal (England) Regulations 2005 to buy back ex council properties that were sold post August 2005. An open market valuation would apply.

8.8 The council is allowed to exempt certain properties from the Right to Buy in the following situations:

- Dwelling houses let in connection with employment For e.g. a caretaker at a school who is occupying a house or flat for the purposes of his work would not be able to exercise the right to buy
- Certain dwelling-houses for the disabled - this exemption is very hard to meet as it has to be one of a group of homes with special facilities in close proximity.
- Certain dwelling-houses for persons of pensionable age are exempted. Living in temporary accommodation is not one of the exemptions contained within Schedule 5 of the Housing Act 1985. However, a person in temporary accommodation cannot be a secure tenant, unless the Council was to state to the contrary. In order to be able to exercise the right to buy you do need to be a secure tenant, so it is in effect an exemption. Schedule 1 of the HA 1985 specifies tenancies which are not secure.

8.9 The council has statutory powers under regulation 8 of The Housing (Right of First Refusal (England) Regulations 2005 to nominate 'first refusal' opportunities to private registered providers in the city.

8.10 The Council's constitution delegates to the Executive Director the power, after consulting the Chairs of Housing & New Homes and Policy, Resources & Growth Committees, to acquire or dispose of land for a consideration of up to £250,000.

Lawyer consulted: Joanne Dougnaglo

Date: 11/09/17

8.11 Equalities Implications:

A Home Purchase Policy would support delivery of the city's Housing Strategy and an increase in housing supply will extend opportunities to accommodate households on the Housing Register who are on housing need.

8.12 Sustainability Implications:

Purchased properties will be required to meet the Brighton & Hove Standard and seek to be energy efficient, minimise carbon emissions and reduce water usage.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1: Draft Home Purchase Policy

Appendix 2: Viability results of the potential purchase of a cross-section of properties on the market in June 2017

Documents in Members' Rooms

None

Background Documents

None

Home Purchase Policy

1 Introduction

- 1.1 Brighton & Hove is a popular place to live with good transport links to neighbouring towns and to London. It has a buoyant housing market and the cost of buying or privately renting a home in the city is unaffordable for many local residents, demonstrating a pressing need for affordable housing in the city.
- 1.2 There are limited opportunities to build in the city and with land at a premium and rising building costs the pressures on providing additional housing can not be met resulting in demand outstripping supply.
- 1.3 The reality of how difficult it is for households to find affordable housing in the city is reflected in the number on the council's housing register and households approaching the council due to being or at risk of becoming homeless.
- 1.4 Over the past five years (to April 2017), 279 properties have been sold under the Right to Buy, further reducing affordable housing for rent in the city.
- 1.5 The citywide Housing Strategy adopted by council in March 2015 has as priority 1 **Improving Housing Supply** with a commitment to prioritise affordable housing provision in the city. This policy aims to provide another option for increasing affordable housing in the city.

2 Scope of the policy

- 2.1 This policy sets out Brighton & Hove City Council's (the council) approach to the buy back of properties previously sold under the Right to Buy (RTB).
- 2.2 The council has statutory powers under The Housing (Right of First Refusal) (England) Regulations 2005. Since August 2005 the council's RTB leases have placed a legal obligation on the former secure tenant who has exercised their right to buy and their successors to offer the council first refusal if they decide to sell within 10 years of the original purchase.
- 2.3 This policy will apply to these properties plus other properties available for sale on the open market.

2.4 This policy aims to

- Maximise the supply of affordable homes in the city in support of the Housing Strategy
- Meet housing need through the housing register
- Utilise retained RTB receipts thereby avoiding the need to return capital funds to the government and reducing the impact on the Housing Revenue Account's (HRA) borrowing headroom.

3 Criteria

3.1 The decision to purchase properties will be dependent on a business case on a property by property basis which would be determined by the following factors:

- The purchase price (up to £250,000) and availability of capital funds
- The cost of any refurbishment work required to bring the property up to the Brighton & Hove Standard (ideally to a maximum of 10% of purchase price)
- Whether on going maintenance costs are considered to be excessive (or greater than average stock levels)
- The property is situated amongst existing Brighton & Hove City Council housing stock
- There is a specific housing need for the type of property that is being offered, as established by the Housing Register
- Whether a purchase of a property would free up land or enable access to a site suitable for development of affordable housing
- Savings to the council through reduced need for temporary accommodation or specialist accommodation

4 Processing claims under the Right of First Refusal

- 4.1 In accordance with the 'Right of First Refusal' since August 2005 the council's RTB leases have placed a legal obligation on the former secure tenant who has exercised their right to buy and their successors to offer the council first refusal if they decide to sell within 10 years of the original purchase.
- 4.2 The owner wishing to sell the property must submit an Offer Notice in writing to the council, which should include the full address, confirmation that there is a covenant requiring the owners to first offer the property to the council, and specifics of the property such as the type and size of property, the type of heating system and improvements that have been made since its purchase from the council.
- 4.3 The council will send an acknowledgement of receipt within five working days. The acknowledgement will specify the date on which the offer notice was first received and give more details regarding the Right of First Refusal.

- 4.4 In accordance with the criteria set out in section 3 the Head of Property & Investment will recommend to the Executive Director of Neighbourhoods, Communities and Housing whether:
- 1) the council wishes to accept the offer and purchase the property
 - 2) the property should be offered to another registered provider in the area for purchase
 - 3) the offer should be rejected
- 4.5 If the council wishes to accept the offer it will confirm this to the owner within 8 weeks of receipt of the Offer Notice. The council will ask its nominated valuer to value the property. This must be agreed between both parties. If no agreement can be made the value will be determined by the District Valuer. Acceptance of the offer will be carried out in writing through the issuing of an Acceptance Notice.
- 4.6 If the council does not wish to accept the offer, a Rejection Notice will be served as soon as possible (and within 8 weeks).
- 4.7 If the council has not served an Acceptance Notice or Rejection Notice within 8 weeks of receipt of the Offer Notice the owner may proceed with selling the property as they see fit.
- 4.8 If after a period of 12 months the owner has not sold the property and still intends to do so they must serve a fresh Offer Notice to the council first.
- 4.9 If an offer to purchase the property is made by the council a binding contract must be entered into with the owner
- No later than 12 weeks after the date in which the Acceptance Notice is served on the owner or
 - No later than 4 weeks after receipt of written confirmation from the owner that they are ready to complete (whichever is later)

5 Financial resources

- 5.1 Financial resources available for this policy will be dependent on the ability of the HRA to fund any acquisitions. A budget for this policy will be determined on an annual basis. Properties will be considered on a case by case basis and any decision to buy a property will be subject to approval by the Executive Director of Neighbourhoods, Communities & Housing after consultation with the Chairs of Housing & New Homes Committee and Policy, Resources & Growth Committee.

6 Appeals process

- 6.1 Appeals must be received within 28 days of the decision letter.
- 6.2 Where the appeal is in respect of how the policy and procedure have been applied it will be investigated in line with the council's complaints procedure.

6.3 Appeals against decisions will be considered by the Assistant Director of Housing whose decision is final.

7 Other opportunities

7.1 Alongside the purchase of homes, other opportunities may become available to purchase properties or land for housing.

The viability of each potential purchase would need to be completed taking account of:

- The purchase price and nature of the property/land
- The cost of any conversion and refurbishment work to bring it into use
- Grant funding opportunities to support delivery of new housing
- Planning considerations
- There is a specific housing need for the type of property that is being offered, as established by the Housing Register
- The property/land is situated amongst existing Brighton & Hove City Council housing stock

7.2 These opportunities would need to be subject to business case approval by Housing & New Homes Committee with formal approval sought through Housing & New Homes Committee, Planning and Policy, Resources and Growth Committee (as required).

8 Publicity

8.1 We will publicise this policy:

- On the council's website
- In the Leaseholders Handbook
- Through staff briefings and training

Written copies of this policy are available on request.

9 Policy review

9.1 This policy will be reviewed every three years or where circumstances change significantly.

10 Related legislation

- Housing Act 1980 as amended by the Housing Act 1985, Part 5
- Housing Act 2004
- The Housing (Right of First Refusal) (England) Regulations 2005

Appendix 2: Individual Property Modelling

	Asking price	Max. Decent Homes expenditure (10%)	Stamp Duty	Agent Fees	Total Purchase costs	LHA Rent			Social Rent			Living Wage Rent (37.5% living wage)		
						Supported Borrowing	RTB Receipts	Subsidy / (Surplus)	Supported Borrowing	RTB Receipts	Subsidy / (Surplus)	Supported Borrowing	RTB Receipts	Subsidy / (Surplus)
	£	£	£	£	£	£	£	£	£	£	£	£	£	£
1 bedroom flat - Moulsecoomb & Bevendean	170,000	17,000	900	1,000	188,900	159,936	56,670	(27,706)	51,451	56,670	80,779	144,905	56,670	(12,675)
2 bedroom flat - Hollingdean	230,000	23,000	2,100	1,000	256,100	218,810	76,830	(39,540)	64,432	76,830	114,838	185,790	76,830	(6,520)
2 Bedroom flat - Hollingdean	152,500	15,250	550	1,000	169,300	218,810	50,790	(100,300)	64,432	50,790	54,078	185,790	50,790	(67,280)
3 Bedroom semi det house - Hollingbury	215,000	21,500	1,800	1,000	239,300	284,056	71,790	(116,546)	89,259	71,790	78,251	226,676	71,790	(59,166)
1 Bedroom flat - Hollingbury	210,000	21,000	1,700	1,000	233,700	159,936	70,110	3,654	51,451	70,110	112,139	144,905	70,110	18,685
3 Bedroom flat - Portslade	250,000	25,000	2,500	1,000	278,500	275,208	83,550	(80,258)	89,259	83,550	105,691	226,676	83,550	(31,726)

Subject: Living Wage Joint Venture Business Plan
Date of Meeting: 12 October 2017
Report of: Executive Lead for Strategy, Governance & Law
Contact Officer: Name: **Caroline De Marco** Tel: **01273 291063**
E-mail: caroline.demarco@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

Action Required of the Committee:

To receive the item referred from the Special Housing & New Homes Committee for approval:

Recommendation:

That the Committee:

- (1) Agree the Business Plan in Part 2 of the report and delegate authority to the Executive Director Economy, Environment and Culture to take all steps necessary to enable and facilitate the implementation of the Business Plan;
- (2) Agree that the joint venture should seek, within the constraints of the agreed business plan, to maximise the use of photo voltaic and other energy saving measures and that plans to achieve this should be reported to Housing & New Homes committee
- (3) Authorise the disposal of Former Belgrave Site Day (South Portslade Industrial Estate), Clarendon Place, Portslade (as shown in Appendix 1) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- (4) Authorise the disposal of Land north of Varley Halls, Coldean Lane, Brighton (as shown in Appendix 2) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- (5) Authorise the disposal of Land north west of Whitehawk, Brighton (as shown in Appendix 3) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director

of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;

- (6) Note the value for the disposals will accord with the valuations for each of the sites assessed by Savills and set out in Part 2 of the report;
- (7) Agree the capital receipts from the disposal of these sites are used for the council's investment into the Living Wage Joint Venture;
- (8) Approve the inclusion of loans to the Living Wage Joint Venture within the Councils Capital Investment Programme in line with agreed drawdowns approved by the Living Wage Joint Venture Board;
- (9) Agree the appointment of the council's representatives on the Board of the Limited Liability Partnership (LLP) and the Design & Build subsidiary company; and
- (10) Agree that a review be undertaken by the board into the model levels of maintenance costs after year 10 in the business model, with the outcome of this review to be reported to Housing & New Homes committee.

BRIGHTON & HOVE CITY COUNCIL
SPECIAL HOUSING & NEW HOMES COMMITTEE

25 SEPTEMBER 2017

COUNCIL CHAMBER, HOVE TOWN HALL

Present: Councillor Meadows (Chair) Councillor Mears (Opposition Spokesperson),
Councillor Gibson (Group Spokesperson), Councillors Barnett, Bell, Cattell,
Druitt, Lewry, Moonan and Robins

DRAFT MINUTES

PART ONE

39 LIVING WAGE JOINT VENTURE BUSINESS PLAN

- 39.1 The Committee considered a report of the Executive Director, Economy, Environment and Culture which explained that Housing & New Homes Committee and Policy, Resources & Growth Committee agreed to support in principle the establishment of the Living Wage Joint Venture (LWJV) at their meetings in November and December 2016. It was also agreed that the final Business Plan which sets the parameters within the partnership will operate would be brought back to committee for approval. This was now ready to be considered by members following a period of due diligence checks by council officers and the council's legal advisors. The report was presented by The Head of Housing Strategy, Property & Investment, and the Lead Regeneration Programme Manager.
- 39.2 The key aim of the project was the provision of lower cost rented housing for low income working households in the city. The recommendations sought approval of the Business Plan that would frame the delivery of the Living Wage Joint Venture's projects as it moved forward. The report provided an overview of the following areas of work: An overview of the appended Business Plan. Progress with legal documents and an update on the governance arrangements for the Living Wage Joint Venture.
- 39.3 Members received a PowerPoint presentation from the Head of Housing Strategy, Property & Investment, the Lead Regeneration Programme Manager, Matthew Waters from Bevan Brittan and the Head of Finance (Planning & Reporting). The presentation set out the challenge to meet the housing target of 13,200 new homes to 2013; details of the housing need in the city; and details of the 'Homes for Brighton & Hove' programme approved at committee in November & December 2016. Members were also given details of the business plan, financial model, governance, initial sites, land agreement, LLP Members' Agreement and funding agreement.

39.4 Councillor Gibson proposed the following amendment, which was seconded by Councillor Druitt:

“That Housing & New Homes Committee:

- 2.1 Note progress with the legal documentation required to implement the Living Wage Joint Venture; and
- 2.2 ***Note that following a successful DCLG funding award of £464,539, the capacity of Brighton and Hove Community Land Trust to deliver truly affordable housing for local people in perpetuity will be greatly enhanced. It is further enhanced by the prospect of subsequent DCLG funding towards specific schemes;***
- 2.3 ***Note that in the current housing strategy the council seeks to:***
- ***Explore the viability of Community Land Trust and wider community housing development options when land is available with a focus on maximising the social value of new developments where appropriate.***
 - ***Explore the use of commercial properties for co-operatives where compatible with City Plan policies.***
 - ***Share information on development opportunities with the Community Housing Network.***
- 2.4 ***Note that on the urban fringe the city plan commits to:***
- “further consideration and a more detailed assessment of potential housing sites will be undertaken to inform allocations made in Part 2 of the City Plan with a particular emphasis on delivering housing to meet local needs. As part of this process, the City Council will consider how best to ensure that opportunities for community land trusts, community-led development, right to build, and housing co-operatives are brought forward/ safeguarded in order to maximise housing opportunities that meet local housing needs”***
- 2.5 ***Note that Brighton and Hove Fairness Commission recommends that BHCC:***
- “Offer council-owned and other publicly owned land, including sites on the city fringes, brown field sites, to housing co-operatives, self-build groups and community land trusts to develop affordable social housing with the guarantee it will go to local people. Set up a revolving fund by 2018 and an advice hub to support the work of housing co-operatives, self-build groups, community land trusts and energy co-ops.”***
- 2.6 ***That Housing & New Homes Committee re-affirm its commitment to community-led housing and self-build housing;***
- 2.7 ***That a report be provided within 6 months to a future Housing & New Homes Committee outlining the progress with, and setting out future plans***

for work with community housing providers to achieve the goals noted in 2.3, 2.4 and 2.5 above;

- 2.8 *That the above report examine ways of support the council can offer in recognising the social value contribution of community land trusts and community-led housing providers, including offering re-lending BHCC PWLB loans at PWLB/ sub market rates to community-led housing providers in the context of providing urban fringe sites for not for profit providers;*
- 2.9 *That the above report should provide an update on the identification of sites for community-led housing and plans to ensure that urban fringe opportunities are fully explored with providers including consideration of sites 21a and 21c in Coldean- ensuring that the joint venture development of site 21 facilitates access and does not limit the prospects for development of site 21a as community led housing.*
- 2.10 *That building on the successful pilot working with Bunker Co-op, exploration of scope for development of sites such as the Dunster Close garage site in Hollingdean be progressed further enhancing the capacity of cooperative partners.*
- 2.11 Recommends the report to Policy, Resources & Growth Committee as ~~set~~ out at paragraphs ~~2.3 to 2.10~~ **2.12 to 2.21**

~~That~~ **Policy, Resources & Growth Committee:**

- 2.12 Agree the Business Plan in Part 2 of the report and delegate authority to the Executive Director Economy, Environment and Culture to take all steps necessary to enable and facilitate the implementation of the Business Plan;
- 2.13 *Agree that the joint venture should seek, within the constraints of the agreed business plan, to maximise the use of photo voltaic and other energy saving measures and that plans to achieve this should be reported to Housing & New Homes committee;*
- 2.14 Authorise the disposal of Former Belgrave Site Day (South Portslade Industrial Estate), Clarendon Place, Portslade (as shown in Appendix 1) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- 2.15 Authorise the disposal of Land north of Varley Halls, Coldean Lane, Brighton (as shown in Appendix 2) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- 2.16 Authorise the disposal of Land north west of Whitehawk, Brighton (as shown in

Appendix 3) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;

- 2.17 Note the value for the disposals will accord with the valuations for each of the sites assessed by Savills and set out in Part 2 of the report;
- 2.18 Agree the capital receipts from the disposal of these sites are used for the council's investment into the Living Wage Joint Venture;
- 2.19 Approve the inclusion of loans to the Living Wage Joint Venture within the Councils Capital Investment Programme in line with agreed drawdowns approved by the Living Wage Joint Venture Board ~~and~~;
- 2.20 Agree the appointment of the council's representatives on the Board of the Limited Liability Partnership (LLP) and the Design & Build subsidiary company;
and
- 2.21 ***Agree that a review be undertaken by the Board into the model levels of maintenance costs after year 10 in the business model, with the outcome of this review to be reported to Housing & New Homes committee."***
- 39.5 Councillor Gibson stated that the purpose of the amendment was to enable the council to pursue the Joint Venture project without closing down opportunities to work with the Community Land Trust, and to look at specific possibilities with a report back to the committee. Councillor Gibson noted the concerns of the Coldean residents but was also aware that the timescales in which it was likely that a community land project could develop to the point of build was considerably longer than the joint venture. The amendment would enable the committee to reaffirm close working with the Community Land Hub Group.
- 39.6 Councillor Mears stressed the importance of consultation with the community. She referred to page 21 of the agenda which showed a map of Whitehawk/Brighton Race Course and asked where the road for the development would be situated and expressed concerns about site costs. Councillor Mears made the point that the recommendations were in Part 1 of the agenda before members had had an opportunity of discussing the business plan in Part Two.
- 39.7 In response to Councillor Mears questions the following was confirmed:
- With regard to the Whitehawk Road site access, the project was at very early stage and detailed work had not been carried out yet. Officers were looking at the best way to gain road access, while engaging with the community throughout the process. The details of site access would eventually be taken to the Living Wage Joint Venture Board.
 - It was confirmed that with regard to site costs, in valuing the sites, road access was one of the main elements which would help to depress the value of the site.

Although the cost of site acquisition had been increased in the business plan, that would include site abnormal costs.

39.8 Councillor Robins supported the proposal. He specifically mentioned the proposal in Portslade and was pleased that housing would be put back on this site.

39.9 Councillor Druitt welcomed the proposal which was a fantastic opportunity. He raised the following points:

- He questioned how drawdown as per need would work in practice.
- He stressed the need to carry out appropriate consultation in order to gain the support of communities. He asked if there was any way more work could be carried out to identify how the community could become involved on the scale needed. He asked how the council could work better with the community so community led schemes could be developed.
- Road access to the Coldean site was a very steep hill and needed to be planned carefully.

39.10 Councillor Bell made the following points:

- The Committee were discussing items in the recommendations that should be discussed in part Two.
- The Committee had not received a recommendation from the Joint Venture Board.
- Figures with regard to the allocation policy were questioned.
- How had the figure increased to £60m.

39.11 In response to Councillor Druitt's and Councillor Bell's questions it was explained that:

- Work on the new allocations policy was currently being progressed. The proposal was to reduce it to between 6000 and 8,000 by next March, however everybody who was removed from the list had the right of appeal, and a large number of people were taking up that right.
- With regard to drawdown, the strategic Financial Model set out the overarching position for the first five years and that was included in five year medium term financial strategy. The Board would agree to progress various business plans for particular sites. Assuming they were in line with the overarching business plan, that would set out the cash flow requirement through the scheme to draw down. A requirement would come back to both Hyde and the Council for the money when it was needed.
- With regard to a question as to why the financial investment had increased to £60m part of the due diligence process was to relook at some of the assumptions in the business plan. One in particular was the land costs and the cost of purchasing sites, and any site abnormal costs of particular sites.
- The government had a Community Housing Fund, and the council had led bids for significant amounts of money from that fund. The Council were working with the community housing sector including the Community Land Trust to build that capacity. The Council would continue to bid for money and work with the community housing sector.

- With regard to the transfer of the site, the decision being made this meeting would give the Joint Venture the option of taking forward sites subject to conditions, including planning condition. It would need to meet all the conditions within the OSLA as set out in the report. It would also be up to the Joint Venture Board to decide whether to go ahead with the purchase of those sites, based on reports on viability and feasibility of those sites being delivered
- Coldean Lane was a busy road and this issue would require significant input from transport officers in the development process.

- 39.12 The Executive Lead Officer - Strategy Governance & Law advised that in regard to the process and the business plan, the committee did not have to vote on the Part One recommendations until after it had discussed the Part Two papers in detail. He suggested that firstly, questions should be asked in Part One. If members wanted to discuss the business plan it was in order for the Committee to move to Part Two for that discussion. The committee could then come back to Part one to make a decision.
- 39.13 Councillor Cattell supported the recommendations but questioned whether recommendation 2.9 would fetter the council, or change any of the existing issues on the City Plan. Councillor Cattell stated that the wording of recommendation 2.13 appeared to be committing the council to the use of photo voltaic panels in every scheme. She suggested that the words “where appropriate” could be added to the recommendation as they would not be appropriate in all circumstances.
- 39.14 Councillor Moonan thanked officers for all their hard work. The scheme would result in 1000 new affordable homes for people in Brighton & Hove, half for rent and half for shared ownership. With regard to the issue about consultation, she was reassured by officers saying the decisions being made were only in principle. There would be a full community consultation, where all of the detail would be available. A final decision would be made by the Joint Venture Board. Councillor Moonan supported Councillor Gibson’s amendment.
- 39.15 At this point in the proceedings it was agreed to move into Part Two for a discussion on the Part Two appendices. The discussion is contained in the Part Two minutes at Item 40. Members of the press and public were asked to leave the Chamber and the webcast was paused.
- 39.16 Following discussion in Part Two the Committee moved back to a Part One discussion and members of the press and public were invited back to the Chamber and the webcast was restarted.
- 39.17 Councillor Gibson referred to the concerns raised about consultation. He asked what the consequences would be for the Committee if two of the sites were approved and the Coldean site delayed.
- 39.18 The Executive Director, Economy, Environment & Culture stated that going forward with two rather than three sites would not give the Joint Venture the strongest start. He hoped that the Committee would want to give the Joint Venture the best chance of success. The Green amendment sought to ensure that officers looked at other options for supporting community housing groups.

- 39.19 Councillor Mears stated that she considered that the Policy, Resources & Growth Committee should have first been asked to agree to the Joint Venture Board being set up. Sites should then be evaluated through the Board.
- 33.20 Councillor Druitt asked for confirmation that authorising the disposal of these three sites did not mean that the Board had to buy them.
- 39.21 Councillor Moonan stated that she believed that Housing & New Homes Committee was recommending to Policy Resources & Growth Committee that they authorise the setting up of the Joint Venture and that the committee had considered three potential sites for the Joint Venture put forward by the officers. The Committee were not making a decision that the sites would go into the Joint Venture. The Committee were authorising the disposal of them. More viability testing would need to be carried out by the Joint Venture Board before they considered buying the sites. The Committee were suggesting that these three sites were potentially appropriate. The Board would make decisions on whether to purchase sites and go forward with them
- 39.22 Councillor Cattell sought clarification with regard to the references to the City Plan in the amendment. The Executive Director, Economy, Environment & Culture explained that paragraph 2.9 of the amendment related to the landlord's function which was separate from the planning function. The Green amendment at paragraph 2.4 outlined what the City Plan said in relation to urban fringe sites. As these sites come forward to Planning, planning policy will apply.
- 39.23 At this point the Chair invited Members to vote on the Green amendment as set out in paragraph 39.4.
- 39.24 The Committee unanimously voted in favour of the amendment. The amendment was therefore agreed. Members voted on the original recommendations as amended and these were agreed unanimously.
- 39.25 **RESOLVED:-**

Housing & New Homes Committee:

- (1) Note the progress with the legal documentation required to implement the Living Wage Joint Venture; and
- (2) Note that following a successful DCLG funding award of £464,539, the capacity of Brighton and Hove Community Land Trust to deliver truly affordable housing for local people in perpetuity will be greatly enhanced. It is further enhanced by the prospect of subsequent DCLG funding towards specific schemes;
- (3) Note that in the current housing strategy the council seeks to:
 - Explore the viability of Community Land Trust and wider community housing development options when land is available with a focus on maximising the social value of new developments where appropriate.
 - Explore the use of commercial properties for co-operatives where compatible with City Plan policies.

- Share information on development opportunities with the Community Housing Network.
- (4) Note that on the urban fringe the city plan commits to:
- “further consideration and a more detailed assessment of potential housing sites will be undertaken to inform allocations made in Part 2 of the City Plan with a particular emphasis on delivering housing to meet local needs. As part of this process, the City Council will consider how best to ensure that opportunities for community land trusts, community-led development, right to build, and housing co-operatives are brought forward/ safeguarded in order to maximise housing opportunities that meet local housing needs”
- (5) Note that Brighton and Hove Fairness Commission recommends that BHCC:
- “Offer council-owned and other publicly owned land, including sites on the city fringes, brown field sites, to housing co-operatives, self-build groups and community land trusts to develop affordable social housing with the guarantee it will go to local people. Set up a revolving fund by 2018 and an advice hub to support the work of housing co-operatives, self-build groups, community land trusts and energy co-ops.”
- (6) That Housing & New Homes committee re-affirm its commitment to community-led housing and self-build housing;
- (7) That a report be provided within 6 months to a future Housing & New Homes Committee outlining the progress with, and setting out future plans for work with community housing providers to achieve the goals noted in 2.3, 2.4 and 2.5 above;
- (8) That the above report examine ways of support the council can offer in recognising the social value contribution of community land trusts and community-led housing providers, including offering re-lending BHCC PWLB loans at PWLB/ sub market rates to community-led housing providers in the context of providing urban fringe sites for not for profit providers;
- (9) That the above report should provide an update on the identification of sites for community-led housing and plans to ensure that urban fringe opportunities are fully explored with providers including consideration of sites 21a and 21c in Coldean - ensuring that the joint venture development of site 21 facilitates access and does not limit the prospects for development of site 21a as community led housing.
- (10) That, building on the successful pilot working with Bunker Co-op, exploration of scope for development of sites such as the Dunster Close garage site in Hollingdean be progressed, further enhancing the capacity of cooperative partners.
- (11) Recommends the report to Policy, Resources & Growth Committee as set out at paragraphs 2.12 to 2.21.

Policy, Resources & Growth Committee:

- (12) Agree the Business Plan in Part 2 of the report and delegate authority to the Executive Director Economy, Environment and Culture to take all steps necessary to enable and facilitate the implementation of the Business Plan;
- (13) Agree that the joint venture should seek, within the constraints of the agreed business plan, to maximise the use of photo voltaic and other energy saving measures and that plans to achieve this should be reported to Housing & New Homes committee
- (14) Authorise the disposal of Former Belgrave Site Day (South Portslade Industrial Estate), Clarendon Place, Portslade (as shown in Appendix 1) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- (15) Authorise the disposal of Land north of Varley Halls, Coldean Lane, Brighton (as shown in Appendix 2) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- (16) Authorise the disposal of Land north west of Whitehawk, Brighton (as shown in Appendix 3) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- (17) Note the value for the disposals will accord with the valuations for each of the sites assessed by Savills and set out in Part 2 of the report;
- (18) Agree the capital receipts from the disposal of these sites are used for the council's investment into the Living Wage Joint Venture;
- (19) Approve the inclusion of loans to the Living Wage Joint Venture within the Councils Capital Investment Programme in line with agreed drawdowns approved by the Living Wage Joint Venture Board;
- (20) Agree the appointment of the council's representatives on the Board of the Limited Liability Partnership (LLP) and the Design & Build subsidiary company; and
- (21) Agree that a review be undertaken by the board into the model levels of maintenance costs after year 10 in the business model, with the outcome of this review to be reported to Housing & New Homes committee.

Subject:	Living Wage Joint Venture Business Plan		
Date of Meeting:	12 October 2017 25 September 2017 – Special Housing & New Homes Committee		
Report of:	Executive Director for Economy, Environment & Culture		
Contact Officer:	Name:	Martin Reid Sam Smith	Tel: 01273293321 01273291383
	Email:	martin.reid@brighton-hove.gov.uk sam.smith@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Improving housing supply, in particular the supply of affordable homes for rent is a key priority of both our Housing Strategy and City Plan. Housing & New Homes and Policy, Resources & Growth Committees agreed to support in principle the establishment of the Living Wage Joint Venture (LWJV) at their meetings in November and December 2016. It was also agreed that the final Business Plan which sets the parameters within which the partnership will operate would be brought back to committee for approval. This is now ready to be considered by members following a period of due diligence checks by council officers and the council's legal advisors.
- 1.2 The key aim of this project is the provision of lower cost rented housing for low income working households in the city. Supply of new lower cost rented homes is not keeping pace with demand and there is limited evidence of market appetite from developers and Registered Providers to deliver this product to meet our identified housing needs in the City. There is also potential to generate a long term income for the council through the generation of an annual surplus.
- 1.3 The recommendations for consideration in this report follow on from the decisions made in November and December 2016, by seeking approval of the Business Plan that will frame the delivery of the LWJV's projects as it moves forward. This report provides an overview of the following areas of work:
 - An overview of the appended Business Plan
 - Progress with legal documents
 - An update on the governance arrangements for the LWJV

2. RECOMMENDATIONS:

That Housing & New Homes Committee:

- 2.1 Note progress with the legal documentation required to implement the Living Wage Joint Venture; and
- 2.2 Recommends the report to Policy, Resources & Growth Committee as out at paragraphs 2.3 to 2.10

That Policy, Resources & Growth Committee:

- 2.3 Agree the Business Plan in Part 2 of the report and delegate authority to the Executive Director Economy, Environment and Culture to take all steps necessary to enable and facilitate the implementation of the Business Plan;
- 2.4 Authorise the disposal of Former Belgrave Site Day (South Portslade Industrial Estate), Clarendon Place, Portslade (as shown in Appendix 1) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- 2.5 Authorise the disposal of Land north of Varley Halls, Coldean Lane, Brighton (as shown in Appendix 2) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- 2.6 Authorise the disposal of Land north west of Whitehawk, Brighton (as shown in Appendix 3) by way of long leasehold and that delegated authority be given to the Executive Director Economy, Environment and Culture, Assistant Director of Property & Design and Executive Lead Officer Strategy, Governance & Law to agree terms and execute all legal documentation necessary to dispose of the site to the LWJV;
- 2.7 Note the value for the disposals will accord with the valuations for each of the sites assessed by Savills and set out in Part 2 of the report;
- 2.8 Agree the capital receipts from the disposal of these sites are used for the council's investment into the Living Wage Joint Venture;
- 2.9 Approve the inclusion of loans to the Living Wage Joint Venture within the Councils Capital Investment Programme in line with agreed drawdowns approved by the Living Wage Joint Venture Board and;
- 2.10 Agree the appointment of the council's representatives on the Board of the Limited Liability Partnership (LLP) and the Design & Build

subsidiary company.

3. CONTEXT/ BACKGROUND INFORMATION

Action since the 2016 committee decisions

3.1 Since the Committees agreement in principle to establish the Living Wage Joint Venture (LWJV) in November and December 2016 Council officers, Hyde and our respective legal advisors have been working to progress the LWJV. This has included preparation for the establishment of the Limited Liability Partnership (LLP) to deliver the new homes and the Business Plan which will set the parameters within which the partnership will operate subject to reserved matters which it has been agreed would come back to each organisation for agreement. This has included:

- Updating the Heads of Terms in order to reflect the committee decision and associated amendments (see Appendix 4)
- Developing and negotiating on a range of legal documents and the Business Plan, appended to this report
- Undertaking a range of due diligence checks on the Strategic Financial Model and Business Plan (see Appendix 6 and Part 2 report)
- Progressing the identification and assessment Priority Sites for development by the LWJ V, the first three sites proposed for the new homes are included in this report (see Appendices 1, 2 and 3 for site maps)
- Progressing the governance arrangements for the Limited Liability Partnership
- Updating Estate Regeneration Board and Strategic Delivery Board on progress.
- Considering the interface between the local authority and Hyde as public bodies and the LLP as a private and independent body.
- Developing the Frequently Asked Questions document to provide further clarity on the proposals (see Appendix 5).

Background

3.2 Brighton & Hove is a growing city. Improving Housing Supply to meet identified local needs is a priority of both our Housing Strategy and City Plan. A key theme of our Housing Strategy is the lack of availability of affordable homes, in particular family homes, and the economic impact of this lack of housing supply on our ability to retain lower income working households and employment in the city across all sectors. This is in addition to the council's ability to meet the needs of those who approach us for housing and those to whom we owe a duty to accommodate. Brighton & Hove has over 21,000 households on our Housing Register, 1,800 in temporary accommodation and a significant shortage of affordable homes available to let.

3.3 The city also has areas of serious deprivation and its population has significant health needs and inequalities. In our Housing Strategy we are committed to work collaboratively with Adult Social Care, Children's Services and Health colleagues to meet our shared objectives including the availability of homes in the city to

meet the needs of their workforce and those of other employers for whom the recruitment and retention of lower income workers in Brighton & Hove has increasingly become an issue.

- 3.4 Housing demand, growth in the private rented sector and rising rents have an adverse effect on affordability of housing in the city. This has contributed to a decline in owner occupation as those seeking to buy their own home are increasingly unable to take advantage of housing for sale through affordability and a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners who live and / or work in Brighton & Hove. This has led to concerns that housing supply that is delivered locally fails to meet local housing needs and exploration of options to address this.
- 3.5 For stock holding authorities such as Brighton & Hove, the Housing Revenue Account (HRA) debt cap, reduction in rental income of 1% per annum over four years and the potential impact of Housing & Planning Act will restrict resources available for new build and regeneration.
- 3.6 The council has therefore been looking at alternative funding and delivery mechanisms if it is to deliver the new affordable homes the city needs. The council has also been looking at other opportunities including those related to the structures researched in the Housing Market Intervention project in order to deliver new homes potentially financed from outside the HRA.
- 3.7 Options to mitigate reduced public subsidy for affordable rented homes and Registered Provider shift away from development of this type of accommodation have been subject to regular discussion and review at our Affordable Housing Delivery Partnership (RPs, Homes & Community Agency (HCA) and council) meetings.
- 3.8 Options already under consideration include the council's investigation of alternative funding and delivery mechanisms through the LWJV to deliver new housing supply to meet the needs of those who live and work in the City and contribute toward addressing the issues outlined above. .

The Living Wage Joint Venture

- 3.9 The Committee decisions in 2016 gave agreement in principle to establishing the LWJV between Hyde and the council as a 50:50 Limited Liability Partnership (LLP). The LWJV would deliver 1,000 new homes let and sold on sub-market terms:
 - 500 homes at sub market prices which are affordable to rent for working Brighton & Hove residents earning the new National Living Wage (assumed delivery from 2019 onwards); and
 - 500 shared ownership homes affordable to buy for Brighton & Hove residents on average incomes.
- 3.10 Living Wage housing in this context is defined as homes provided at a cost which is at 37.5% of gross pay to a household earning the new national Living Wage. The table below shows the rents assumed in the LWJV Financial Model which are lower than those charged for Affordable Rent tenancies in the City. These

rents are also inclusive of an assumed £10 per week service charge cost to ensure the overall costs to tenants are affordable.

<i>Studio</i>	<i>£118.13 per week</i>	<i>Studio: £9 p/h x 35 hrs per week x37.5%</i>
<i>1 bed</i>	<i>£147.66 per week</i>	<i>1 bed: ((£9 p/h x 35 hrs per week) x 1.25)x37.5%</i>
<i>2 bed</i>	<i>£177.19 per week</i>	<i>2 bed: ((£9 p/h x 35 hrs per week) x 1.5)x37.5%</i>
<i>3 bed</i>	<i>£206.72 per week</i>	<i>3 bed: ((£9 p/h x 35 hrs per week) x 1.75)x37.5%</i>

- 3.11 Rent increases will be in line with the Consumer Price Index (CPI). This will ensure that rents do not rise at a higher rate than the cost of living and should keep pace with wage increases.

Business Plan

- 3.12 The LLP will operate within the parameters of the Business Plan approved by both parties and subject to reserved matters. The initial Business Plan will be annexed to the Members Agreement for the LLP which would be signed by the Council and Hyde. The Business Plan contains commercially sensitive information about the LWJV including anticipated costs for delivering the new homes and therefore is attached as Part 2 of this report. It is an important document that sets out how the LWJV will operate and deliver the new homes; ensuring that a surplus is delivered to each member. Material changes to the Business Plan would be classed as 'Reserved Matters' and would therefore need to go back to each organisation for agreement.

- 3.13 The Business Plan has the following sections and appendices:

No	Section	Content
1	Introduction	Overview
2	Background	History, structure, governance and key appointments
3	Project Mobilisation	Project team, viability tests, site purchase and transfer
4	Project delivery	Site identification, financial modelling, due diligence, Project Monitor role, LLP internal approval processes, consultation, design, planning, construction, procurement, governance, start on site, reporting and stakeholders
5	Timetable	The anticipated timetable for delivery of the homes
6	Initial budget and funding	Anticipated initial costs and budget
7	Strategic Financial Model	Funding requirement, assumptions, tenure

	(SFM)	mix, costs, revenues, National Living Wage rent, Shared Ownership, Inflation and growth
App 1	Flow charts	Key processes including procurement and land & planning
App 2	Project Monitor and development Management	Appointments and scope of services
App 3	Structure charts	Structure charts for the LLP and its governance
App 4	Initial council sites	List of initial council sites
App 5	Design and quality document	Overview of design and quality standards
App 6	Initial audit report	Format for Project Monitor reporting
App 7	SFM and target model	Details of base model and target model
App 8	SFM assumptions	Details of assumptions used in the model
App 9	SFM Cost narrative	Information about costs within the model
App 10	SFM Revenues narrative	Information about revenue streams within the model
App 11	Inflation and growth assumptions	Information about assumptions around inflation and growth
App 12	Lettings Strategy	Overview of principles of the Lettings Strategy
App 13	Shared Ownership Strategy	Strategy for marketing and selling Shared Ownership properties including eligibility criteria
App 14	Sensitively analysis results	Details of sensitivity analysis results undertaken as part of the due diligence process
App 15	Exit Strategy modelling	Modelling of impacts of both parties exiting the LWJV

- 3.14 It is proposed that the LWJV would have no direct staff, with services contracted in from the partners or from external contractors as necessary. Hyde will provide development, sales and marketing services to the LWJV with the council providing financial and corporate services. The provider of each services need to ensure that full costs are recovered and this will be subject to final schedule of service agreed with the LLP and approval of the independent Project Monitor. A services agreement would be put in place with each of the partners at the point of forming the LWJV . The housing and property management services will be provided by either party to be agreed by the LWJV Board.
- 3.15 The LWJV will make use of a design and build subsidiary for the contracting of the supply chain (D&B Co). D&B Co will fit in with the structure and governance arrangements of the LLP as set out in the Business Plan and the LLP legal documentation and not affect the position between the parties and the LLP.
- 3.16 The Business Plan is supported by a Strategic Financial Model (SFM) to demonstrate a viable financial model and the scale of development that could be supported by an approximate level of investment. As part of the due diligence process the council's Finance Team has reviewed the financial model and its

inputs, testing assumptions and auditing the validity of the outputs which are detailed in the appendices of the Business Plan.

- 3.17 The initial proposal, presented in November and December 2016 was for a total investment in the LLP of £105.5million, with the council and Hyde both providing funding of £52.7million this is now the target model for the Development Manager (Hyde) to work towards. The core model has been updated as a result of the due diligence process in which the council requested a higher allowance for the purchase of sites that would cover both the purchase price and any site specific abnormal costs. This has led to an increase in the funding requirement of £13.8million to £119.3million in total, a £59.7million investment both for the Council and Hyde. Hyde have agreed to this increase, but Hyde, as the Development Manager will to work to achieve the target model based on the original allowances and assumptions and are confident of achieving this. If achieved this would reduce the funding requirement for the LLP.
- 3.18 Value would be returned to the Council and Hyde through surplus distributions. Sensitivities and scenarios have been remodelled on the updated Business Plan evidencing the impact of rising construction costs changes to property prices. Surplus cash generated from the LWJV will be an ongoing revenue income to the council as detailed in the Financial Implications section of this report and appendices.
- 3.19 An advantage of the proposed LLP corporate structure is that the LLP Members retain their own tax profile. In other words the corporate structure is tax transparent and the surplus cash would be subject to tax based on the corporate tax status and affairs of each individual LLP member.
- 3.20 Investment into the LWJV will be through a non interest bearing loan, in effect like equity, although it will be secured against the land. It is consistent with State Aid rules on the basis of the market economy investor principle, which provides that if the council can demonstrate that it is acting as a rational private sector investor in similar circumstances would, then the activity is not a breach of State Aid rules.
- 3.21 The estimate of the investment requirement based on the SFM is detailed on the table below. The table details the anticipated development costs for each of the five years of the project. The Council contribution is based on half of these costs minus the anticipated shared ownership receipts in each year.

Year	Costs £M	Shared Ownership Sales £M	JV Investment requirement £M	BHCC Investment £M
1	10.22	0	10.22	5.11
2	52.83	0	52.83	26.42
3	57.49	-7.81	49.68	24.84
4	42.89	-23.44	19.45	9.73
5	19.30	-23.44	-4.14	-2.07
6	3.04	-11.72	-8.68	-4.34
Total	185.77	-66.41	119.32	59.66

Legal Documents

3.22 Following the decisions in 2016, the Heads of Terms were updated by the council's legal advisors (Bevan Brittan). The amended Heads of Terms are attached in Appendix 4 showing how the committee amendments have been incorporated. Policy, Resources & Growth committee delegated authority to agree and authorise the execution of the Heads of Terms and subsequently the documentation required to implement the LWJV to the Executive Director of Economy, Environment and Culture following consultation with the Executive Lead Officer for Strategy, Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Member Board and the Strategic Delivery Board. If the Business Plan is agreed a joint meeting of these boards will be convened to discuss the documentation required to implement the LWJV as an LLP. The core legal documents are listed in the table below. These documents are in a near final draft form and will be finalised following committee decisions and in light of any necessary amendments coming out of committee decisions / discussions.

Document	Description
LLP Member Agreement	Core legal agreement incorporating key areas of how the LLP will function including governance, dispute resolution and other key areas
Overarching Strategic Land Agreement	Document detailing how sites will be transferred between the council and LLP
Funding Agreement	Document detailing how parties will provide funding to the LLP
Development Management Agreement	Document detailing how the Development Management Service will be provided by Hyde to the LLP
Corporate & Financial Services Agreement	Document detailing how the Corporate and Financial Services will be provided by the council to the LLP

Governance of the Living Wage Joint Venture

3.23 Governance of the LWJV will be key to ensuring it is able to operate effectively and meet the best interests of the council. The council will interact with, and be able to exercise control over, the joint ventures activities in three principal ways:

- as a member of the LLP, which in broad terms is equivalent to being a shareholder of a company (i.e. an owner of the vehicle), which gives the Council certain fundamental rights such as approving the business plan and being the decision maker on fundamental 'reserved matters';
- through appointees to the management board, which is comparable to a company's board of directors;
- as a landowner, with contractual rights governing what sites the council wants to transfer and on what terms.

- 3.24 The council and Hyde will have the right to appoint a management board. The board will be given a role equivalent to a company's board of directors meaning the individuals will have duties to manage the activity of the LLP acting in the best commercial interests of the LLP for the benefit of the council and Hyde as its members. The Board will have the task and remit of implementing the Business Plan set by the Council and Hyde and subject to those matters / decisions reserved to the members. The proposal is for a board of six, three to be appointed by Hyde and three by the Council. It is for the Council to determine who represents it on the Board. The management board will have officer support and the development manager to implement its decisions and the business plan.
- 3.25 Members indicated in the previous Committee meetings that they have a preference for councillors to be the council's representatives on the LWJV Board. This will give councillors from each political group ongoing involvement in key decisions and projects delivered through the LWJV.

Lettings and Shared Ownership marketing

- 3.26 The Living Wage proposal concords with the council's Allocation Policy which has an income cap against size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from the Living Wage housing. The Joint Venture will have an agreed Letting Strategy to prioritise low income working households.
- 3.27 The Shared Ownership homes will not include Government funding which gives greater flexibility to target homes to households who live and work in Brighton & Hove. Government shared and lower cost home ownership schemes are resourced to meet national housing strategy requirements and do not apply local connection criteria with regard to applicants for homes for low cost sale developed through Registered Providers in the City.

Development Sites

- 3.28 It was agreed in the previous reports that the Council may dispose of general fund land to the LWJV on the basis of open market valuation assessed in line with legal obligations in respect of land disposals by councils to secure 'best consideration' under s123a of the Local Government Act 1972. Potential General Fund sites have been reviewed and three sites have been identified. Recommendations to dispose of these sites to the LWJV are included in this committee report and will be in-line with an Overarching Strategic Land Agreement (OSLA).
- 3.29 The purchase of these sites will be progressed once it is satisfied that any scheme is viable as evidenced by the individual Scheme Financial Viability Appraisal (SFA). The purchase and transfer of these sites by the LWJV would follow agreed corporate governance procedures within the LWJV as set out in the Business Plan.
- 3.30 The transfer of these sites will need to comply with the required legal process as with any disposal of an interest in land by the council. Savills have been

appointed to undertake the valuation with the agreement of both parties in line with the previous Committee agreement to have a professionally qualified independent valuer.

4 RISK AND OPPORTUNITIES

4.1 A number of risks have been identified by the project team and the council's legal advisors:

Risk	Details	Action
Consents and Best Consideration	Failure to structure arrangements to meet general consents could mean needing to go to the Secretary of State for express consent to dispose at less than best consideration.	Legal advice has been taken to ensure regulations are met.
State Aid	An issue if contribution of land for no consideration or additional rights.	Legal advice has been taken that advise that the project is compliant
Site identification	Not able to identify suitable sites to transfer to the LWJV.	Sites are being reviewed and any general fund council sites will be brought to committee once confirmed as suitable for the LWJV.
Project financing	Understanding of financial risks and mitigation.	Extensive financial due diligence work has been undertaken to mitigate this risk and is included in this report.
Governance	The governance structure needs to be fit for purpose in managing delivery of development and does not cause inappropriate conflict issues that affect the ability of the Council to manage the LWJV or the LWJV to manage its business.	Governance structure has been developed to give clarity of roles for owners, board and delivery partners and clear conflicts of interests provisions to allow providers to be effectively managed.
Planning	Changes to national and / or local Planning policy framework. Including potential impact of Housing & Planning Act Not able to gain planning permission for specific schemes or maximise capacity of sites.	Early planning advice will be taken on individual schemes. Planning Performance Agreements and Design Panels will be used for individual projects as required.
Community opposition	Potential opposition to schemes.	Communities will be engaged in a similar way to how they have been for the New Homes for Neighbourhoods programme, for example using Planning for Real techniques.
Tax	Tax implication and liabilities such as SDLT and VAT need to	Tax advice has been given on the proposed structure and will

	be reviewed in relation to the proposed structure.	continue to be reviewed with the progression of the JV proposals. The financial model includes an allowance for SDLT. Legal advice is that VAT liability is low risk as there are well established methods to ensure VAT is recoverable on developments. Legal advice is that the council can directly enter the LLP, therefore the returns to the council would not be liable for Corporation Tax. Counsel advice has been sought to confirm this.
Housing Market	Impact of any future economic uncertainty on the housing market and construction costs will be monitored. A significant fall in the housing market or increase in construction costs may require additional borrowing or increased percentage of sales.	Sensitivity analysis has been undertaken on a potential drop in house prices and increase construction costs. House prices would have to fall significantly to incur a loss on shared ownership sales.

5 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

5.1 The Council has a number of existing options to deliver of new lower cost homes in the city including: continued work with our Affordable Housing Development Partnership; our New Homes for Neighbourhoods Programme (subject to Housing Revenue Account borrowing Cap); joint work with Planning in support of delivering Planning Policy Affordable Housing Requirements. For the reasons outlined in this report the Council has also been investigating a number of additional delivery options in order to find a range of mechanisms to increase the supply of affordable housing in the city. This includes our LWJV with Hyde and our work on a wholly owned housing company to take forward any opportunities for the Council to buy homes off plan on new developments in the City through our Housing Market Intervention approach.

5.2 Alternative options that have been considered are provided in the list below. It is likely that a range of delivery options will be progressed in the longer term in order to maximise the delivery of new homes, and agreeing this Business Plan does not rule any of those out. Individual proposals would need to be agreed by relevant committees.

- Wholly owned council vehicle e.g. Housing Company
- JV with a Registered Provider
- A joint venture procured under The Public Contracts Regulations 2015
- Disposal of sites to an RP or private developers
- Do nothing

6 COMMUNITY ENGAGEMENT & CONSULTATION

- 6.1 Consultation with residents and ward councillors on specific schemes and sites will be undertaken as part of the development process.

7 CONCLUSION

- 7.1 Comprehensive work has been undertaken by the council's officers and legal advisors in order to undertake due diligence checks and progress the establishment of the LWJV. On this basis the Business Plan is considered to be sound and this has been supported in a review by the independent Project Monitor. Legal negotiations and documents are at an advanced stage and will be shared with councillors of the relevant Boards before the LWJV is established in line with the previous decision and officer delegations. The three sites have all been identified in planning policy as suitable for residential development and full consultation will be undertaken as part of the development process. The governance arrangements will give councillors from each political group full involvement with the management of the LLP for the long-term and they will be involved key decisions and the development of each project.

8 FINANCIAL & OTHER IMPLICATIONS:

Finance Implications:

- 8.1 The Strategic financial Model (SFM) has been amended to reflect higher site purchase costs/ site specific abnormal costs as the base case. This change allows for a greater level of assurance that the assumptions within the model are robust. In addition, the updated SFM takes into account the income from ground rents from shared ownership tenants and therefore more accurately reflects the cashflows. The SFM has been reviewed by the newly appointed project monitor who concluded that the business case appraisal was appropriate for this stage and can confirm that it demonstrates a viable business proposition.
- 8.2 The revised initial investment is £119.3m of which the council's contribution is £59.7m or 50%. This investment is net of receipts from shared ownership sales as shown in the table at paragraph 3.20 and will be provided through non-interest bearing loans.
- 8.3 The funding of these loans will be a combination of capital receipts and borrowing through the PWLB.
- 8.4 The council will receive distributions of 50% of the net surpluses of the Joint Venture and these will be used to offset the financing costs of the borrowing. However, during the construction phase of the business plan there is a cashflow shortfall for the council, estimated at £4.4m at its peak due to financing costs being incurred before homes are completed and rental income received. To reduce this impact it is proposed to use the capital receipts from the disposal of the 3 sites identified in Paragraph 2.2 for investment into the Living Wage Joint Venture in place of borrowing reducing the shortfall to £3.8m and reduces ongoing financing costs and MRP by approximately £0.2m per annum. This

remaining shortfall will be managed through the council's review of reserves and earmarking longer term reserves to cover the cashflow shortfall in the short term.

- 8.5 The Councils Minimum Revenue Provision (MRP) Statement for borrowing will be updated as part of the mid year review of the Treasury Management Policy Statement report to Policy resources and Growth committee on the 29th November 2017 and for final decision at Council. This update will reflect a prudent MRP for the loan requirements of the Joint Venture in line with the anticipated cash flows over the 40 year loan period.
- 8.6 The impact of the changes to both the higher purchase costs and inclusion of ground rent income results in a revised Net Present Value for the council of £38.6m, £1m increase since the December report and therefore has had a limited impact on the overall viability of the Joint venture.
- 8.7 The council will provide corporate financial services and the Company Secretary role for the LLP Board and these costs will be passed onto the Joint venture with the income being reflected within service budgets.
- 8.8 The council can rely on both its general powers of competence through the Localism Act 2011 and Section 12 of the Local Government Act 2003, for its power to invest in the Joint Venture. Counsels opinion has been provided and supports this assumption.
- 8.9 As with other new developments in the city, the council will also receive income associated with the development of 1,000 new homes. S106 income is estimated in the region of £6.0 million. It is also estimated that the delivery of an additional 1,000 properties in the city would raise in the region of £0.845 million in council tax income per annum, this is a prudent estimate based on a number of assumptions such as council bands, discounts applied and assumed council tax increases.
- 8.10 The council could also receive New Homes Bonus however this is difficult to assess as the Government has introduced a 0.4% threshold for increases in properties in the city which has to be exceeded before any New Homes Bonus grant is received. Therefore, the council could receive a maximum of £1.2 million per annum over 4 years for delivery of 1,000 properties, if these were over and above the 0.4% threshold.

Finance Officer consulted: James Hengeveld Date: 15/09/17

Legal Implications:

- 8.11 As set out in the body of the report, the council has appointed Bevan Brittan LLP as its legal advisor. The legal implications of establishing the joint venture and the relationships between the Council and the joint venture, including issues of vires, state aid and procurement, were considered as part of the committee decisions approving the legal structure and heads of terms in 2016.
- 8.12 Section 123 of the Local Government Act 1972 enables a local authority to dispose of land provided it achieves the best consideration reasonably obtainable. The Council is able to demonstrate that it is disposing of the sites

described in the report for best value as it has obtained an independent valuation of each of the sites. The sites are being disposed of for best value so there is no question that these disposals would amount to state aid.

- 8.13 The detail of the LLP's letting policy and how it relates to the council's allocation policy will be developed in accordance with legal advice.

Lawyer consulted: Isabella Sidoli

Date: 15/09/17

Equalities Implications:

- 8.14 An increase in housing supply will extend opportunities to provide new, well designed homes to accommodate local households on the Housing Register who are in housing need.

Sustainability Implications:

- 8.15 Attaining high sustainability standards is an important in delivering homes that are energy efficient, minimise carbon emissions and reduce water usage. Addressing fuel poverty and reducing total costs of rental or ownership is also an important consideration.

Crime & Disorder Implications:

- 8.16 The development of partnerships such as LWJV offers the opportunity to provide new, well-designed homes which link to the council's wider housing and regeneration aspirations for the city, including the council's economic development and sustainability objectives. Well-designed housing has been shown to positively influence the rate of crime and disorder as well as the quality of life for future occupants.
- 8.17 Vacant sites can sometimes attract anti-social behaviour. With careful planning, the future development of these sites is likely to improve the safety of existing neighbourhoods by reducing crime and the fear of crime.

Public Health Implications:

- 8.18 There are strong links between improving housing, providing new affordable homes and reducing health inequalities. Energy efficient homes which are easier and cheaper to heat are likely to have a positive influence on the health of occupants of the new homes.

Corporate / Citywide Implications:

- 8.19 Increasing Housing Supply is a City Plan and Housing Strategy priority. In particular, meeting our housing target of 13,200 new homes in the City by 2030.
- 8.20 In addition, in our Housing Strategy (2015) priority of increasing housing supply to meet identified needs, we are committed to work collaboratively with Adult Social Care, Children's Services and Health to reduce long term social care cost pressures and address issues arising with recruitment and retention of lower income staff in the City essential to the operation of these services.

8.21 In exploring Housing Delivery Options we are also working in support of the following Corporate priorities:

- **Increasing Equality**- Coordinate services and spending better between public services to improve equality.
- **Economy, Jobs and Homes** - Enable development of new, affordable homes, working with government, Registered Providers and other partners to maximize investment.
- **Health & Wellbeing** - support for key worker housing to meet Health and Social Care employee requirements.
- **Contributing to the Medium Term Financial Strategy** - Maximising New Homes Bonus and Council Tax revenue resources through improving housing supply; Ensuring Housing investment aligns with the Corporate Plan priorities.

8.22 The LWJV will bring a number of benefits to the city and council including:

- 1000 new affordable homes
- Potential long term revenue income from surpluses
- Regeneration of key sites and public realm improvements
- Each new home has potential to generate new Council Tax and New Homes Bonus
- Potential £3 of economic output for every £1 of public investment based on national calculations
- Apprenticeships and training

SUPPORTING DOCUMENTATION

Appendices:

1. Site map of Former Belgrave Day Centre (South Portslade Industrial Estate), Clarendon Place, Portslade
2. Site map of Land north of Varley Halls, Coldean Lane, Brighton
3. Site map of Land north west of Whitehawk, Brighton
4. Updated Heads of Terms including a table of how previous amendments have been incorporated
5. Frequently Asked Questions
6. Overview of Overarching Strategic Land Agreement
7. Confidential Part 2 Business Plan document – Exempt Category 3,
8. Confidential Part 2 Financial Summary of Business Plan, – Exempt Category 3

9. Confidential Part 2 Project Monitor Review of Business Plan, – Exempt Category 3

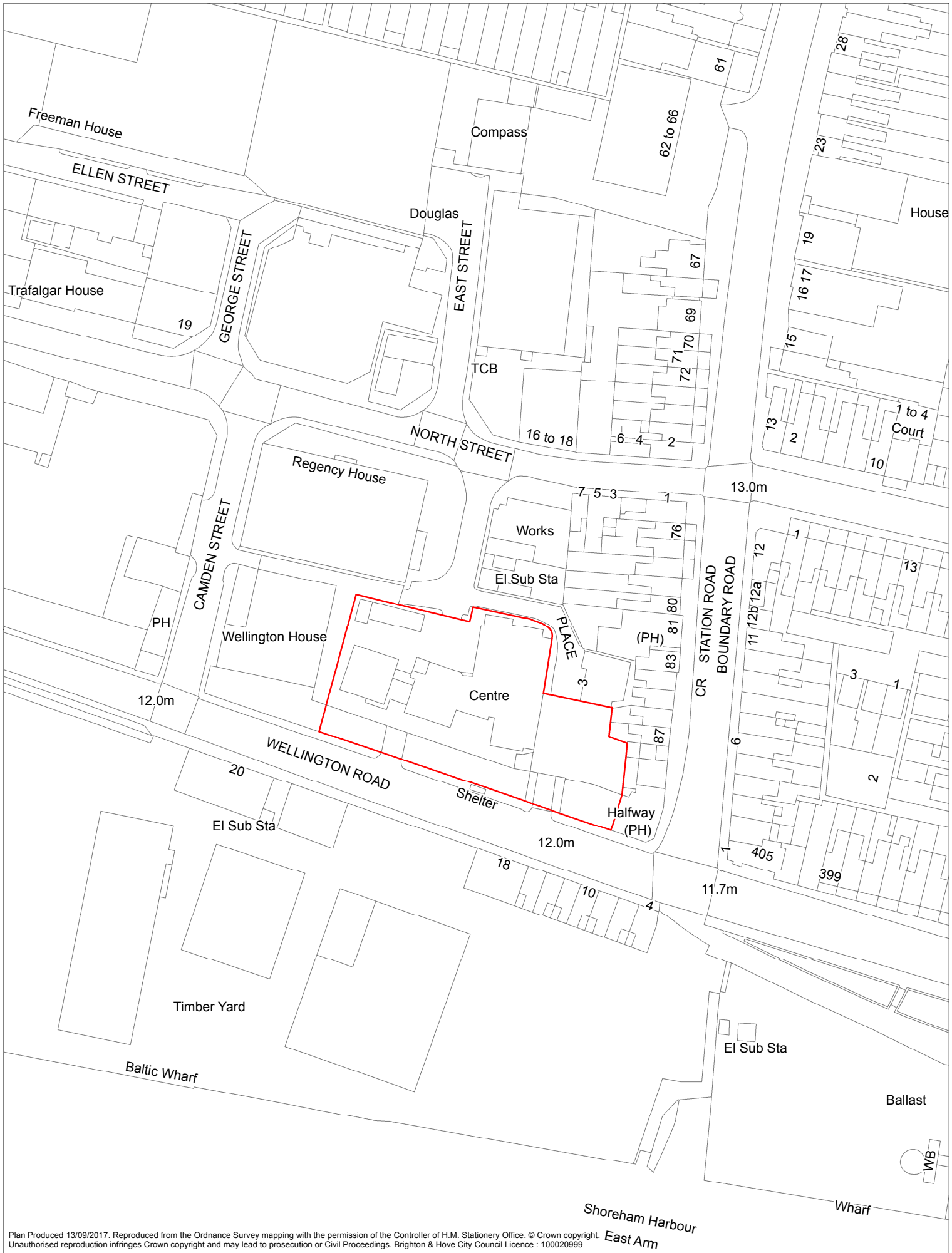
10. Confidential Part 2 Site Valuations, – Exempt Category 3

Documents in Members' Rooms

None

Background Documents

1. Housing Delivery Options - Housing & New Homes Committee Report 2 March 16
2. Housing Delivery Options – Policy & Resources Committee Report 17 March 16
3. Housing Delivery Options Living Wage Joint Venture - Housing & New Homes Committee Report 16 November 16
4. Housing Delivery Options Living Wage Joint Venture – Policy, Resources & Growth Committee Report 8 December 16

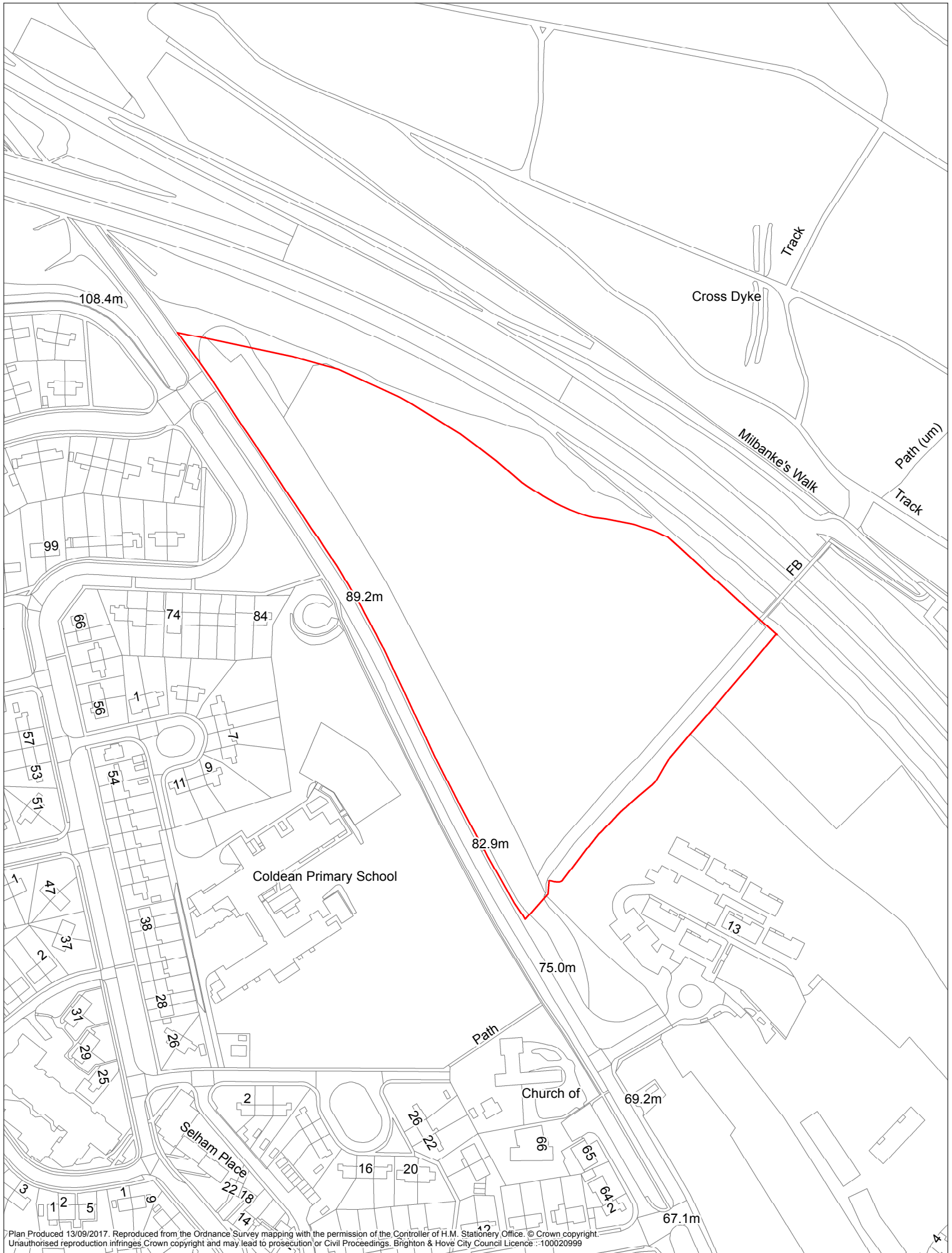


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Former Belgrave Day Centre (South Portslade Industrial Estate) Clarendon Place, Portslade

Scale 1:1,250



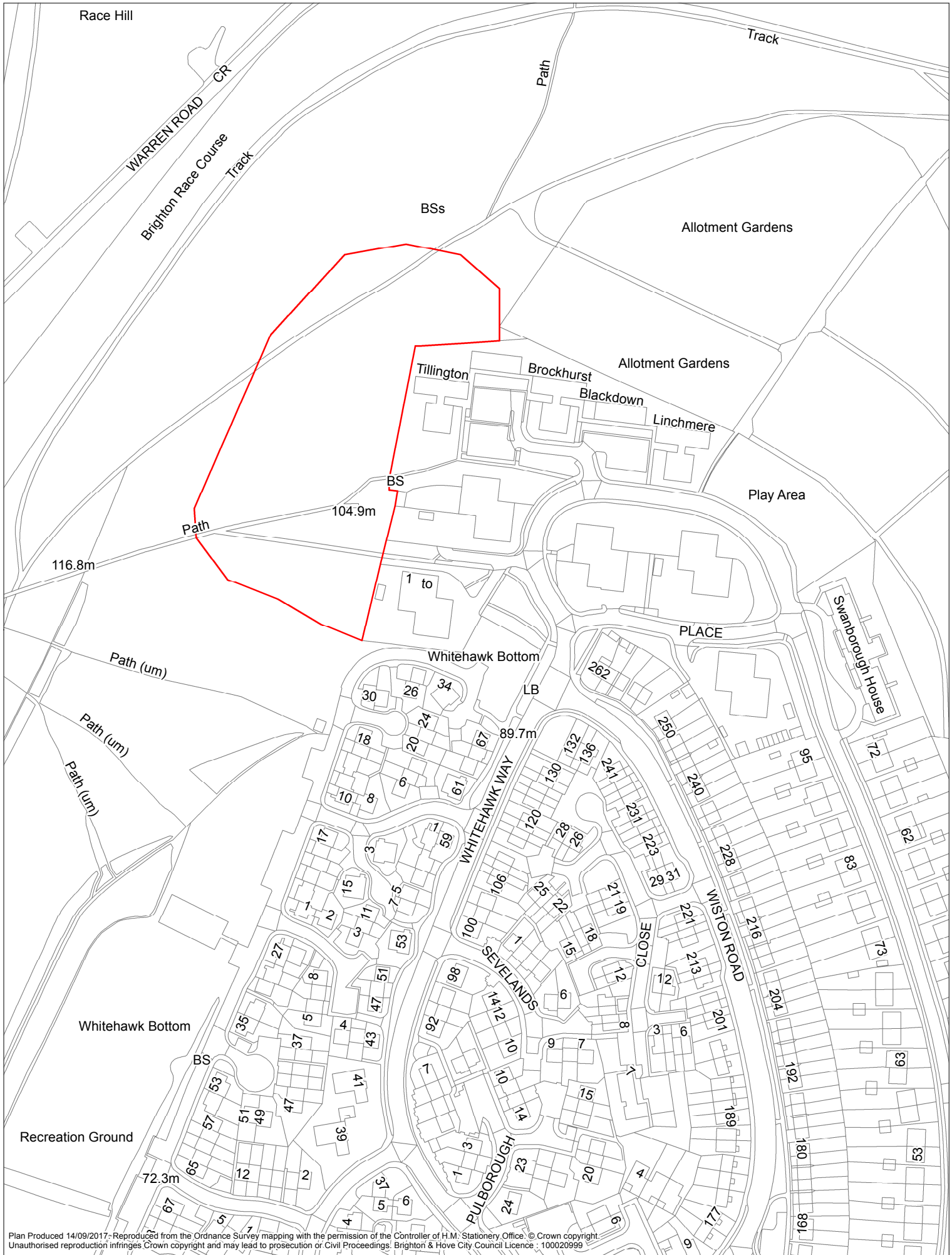


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Coldean Lane / Land to North of Varley Halls

Scale 1:2,500





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Whitehawk / Brighton Race Course Urban Fringe Site

Scale 1:2,250

215



Living Wage Joint Venture

Heads of Terms v. ~~7-24-10-16~~ 9 09.01.17

1 BACKGROUND

- 1.1 Hyde Housing Group (**Hyde**) and Brighton & Hove Council (**Council**) wish to work together in partnership. They intend to establish a limited liability partnership (**LLP**) to act as a joint venture vehicle for the construction of 1000 homes to meet the needs of the residents of Brighton and Hove¹. These will include a new Living Wage rent housing model for low income working households and shared ownership homes. The activity will generate an annual surplus to be distributed to Hyde and the Council as the members of the LLP.
- 1.2 Various Council-owned properties have been identified as potentially being suitable for the joint venture. Any decision by the Council to dispose of any property to the LLP would be a decision for the Council undertaken in accordance with the Council's normal governance and procedural arrangements for disposal of land. Various additional properties owned by the Council, or properties owned by Hyde or any third party, may be identified from time to time and the parties will decide whether to pursue the acquisition and development of those properties on a case by case basis in accordance with the documents referred to in paragraph 2.
- 1.3 These heads of terms represent the commercial agreement of the parties at the current stage of negotiations. Whilst this document therefore reflects a reasonably advanced agreed position on the fundamental features of the joint venture, these heads of terms are not exhaustive or intended to be legally binding². The parties only intend to be legally bound to one another when they enter into formal contracts for that purpose.

2 DOCUMENTATION

- 2.1 The joint venture will be based around the following principal documentation:
 - 2.1.1 overarching strategic land agreement (**OSLA**)
 - 2.1.2 limited liability partnership members' agreement (**Members' Agreement**)
 - 2.1.3 [funding agreements]
 - 2.1.4 development management agreement (**DMA**)
 - 2.1.5 asset management agreement (**AMA**)
 - 2.1.6 residential management agreement (**RMA**)
 - 2.1.7 corporate and financial services agreement (**CFSA**)
- 2.2 In addition, the members will approve a Business Plan and financial model. Any material amendments to the Business Plan and/or financial model will require the approval of the LLP's members.

¹ Advice is being taken on how the structure could work to ensure minimal irrecoverable VAT. This may require an additional company (a "VAT Shelter") to enable separation between asset ownership and development or the use of one of the Hyde companies to develop.

² Confidentiality and exclusivity are normally elements that are sometimes made legally binding. It is assumed that there are no legally binding elements given the NDA that has been signed and no proposal for exclusivity.

3 OSLA

3.1 Parties:

- 3.1.1 Council;
- 3.1.2 [Hyde]; and
- 3.1.3 LLP.

3.2 The OSLA will govern the arrangements between the Council [and Hyde] as landowners and the LLP. This will allow the Council [and Hyde] to establish a clear separation of duties and responsibilities when dealing with the LLP in their capacity as a landowner.

3.3 The OSLA will provide appropriate controls, protections and mechanisms for the timing of the drawdown of land from the Council and/or Hyde into the LLP. The following controls, protections and mechanisms are envisaged:

- 3.3.1 the circumstances under which properties will be transferred into the LLP;
- 3.3.2 an option for the LLP to call down identified properties once the relevant property is vacant;
- 3.3.3 the obligations to be performed by each of the Council or Hyde and the LLP in order to prepare and enable properties to be drawn down:
 - (a) when a property is ready to be drawn down, the LLP will have a period of [] months within which to exercise a drawdown option and if the option is not exercised within this period it will lapse and the property will cease to be included in the OSLA;
 - (b) all properties will be drawn down on the basis of either a lease or a freehold transfer which will be granted by the landowner to the LLP. Properties may not be drawn down for land banking but must be developed in accordance with the agreed Business Plan. The option preconditions will be framed so that at the time of draw down, a property must be ready for development in accordance with the Business Plan for that property;
- 3.3.4 the price to be paid for a property will be established (or verified) upon draw down on the basis of a pre-agreed appraisal and approval methodology including circumstances where less than market value consideration is to be provided;
- 3.3.5 preconditions for exercise of draw down option – any option to draw down a property will become exercisable by the LLP when the following have been achieved:
 - (a) the LLP has adopted a Business Plan for the relevant property (which is consistent with the overarching LLP Business Plan) and includes an indicative development programme for the property;
 - (b) the proposed development scheme satisfies a viability test in accordance with the overarching LLP Business Plan and there is a development appraisal adequately costed and verified in sufficient detail to support the viability test;
 - (c) the project monitor or development manager has signed off a value for money certificate in respect of construction costs;
 - (d) the project monitor or development manager has provided a report to the LLP on likely values and costs within specified parameters to support the development appraisal;

- (e) vacant possession can be obtained when needed (and/or arrangements for further decant are in place);
- (f) planning consent has where relevant been obtained by the LLP for the development (or first phase if a multi phased scheme). The assumption in respect of any Council property is that the costs of obtaining planning permission will be met by the LLP (funded 50:50 by the LLP's members) and the property will be valued and transferred with the benefit of planning permission;
- (g) funding has been agreed for the development (or first phase);
- (h) any required amendments to the pro forma lease or transfer documentation for the relevant property have been approved by the landowner (acting reasonably); and
- (i) any consents for disposal which have not already been obtained have been given; and

3.3.6 viability test – prior to exercising any draw down option, the LLP must be satisfied that development is viable in accordance with the Business Plan and financial model. Viability testing (and market analysis) will be on the basis of pre-agreed required levels for IRR for development so that the viability test (and the resulting residual land value), is determined by external or objective market criteria. Elements such as construction costs and anticipated values must have been costed and verified in sufficient detail to ensure that the viability test is robust. This will in part be satisfied by the project monitor/development manager signing off or reporting on certain aspects of the proposed development, as set out above.

[3.4 In the event that development of any land drawn down from the Council is not commenced within three years of transfer the Council will have a right to buy back the land at the same price it was purchased by the LLP.](#)

[3.5](#) ~~3.4~~ Separately, the Council may wish to obtain its own independent report to ensure it is satisfied that the resulting land value and "value for money" analysis meets the Council (as landowner)'s regulatory and constitutional requirements for land disposals.

[3.6 The OSLA will clarify that no HRA asset will be transferred to the LLP.](#)

4 MEMBERS' AGREEMENT

4.1 Parties:

- 4.1.1 Council;
- 4.1.2 [Hyde] [Hyde New Build]³; and LLP.

4.2 The parties will make the following funding available by way of non-interest bearing debt to the LLP:

- 4.2.1 Council: £[] on the timetable provided at Schedule [];
- 4.2.2 [Hyde] [HNB]: £[] on the timetable provided at Schedule [];

4.3 on terms to be agreed between the members and the LLP and recorded in member loan agreements. The parties will hold the following interests and voting rights in the LLP:

- 4.3.1 Council: [50]%

³ To further mitigate any risk associated with the question of whether the Council can directly participate in LLP Hyde's 50% interest may be shared between two entities

4.3.2 [Hyde] [HNB]: [50]%

[4.4](#) [Profits will be shared on a 50 / 50 basis.](#)

[4.5](#) ~~4.4~~ The Members' Agreement will govern the commercial terms of the joint venture and how the two parties will jointly run and fund the LLP.

[4.6](#) ~~4.5~~ The stated business of the LLP will be: [].

[4.7](#) ~~4.6~~ Strategic control over the operation of the LLP will be retained by the members through the right to:

[4.7.1](#) ~~4.6.1~~ approve the LLP business plan; and

[4.7.2](#) ~~4.6.2~~ make decisions on a unanimous basis in respect of those matters listed at schedule 1 (**reserved matters**), [in the case of the Council such decision to be a matter for the relevant committee.](#)

[4.8](#) ~~4.7~~ If a matter which would otherwise be a reserved matter is included in the Business Plan, then there is no requirement to obtain an additional approval in respect of that matter and the LLP has the authority to proceed and implement it. As a result, reserved matter approval should only be sought in respect of matters outside the Business Plan.

[4.9](#) ~~4.8~~ The parties will establish an LLP management board comprising of [six] individuals:

[4.9.1](#) ~~4.8.1~~ Hyde appointees: [];

[4.9.2](#) ~~4.8.2~~ Council appointees: [].

[4.10](#) ~~4.9~~ One member of the board shall be appointed as chair for an annual term. The right to appoint the chair shall rotate between the parties and the Council shall make the first appointment. The chair will not have a casting vote.

[4.11](#) ~~4.10~~ The parties do not intend that a management board member will provide any goods or services to the LLP in a personal capacity. Accordingly, the LLP shall not remunerate any member of the management board and expenses shall only be paid in accordance with a policy approved from time to time.

[4.12](#) ~~4.11~~ The management board will have the task of delivering the business plan.

[4.13](#) ~~4.12~~ Each management board member shall have one vote on any matter unless he/she has a conflict of interests. A conflict of interests in this context means a personal conflict, a conflict between his/her appointing member (or member of its group) and the LLP (including under any contracts between them) or actual or alleged default of that member under the Members' Agreement. If at any point a conflict of interest arises, the conflicted member and its appointees to the management board member shall be excluded from the LLP's decision-making processes in respect of the matter giving rise to the conflict of interest.

[4.14](#) ~~4.13~~ Any deadlocked decision at management board level (arising by reason of the same number of votes cast for and against a resolution, or by reason of a lack of quorum) may be referred by any management board member to the members for resolution.

[4.15](#) ~~4.14~~ If at any point the members are unable to agree as to how the LLP should proceed in relation to a reserved matter or a matter referred to them by the management board, a deadlock shall have arisen and the following deadlock resolution procedure shall apply:

[4.15.1](#) ~~4.14.1~~ the matter shall be escalated within each member's organisation to [] for the Council and [] for Hyde;

[4.15.2](#) ~~4.14.2~~ failing resolution it may be referred by either member to non-binding mediation; and

[4.15.3](#) ~~4.14.3~~ failing resolution through mediation, either member may give notice that the LLP should be independently valued and sealed bids made by each member for the other member's equity and debt interests in the LLP. In the event neither member makes a bid, the parties shall do all things necessary to approve a winding up of the LLP.

[4.16](#) ~~4.15~~ If a member suffers or commits a default event under the Members' Agreement (broadly, a change of control, unremedied material or persistent breach or insolvency), the other member shall have the right, but not the obligation, to acquire the defaulting member's equity and debt interests in the LLP at 90% of the fair value of those interests as determined by ~~an~~ [\[the average\] of three independent valuations including one being undertaken by the district valuer.](#)

[4.17](#) ~~4.16~~ A member may transfer its equity and debt interests in the LLP:

[4.17.1](#) ~~4.16.1~~ at any time, to another member of its group, provided the transferee has a sufficient financial covenant to meet its obligations under the Members' Agreement, and provided that there is a transfer back in the event the transferee leaves the group of the original member transferor;

[4.17.2](#) ~~4.16.2~~ at any time, with the prior written consent of the other member;

[4.17.3](#) ~~4.16.3~~ after an initial lock in period ~~(equivalent to practical completion [in respect of which development?] plus one year),~~ [of ten years](#) to a third party but only after offering those interests to the other member on the same terms.

[4.18](#) ~~4.17~~ Any incoming third party shall be required to adhere to the terms of the Members' Agreement and the Business Plan then in force. In no circumstances shall a transfer of interests in the LLP be permitted where the transferee is an "unsuitable person" (broadly, a person with a material interest in the production, distribution or sale of tobacco, alcohol or pornography, any person whose activities are incompatible with the provision of housing services or services to the public sector in general, or any person who poses or could pose a threat to national security).

[4.19](#) ~~4.18~~ On the ~~[seventh]~~ [ten](#) anniversary of the Members' Agreement and on the expiry of each subsequent ~~seventen~~ [ten](#) year period, the members will consider their continued relationship and each of them will have the following rights:

[4.19.1](#) ~~4.18.1~~ to call for the sale of the LLP's assets and its liquidation; and

[4.19.2](#) ~~4.18.2~~ [alternative exit events].

[4.20](#) [In the event that gross rents for tenants of the LLP](#)

[4.20.1](#) [exceed the Local Housing Allowance; and / or](#)

[4.20.2](#) [rise at a rate that exceeds the rate that the National Living Wage is increased;](#)

[the parties shall discuss the scope to address this issue when reviewing the business plan, having regard to the required commercial performance of the project in line with the SFVM and business plan.](#)

5 DEVELOPMENT MANAGEMENT AGREEMENT

5.1 Development Management Agreement between the LLP and HNB for the management of all development services (**DMA**).

- 5.2 The LLP will appoint HNB pursuant to the DMA in a form to be agreed, but which will include the following key items:
- 5.2.1 a fee calculated on costs (including costs of the Chief Executive, overheads, business rates, etc.) as signed off by the project monitor, to be payable in accordance with the agreed relevant financial model;
 - 5.2.2 an agreed scope of service; and
 - 5.2.3 *[other key terms to be determined including relationship with proposed project monitor role]*

6 ASSET MANAGEMENT AGREEMENT & RESIDENTIAL MANAGEMENT AGREEMENT

- 6.1 The new homes will be managed by [] who will provide both housing management and asset management services.
- 6.2 The LLP will appoint an housing and asset manager pursuant to a management agreement in a form to be agreed with:
- 6.2.1 an agreed scope of services and KPIs;
 - 6.2.2 a fee calculated on costs as signed off by the project monitor, to be payable being not less than [TBA] subject to [RPI][CPI] increase; and
 - 6.2.3 []

7 CORPORATE AND FINANCIAL SERVICES AGREEMENT

- 7.1 Corporate and Financial Services Agreement between the LLP and [] for company secretarial, tax and accounting services (**CFSA**);
- 7.2 The LLP will appoint a provider pursuant to a services agreement in a form to be agreed and following an open tender process against an agreed scope of services and KPIs, and including the following key items:
- 7.2.1 a fee calculated on costs as signed off by the project monitor, to be payable being not less than [£[] a month subject to [RPI][CPI] increase];
 - 7.2.2 an agreed scope of services; and
 - 7.2.3 []

These heads of terms are non - binding and subject to contract.

.....
Signed for and on behalf of Hyde

.....
Date

.....
Signed for and on behalf of the Council

.....
Date

Schedule – Reserved Matters

Officers and members of the LLP

- 1 Agreeing the appointment and the appointment terms (including any remuneration terms), or the removal, of any management board member other than one appointed by Hyde or the Council.
- 2 Approving the admission of further members to the LLP or agreeing any rights or restrictions attaching to any shares/equity allocated to such new members.
- 3 Agreeing or approving any increase in the maximum size of the management board.

Future direction and development of the LLP

- 4 Agreeing to enter into or entering into any debt facility or loan agreement other than the member loan agreements
- 5 Forming any subsidiary or acquiring an interest in any other LLP or participating in any partnership or joint venture (incorporated or not).
- 6 Amalgamating or merging with any other LLP or business undertaking.
- 7 Selling or disposing of any part of the LLP.
- 8 Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent).
- 9 Apply for the listing or trading on any stock exchange or market.

Management of the business of the LLP

- 10 Changing the name of the LLP.
- 11 Adopting and/ or agreeing any material amendments or variations to a Business Plan.
- 12 Creating or agreeing to create a charge, security or encumbrance over the LLP's assets, interest or income.
- 13 Changing the nature of the business of the LLP or commencing any new business which is not ancillary or incidental to the business.
- 14 Agreeing to enter into or entering into any acquisition or disposal of any material assets by the LLP.
- 15 Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the business or materially varying any such arrangements, contracts or transactions.
- 16 [Appointing and changing the LLP's auditors].
- 17 Agree to make or making any loan (otherwise than by way of a deposit with a bank or other institution, the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading or giving any guarantee (other than in the normal course of trading) or indemnity outside the normal course of business.
- 18 Changing the accounting reference date of the LLP.
- 19 Accepting any capital contributions in the LLP.

- 20 Authorising the return of any capital contributed to the LLP to a member.
- 21 Allocating and distributing any profit of the LLP.

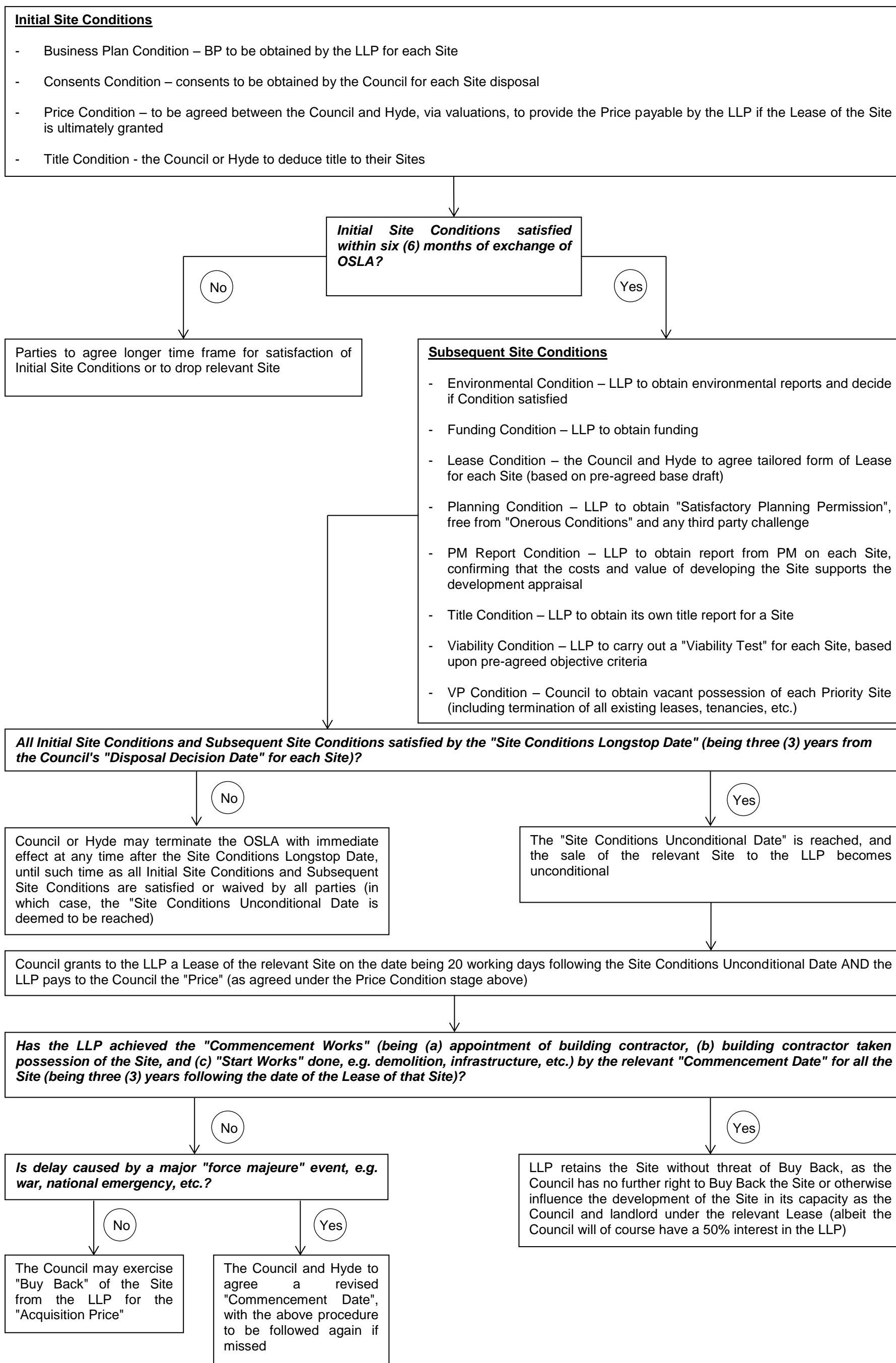
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Moved cell	
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BRIGHTON/HYDE JV – OSLA PROCESS



Frequently Asked Questions

Joint Venture between Brighton & Hove City Council and Hyde Housing Association

1. Why is the council entering into a Joint Venture?

The Joint Venture is an attractive opportunity for the Council to accelerate the delivery of lower cost homes for rent and sale for low income working households in Brighton & Hove whilst generating a return on our investment. This proposal supports Housing Strategy priorities around improving the supply of affordable homes and City Plan priorities around meeting the need for new housing in the City.

The Council has been looking at a range of funding and delivery mechanisms to meet our identified need for lower cost homes the city needs. Hyde Housing Association (Hyde), a long standing member of our Affordable Housing Delivery Partnership, has approached the Council with a proposal which could deliver 1,000 new lower cost rental and sale homes for low income working households in the city.

This is one of a number of options we are proposing to increase the supply of lower cost homes in the city, including;

- A wholly owned Council housing company, building upon Government funded Housing Market Intervention research agreed by Housing & New Homes in and Policy, Resources & Growth Committees November and December 2016;*
- Continued work with our Affordable Housing Delivery Partnership including Registered Provider partners, the Council and the Homes & Communities Agency;*
- Our New Homes for Neighbourhoods Programme, subject to current limitations of the Housing Revenue Account (HRA) borrowing cap;*
- Making best use of existing stock through our Hidden Homes and conversions projects, supporting delivery of new homes as part of our HRA Asset Management Strategy;*
- Joint work with Planning in support of delivering Planning Policy, Affordable Housing Requirements;*
- Freedoms and flexibilities to accelerate housing delivery in the city sought from Government as part of Greater Brighton Devolution proposals.*
- Purchase leasehold properties, previously disposed of through the Right to Buy scheme.*

Hyde have developed a distinctive proposal with both types of homes tailored to the specific needs of local people within Brighton & Hove. The opportunity is attractive as it can be delivered quickly as it does not require a lengthy procurement and mobilisation process. It also has the advantage of being a partnership with a trusted partner who has similar aims to the Council and are the only developing Housing Association currently based within the city's boundaries. Hyde also have an excellent track record of delivering new build projects within the city and have delivered more new affordable homes than other Registered Providers and developers in recent years. Hyde also have a good history of bringing additional benefits such as employment, training and apprenticeship opportunities for local people. This makes the JV

an attractive opportunity for the Council to accelerate the delivery of lower cost homes for rent and sale for low income working households that the city so desperately needs whilst generating a return on our investment.

2. Why is this report being presented to Housing and New Homes Committee?

Housing & New Homes and Policy, Resources & Growth Committees agreed to ‘Support in principle the living wage joint venture’ subject to a number of safeguards being put in place at their meetings in November and December 2016. Delegated authority was given to the Executive Director of Economy, Environment and Culture (following consultation with the Executive Lead Officer for Strategy, Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board) to negotiate the deal with Hyde and agree the associated legal documentation to establish the Joint Venture. It was also agreed that the final Business Plan would be brought back to committee for agreement and this is now reading to be considered by Committee following a period of due diligence checks by the council.

3. What is the Living Wage Joint Venture?

The proposal is to establish an equal Joint Venture (JV) Limited Liability Partnership (LLP) between Brighton & Hove City Council and Hyde Housing Association. The partners would provide equal funding to build new homes for low working households in Brighton & Hove. The JV would aim to deliver 1,000 lower cost homes for rental and sale, including:

- *500 lower cost homes at sub market prices which are affordable to rent for working Brighton & Hove residents earning the new National Living Wage (assumed delivery from 2019 onwards); and*
- *500 shared ownership homes affordable to buy for Brighton & Hove residents on average incomes.*

4. Why is the council looking at projects like this?

Brighton & Hove is a growing city with high housing prices, low incomes, an ageing population and a significant proportion of households with support needs. There are over 23,000 households on the joint housing register, 1,800 households in temporary accommodation and rising homelessness. Social housing makes up only a small proportion of the overall housing in the city with 9.8% of homes owned by the local authority and 5.1% by Registered Providers (RPs).

Housing demand, growth in the private rented sector and rising rents has an adverse effect on affordability of housing in the City. This has contributed to a decline in owner occupation as those seeking to buy their own home are increasingly unable to take advantage of housing for sale either through cost or as a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners.

This increasing housing demand, reduced public subsidy for affordable homes (in particular no national funding for lower cost general needs rented homes) and a shift away from development of rented and family homes remain key challenges identified by the council’s Housing Strategy and Budget. This has an adverse impact upon the council’s ability to respond to the needs of a growing more diverse population and the council’s capacity to

maintain mixed and balanced communities and retention of lower income working households and employment in the city.

5. How will you ensure the homes go to local households?

The primary purpose of this JV proposal is to provide lower cost rental and sale homes for low income working households in Brighton & Hove. There is no intention to provide access to households who do not live or work in the City.

Our Housing Strategy highlighted key themes including the availability of affordable family homes, in particular rented homes, and the economic impact of this lack of housing supply on our ability to retain lower income working households and employment in the City. In our Housing Strategy we are committed to work collaboratively with Adult Social Care, Children's Services and Health colleagues to meet our shared objectives including the availability of homes in the city to meet the needs of their workforce and those of other employers for whom the recruitment and retention of lower income workers in Brighton & Hove has increasingly become an issue. The proposed Living Wage Joint Venture would align to our strategic aim of contributing to addressing this issue.

The Living Wage proposal concords with the Council's Allocation Policy which has an income cap against size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from the Living Wage housing. The income caps have been set such that households who could expect to pay more than half of their income on average market rents would be retained on the Register whilst those who would expect to pay a lesser percentage would no longer be on the Register and hence would ensure they do not benefit from Living Wage homes. The Joint Venture will have an agreed Letting Strategy to prioritise low income working households.

With regard to lower cost homes for sale, the proposal does not including making use of Government funding which gives us greater flexibility to target homes to households who live and work in Brighton & Hove. Government shared and lower cost home ownership schemes are resourced to meet national housing strategy requirements and do not apply local connection criteria with regard to applicants for homes for low cost sale developed through Registered Providers in the City.

6. What are the wider benefits of the joint venture?

There are a number of potential wider benefits of the JV for the city, these include:

- *700 opportunities for education, training and apprenticeships*
- *An average of over 400 FTE construction jobs supported each year for 5 years*
- *4,500 direct and indirect jobs supported*
- *After leakage and displacement, the joint venture produces over 2600 net new jobs*
- *Estimated Gross Value Added to the economy of £350M over 5 years*
- *New Council Tax revenues – see Finance section below(5 years)*
- *New Homes Bonus – see Finance section below*
- *£6M of direct investment into new civic and community infrastructure through S106, benefitting the wider city*

7. Could the JV deliver more than 1,000 homes?

The Council has looked at the potential for Joint Ventures to also deliver larger estate regeneration projects, but any such projects would be brought forward as separate proposals with their own bespoke financial model and funding proposal that would need to be agreed by the Housing & New Homes and Policy, Resources and Growth Committees.

We may also be approached in the future with other JV proposals. These would also have to be carefully considered to ensure compliance with our strategic, financial, procurement and governance requirements, including approval through Committee under existing procedures.

This JV could be expanded in scope to deliver more homes or other projects but this would require the approval of both investors (which for the Council would require new committee approvals).

8. What are the benefits of working through a JV Partnership?

The Joint Venture means that the council is able to share investment and risk with Hyde to double the capacity available for building new homes by delivering them through a Joint Venture. Working in partnership with Hyde also means that we are able to benefit from their expertise, resources and volume buying power as they build an average of 1,500 new homes a year, providing efficiencies and economies of scale. This means that more than double the amount of homes can be built than if the Council progressed the project on its own.

FINANCES

9. How much would each partner invest in the Joint Venture?

It is estimated that each partner would need to invest £60M (a total of £120M) to deliver the 1,000 homes. Within this overarching financial model and business case, each proposed scheme would be subject to separate financial viability testing and approval process.

10. Where will the council borrow the money from?

The Council will borrow from the Public Works Loan Board to fund the required equity. Any borrowing identified will have to meet the guidelines of the Prudential Code and assessed as affordable, prudent and sustainable. A review of the LLP's Business plan and individual scheme appraisals will ensure full consideration is given to the requirements of the Prudential Code. Any new borrowing for the project will be approved as part of the council's borrowing limit (i.e. the maximum the council is able to borrow) by Budget Council each year.

11. What is the expected return on investment?

The Business Plan has estimated that the rate of return for the investment is in the region of 8%. This is considered a good rate of return for this type of investment in affordable housing.

12. What is the expected Council Tax from the new homes?

It is estimated that the delivery of an additional 1,000 properties in the city would raise in the region of £0.845 million in council tax income per annum, this is an estimate based on a number of assumptions such as council bands, discounts applied and assumed council tax increases.

13. What is the expected New Homes Bonus from the new homes?

It is difficult to assess the additional revenue relating to the New Homes Bonus scheme as the Government has introduced a 0.4% threshold which has to be exceeded before any New Homes Bonus grant is received. Therefore, the council could receive a maximum of £1.2 million per annum over 4 years for delivery of 1,000 properties, if these were over and above the 0.4% threshold."

14. How will value for money be assured with the provision of works, goods and services to the Joint Venture?

Goods, works and services purchased by the JV (which will be a Limited Liability Partnership or LLP) will be subject to a procurement process (for example consultancy and construction services). The proposal is to use Hyde's competitively tendered Open Journal of the European Union (OJEU) compliant consultancy and construction frameworks. Each development delivered under the framework will have its own procurement process within the framework with mini-competitions between contractors providing further opportunities to test value for money, ensuring that economically advantageous price is achieved and reducing the risk of anti-competitive behaviour and/or supplier complacency.

Other organisations have joined the Hyde's frameworks so that they can access the services and reduce procurement timescales and complexity (including other Housing Associations Registered Providers and Local Authorities). Hyde generally charge for access to their frameworks, and it is worth noting that other local authorities and housing associations are paying Hyde considerable sums to use them. It has been negotiated and agreed that Hyde will not charge these access fees to the JV when the LLP is buying goods or services through the frameworks. The LLP will also benefit considerably from Hyde's volume buying power, providing efficiencies and economies of scale.

Project monitor

The joint appointment of an independent Project Monitor (Martin Arnold LTD) will provide an additional layer of assurance for both the Council and Hyde as they will provide a full value for money assessment of each contract that is delivered through the JV. Projects will not proceed without assurance that the individual project represents value for money. More details of this are contained within the Business Plan.

Mutual benefits and incentives

While the primary purpose of the joint venture is to provide lower cost housing for low income working households in Brighton & Hove, there is a commercial rate of return expected to be returned from the Council's investment. The proposed legal and financial structure of the JV ensures that both parties' interests are aligned through the investment returns. The only way either Hyde or the Council can earn a profit from the venture is through the investment return on its equity invested. Therefore for Hyde and the Council would be earning exactly the same return. In simple terms what's good for Hyde financially in the JV is good for the Council. The structure therefore gives assurance as it motivates the right

behaviours of the Council's JV partner, in this case Hyde, as it is in the mutual interests for both parties to minimise all costs to maximise the return on their investment. This helps to ensure value for money for both parties.

16. What are the costs of running the company and board?

The main costs for running the board will be officer and Member time and costs associated with arranging and holding board meetings. These will need to be covered by both parties in the JV and it is likely that council or Hyde building will be used to host board meetings. The cost of corporate and financial services has been costed and is included within the financial model. The council will provide these services and will need to ensure that costs are recovered.

17. What sensitivities have been tested?

The following sensitivities have been tested:

- Construction costs increase by 10%
- Drop in sales by 10%
- Increase in land cost by 50%

The three sensitivities were combined to show the impact of all three occurring simultaneously, the result still provided a positive return on the investment.

18. How are the figures for Market Sales calculated?

The assumptions come from Hyde's experience of having sold several hundred shared ownership homes locally and a market research exercise by Hyde. The final values would of course vary by site and actuals could be lower or higher than the average assumed but the figure used for the financial modelling is considered to be achievable under current market conditions.

19. How has the Financial Model been checked and validated ?

The Strategic Financial Model produced by Hyde is considered to be an industry standard form which uses prudent financial assumptions and forecasts to analyse the financial viability of major capital projects.

The model is an open excel file which has been reviewed and analysed by the Council's Finance team and is considered to be an adequate financial modelling tool. The Council's due diligence review of the model shows that the calculations and cashflow calculate correctly and the financial inputs and outputs of the model have been validated by the Council's Finance team.

Brighton & Hove City Council has developed its own excel viability modelling for its smaller developments in the New Homes for Neighbourhood programme, which has commenced the delivery of over 200 homes to date. Both financial models use a similar set of parameters and assumptions, except that Hyde's model is a more sophisticated modelling tool appropriate to the size and complexity of the proposed Joint Venture and therefore more appropriate to use for reviewing the JV business case proposal.

The Council has reviewed the model and its inputs, testing assumptions and assessing the validity of the outputs being produced. The Council's Finance officers, who are experienced in providing support for the New Homes for Neighbourhood programme and other major projects, have then updated and reproduced the excel financial model to test various scenarios and the sensitivity of the financial business case.

The model and assumptions have also been checked and validated by the independent Project Monitor.

In conclusion, the Council's Finance officers are satisfied with the validity of the financial information produced using the SFM.

20. What would happen if a number of issues happened at the same time e.g. house prices drop, construction costs increase, deflation and not being able to sell shared ownership properties?

The purpose of the Joint Venture is to deliver 1,000 lower cost rented and sale homes for low income working households. The financial modelling to support the business case for the JV proposal shows that in addition to providing 1,000 homes the JV is forecast to generate a significant long term financial return for the Council and Hyde.

Officers have tested different scenarios that could impact on these surpluses and the ability to fund repayment of general fund borrowing used to fund the Council's equity investment and is satisfied that the financial case is sound and robust. Although unlikely to all occur, the effect of these possible combination scenarios has been tested and although they could reduce the returns, the forecast return to the council would still be positive.

21. What happens if the JV is not able to sell the shared ownership properties?

The risk of selling shared ownership properties is considered to be low; the cost of buying a shared ownership property from the scheme is comparable or lower than the cost of privately renting in Brighton & Hove and is therefore an attractive option for local buyers who are unable to afford to buy 100% of a property. Whilst the strategic financial model shows 500 shared ownership properties being constructed, the reality is that these would be developed in phases over 5 years, so at no time would the Council be exposed to the risk of 500 shared ownership sales (this would be anticipated to be around 50 sales at any one time).

If homes were not selling or were selling at reduced prices, this would trigger a review of the business plan by the JV partners. Hyde has a strong track record of developing and selling shared ownership property and has evidence of sustained demand for property in the Brighton & Hove area. House prices could fall up to 44% before the Council and Hyde would face losses on the shared ownership properties being proposed. This is a much higher margin than for most speculative developers of even outright sale housing, who typically work on gross margins of between 15 – 25% subject to the risk of a given project. Therefore, whilst there is risk in developing and selling shared ownership housing, the risk is mitigated by the phased nature of the business plan and the margin.

It should be noted that as well as downside risks modelled and shown above, there is the possibility that returns to the investors could be higher as the economic situation could improve in a way that favours the financial model.

22. Why is this not being undertaken through the Housing Revenue Account?

The Housing Revenue Account (HRA) does not have financial capacity to deliver the significant amount of lower cost rented housing required in the City. This position means that the council needs to look at alternative funding and delivery mechanisms to deliver the new lower cost homes this city needs. The option being considered by the Council is to deliver new homes through a partnership through the General Fund.

If circumstances change that increase the financial resources of the HRA, options would be reviewed for increasing housing supply through the HRA. The Council could not fund its equity contribution to the proposed LLP from the HRA as the properties would then be required to be held within the HRA to do this, which they would not be as the properties would be owned by the LLP.

The Strategic Financial Viability Modelling supports the business case for the JV proposal. The forecast internal rates of return, total gross development value/cost ratio and sensitivity analysis provide financial reassurance that the JV business case proposals are sound and robust.

23. What are the risks for the General Fund?

The Strategic financial viability modelling supports the Business Plan for the JV. The forecast internal rates of return, total gross development value/cost ratio and sensitivity analysis provide financial reassurance that the JV Business Plan is sound and robust.

It was highlighted in the previous H&NH committee reports financial implications that the Council's General Fund would need to cover financing costs of borrowing during the construction stage.

The Council will look to mitigate this risk by utilising the capital receipts from the sale of its own property to fund the required equity investment, reducing the need to borrow in the first instance.

The use of reserves in the short term would be considered to fund any remaining shortfall during the construction phase. The reserves would be replenished over time from the surpluses generated by the LLP.

The Council's equity investment to the JV is incremental and is phased over 5 years; equity funding will only be committed to individual projects that pass agreed viability tests and in tranches based on the projects cashflow requirements. The investment will be secured by a floating charge over the property during construction and then will switch to a fixed charge once the project reaches completion.

The financial performance of the LLP against the Business Plan will be regularly monitored and reported to Members of the Board in accordance with the Heads of Terms and schedule of services.

The LLP will be operated according to sound commercial principles in the best interests of the LLP Members, if economic conditions change over the period, the Board would need to review the Business Plan in order to mitigate any adverse impacts of market changes and could decide to pause or stop the venture depending on the situation faced.

24. Are the maintenance costs in the financial model high enough?

The Strategic Financial Viability Model includes allowances for management, responsive maintenance and life cycle costs for ongoing stock investment (described as major works sinking fund in assumptions table). These costs are based on the actual costs incurred by Hyde and used across its development programme.

The life time costs allowance (sinking fund) would be held in the LLP reserves for future investment when required and no costs associated with the management, maintenance and repair of homes held in the LLP will fall to the General Fund or Hyde.

The Council's Finance department have reviewed the assumptions and costs compared to those used in BHCC New Homes for Neighbourhood (NHFN) viability modelling and consider them comparable and adequate to provide a good quality management and maintenance service, together with adequate allowance for stock investment into cyclical works for example to include replacement windows and roofs and so forth.

25. What if right to buy were to be extended, would this affect the general fund?

The primary purpose of the Joint Venture is to increase supply of lower cost rental and sale homes for low income working households in the city.

There is no indication that the Government intends to extend legislation to cover private corporate entities or partnerships such as LLPs, which are widely used in the private sector. If the Government was to legislate for LLPs to be subject to Right to Buy this would affect a significant number of private / commercial property investors. The risk of Right to Buy legislation being extended to cover these homes is therefore considered low.

If Right to Buy legislation were to be extended to cover these homes it is likely that the legislation would be like current proposals for Housing Associations, with the discount funded from public sector budgets. The financial impact on the Joint Venture would therefore be minimal and potentially financially beneficial. However, as outlined in answers above, a wide range of scenarios and combinations of scenarios have been tested which demonstrate the financial model is robust and could manage a range of negative financial impacts without putting additional strain on the General Fund.

The average cost to market value ratio between development costs and market value of the homes is 56% which demonstrates a paper margin of 44% in investment, this is a considerable buffer against the various risks of the JV.

26. How are rent increases calculated? Could they be 'pegged' to the National Living Wage

Rent increases will be in line with the Consumer Price Index (CPI). This will ensure that rents do not rise at a higher rate than the cost of living and should keep pace with wage increases. This is lower than usual rent increases for Housing Associations and Council's which are generally at CPI+1%.

It is not possible to 'peg' rents to the National Living Wage as these increases are politically controlled. It is not prudent or sensible to make a significant investment decision based on an unknown factor and would not be agreed by the financial advisors for either party in the Joint Venture.

LEGAL ISSUES

27. How would disputes between the JV partners be resolved?

There are a number of scenarios where dispute resolution could apply.

Firstly deadlock in the joint venture– i.e. no one is in breach of a contractual obligation but there is a lack of agreement between the investors on how to take the JV forward and given both parties have a 50% vote, nothing can progress. This risk is significantly mitigated through a clear Business Plan that is agreed upon and adopted at the outset and which forms part of the JV legal agreement. Therefore the risk is that things change and the business plan cannot be delivered and a disagreement arises on how to proceed. If such a dispute could not be resolved at LLP Board level it would be escalated within each organisation (likely up to the Chief Executives and potentially then Chairman to Council Leader) and non-binding mediation would be used if required. If agreement cannot be reached following mediation the parties would have the option of purchasing the other party's interest for at least fair value (bidding against each other for each other's shares). If this was not taken up by either party the parties would wind up the JV and liquidate the assets. This would be the 'nuclear' option for each investor and a very serious difference of opinion would need to arise for such a route to be taken due to the financial risks involved.

Secondly, a breach of contractual obligations in the joint venture – either in the LLP agreement or funding agreement. In this scenario, the other party could either (a) purchase the defaulting party's interest in the joint venture at 90% of the defaulting party's interest (the 10% reduction in value being a disincentive from defaulting) or (b) require the LLP to be wound up. There would also always remain, as with any contract, the risk that the other party could bring litigation. This is the same position as any contract with a third party and the Council will manage it by being clear on the obligations it is signing up to and ensuring it complies with them. If Hyde was in irremediable breach of contract and the Council took legal action, then the Council would also seek reimbursement of its costs together with any other losses incurred.

This is a standard approach to dispute resolution in Joint Ventures and LLPs.

28. Is there a budget for dealing with legal disputes?

The Council would not set aside a separate budget line for potential legal disputes over the 60 years as it is not entering the JV with the intention of becoming embroiled in a dispute and litigating. However, if the Council believed there to be the potential for litigation in the future, then it could consider allowing for a risk provision in its future financial planning with the likely source of funding this provision from LLP returns. This is standard practice when reviewing and monitoring major projects.

If the Council had to litigate for breach of contract then in addition to its losses it would also seek an award for its costs against the defendant.

29. Could the Joint Venture be legally challenged for not using a traditional procurement route?

Our legal advisors have provided advice that the Council can enter into the JV without a procurement process for the following reasons:

- *There is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services;*
- *This is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions;*
- *Public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.*

30. What happens in the event of Hyde running into financial difficulties or ‘going out of business’?

Hyde going into administration / insolvency it would constitute an Event of Default under the LLP agreement meaning the Council would have first option to purchase Hyde's interest at 90% of its fair value.

Hyde has been in operation for 50 years and has a portfolio of 50,000 homes making it is one of the largest Housing Associations in the UK. Hyde is a stable and well run business which has consistently demonstrated the ability to trade through difficult financial circumstances, growing its profitability consistently year on year, whilst investing significantly in providing affordable homes for local people in housing need.

The response above to question 2 details checks on Hyde's financial position that have been undertaken.

These are usual and customary provisions which would be expected to be incorporated into a Limited Liability Partnership Member's Agreement.

GOVERNANCE

31. Will councillors be on the JV Board?

It is for the Council to determine who represents it on the JV Board and this could include elected member representation. Councillors have requested that they are the council's representatives on the JV Board and members of the Estate Regeneration Member Board have suggested that they would be appropriate representatives (i.e. the Chair, Opposition Spokes and Group Spokes for the Greens of Housing & New Homes Committee). It has been confirmed by the council's legal advisors that potential conflicts of interest could be managed for these members. Any appointments would need to be agreed by Political Groups and confirmed by Full Council or Policy, Resources & Growth Committee.

32. Who will chair JV Board meetings and will they have a casting vote?

The Chair will not have a casting vote. It is likely that the Chair would change annually with each investor taking it in turn to Chair.

HYDE HOUSING ASSOCIATION

33. Have financial checks of solvency been carried out on Hyde?

Yes - checks have been completed and Hyde has been assessed to have a sound financial standing to support this project.

34. Why did the merger between Hyde and London & Quadrant and East Thames Housing Associations not go ahead?

Both Hyde and L&Q mutually agreed to end their merger discussions when it became apparent to the Shadow Board that the practical difficulties of merging two large and complex organisations meant that the operational efficiency savings envisaged would take longer than expected and therefore would not deliver sufficiently against the merger business case.

Hyde is financially sound and well governed, as indicated by its financial and regulatory ratings, and is proceeding with a programme of operational efficiencies to make savings from its core business in order to fund an expansion of its housebuilding programme. In short Hyde's board felt there was a stronger case for being able to deliver against its core objective of providing quality services to residents and additional investment into affordable house building on its own than was possible joining up with L&Q.

DEVELOPMENT SITES

35. How will the council ensure all sites have the correct valuation?

The sites will be valued by an independent valuer following a process that has been agreed by the council's Property & Design team and any disposal to the JV will be the subject to the agreement of Policy Resources and Growth Committee. This will be a transparent process which follows agreed principles and meets the requirements of Best Consideration legislation.

Entering into the JV does not change the Council's processes or statutory obligations in disposing of land for best consideration.

36. Will the JV get all the council's best sites?

The Council and councillors will have full control over deciding on any sites to be transferred to the JV as all land transfers will need to be agreed by Policy, Resources and Growth Committee under existing arrangements. Consultation would be undertaken with ward councillors and other relevant members similar to for sites used in the New Homes for Neighbourhoods programme.

Any land to be transferred would need to be independently valued to allow the Council to meet its duty to obtain best consideration. This would be undertaken by an independent valuer following an agreed process and principles. The independent valuer would take into account the likely construction costs of developing a given site when calculating the residual

land value, so lower construction costs would be reflected in a higher residual land value (i.e. land receipt to the Council) and vice versa.

37. What is the lease length for council sites?

The lease length for council sites to be transferred to the Joint Venture has been agreed at 250 years. The 250 year lease will be passed on to those purchasing the Shared Ownership properties and Hyde's experience in this market is that a lease of at least this length makes the purchase of these properties more attractive and provides the purchasers with a wider range of borrowing options than available when a shorter lease length is offered.

SHARED OWNERSHIP

38. What is the management company model for Shared Ownership properties once properties are sold?

The shared ownership properties would be managed by either Hyde or the Council depending on who is appointed to provide the LLP with property and asset management services.

Management of shared ownership homes is principally leasehold management consisting of collecting rent and dealing with consents and so forth under the lease. Consents would incur a charge and are therefore self-funding. As for dealing with arrears of rent, this would incur reasonable administration fees which are recovered along with arrears. As there is generally a mortgagee with a charge over the property then arrears of rent and service charge can be passed through to the mortgagee if the leaseholder (the mortgagor) fails to make payments due under the lease.

The lease for shared ownership properties passes the obligation for interior maintenance on to the leaseholder, with an obligation to pay a fair and reasonable proportion for exterior and structural repairs. The service charge includes allowances for the management costs of providing the services (approximately 15%).

39. How would the sale and re-sale of the shared ownership homes be managed?

Unlike some Housing Associations Hyde have a preference for selling shared ownership homes on as shared ownership products rather than on the open market. This means that the affordable home is not lost if the owner decides to sell. This will be applied to shared ownership homes managed by the JV where possible.

40. What is included in the Shared Ownership Service Charge?

The service charge for Shared Ownership properties includes contributions to the management services, as well as the running, cleaning and maintenance of communal areas. The Service charge also includes a contribution to a sinking fund that will reduce the costs of any relevant future maintenance works to individual leaseholders.

Rented Homes

41. What will the rents be?

Living Wage housing in this context is defined as a homes provided at a cost which is at 37.5% of gross pay to a household earning the new national Living Wage. The table below shows the rents assumed in the JV Financial Model which are significantly lower than those charged for Affordable Rent tenancies in the City.

	Living Wage Rent per week	Basis of calculation	Local Housing Allowance 2017/18 per week
Studio	£118.13	Studio: £9 p/h x 35 hrs per week x37.5%	£153.02
1 bed	£147.66	1 bed: ((£9 p/h x 35 hrs per week) x 1.25)x37.5%	£153.02
2 bed	£177.19 per week	2 bed: ((£9 p/h x 35 hrs per week) x 1.5)x37.5%	£192.48
3 bed	£206.72 per week	3 bed: ((£9 p/h x 35 hrs per week) x 1.75)x37.5%	£230.28

Rent increases will be in line with the Consumer Price Index (CPI). This will ensure that rents do not rise at a higher rate than the cost of living and should keep pace with wage increases. This is lower than usual rent increases for Housing Associations and Council's which are generally at CPI+1%.

42. Could there be differential rent levels i.e. adjusted downwards or upwards in relation to household income?

This is not part of the Letting Strategy and would require significant ongoing means testing and could therefore be complex to manage and administer.

Summary of Overarching Strategic Land Agreement (OSLA)

We set out below a summary of the key terms of the OSLA, which should be read alongside the attached flowchart setting out the processes contained in the OSLA.

The OSLA deals with the identification of suitable sites for the development of the intended housing units by the LLP, being either (a) sites currently owned by the Council and identified in the OSLA as being potentially suitable (**Priority Sites**), (b) other sites owned by the Council or Hyde (**LLP Sites**), or (c) sites owned by third parties to be acquired by the LLP (**Market Sites**).

The OSLA then sets out the various conditions which must be satisfied for each Priority Site and LLP Site, to ensure it is suitable for acquisition and development by the LLP, before it is let to the LLP by the Council or Hyde (depending upon who currently owns it) using the agreed form of 250 year Lease.

In the case of Market Sites, no such conditions need to be satisfied nor any Lease granted, as the LLP will simply acquire such third party sites upon whatever commercial terms it can agree with the third party owners. As such, these Market Sites sit outside the detailed terms of the OSLA.

1. **Parties.** The parties to the OSLA will be Hyde Housing Association Limited (1), Brighton and Hove Council (2) and Homes for Brighton and Hove LLP (3).
2. **Timing of exchange.** The OSLA will be exchanged at the outset of the joint venture relationship, simultaneously with the Members Agreement.
3. **Initial Site Conditions.** In the case of Priority Sites, the parties must use reasonable endeavours to satisfy the "Initial Site Conditions" (as listed in the attached flowchart) for each Priority Site within six (6) months of the date of exchange of the OSLA. This includes satisfying the "Price Condition", being the independent valuation of each Priority Site by the parties' selected valuer.

In the case of LLP Sites, these Initial Site Conditions must equally be satisfied within six (6) months of the LLP Sites being identified (but not necessarily within six (6) months of exchange).

4. **Subsequent Site Conditions.** Where all Initial Site Conditions have been satisfied for a Priority or LLP Site, the parties must then use reasonable endeavours to satisfy the "Subsequent Site Conditions" (as listed in the attached flowchart) by the "Site Conditions Long Stop Date" for that 'Site, being three (3) years following the date upon which the Council/Hyde formally decided to dispose of that 'Site to the LLP (the "Disposal Decision Date").

In particular, this includes satisfying the "Planning Condition", by the LLP obtaining a "Satisfactory Planning Permission" for the 'Site, being a planning permission which is free from both "Onerous Conditions" and any risk of legal challenge.

5. **Grant of Lease.** Upon all Subsequent Site Conditions for a Priority or LLP Site being satisfied (the "Site Conditions Unconditional Date"), the Council or Hyde will grant to the LLP a Lease of that 'Site within 20 working days of that Site Conditions Unconditional Date. The form of Lease will have been pre-agreed between the Council/Hyde and the LLP based upon an agreed template with use for all Priority and LLP Sites, in satisfying the "Lease Condition" under the Subsequent Site Conditions.

In return for the grant of the Lease of a 'Site, the LLP will pay to the Council/Hyde the agreed "Price" for that 'Site, as determined in satisfying the Price Condition under the Initial Site Conditions.

6. **Commencement Works.** Following the grant to it of a Lease of a Priority or LLP Site, the LLP must use reasonable endeavours to carry out the "Commencement Works" for that 'Site within three (3) years of the Lease date. These Commencement Works include:-

6.1 entering into a building contract for the proposed development of the 'Site;

6.2 grant of possession of the 'Site to the appointed building contractor; and

6.3 commencement of the "Start Works" upon the 'Site. These Start Works can include preparatory works such as demolition, digging of trenches, ecology protection works, etc.

7. **Buy back.** If the LLP has not carried out the Commencement Works upon a Priority or LLP Site within three (3) years of the Lease date (or such extended period as the parties shall agree in the event of a "Force Majeure Event", being a catastrophic or major event such as war, flood or national emergency), then the landlord under the Lease (i.e. the Council or Hyde) may if it wishes exercise its "Buy Back" right by terminating the Lease and taking back the 'Site.

In the event of the Council or Hyde exercising this Buy Back right it must pay to the LLP the "Acquisition Price", being the original Price which the LLP paid for the land (irrespective of any intervening changes in market value, works done to the Site, etc).

Following such Buy Back, the LLP will have no further legal interest in the 'Site and no right to reclaim any other sums expended on the 'Site. If requested, it will also handover or assign to the Council/Hyde the benefit of and copyright in any planning drawings, surveys, building contracts, professional appointments, etc, relating to the 'Site.

Once the Commencement Works have been carried out, the Council/Hyde will have no further legal right to take back a 'Site, and the LLP is free to retain the 'Site.

8. **Environmental liability.** Following the Council granting a Lease of a Priority Site, the LLP will accept all environmental liabilities, which will be highlighted by the "Environmental Condition" under the Subsequent Site Conditions.

9. **LLP Tenancy Allocations.** The LLP will comply with the LLP Tenancy Lettings Strategy for all housing units built on all Sites, whether Priority Sites, LLP Sites and Market Sites. The Council and the LLP will meet at least once per year to review this LLP Tenancy Lettings Strategy.

10. **Assignment.** No party can assign its interest in the OSLA, except that the LLP can assign or charge its benefit to a lender for the purpose of funding its development of the intended housing units.

11. **Termination.** The Council or Hyde may terminate the OSLA where the LLP becomes insolvent or commits a material breach, albeit they must first allow any funder of the LLP with an interest in a 'Site an opportunity to remedy the situation.

Bevan Brittan LLP
8 September 2017

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