




Sevenoaks
DISTRICT COUNCIL
Despatched: 25.02.15

CABINET
05 March 2015 at 7.00 pm
Conference Room, Argyle Road, Sevenoaks

AGENDA

Membership:

Chairman: Cllr. Fleming Vice-Chairman: Cllr. Ms. Lowe
Cllrs. Hogarth, Piper and Ramsay

	<u>Pages</u>	<u>Contact</u>
Apologies for Absence		
1. Minutes To agree the Minutes of the meeting of the Committee held on 5 February 2015, as a correct record	(Pages 1 - 8)	
2. Declarations of interest Any interests not already registered		
3. Questions from Members (maximum 15 minutes)		
4. Matters referred from Council, Audit Committee, Scrutiny Committee or Cabinet Advisory Committees		
a) Referral from Economic & Community Development Advisory Committee - 12 February 2015 (Minute 28)	To follow	
5. Authority to Establish a Local Authority Trading Company	(Pages 9 - 62)	Christine Nuttall, Lesley Bowles, Adrian Rowbotham Tel: 01732 227245/7335/7153
		

REPORTS AND RECOMMENDATIONS FROM THE CABINET ADVISORY COMMITTEES

6. Adoption of the Local Development Scheme (LDS) Timetable	(Pages 63 - 88)	Richard Morris Tel: 01732 227430
7. Westerham Conservation Area Management Plan	(Pages 89 - 156)	Richard Morris Tel: 01732 227430

- | | | | |
|-----|---|-------------------|---|
| 8. | Local Enforcement Plan | (Pages 157 - 178) | Richard Morris
Tel: 01732 227430 |
| 9. | Community Infrastructure Levy (CIL) Governance | (Pages 179 - 196) | Richard Morris
Tel: 01732 227430 |
| 10. | Changes to Government Guidance on Planning Obligations - implications on SDC's Affordable Housing Policies | (Pages 197 - 208) | Alan Dyer
Tel: 01732 227961,
Gavin Missons
Tel: 01732 227332 |
| 11. | Citizens Advice Bureaux 3 Year Service Level Agreement 2015-2018 | (Pages 209 - 226) | Lesley Bowles
Tel: 01732 227335 |



- | | | | |
|-----|--|-------------------|------------------------------------|
| 12. | Grants to Voluntary Organisations 2015/16 | (Pages 227 - 248) | Lesley Bowles
Tel: 01732 227335 |
|-----|--|-------------------|------------------------------------|



Indicates a Key Decision



indicates a matter to be referred to Council

EXEMPT ITEMS

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

The Democratic Services Team (01732 227241)

CABINET

Minutes of the meeting held on 5 February 2015 commencing at 7.00 pm

Present: Cllr. Fleming (Chairman)

Cllrs. Hogarth, Ms. Lowe, Piper and Ramsay

Apologies for absence were received from Cllrs.

Cllrs. Dickins, Firth, Mrs. Hunter, Mrs. Purves, Searles and Walshe were also present.

68. Minutes

Resolved: That the minutes of the meeting of the Cabinet held on 15 January 2015, be approved and signed as a correct record.

69. Declarations of interest

There were no additional declarations of interest.

70. Questions from Members (maximum 15 minutes)

There were none.

71. Matters referred from Council, Audit Committee, Scrutiny Committee or Cabinet Advisory Committees

There were none.

72. Revenue Budget and Council Tax 2015/16

The Portfolio Holder for Finance & Resources introduced a report setting out the proposed budget and required level of Council Tax for 2015/16. Member's considered the full budget report and included the change recommended by Cabinet on 15 January. That change was to reduce the Council Tax increase assumption from 3% to 2% for 2016/17 to 2018/19.

At the last Finance & Resources Advisory Committee meeting it was debated whether the Council Tax increase assumption should be reduced to 2% for the whole 10-year period. The motion was put to the vote and was lost. The additional impact of this change would be £2.3m.

The Portfolio Holder was pleased to report that this report once again left the Council with a balanced budget over the next 10 years.

The Chief Officer for Finance highlighted that the report contained a number of appendices including budget amounts for all service areas, growth and savings items agreed as well as pay costs and a risk analysis.

On Tuesday the Government had announced the final funding settlement figures for 2015/16 which were unchanged from the provisional figures issued before Christmas.

The figures assumed that once again no funding would be passed on to Town and Parish Councils for Council Tax Support. This was one of the three options Council would be asked to consider and were included in the recommendations.

Appendix H contained a review of reserves which included the recommendation to set up an On-Street Parking Reserve where any surpluses above budget could be held before being spent on permitted purposes.

A Property Investment Reserve was also to be established as Council had previously agreed to set aside £5m for the Property Investment Strategy. This would come from £2.2m from the General Fund Reserve and smaller amounts from other reserves. The balance would be funded from capital receipts.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That Council be recommended to:

- (a) Approve the Summary of Council Expenditure and Council Tax set out in Appendix E to the report.
- (b) Approve the 10-year budget 2015/16 to 2024/25 which is the guiding framework for the detailed approval of future years' budgets set out in Appendix B to the report, including the growth and savings proposals set out in Appendix C-D to the report, and that where possible any variations during and between years be met from the Budget Stabilisation Reserve:
and
- (c) Approve the changes to reserves set out in Appendix H.
- (d) Members' views are sought on the issue of Council Tax Support funding for Town and Parish Councils and one of the following options be approved:
 - i. An amount of funding is passed to Town and Parish Councils for Council Tax Support in 2015/16 equivalent to the amount passed on in 2013/14 less 48% (the Council's reduction in Revenue Support Grant);

Cabinet - 5 February 2015

- ii. A different amount is passed to Town and Parish Councils for Council Tax Support in 2015/16;
- iii. No funding is passed to Town and Parish Councils for Council Tax Support in 2015/16.

73. Discretionary Rate Relief

The Portfolio Holder for Finance & Resources introduced a report setting out the proposals for awarding discretionary rate relief for 2015/16. The report provided Members with a list of applicants wishing to receive Discretionary Rate Relief in 2015/16. Applications were requested every two years but were reviewed annually.

The categories of relief were:

- Discretionary Rate Relief
- Top up relief
- Rural Rate Relief; the criteria for each category is detailed in the report.

All previous applicants were provided with applications and where they had not replied by the original deadline, reminders were sent.

All applications that had been received were recommended for approval. If all applications were approved, the total gross relief granted would be £158,609. Since the change to the Business Rates Retention Scheme this may have no financial impact on this Council if the Business Rates total stayed below the safety net level.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the proposals for granting relief from business rates for 2015/16 set out in Appendix B to the report be approved.

74. Annual Review of Parking Charges for 2015/16 - Results of Public Consultation

The Portfolio Holder proposed the changes to car park charges as set out at Appendix A to the report with no changes to evening charges and no changes to on-street charges.

A visiting Member raised concerns that the increase in parking charges could negatively impact on the economic growth of Sevenoaks Town Centre and suggested that charges should be frozen to encourage a vibrant town centre with economic growth.

The Chief Officer for Environmental and Operational Services reported that the gap in income was created in 2012. Year on year the gap had reduced as car park use had increased. Research that had been undertaken had demonstrated that most of the car parks in Sevenoaks Town Centre were over capacity.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That

- (a) the proposed increases set out at Appendix A of the report be agreed;
- (b) there be no changes to evening charges; and
- (c) there be no changes to on-street charges

75. Capital Programme & Asset Maintenance 2015/18

The Portfolio Holder for Finance & Resources introduced a report setting out the proposed 2015/18 Capital Programme, with supporting documentation in a standard format for individual scheme bids. Projected capital receipts were included, indicating the proposed financing of the Programme. A proposed overall provision limit for Asset Maintenance was also made.

The proposed programme was considered by the Finance & Resources Advisory Committee on 20 January 2015 and their recommendation to Cabinet was that the proposed capital programme and asset maintenance budget be agreed.

The Head of Finance reported that there were five capital projects in the programme. Commercial Vehicle replacement on the usual rolling programme; Improvement grants which were mainly funded by Disabled Facilities Grants; plus new projects on the programme for:

- a project at Dunbrik workshop which would generate future income;
- the Sevenoaks Town Centre Car Park; and
- the Property Investment Strategy.

In addition the report outlined the reasons for changes to the proposed budget for Asset Maintenance for the next three years.

The Head of Finance drew Members attention to 2 specific points on the capital schemes:

- Sevenoaks Town Centre Car Park: Members were asked to note the caveats relating the project cost given on under Asset Values. £4m was the sum the Council previously approved to borrow to finance this project.
- Property Investment Strategy: The sum included was £5m - as approved at Council in July 2014; members could choose to review that sum at a later date.

In response to a question, the Deputy Cabinet Member for Local Planning and Environment reported that the environmental impact of vehicles purchased by the Council would be considered as part of the tender process.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That

- (a) the Capital Programme 2015/18 and funding method set out in Appendix B to the report be approved, and
- (b) the proposed Asset Maintenance budget of £479,000 be agreed for 2015/16.

76. Treasury Management Strategy 2015/16

The Portfolio Holder for Finance and Resources introduced a report setting out the Council's Treasury Management Strategy for 2015/16, covering its borrowing arrangements and its annual investment strategy. The annual investment strategy sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments.

Members' attention was drawn to paragraph 61 of the report, which provided further details on Enhanced Money Market Funds (EMMFs). These funds had not been utilised because of concerns from some Members that they carried more risk than other permitted investments, but it was proposed they would be utilised from 2015/16. Alternatively, the Principal Accountant suggested that the limit for lending to any of the top five Building Societies not meeting minimum credit rating requirements be increased from £2 million to £4 million each and the limit for lending to Handelsbanken be increased from £3 million to £5 million to give options rather than lending to the Government at 0.25%.

Members noted that the Finance and Resources Advisory Committee had recommended that:

- a) investments in AAA rated Enhanced Money Market Funds be commenced with an overall limit of £5 million which may be in a single fund or split between different funds;
- b) the limit for investments in any of the top five Building Societies not meeting minimum credit rating requirements be increased from £2 million to £4 million each;
- c) the limit for lending to Handelsbanken be increased from £3 million to £5 million; and
- d) subject to those comments, Cabinet recommend that Council approve the Treasury Management Strategy for 2015/16.

Members noted the sale of the Icelandic bank investment which brought the matter to a conclusion. The overall result was that the Council recovered the full amount of the original investment.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That

- a) investments in AAA rated Enhanced Money Market Funds be commenced with an overall limit of £5 million which may be in a single fund or split between different funds;
- b) the limit for investments in any of the top five Building Societies not meeting minimum credit rating requirements be increased from £2 million to £4 million each;
- c) the limit for lending to Handelsbanken be increased from £3 million to £5 million; and
- d) subject to those comments, Cabinet recommend that Council approve the Treasury Management Strategy for 2015/16.

77. Adoption of the Allocations and Development Management Plan (ADMP)

The Portfolio Holder for Local Planning & Environment introduced a report setting out the Allocations and Development Management Plan (ADMP) which supplemented the Core Strategy by identifying housing allocations, areas of employment and important areas of open space. The ADMP also set out new development management policies, which were consistent with the National Planning Policy Framework (NPPF).

The ADMP was examined by the Planning Inspectorate in March 2014 and a consultation on the Inspector's Main Modifications was held 21 August – 2 October 2014. The Inspector's final report had been issued and found the Plan sound, subject to the incorporation of the Main Modifications previously consulted upon.

The Chairman highlighted that the Inspector of the London Plan had reported that the published housing numbers were incorrect. There would be a meeting on 19th February 2015 with Council's in the South East and East of England to discuss the impact this may have. The Chief Officer for Planning highlighted that the London Debate had highlighted the importance of having an up to date Development Plan.

The Chairman also highlighted that consideration should be given to bringing the 300,000 empty homes into use.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That Council be recommended that the Allocations and Development Management Plan, incorporating the Inspector's main modifications, minor

Cabinet - 5 February 2015

amendments and factual updates, be adopted, published and copies made available at a price to be agreed by the Portfolio Holder.

78. Adoption of the Development in the Green Belt Supplementary Planning Document (SPD)

The Portfolio Holder for Local Planning and Environment introduced a report seeking adoption of the Development in the Green Belt Supplementary Planning Document. The Development in the Green Belt SPD provided detailed guidance on the implications of applying for planning permission for development located within the Green Belt. It explained how the Green Belt policies that have been found sound in the Allocations and Development Management Plan would be implemented. The guidance would help to ensure consistency in decision making when determining planning applications in the Green Belt. The SPD had been amended following public consultation in February 2013.

The Portfolio Holder for Local Planning and Environment highlighted that the document offered certainty for residents living in the Green Belt.

The Senior Planning Policy Officer explained that policies relating to the Green Belt were in the Allocations and Development Management Plan and the Supplementary Planning explained how the policies would be implemented.

The Chairman highlighted that Members would need to be provided with Training on the Green Belt Supplementary Planning Document to enable them to understand what would and would not be permitted in the Green Belt.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the Development in the Green Belt Supplementary Planning Document be adopted, published and copies made available at a price to be agreed by the Portfolio Holder.

THE MEETING WAS CONCLUDED AT 7.56 PM

CHAIRMAN

This page is intentionally left blank

AUTHORITY TO ESTABLISH A LOCAL AUTHORITY TRADING COMPANY

Cabinet – 5 March 2015

Report of Chief Officer Communities and Business, Chief Officer Legal and Governance and the Chief Finance Officer

Status: For Decision

Also considered by: Council – 31 March 2015

Key Decision: Yes

Executive Summary: To authorise the creation of a local authority trading company and loan facilities to such trading company.

This report supports the Key Aim of effective management of Council resources

Portfolio Holder Cllr. Ramsay

Contact Officer(s) Lesley Bowles Ext. 7430, Christine Nuttall Ext. 7245, Adrian Rowbotham Ext. 7153

Recommendation to Cabinet:

- (a) That the Chief Officer Legal and Governance be authorised to incorporate a company (the Company) wholly owned by the Council in consultation with the Chief Executive, Chief Financial Officer and Portfolio Holder for Finance so as to allow the Council to exercise the power to trade contained in the Local Government Act 2003 and the Localism Act 2011 and to settle the detailed arrangements for the establishment of the Company together with the Governance structure recommended by EC Harris Built Asset Consultancy (EC Harris)
 - (b) To recommend to Council that the Chief Finance Officer be authorised to provide loan facilities to the Company in consultation with the Chief Executive, the Chief Officer Legal and Governance and Portfolio Holder for Finance and Resources in line with the rules set out in this report relating to State Aid.
 - (c) To recommend to Council that a budget of £10,000 for set up costs of the Company be approved. This will be funded from Property Investment Reserve.
 - (d) Approve the appointment of the initial Directors of the Company as set out in the report.
 - (e) That the Business Case for setting up the Company be approved.
-

Recommendation to Council:

- (a) That the Chief Finance Officer be authorised to provide loan facilities to the Company in consultation with the Chief Executive, the Chief Officer Legal and Governance and Portfolio Holder for Finance and Resources in line with the rules set out in this report relating to State Aid.
- (b) That a budget of £10,000 for set up costs of the Company be approved. This will be funded from Property Investment Reserve.

Reason for recommendation: To allow the Council to undertake trading activities in order to enhance the economic wellbeing within the District and for the Council to be less reliant on Government funding.

Introduction and Background

- 1 On 10 April 2014 Cabinet was requested to give the Chief Officer Legal and Governance delegated authority to incorporate a company (the Company) wholly owned by the Council to exercise the power to trade contained in the Local Government Act 2003 and the Localism Act 2011 with the Chief Executive, Chief Finance Officer and Portfolio Holder for Finance & Resources being given delegated authority to settle the detailed arrangements for the establishment of the Company. When the matter came before the Finance & Resources Advisory Committee on 26 March 2014 they agreed that subject to approval of the principle by Cabinet, details of the Company be developed and brought back at a future meeting. At Cabinet on 10 April 2014 the Chairman requested that any executive appointments be made on merit and ability with a person specification outlining the necessary skills required. He wished to see appointments of Non Executive Directors.
- 2 The setting up of a company is in response to the need to increase investment income for the Council in order to deal with reducing grant and to make the Council more 'self-sufficient'. In most cases, the Council will itself be able to make investments and, as set out under 'tax liability' later in this report, this may be the most tax efficient way of investing. Where it is most beneficial for the Council itself to undertake an investment, the intention is that the investment will be made in house. However, there may be cases where the Council is not allowed to act. For example, the Council is not allowed under the Housing Act to grant a Shorthold Tenancy Agreement which means that it would not be able to invest in and keep residential property. Therefore, where residential property is involved, the company would be in place to provide the appropriate structure for that sort of investment. Every investment would be looked at on its own merits to decide whether to purchase via the local authority or the company depending on the taxation, legal and investment implications of what is proposed.
- 3 Since then Officers and Members of Cabinet have been receiving advice from EC Harris in relation to setting up the Company and their Report is annexed as an Appendix to this report which recommends the setting up of a Trading Company which will be a Company limited by shares with the Council retaining a 100% shareholding to take advantage of the powers to trade for profit introduced under

the Local Government Act 2003 and the Localism Act 2011, where opportunities to do so arise in accordance with the Business Plan set out within this report.

- 4 The Business Plan set out within this report now establishes the need to set up a Trading Company which will enhance economic development within the district as well as providing a valuable income stream.

Company Structure - Governance

- 5 The EC Harris Report concentrates on the setting up of a generic trading company which can concentrate, at this stage, on property development as its main activity, and has identified the following areas as likely key areas where decisions should be made by the shareholder, the Members of Sevenoaks District Council (SDC) as follows:

- Purpose – defining the purpose and permitted activities of the Company
- Capital structure – how much finance to put into the company and on what terms
- Distribution policy – is all trading profit to be returned to the shareholder or is any retained for future investment and/or running capital
- Board composition and appointments – to agree the structure of the Board and approve specific appointments.
- Appointment of auditors – to provide transparency and as required under Company Law

EC Harris go on to state that once the shareholder (the Members of SDC) has made the key decisions as suggested above more detailed operation decisions would be delegated to the Company acting through its Board of Directors. Typical areas for the Directors to consider and approve include:

- Annual and 5 year business plan – agreeing the general investment targets for the period and an associated budget (although the shareholder may wish to have separate approval rights)
- Specific investment transactions – acquisitions, sales, borrowing (if applicable) and other key transactions
- Appointment of service providers – lawyers, valuers, due diligence advisors, property managers, etc.
- Reporting – reporting arrangements to the Financial Resources Advisory Committee, Cabinet etc.

Board Make-Up

- 6 EC Harris has advised that there is no ideal make-up or size (although typically a minimum of 3 and a maximum of 6 members) for a Local Authority Trading Company, and therefore they have set out the options which the Council may want

Agenda Item 5

to consider. However, whatever board make-up is chosen, they recommend that the Directors, between them, have the following skills.

Skills and experience required:

- Financial
- Property
- Legal
- Investment
- Governance – other Board experience
- Private sector

In addition, Members may feel it useful to include Economic Development and Regeneration expertise. On occasion, it may be necessary to buy in specialist corporate legal and financial advice.

- 7 The EC Harris Report sets out the options for board make up on page 30 of their Report. They emphasise that some public bodies have made the decision to retain a level of Member involvement in order to ensure a level of accountability is retained; others see Member involvement as creating a potential conflict of interest. Equally others have taken the decision to focus on Officer board membership which helps address some of the conflict issues; however, arguably given their responsibilities to Members, may not allow them the ability to work independently and in the best interests of the Company. The presence of Non Exec Directors on the board is generally seen as a positive so long as they do not have a controlling majority and conflicts of interest can be managed. As a result EC Harris have recommended a Board membership initially comprising five directors – three Council officers covering the following areas of expertise – economic development & property, finance and legal; and two non executives. This number and mix will allow the Council to retain control of the company whilst benefiting from the external viewpoint and expertise brought by the non-executives. As a result of the benefits brought to the Company by non-executive directors it is thought appropriate to make provision for a small salary to be paid to the non-executives.
- 8 To facilitate decision making, they have recommended that quorum would be achieved through the voting of a minimum of three directors, of which one should be a non-executive.
- 9 They also recommend that the non-executive directors be selected on the basis of relevant professional experience in property investment and corporate governance, and with careful consideration given to any potential conflicts of interest.
- 10 They discounted the option of Members becoming directors of the Company given the potential for conflict of interest and influence over any Council officers involved. If there is concern about the lack of Member presence, they recommend

that this is limited to one, and the appointed Member to the Board has relevant recent experience and/or has responsibility for a relevant portfolio.

11 It is proposed that initially the Board of Directors will comprise the following:

Finance Director - The Council's Chief Finance Officer

Managing Director – The Council's Head of Economic Development and Property

Director – A Council's Chief Officer to be recommended to Cabinet by the Chief Executive

2 Non Executive Directors – who will be approved by Cabinet and paid a small remuneration also to be approved by Cabinet.

It is also proposed that the Company Secretary, who does not have voting rights, be the Council's Chief Officer Legal and Governance, the key role being to fulfil the statutory requirements of the company.

12 The competencies recommended by EC Harris and set out in paragraphs 5 and 6 above would therefore be achieved as follows:

Competencies required:	Competency provided by:
Financial, Property, Investment, Economic Development & Regeneration	Council Officers would fulfil all of these competencies. In addition, there is potential to attract Non-Exec Directors who may also have these competencies
Legal and specialist tax	External advice where necessary
Governance (other Board experience)	Non-Exec Directors
Private Sector experience	Non-Exec Directors

13 It is proposed that the Members' Communications Working Group be tasked with choosing the name of the Company.

Articles and Memorandum of Association

14 In relation to the Articles of Association these will be produced in standard format and will briefly comprise the following:

- The articles are for a company limited by shares.

Agenda Item 5

- The articles will state that there can only be one shareholder and this will be defined as all of the Members of Sevenoaks District Council
- The liability of the Council is limited to the nominal value of its share.
- The Shareholder (the Members of SDC) will agree the general investment targets for the period and the associated budget, enabling the Board to set an annual and 5 year business plan. Half-yearly reports from the Company will go to Cabinet.
- The Cabinet appoint the Directors and can remove them.
- The Directors shall be officers of the Council, together with up to two outside Non-Executive Directors.
- If a Director ceases to be employed by the Council (except the outside Directors) then they will automatically cease to be a Director.
- There must be a minimum of 3 Directors and although EC Harris has recommended a maximum of 6 Directors no maximum number needs to be set out in the Articles. The proposed model set out in paragraph 11 above provides for 5 Directors, three of whom are Council Officers and two of whom are Non-Executive Directors.
- Three Directors must be present in order to have a valid Directors meeting. This could be restricted to one of the Directors needing to be a non-executive Director as recommended by EC Harris.
- The Directors can appoint their own Chair, although this is something that the shareholder (Members of SDC) could decide.
- The Council can pass a resolution that either prevents or directs the Directors to do something.
- Recording of decisions and these would be reported to the appropriate Portfolio Holder.
- The Company can pay dividends, which will accrue to the Council as a whole for the benefit of the District and will not benefit individual Members.
- Some decisions can only be taken at a general meeting by the Council as Shareholder.
- The Company does not have to have a seal to execute documents. Deeds and documents can be signed by two Directors.
- The Company shall have a Company Secretary.
- The Company is obliged to comply with all requirements that flow from the fact that it is a wholly owned subsidiary of a local authority.

- The Articles cannot be amended or the name of the Company changed unless the Council approves a resolution to amend them.
- The Company cannot engage in anything that represents a substantial change in the business of the Company without a resolution being passed by the Council.
- The Company can purchase indemnity insurance for the Directors
- Auditing of Accounts.

Objects Clause

- 15 For companies registered before 1 October 2009 it was a requirement that the company's memorandum contained an objects clause. This sets out the purposes for which the company had been registered. Directors were required to pursue these objects only, and if they pursued other objects they were acting 'ultra vires'. It was common for objects clauses to be very long and detailed, so that in practice almost anything was within the scope of the objects. From 1989 it was possible to have a very short 'general commercial' objects clause. Such a clause permitted anything of a commercial nature.
- 16 However, companies registered on or after 1 October 2009 do not routinely have an objects clause and most of them do not. This means that the objects of the Company are unrestricted which suits the setting up of a generic trading company that can concentrate on property related transactions. This Company can then reflect the wide powers granted to the Council under the Localism Act 2011 to use a company to do anything commercially that individuals may generally do.

Shareholder Agreement

- 17 A Shareholder Agreement would operate in addition to the Articles of Association. The Shareholder Agreement may regulate the relationship of the shareholder and give rights and obligations that could not be put into the Articles, or would not be appropriate for inclusion in the Articles. The Shareholder Agreement could provide that the Annual General Meeting of the Company takes place in the Council Chamber on an evening when Full Council takes place with the shareholder (Members of SDC) being invited to attend. Other examples of rights that may be given to the shareholder (Members of SDC) through the Shareholder's Agreement could be as follows:

The approval of Council would be required:

- For the setting of the general investment targets each year and the associated budget;
- In order to appoint or remove the Auditors;
- Before entering into (or agreeing to enter into) any borrowing arrangement and giving security in respect of such borrowing;

Agenda Item 5

- Before making any application for planning permission or lodging an appeal against a planning authority;
- Any matter that the Council shall advise the Company of in writing.

In this way the Company shareholder (Members of SDC) has ultimate control over the activities of the Company and the Company's operational matters.

Members' Ability to Further Control the Company

- 18 As can be seen by the suggested provisions within the Articles of Association the Company shareholder (Members of SDC) has ultimate control over who will be the Directors of the Company and the shareholder (Members of SDC) can change the make up of the board with immediate effect if so desired. In addition the Company Secretary can be asked to stand down in the same way.
- 19 The Articles of Association can make provision for the shareholder (the Members of SDC) to appoint Director(s) by serving notice in writing to the Company. Such notice shall state such particulars of the Director(s) as are required to be included in the Company's Register of Directors.
- 20 In addition the Articles of Association can make provision for the shareholder (Members of SDC) to remove any Director(s) by serving notice in writing to the Company and to appoint any other person to be a Director in place of a Director who leaves office by whatever means.
- 21 The notice of appointment or removal of a Director(s) pursuant to the Articles can take place with immediate effect on delivery to the Secretary of the Company.
- 22 The Trading Company will fall within the category of a "controlled company" as defined by the Local Government and Housing Act 1989 and as a result will be subject to The Local Authorities (Companies) Order 1995. The Order sets out regulations that are specific to controlled companies and start from the basis that the public should be aware that the company they are dealing with is controlled by the local authority.
- 23 For example, the company must provide information about the affairs of the company to any Member of the local authority as they shall reasonably require for the proper discharge of duty as a Member. They must also provide information that the local authority's auditors require in relation to the accounts and affairs of the company.

Tax Liability

- 24 The EC Harris report sets out at page 35 of their Report the potential tax liability of the Company. They indicate that the area of taxation is complicated and will require specialist input.
- 25 The Company may need to charge VAT and will be liable for corporation tax on its profits.

- 26 However, in many instances it is likely to be more tax efficient to carry out any property investment via the Council rather than through the Company structure and so it is anticipated that the Company will only have to undertake a limited level of activity where trading activity is inevitable.
- 27 As set out in paragraph 2, every property investment would be looked at on its own merits to decide whether to purchase via the local authority or the Company dependent upon the taxation and legal implications of what is proposed.

Staffing Implications

- 28 These proposals should not have any direct implications for staff currently employed by the Council as it is not proposed that any staff transfer to the Company. Staff may well be working on specific work relating to the Company but all time and resources will be specifically accounted for and charged to the Company. If the Company does decide to employ staff directly, and former SDC staff are transferred to the Company under TUPE, the Company will be required to offer any new staff comparable terms and conditions including pension rights.

State Aid

- 29 State Aid is defined as “a Member State’s financial aid which favours selected businesses and has the potential to distort competition and affect trade between EU Member States”. Article 87(1) European Convention sets out the criteria, all of which must be met for state aid to be present:

The aid favours certain undertakings or the production of certain goods,

The aid is provided through State resources,

The aid distorts or threatens to distort competition,

The aid affects trade between Member States.

- 30 In order to ensure transparency and competitiveness with the private sector and not to breach the rules in relation to State Aid the Company must not be subsidised by the authority. This means that the authority must recover the costs of any accommodation, goods, services, employees or any other support it supplies to the company. It will be necessary to set up suitable systems and financial controls to ensure this is the case and to demonstrate independence of the company from the authority.
- 31 The Trading Company should be mindful of its trading impact on the local economy. In recognition of this concern it may be decided that new lines of business would only be taken on after a Market Impact Assessment had been carried out.
- 32 Specialist advice would need to be sought when making acquisitions or receiving loans from the Council in order to ensure that State Aid regulations were complied with.

Agenda Item 5

Company Loan Facilities

- 33 This report is seeking authority to establish the Company and to make loans to the Company to fund the Business Case(s). Loans will be paid at intervals that match the Company's cost profile. Where loans are made in relation to property transactions the loan could be secured against the assets of the Company. However, initial loans for working capital to the Company for set up costs and incidental expenses which are likely to be needed would be unsecure.
- 34 The financial objective of the Property Investment Strategy is to achieve a 6% income return. Different types of investment will provide different levels of return, income and capital.
- 35 The returns that are achieved on the investments can be used to cover any risks and provide a valuable budget stream.
- 36 The loans will be sourced from the Property Investment Reserve. Amounts in this reserve are agreed by Members as part of the budget setting process.
- 37 There is the potential to increase the amount set aside for the Property Investment Reserve through additional reserves, further capital receipts, and if required borrowing, although all this would be subject to further Council approval.

Legal Implications and Risk Assessment Statement.

- 38 A local authority is able to establish a Local Authority Trading Company ("LATC") through powers in section 95 of the Local Government Act 2003. A local authority is permitted to trade in anything that it is authorised to do under its ordinary functions. The company can with good business planning generate a surplus which can be re-invested into services, or the council, being the single shareholder.
- 39 The Local Authorities (Goods and Services) Act 1970 (the 1970 Act) continues in force and it enables councils to provide services to other councils and to other public bodies but not to the private sector or the public in general. Successful trading has been undertaken by this authority under this legislation since 1970 enabling the saving of money and the achievement of efficiencies through economies of scale. The trading company will enable the authority to take advantage of trading opportunities that cannot be undertaken using the powers within the 1970 Act. However, it is anticipated that existing trading will continue to happen as it currently does under the 1970 Act as this is the most cost effective way to trade with other local authorities and public bodies.
- 40 Under section 1 of the Localism Act 2011 Local Authorities now have a general power that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation.
- 41 The Company is a "controlled company" as defined in the Local Government and Housing Act 1989 as it is a subsidiary company of a local authority and as such the shareholder (Members of SDC) can have ultimate control over the activities and operational matters of the Company.

42 The key strategic risks are identified as follows:

Risk	Likelihood 1(low)- 5(high)	Impact 1(low)- 5(high)	Total	Controls
Failure to set up trading arrangement in strict compliance with legislation	2	3	6 Medium	Extensive consultation with other authorities and, appropriate, external advice on governance arrangements
Using trading powers where there is a statutory obligation to provide them	2	3	6 Medium	Consideration to be given on a case by case basis as to the ownership of assets
Possibility of trading ultra vires	1	2	2 Low	Every new trading activity via the company to consider statutory obligations
Possibility of challenge to state aid	1	2	2 Low	Obtain full cost recovery and any loan given to the Company to be set at commercial lending rates
Possibility of conflicts of interest arising for members or officers as Directors	1	3	3 Low	Recommendation not to have Members on the Board to remove the possibility of conflicts of interest. Officers to abide by the Code of Conduct for Employees and are subject to the Officer Employment Procedure Rules
Failure to arrange adequate insurance cover for the Company's liabilities/assets	2	4	8 Medium	Ensure Insurer for the company is kept up to date with any new areas of trading activity
Failure to comply with taxation laws – corporation tax & vat	2	3	6 Medium	Advice given by EC Harris in relation to taxation generally
Consideration of potential TUPE implications	1	1	1 Low	Review regularly
Trading Company failure	1	3	3 Low	Market testing and valuations to be obtained and the implementation of tight budgetary controls
Conflict of interest over workload	2	2	4	Effective resource planning and compliance with Corporate Plan. Non-

Agenda Item 5

priorities of Council projects and Company projects			Low	executive director(s) on the Board.
Company credit rating	1	2	2 Low	Council could act as guarantor and insurance to mitigate
Challenge from Council's Auditors	1	2	2 Low	Follow CIPFA Code of Practice on LA Accounting. All transactions applicable to the company can be identified using unique transaction records and coding structures
Lack of capacity to manage additional work	2	2	4 Low	Careful programming of staff resources
Contractual disputes	2	3	6 Medium	SDC's in house legal section to be employed to check all contracts before they are entered into
Poor investment acquisitions	2	2	4 Low	Each investment acquisition will be of good quality with the potential of high income return as set out in the EC Harris Report and Business Case.
Poor rate of return on investment property	2	2	4 Low	Annual valuation which sets a target rate of return and allows for financing costs and the generation of an annual surplus

It is important to note that other strategic risks apart from those set out above have been identified by EC Harris in their Report with suggested controls to manage the risks identified.

Business Case

- 43 This report builds on the direction set out in the Corporate Plan for the Council to move towards a more financially self sufficient position. The agreed plan articulates an approach of investing in assets that will generate revenue income to allow less reliance on diminishing Government Support. The plan states that this would be funded through the use of reserves or borrowing at low interest rates.
- 44 In December 2013 the Council was subject to a Peer Challenge process which endorsed the Corporate Plan and the Council's approach recommending that the opportunity to generate greater income from investing in property assets would significantly contribute towards the aim of financial self-sufficiency.
- 45 On 18 February 2014 Council agreed that further ways of increasing revenue should be investigated and agreed to put £200,000 into a Corporate Project

Support Reserve to fund investigations into a number of potential options including property investments. It was also recognised that this approach could deliver wider benefits to the Council in terms of Economic Development and Business Support.

- 46 On 10 April 2014 Cabinet approved a Property Investment Strategy aimed at establishing a balanced portfolio of investment assets in traditional, lower risk, sectors including Offices, Retail, Industrial and Residential with a preference for freehold property in lot sizes of between £1 and £5 million.
- 47 As described above the Council is able to set up a trading company by virtue of powers under the Local Government Act 2003 and Localism Act 2011 and there are certain activities that are required to be carried out through a company.
- 48 A trading company will enable the Council to operate property investment on a commercial basis as well as allowing the Council to invest in residential property to be leased which it is not otherwise allowed to do. In order to operate and manage a balanced portfolio the ability to trade commercially and to invest in residential property is key.
- 49 Following the April Cabinet decisions the Council has employed consultants EC Harris to prepare a Property Investment Strategy (PIS) to provide recommendations to the Council on its approach to generating an income stream from property. They were commissioned to:
- Define the objectives for an Investment Fund in the context of the Council's financial and wider corporate objectives;
 - Set out the strategic approach for delivering these objectives;
 - Provide advice on the governance and delivery structure for the Investment Fund;
 - Advise on the next steps that the Council will need to take to set up the Investment Fund.
- 50 EC Harris recommended that:
- The PIS be flexible enough to allow a range of potential delivery methods as described
 - To generate immediate income, initial investments be focussed directly on property investment and property funds or shares.in their report.
 - Some initial investment is considered into the most liquid categories of delivery methods, property funds and shares. In this way, capital can be deployed quickly and flexibly and in the event further allocations do not become available for future projects, these investments can be readily realised and redeployed.
 - Higher value adding, higher risk activities including development be focussed initially within the District. SDC's knowledge of the District creates a

Agenda Item 5

competitive advantage and allows it to better manage risk and deliver wider SDC objectives.

- In due course investments outside the District should be considered to ensure there is an appropriate balance of income, risk and returns through the accumulated portfolio of investments.

51 EC Harris concludes: -

'Our review of the approach being taken by the Council to set up the PIS has confirmed that based on historic and forecast data, operational returns from investment in property can achieve a 6% income return on investment.

The strategic objectives of the key stakeholders rightly prioritises return on investment, whilst also recognising that as a public body there are wider considerations and sensitivities that the Council must consider.

We have provided a range of investment options which attract varying amount of risk and return. We have set out a potential model to create a balanced portfolio which supports the Council's objectives.

We have shown that the set up of a PIS is organisationally possible and that a balanced, case by case, approach between making investments either directly through the Council, or a Trading Arm, should be taken depending on which route is most beneficial.'

52 As stated above under Governance it is proposed that once established the Company's Board will develop and approve an annual and 5 year Business Plan so that it meets the Shareholder's agreed general investment targets and associated budgets. This will set out in detail the expected financial results of the business. Cabinet will receive half yearly reports.

53 In the interim the Company's activities will be limited to the acquisition of existing investments that meet the following objectives or development opportunities adjacent to existing council assets with development potential that will allow the Council to deliver comprehensive development and benefit from marriage value accruing from the combined ownership.

54 The objectives of the property trading activities

- The Council will invest in a balanced portfolio of property assets with a focus on traditional lower risk sectors including offices, retail, industrial and residential with a focus on freehold property in lot sizes of between £1 and £5 million.
- The portfolio will be developed through a range of means including acquisition of existing investments, development and investment in property funds and shares.
- The Council will invest in a balanced portfolio of property assets with a focus on traditional lower risk sectors including offices, retail, industrial and

residential with a focus on freehold property in lot sizes of between £1 and £5 million.

- The portfolio will be developed through a range of means including acquisition of existing investments, development and investment in property funds and shares.
- Development opportunities that exploit existing Council assets and the Council's knowledge of the District to maximise competitive advantage will be prioritised.
- Investments will achieve an overall target yield of 6% although a balance of lower and higher yielding investments will be considered on their merits to ensure an appropriate balance between risk and return.
- Initial Investments will be within the District but in order to ensure a balanced portfolio opportunities outside the District will be considered on their merits.

55 The investment & other resources required to achieve these objectives

The deployment of Council Reserves through loans to the Company and the initial staffing implications are covered earlier in this report. This will be developed further in the 5 year Business Plan 'in response to the Council's agreed general investment targets and associated budget.'

56 Risks associated with the setting up and operation of the Company are set out in detail above.

57 Investment in property and the carrying out of development activities carries further risks at both macro and micro levels. Property rentals, values and occupancy rates typically fluctuate broadly in line with the regional, national and, increasingly, global economy.

58 The timing of acquisitions and sales can thus have a significant impact on the rate of return as can complementary investment in lower risk or countercyclical investments such as Private Rental Residential property.

59 Historically, however, property rentals and capital returns have delivered growth and as it is the Council's intention to be a long term investor it is considered that these risks can be mitigated through a balanced portfolio approach.

Equality Assessment

60 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

61 It is considered appropriate to make use of the increased power given by the Localism Act 2011 to enable trading to take place for profit through a limited liability company wholly owned by the Council in order that this Council may

Agenda Item 5

enhance the economic wellbeing of the District as well as providing an income stream which will help the Council to be less dependent upon Government funding.

- 62 The Business Case for setting up a company to invest in property assets has therefore been developed with regular input and stage approvals from stakeholders including Portfolio Holder, Cabinet and Council. Its objectives and principles have been tested through Peer Review and expert consultant advice has been sought on the details structural, operational and governance issues. The experience of other local authorities who have adopted a similar approach has also been sought and it is considered that the Business Case is strong.
- 63 Some of the detail relating to the company will need to be finalised following more in depth discussion and advice from specialist external advisers.

Appendices

Appendix – EC Harris Built Asset Consultancy

Lesley Bowles Chief Officer Communities and Business

Christine Nuttall Chief Officer for Legal and Governance

Adrian Rowbotham Chief Finance Officer

Sevenoaks District Council

Property Investment Strategy

Page 25

January 2015

Agenda Item 5

Contacts

	<p>Nick Kealey Partner</p>		<p>Mervyn Howard Property Investment Expert</p>
<p>T: 07810 850175 E: nick.kealey@echarris.com</p>	<p>EC Harris LLP 1 Whitehall Riverside Leeds LS1 4BN</p>	<p>T: 07884 068007 E: mervyn.howard@echarris.com</p>	<p>EC Harris LLP 34 York Way London N1 9AB</p>

Version control

Issue	Revision No.	Date Issued	Description of Revision: Page No.	Description of Revision: Comment	Reviewed by:
Draft	1	13/11/14	Various	Various	M Howard
Draft	3	16/1/15	Various	Updated following meeting with SDC on 12/1/15	M Howard

Introduction

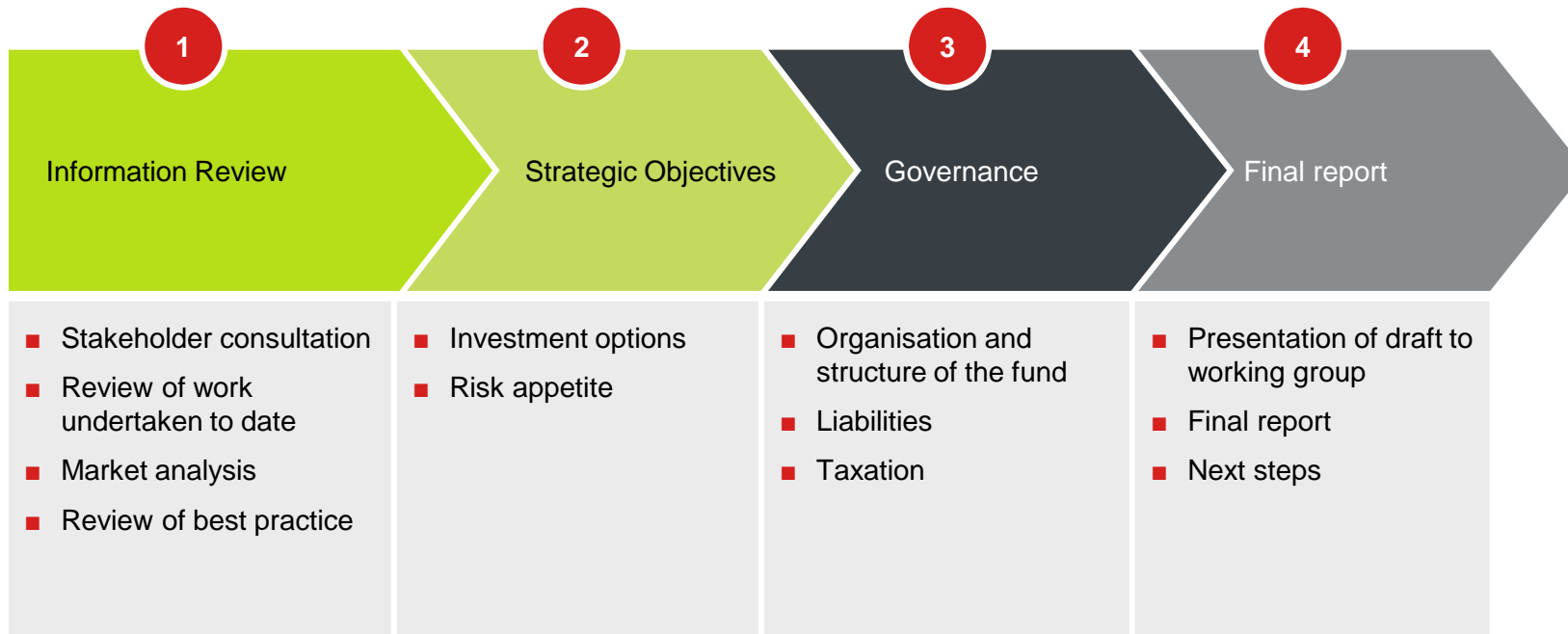
EC Harris was appointed by Sevenoaks District Council (the Council) in October 2014 to prepare a Property Investment Strategy (PIS) to provide recommendations to the Council on its approach to generating an income stream from property to address identified and anticipated shortfalls in Central Government funding.

The aim of the commission is to:

1. Define the objectives for an Investment Fund in the context of the Council's financial and wider corporate objectives;
2. Set out the strategic approach for delivering these objectives;
3. Provide advice on the governance and delivery structure for the Investment Fund;
4. Advise on the next steps that the Council will need to take to set up the Investment Fund.

Page 27

Methodology



Providing expert regeneration and development advice to enable project delivery



Agenda Item 5

Background

The National Context: Public Sector Funding Gap

Prolonged austerity is driving an important shift in local government. The early years of austerity have been characterised by authorities taking action to reduce costs as Central Government funding has been cut by more than 40% by 2017-2018.

Most local authorities recognise that, regardless of whether there is a change of government following the 2015 election, there would not be a significant change to grant funding levels. To respond to this challenge many local authorities are considering alternative revenue streams to replace shortfalls in funding and deliver their statutory responsibilities in new and innovative ways, including:

- Increasing commercialisation of services.
- Generating higher income from business rates.
- Encouraging shared services and strategic partnering arrangements.
- Focusing on housing delivery by unlocking and accelerating the release of surplus public land for the creation of new homes and employment opportunities.
- Seeking to maximise returns from the council's asset portfolio and to drive community benefits over the long term.

Expectations from the PIS

The Council has set a 10 year balanced rolling budget in response to known and expected reductions in Central Government funding. This anticipates a revenue surplus in years 1 to 3, which will subsidise the remaining 7 years of the 10 year plan. This are no budget expectations within this plan for additional revenue generation by the PIS. That said, any additional revenue that can be generated will directly benefit service delivery and support the Council to deliver its Corporate Plan and become self-sufficient.

The Local Context: Sevenoaks DC Response

Since 2011, Sevenoaks DC has delivered savings in excess of £4 million in response to Central Government austerity.

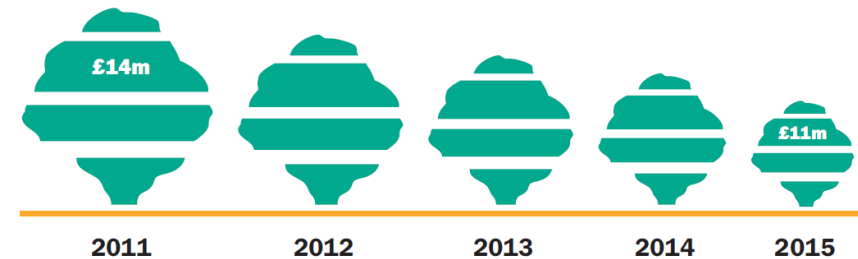
External auditors continue to praise their approach to value for money and highlighting their 10 year budget and 4 year savings plan.

The key vision is to become financially self sufficient – with less need for money from Central Government the more they can achieve with freedom from national constraints and increase the ability to deliver what local people and local businesses want.

Future Plans Include :

- Buy and build new assets that help improve the way [we] provide services.
- Share services with others.
- Raise income from letting out vacant space.
- Borrowing at low rates of interest to enable good levels of return.
- Invest in land and buildings to increase income.
- Continue to support tourism in the area.

Council Budgets 2011 to 2015



Sevenoaks budget reduction between 2011 and 2015

Background (2)

Property Investment Strategy: Work done to date

In July 2014 , the Council agreed to the principle of an Investment Strategy based upon property assets, subject to the following criteria:

- Income yield of 6%+ (flexibility may be applied to those opportunities that show an acceptable social return on investment)
- Individual properties or portfolios
- Lot size of £1m - £5m
- Freehold/ Long leasehold
- Single or multi-tenanted
- Asset categories: Industrial, Office, Retail, Trade Counter and Private Rented Residential
- Initially, geographically located within the District
- Potential to increase rental income through pro-active Asset Management

In addition, the Council has also agreed to set aside up to £5m from a review of reserves for the purposes of the proposals outlined in the Investment Strategy. Following clarification with Senior Officers, we understand that the £5m will be sourced from capital receipts and therefore will not be subject to additional borrowing and the finance costs that this attracts. It is also understood that there is potential to increase the amount set aside for the PIS through additional reserves, further capital receipts, and if required borrowing, although all this would be subject to further Council approval.

Market Insight: Savills report Dec 2013

Sevenoaks DC commissioned Savills to undertake a review of the UK property market on a sectoral and geographical basis and advise on how this translates at a local (Sevenoaks area) level to inform the investment strategy.

The report concluded that there are a number of sector specific opportunities (referenced in the Council approval opposite) in the local area to acquire income producing assets, and if a longer term view was chosen, development opportunities.

Background (3)

What other Local Authorities are doing

Our research has shown that a number of local authorities are seeking alternatives methods of raising additional revenue. However, despite plenty of discussion there are limited examples of Local Authorities setting up Trading Companies for Property Investment, and where they have done this the amount of trade undertaken is relatively low.

Below is a case study from a local authority where a successful Property Investment Trading Companies has been set up, along with a number of other examples of different delivery vehicles and revenue generating activities.

The **Royal Borough of Windsor & Maidenhead** has set up a trading company (Two5Nine Ltd) to invest in the refurbishment of vacant Council property for the private residential market. The investment would generate a secure future income stream as well as benefit from enhanced capital assets. Following a £350k refurbishment, the scheme is generating rental levels of £850 - £950 per flat per calendar month. (Source: *Public Land, Public Good; Getting maximum value from public land and property, Localis*)

Surrey County Council has set up a framework to establish one or a number of Trading Companies to pursue a strategy of commercial trading across a number of service areas. Each one will be a new legal entity, limited by shares and wholly owned by Surrey County Council. The Leader of the Council will Chair the Shareholder Board. Other members will include up to 3 appointed Cabinet Members, and the Chief Executive of the Council. The Section 151 Officer and Monitoring Officer will be advisers to the Board and membership will be reviewed annually.

All decisions regarding the day to day operation of each Trading Company, its business developments and commercial opportunities and the development and implementation of its internal procedures, would rest with the Directors of each Trading Company. Where Council services are commissioned from the Trading Company, Select Committees would scrutinise overall value for money and Trading Company performance of the contract.

(Source: *Council Overview and Scrutiny Committee Report, Sept 2013, Surrey County Council*)

Local authorities have also set up trading companies to deliver a range of services from depot services (e.g. Cormac Solutions Ltd – Cornwall Council); social services (e.g. Essex Cares); green waste collection (e.g. Rushcliffe Borough Council); professional services (e.g. Norse Group – Norfolk County Council)

Local Asset Backed Vehicles

A number of local authorities, including Slough Borough and Croydon have set up Local Asset Backed Vehicles (LABVs) to generate new revenue, capital receipts, and deliver regeneration outcomes. The LABV is a joint venture between the local authority and the private sector. The local authority invests the value of its assets, the private sector brings investment and development expertise. The development risk and financial returns are shared based upon the level of investment made.

Self Development

Local authorities are becoming increasingly more attracted to undertaking self-development in order to maximise returns both in terms of enhanced capital receipts and additional revenue. Access to finance, either reserves or borrowing are required, as well development capability and capacity. The most commonly found examples of the use of self-development is where the Council has developed assets with known end user requirements from other public sector organisations, where the covenant strength will be strong and they can 'trade' on their established relationships and the public sector partnering ethos e.g. medical centres.

PIS Strategic Objectives

Introduction

To understand the strategic objectives of the PIS, a workshop was held with Senior Officers and Members of Sevenoaks DC. We strongly recommend that the operation, structure of the delivery vehicle, and governance of the PIS is developed to respond to these strategic objectives and not the other way round i.e. **Form should follow function.**

Financial focus vs Delivering the Objectives within the Corporate Strategy

The Council's vision is 'to sustain and develop a fair, safe and thriving local economy' and to achieve this five promises are set out within the Corporate Plan. 'Invest in land and buildings that increase [our] income' is part of the future plan to deliver to the first promise 'To provide value for money'.

Following consultation, the consensus of opinion was that the primary focus of the PIS is to deliver a financial return and sustainable revenue stream for the Council. Whilst supporting the other promises is important and desirable, it is not seen as the primary driver. This is an important point as introducing potentially competing objectives can slow decision making, and impact upon the financial performance of the PIS.

The following high level criteria have been suggested to inform the investment decision process:

- Category 1 – Return on Investment, in any location with purely financial/return objectives
- Category 2 – As above, but within the District (and as result delivering some local benefits)
- Category 3 – As above, but also able to deliver wider regeneration and Corporate objectives

The aggregation of investments in all three categories should meeting the Council's anticipated income yield of 6%+ within appropriate risk parameters.

The above criteria provides a strategic framework and the more detailed PIS objectives captured over the page provides a further level of assessment which will determine how the PIS operates to meet stakeholders' expectations.

It is recommended that individual investment business cases, whilst focused on the financial issues, also consider the wider socio-economic impacts that may be delivered as a result of investment through the PIS.

EC HARRIS
BUILT ASSET
CONSULTANCY

AN  ARCADIS COMPANY



Above: SDC's five promises within the Corporate Plan

PIS Strategic Objectives (2)

The following investment criteria have been identified:

PIS requirement	Reason for requirement	Potential approach taken to inform PIS and impact on performance
Low risk initially moving to higher risk over time	<ul style="list-style-type: none"> - Recognising that the Council has limited experience and evidence of benefits will need to be evidenced to demonstrate value to stakeholders and the wider community. 	<ul style="list-style-type: none"> - Identify potential lower risk sources of revenue initially, moving to a more balanced risk portfolio - Levels of return initially may be low
Focus on revenue (rather than capital)	<ul style="list-style-type: none"> - To meet revenue funding gap 	<ul style="list-style-type: none"> - Consideration for investing in existing property funds - Acquire to hold, rather than to dispose - Re-invest any capital receipts
Short term revenue generation	<ul style="list-style-type: none"> - To meet short term funding requirements 	<ul style="list-style-type: none"> - Seek to invest initially in current revenue generating assets or property funds in the short term. However ROI on investment may be low. - In the medium term, identify opportunities for greater ROI by taking a longer term approach e.g. acquisition of vacant properties, development to realise a revenue stream.
Ability to manage PIS with reference to current capacity and capability	<ul style="list-style-type: none"> - The Council has limited resources experience in property related investment and development 	<ul style="list-style-type: none"> - Consider simpler investment opportunities at the outset - Property and investment experience to be considered within any governance structure - Seek professional support to guide investment decisions and monitor performance
Ability to make quick decisions	<ul style="list-style-type: none"> - The Council's current governance structure does not allow the Council to react quickly to investment opportunities 	<ul style="list-style-type: none"> - Consideration for amendments to the levels of delegated decision making - Set up of a separate Trading Arm which will be empowered to be able to make quick decisions

PIS Strategic Objectives (3)

The following investment criteria has been identified:

PIS requirement	Reason for requirement	Potential approach taken to inform PIS and impact on performance
Control over investment decisions	<ul style="list-style-type: none"> - It is important to the Council that they control the nature of the investments to allow the opportunity to mitigate potential risks 	<ul style="list-style-type: none"> - Indicates a preference towards direct investment (rather than investment into property funds) - If working with the private sector, preference is to have a controlling majority over decision making.
Stakeholder buy-in	<ul style="list-style-type: none"> - Recognising that the PIS needs long term stability and cross political support to be successful 	<ul style="list-style-type: none"> - Stakeholder consultation and engagement throughout the development of the PIS - Regular reports and reviews of PIS performance
Transparency	<ul style="list-style-type: none"> - Meets the Council's audit and scrutiny requirements - Demonstrates basis of investment decisions and value for money 	<ul style="list-style-type: none"> - Business cases required to support all investment decisions - Independent appraisal and evaluation - Regular reporting and review of PIS performance
Commercial and political sensitivity	<ul style="list-style-type: none"> - Recognising that the set up and operation of the PIS may create conflicts of interest - As a public body, there are reputational risks that may impact upon the nature and type of investments. 	<ul style="list-style-type: none"> - Consider setting up a Trading Arm which may allow some level of independence from the Council - Review governance structure for the PIS to mitigate any obvious conflicts of interest. - Consider the reputational risks for the Council within any investment opportunities (even if delivered through Trading Arm)

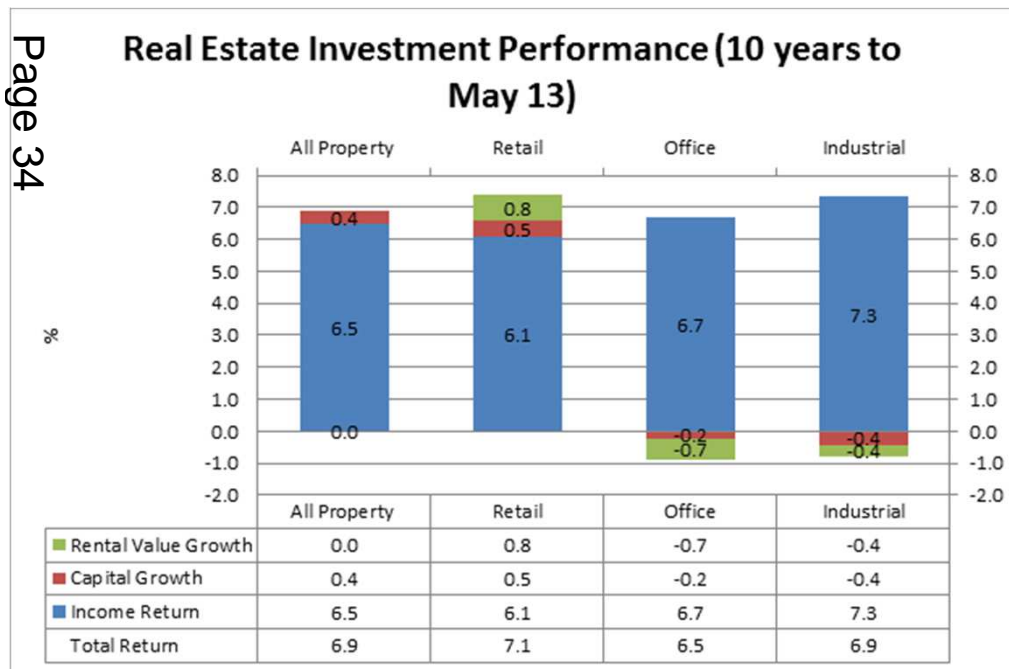
Achieving the Financial Objective

The financial objective of the PIS is to achieve a 6% income return. Different types of investment will provide different levels of return, income and capital.

The chart below shows the average income and total returns for the main property types over the last 10 years, based on data from the Investment Property Databank ("IPD"). *Please note these numbers relate to the returns from the property investments and do not include any costs of managing those investments.*

Historic data shows that a 6% income return from property is achievable over the longer term and through a full economic cycle

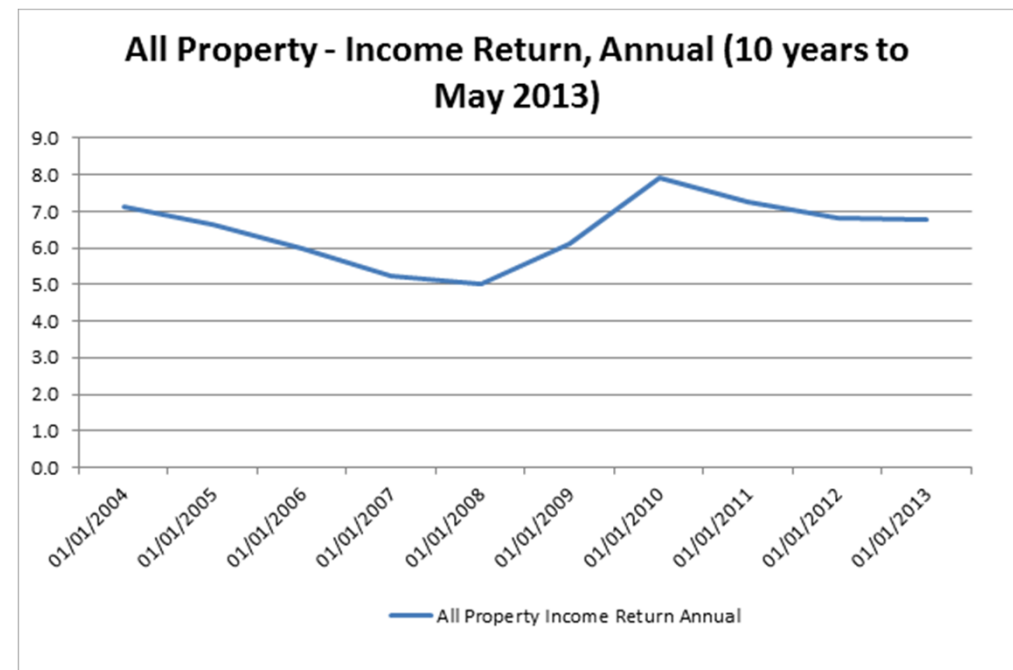
Page 34



Various factors will affect the level of income return a property investment strategy will deliver over time including;

- the **general economic environment** (driving rent growth or reductions)
- **interest rates** (low rates drive prices up and property yields down)
- **investment demand** (high liquidity drives prices up and property yields down)

The chart below shows the income return from property annually for the last 10 years, based on data from IPD. Please note these numbers relate to the income returns from the property investments and do not include any costs of managing those investments.



Historic data shows that it is not always possible to achieve a 6% income return and that recent trends are for income returns to decrease.

Agenda Item 5

High Level Property Market Insight

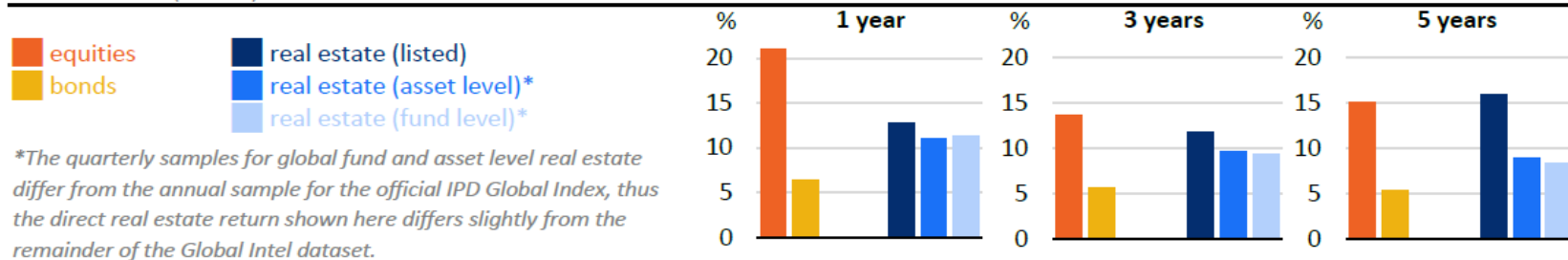
IPD has just released its first analysis of global property performance, reflecting different methods of investing in property (direct, unlisted funds and listed property company shares) and analysed the returns and risks associated with each over various time periods. In addition comparable return and risk analysis is provided for other types of investments – bonds and general equities.

This shows:

- investing in direct property has the second lowest risk (after bonds) as measured by volatility (standard deviation)
- for property investment options:
 - higher returns can be earned from investing in listed property shares and property funds
 - over a five year period listed real estate gave materially the highest absolute and risk adjusted returns
 - over a 10 year period listed real estate gave the highest absolute return (just) but as a result of high volatility direct property gave materially the highest risk adjusted returns

ASSET CLASS COMPARISONS

as of 2014-Q2 (Global)



RISK METRICS

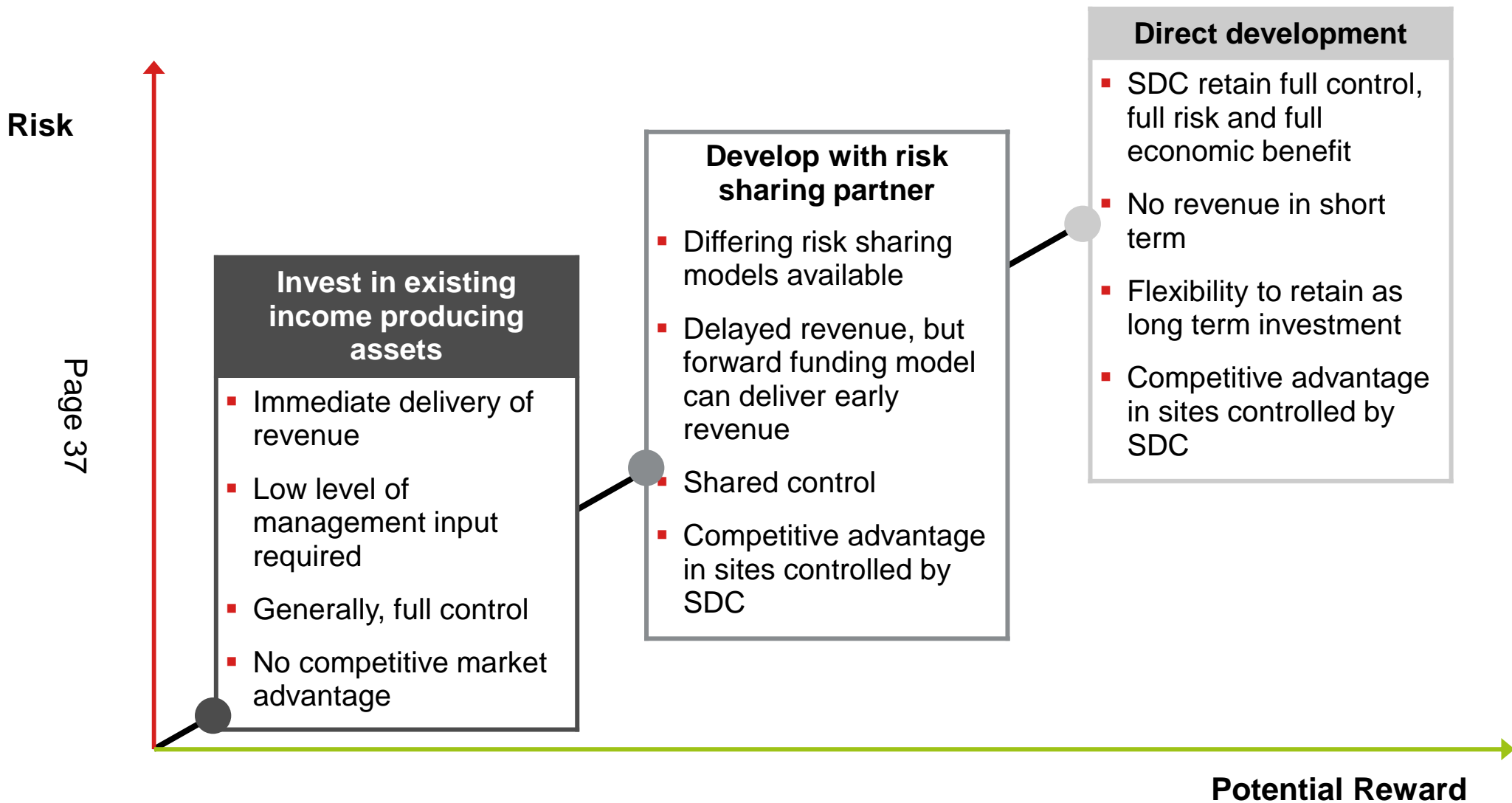
as of 2013

Global Indicators

	10-Year*			5-Year*		
	Total Return	Std Dev	Sharpe Ratio	Total Return	Std Dev	Sharpe Ratio
Real estate (direct)	7.0	7.3	0.57	5.2	6.9	0.36
Real estate (net fund)*				3.2	14.7	0.09
Real estate (listed)	8.0	26.0	0.32	14.8	15.6	0.85
Equities	7.0	19.3	0.30	14.9	13.8	0.96
Bonds	4.5	3.6	0.29	3.9	3.8	0.29

Delivery Options

There are a range of investment strategies with different financial, risk, and timing profiles

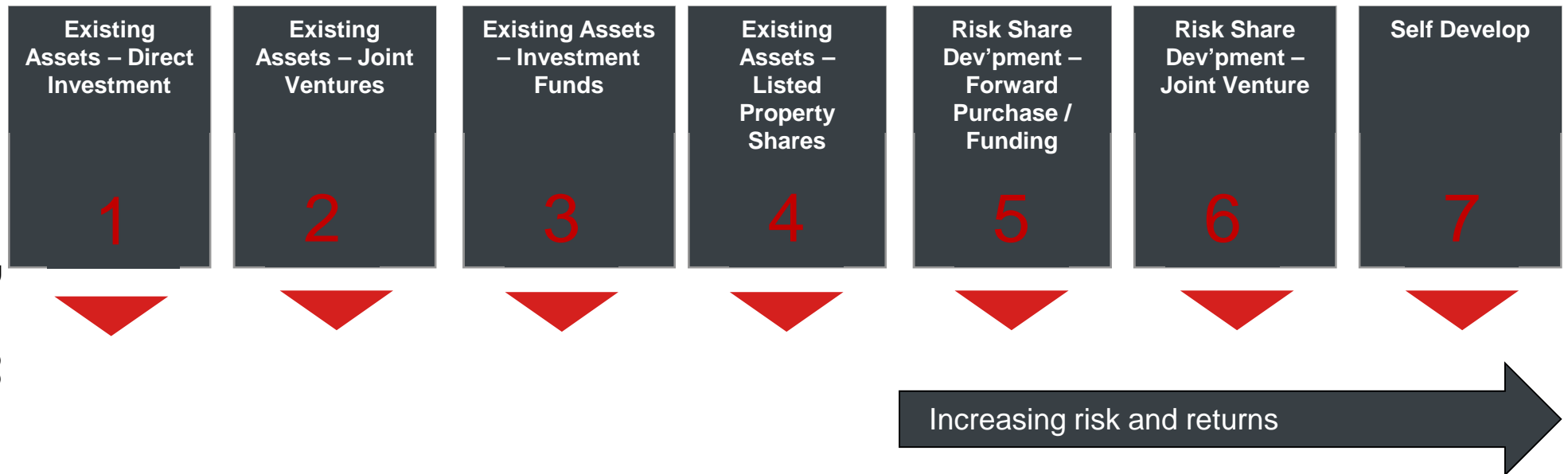


Page 37

Agenda Item 5

Each of these models could be used to deliver the Council's investment strategy

There are a number of delivery options for the investment strategy



Each model has benefits and limitations which can be assessed against SDC's key drivers

1. Existing Assets – Direct Investment

What is it?

- The Council acquires and manages freehold or leasehold properties.

How does it work?

- The Council uses property professionals to identify market opportunities.
- After deciding on price and clearing appropriate internal approvals, bid for assets.
- Using appropriate advisors (legal, surveying, valuation) undertake due diligence and complete legal acquisition documentation.
- Establish on going management arrangements (internal or outsourced).
- Regular asset reviews to determine business plan and exit strategy.
- Process required on an asset by asset basis.

Benefits

Financial Objective

Depending on property type, is capable of delivering 6% annual return

Revenue Delivery

Generates revenue from the time of the property acquisitions

Risk

Low risk option

Control

High level of control

Liquidity

Reasonable liquidity, subject to usual property market timings

Management Oversight

Relatively light requirement – high involvement at key decision points (buying and selling)

Limitations

Performance

Low return option and no competitive market position

Diversification

Desired diversification unlikely to be achieved given current potential capital allocation

2. Existing Assets – Joint Venture

What is it?

- The Council acquires and manages freehold or leasehold properties together with a partner.

How does it work?

- The options are to approach this on a case by case basis or create a strategic relationship with a trusted partner.
- The Council will wish to select a partner or partners on the basis of their demonstrated expertise and ability to co-invest with the Council (assume 50/50). The Partner will carry out much of the management role.
- The Partner will identify market opportunities.
- The JV will include governance allowing Council input on key decisions, including acquisitions and sales.
- The Partner is responsible for on going management arrangements.
- Council rights to review business plan and exit strategy.

Benefits

Financial Objective

Depending on property type, is capable of delivering 6% annual return

Revenue Delivery

Generates revenue from the time of the property acquisition

Risk

Lower risk option – JV partner risk added

Control

Medium level of control

Liquidity

Reasonable liquidity, subject to usual property market timings and governance of JV

Management Oversight

Light requirement – JV partner undertakes most of the direct acquisition, management and sales work

Limitations

Performance

Low return option. Partner selected to bring track record and potentially competitive market position

Diversification

Diversification improved given additional Partner capital contribution but still unlikely to be at desired level

3. Existing Assets – Investment Funds

What is it?

- The Council invests in an unlisted property fund which owns a range of diversified property investments.

How does it work?

- The Council will undertake a process of reviewing available fund options and the track record of the fund managers.
- Once capital is invested the entire responsibility for acquiring and managing the investments is delegated to and the responsibility of the fund manager.
- The fund manager will report and pay distributions to the Council on a regular basis, usually quarterly.
- The fund documentation will set out the rights of the Council to redeem its investment and/or to sell it on the secondary market. The nature of these rights will vary depending on the type of fund.

Benefits

Financial Objective

Depending on fund type, is capable of delivering 6% annual return

Revenue Delivery

Generates revenue from the time of the fund investment – generally a shorter time than investing in direct property

Risk

Risk is determined by the nature of the fund. Additional risks relate to the fund structure, principally the performance of the fund manager

Performance

Returns are related to the specific investment strategy of the fund and manager performance.

Diversification

Fund investment can spread risk over a large number of underlying assets.

Control

High level of control of fund interest

Management Oversight

Very light requirement

Limitations

Liquidity

Unlisted investment funds generally have a low level of liquidity, particularly in market downturns.

4. Existing Assets – Listed Property Shares

What is it?

- The Council invests in listed property shares in a fund or a separate account mandate managed by a specialist fund manager.

How does it work?

- The Council will undertake a process of reviewing managers and available fund options and selecting an appropriate investment strategy.
- Once capital is invested the entire responsibility for acquiring and managing the investments is delegated to and the responsibility of the fund manager.
- The fund manager will report and pay distributions to the Council on a regular basis, usually quarterly.
- The mandate with the fund manager can be structured to allow an immediate liquidation of the investment portfolio if required.

Benefits

Revenue Delivery

Generates revenue from the day the property shares are acquired – share transactions can be effected in a short time period

Liquidity

The highest level of liquidity

Risk

The risk and return level is flexible and can be altered over time by reference to the agreed investment strategy

Diversification

Risk can be spread over a large number of underlying property companies/assets.

Control

High level of control

Management Oversight

Very light requirement

Limitations

Performance

Higher volatility than direct property. Longer term performance correlates to property but short term can correlate to general equity markets

Financial Objective

Dividend yields generally lower than direct property yields – to be investigated further.

5. Risk Share Development – Forward Purchase / Funding

What is it?

- The Council enters into an agreement with a developer to fund part of the development cost and/or acquire a development on completion.

How does it work?

- The Developer will identify a market opportunity (although it may come from the Council) and carry out the development functions.
- The Council will be able to determine the risk profile it wishes to take on in entering the arrangement with the developer (e.g. after planning permission has been secured and construction packages have been tendered).
- During the construction stage the Council will likely require monitoring rights.
- Post development completion (as per direct investment):
 - Establish on going management arrangements (internal or outsourced).
 - Regular asset reviews to determine business plan and exit strategy.

Benefits

Financial Objective

Should deliver a premium to pure investment activity, so at least a 6% income return dependent on property type

Performance

A higher level of performance than investment activity

Risk

The risk of development is highly mitigated by the forward purchase/funding arrangements

Control

High level of control

Management Oversight

Moderate level once the transaction is agreed

Limitations

Revenue Generation

Revenue can accrue to the investment when funded, but this will only occur during or at the end of the development period

Diversification

Desired diversification unlikely to be achieved given currently contemplated level of investment

Liquidity

Low liquidity during the development period, thereafter as per the general property market

6. Risk Share Development – Joint Venture

What is it?

- The Council enters into a JV agreement with a developer to carry out a specific development.

How does it work?

- The Developer will identify a market opportunity (although it may come from the Council) and carry out the development functions.
- The risk of the development will be shared 50/50 between the Council and the Developer.
- The Council will be involved in key decisions during the development period.
- Post development completion (as per direct investment):
 - Establish on going management arrangements (internal or outsourced).
 - Regular asset reviews to determine business plan and exit strategy.

Benefits

Financial Objective

Should deliver a premium to pure investment and forward purchase/funding, so at least a 6% income return depends on property type

Performance

A higher level of performance than investment and forward purchase/fund development activity

Risk

The risk of development is mitigated by careful partner selection and development stage oversight

Control

Strong level of control through JV documentation

Management Oversight

Meaningful level of oversight required

Limitations

Revenue Generation

Revenue will only accrue once the development is completed and leased (or sold).

Diversification

Diversification improved given Developer 50% capital contribution, but still unlikely to be at desired level

Liquidity

Low liquidity during the development period, thereafter as per the general property market

7. Self Development

What is it?

- The Council undertakes a development itself, appointing a development manager.

How does it work?

- The Development Manager will identify a market opportunity (although it may come from the Council) and carry out the development functions.
- The risk of the development will be taken 100% by the Council.
- The Council will be involved in key decisions during the development period.
- Post development completion (as per direct investment):
 - Establish on going management arrangements (internal or outsourced).
 - Regular asset reviews to determine business plan and exit strategy.

Benefits

Financial Objective

Should deliver a premium to pure investment and forward purchase/funding, so at least a 6% income return dependent on property type

Performance

The highest level of performance – the Council retains all development profit

Risk

The risk of development is mitigated by appointment of expert development manager and adoption of thorough risk management strategy

Control

Complete control with the Council

Limitations

Management Oversight

High level of oversight required

Revenue Generation

Revenue will only accrue once the development is completed and leased (or sold).

Diversification

Desired diversification unlikely to be achieved given the currently contemplated level of investment

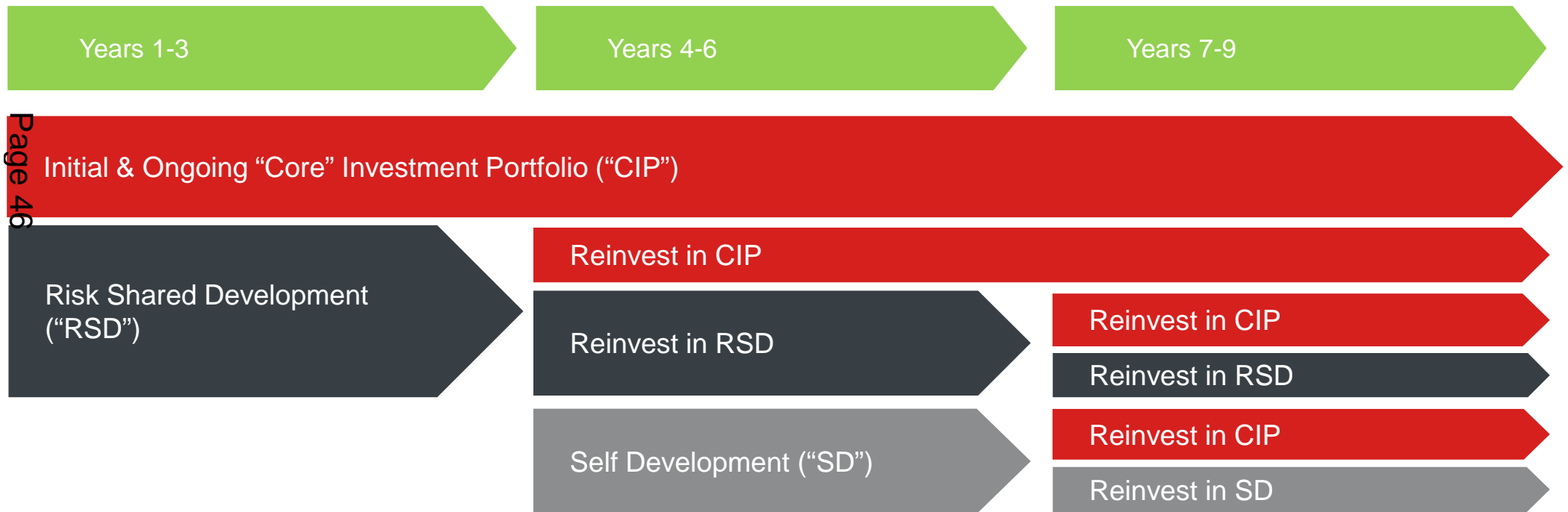
Liquidity

Low liquidity during the development period, thereafter as per the general property market

Achieving Greater Return

It is understood that SDC is intending to plan for a growing shortfall in Central Government funding which may result in a desire to achieve greater than a 6% income return on its initial PIS investment over time. This can potentially be achieved in two ways. Firstly by increasing the amount of PIS investment while still achieving a target 6% income return. And secondly by taking greater risk in the investment strategy.

A potential model for taking progressively, and measured, increased risk over time is shown below. The intention is that a blend of risk profiles are employed and that the proceeds of higher risk (and shorter term) activities are partly redeployed back into the lower risk, long term sustainable “core” investment strategy. It also envisages that additional funds can be made available after the first three year investment period.



Leveraging the Investment Pot

Whilst there are a number of potential constraints imposed upon the Council which will result in the PIS operating in a different way to a commercial property company, there are areas of competitive advantage over the private sector which we recommend should be leveraged to enhance the performance of the PIS or create/ identify opportunities that are not open to others.

1. **Use of Prudential Borrowing** – whilst there is no initial requirement for prudential borrowing, if finance was required to grow the portfolio the Council can access funding at significant lower rates than the private sector. Comparatively, this results in better return on investment or improved development margin.
2. **Tax Efficiencies** – there may be opportunities where investment can be made directly through the Council which is potentially more tax efficient than private sector delivery vehicles (further details about taxation is included in Annex A).
3. **Access to Public Sector Grants** – whilst recognising potential State Aid issues, there is potential to use sources of public sector grant to support and benefit investment made through the PIS.
4. **Use of existing assets** – there may be opportunities to optimise the value of existing assets through acquisition of neighbouring sites using the PIS. The ‘marriage value’ of existing and acquired sites is likely to be greater than individual sites.
5. **Strategic acquisitions** – whilst mindful of potential conflicts of interest with the Local Planning Authority, the Council is in a unique position to make investments with the benefit of foresight of future development, demographic, and spatial trends, as well as planned infrastructure spend.

6. **Offset Section 106 requirements** – there may be opportunities to meet Section 106 requirements across a property portfolio, which not only allows affordable housing to be provided where it is most needed (potentially on the less valuable sites) but also potentially minimises the requirement on more valuable sites.

Recommendations on Delivery Options

Given the PIS objectives and opportunities available to SDC within the District our recommendations are as follows:

1. The PIS be flexible enough to allow all seven potential delivery methods as described in this report.
2. To generate immediate income, initial investments be focussed on delivery methods 1 to 4 (direct property investment and property funds or shares).
3. Some initial investment be considered into the most liquid categories of delivery methods, namely 3 and 4 (property funds and shares). In this way, capital can be deployed quickly and flexibly. In the event further allocations do not become available for future projects, these investments can be readily realised and redeployed.
4. Higher value adding/risk activities (delivery methods 5 to 7) be focussed initially within the District. The SDC's knowledge of the District creates a competitive advantage and allows it to better manage risk and deliver wider SDC objectives. We understand a pipeline of opportunities is already under consideration.
5. In due course investments outside the District should be considered to ensure there is an appropriate balance of income, risk and returns through the accumulated portfolio of investments.

Governance Arrangements

Governance – Policy Context

Introduction

In order for the PIS to be successful a governance structure needs to be put in place that allows that allows the Council to trade on a commercial basis, whilst recognising the statutory and political boundaries that must be observed. Equally, given that the Council will likely be the main sources of resources, in the form of investment, assets, and skills, it needs to be a structure that Members and Officers are comfortable with.

Localism Act

The Local Government Act 2003 contained specific powers for Local Authorities to trade in its own right. In addition, the Localism Act (2011) allowed Local Authorities the ability to do any activity that a private individual is able to do, subject to certain statutory limitations. However, the Localism Act also made it a requirement for Local Authorities to undertake any activity for a commercial purpose within a company and not directly through the Local Authority. This has implications for the PIS. Previously, Local Authorities used the tax advantages afforded by a Limited Liability Partnership (LLP) to trade. This option is no longer available to Local Authorities and trading now should be undertaken through a limited company, which does attract tax and other costs.

The Council has in principle agreement to set up a Trading Company to facilitate opportunities for income generation.

Structural Options for the PIS

Setting up a Trading Company clearly has benefits from a delivery and operational perspective. However, operating in a such a way can attract additional cost and tax liability which will impact upon the performance of the PIS. As a result, it is recommended that the Council also uses its own corporate vehicle to undertake activity where it is able and beneficial for it to do so. For example, some commercial investments could be made directly through the local authority, whereas residential investments may need to be made through a Trading Company due to the Council having transferred its Housing Revenue Account.

Governance – Structural Considerations

There are a number of issues that require further consideration in the context of the most appropriate governance structure and delivery vehicle for the PIS.

Issue	Context	Potential approach for PIS
Focus	Commercial activity within a local authority context can be challenging due to potential competing objectives and interests, and as a result make it difficult for the PIS to focus on ROI	- A Trading Arm makes it easier to focus on commercial return. Directors of the Company will be obliged to focus on the interests of the Company as opposed to wider Council objectives
Speed of decisions making	Local authority governance arrangements often make it difficult to quick and effective decisions which can lead to lost opportunities e.g. bidding for a site acquisition.	- A Trading Arm can be empowered to make quick decisions based upon its constitutional arrangements and agreed levels of devolved decision making
Partnering	If SDC was to partner with the private sector (or potentially other public sector bodies) in order to secure additional investment, resources, or expertise it is likely that this would be done through a arms length delivery vehicle.	- Setting up a Trading Arm for the PIS could make it easier to facilitate a partnering arrangement if it was required.
Local authority approval	Under Sections 95/96 of the Local Government Act 2003, the business case for the set up a trading company needs to be approved by the Local Authority.	- SDC has already given in-principle approval for the set up a Trading Company. A full business case would need to be developed and approved by the Council.
Cost efficiency	Setting up and operating a Trading Company can attract additional costs over and above what would be incurred in a local authority context.	- Subject to the company being a 'Teckal' entity, it can use the services of the Local Authority rather than having to employ its own resources - State Aid should be considered in relation to how the company accounts for the costs of services, as well as any other resources (accommodation etc) and finance.

Governance – Structural Considerations (2)

There are a number of issues that require further consideration in the context of the most appropriate governance structure and delivery vehicle for the PIS.

Issue	Context	Potential approach for PIS
Tax implications	Formal advice is required on this but generally investing through a corporate vehicle will result in taxes applying that would not otherwise be applicable for the Council. These include income/corporation tax and capital gains tax, depending on the characterisation of the activity undertaken (further details are included in Annex A)	<ul style="list-style-type: none"> - Efficient structuring can be used to appropriately mitigate these taxes to some extent.
Procurement	Both the Council and any Trading Arm it creates and controls will be subject to Public Procurement Rules with respect to delivering Works and Services (with the exception of services from the Council to the Trading Arm which can be subject to the Teckal exemption)	<ul style="list-style-type: none"> - Recognise that this potentially adds an additional cost and time delays to some types of investment activity e.g. development - Consider the set up or use of a framework for delivering Works and Services within the PIS
Transfer of assets	If assets are to be transferred into or from the Trading Arm it is likely that SDLT (see later section) will be incurred. It is also likely that Section 123 under the Local Government Act 1972 to achieve 'best value' will apply and as a result transfers will need to be at market rate.	<ul style="list-style-type: none"> - It is important to consider which entity is best placed to own the asset. We recommend the default position should be the Council, albeit in some instances where investment is made in residential assets, this may not be possible.
Conflicts of interest	The governance structure for the PIS should seek to avoid potential conflicts of interest which may either restrict its activity or create a reputational risk for the Council	<ul style="list-style-type: none"> - Consider membership of the Board for any Trading Arm or delivery structure. - Create 'Chinese Walls' between members of the Planning Committee and Planning Officers

Page 52

Agenda Item 5

Governance Arrangements

Introduction

Our report has highlighted that there may be opportunities where it is both beneficial and in some cases necessary to use a Trading Arm. However, we recommend that the delivery arrangements for each investment decision is made on its own merits. This section considers the potential governance arrangements that need to be put in place for a Trading Arm.

In considering the optimal governance arrangements for the Trading Arm the Council will need to decide not only who ought to be the Directors of the entity, but also what decisions are most appropriately made by the shareholder (the Council, through existing procedures) and by the Trading Arm itself (by the Directors).

Shareholder Decisions

At this stage it is envisaged that the Trading Company will be a Company limited by shares with the Council retaining a 100% shareholding. However, there is no reason why the private sector could not take a shareholding of the main company or subsidiary as long as Public Procurement Rules were observed. We have identified the following areas as likely key areas where decisions should be made by the shareholder(s):

- **Purpose** – defining the purpose and permitted activities of the Company
- **Capital structure** – how much finance to put into the company and on what terms?
- **Distribution policy** – is all trading profit to be returned to the shareholders or is any retained for future investment and/or running capital?
- **Board composition and appointments** – to agree the structure of the Board (see below) and approve specific appointment.
- **Appointment of auditors** – to provide transparency and as required under Company Law.

Company Decisions

Once the shareholder(s) have made the key decisions as suggested above more detailed operation decisions would be delegated to the company acting through its Board of Directors. Typical areas for the Directors to consider and approve include:

- **Annual and 5 year business plan** – agreeing the general investment targets for the period and an associated budget (although the shareholder(s) may wish to have separate approval rights).
- **Specific investment transactions** – acquisitions, sales, borrowing (if applicable) and other key transactions
- **Appointment of service providers** – lawyers, valuers, due diligence advisors, property managers, etc.
- **Reporting** – reporting arrangements to FRAC (Financial Resources Advisory Committee), Cabinet etc

Board Make-Up

There is no ideal make-up or size (although typically a minimum of 3 and a maximum of 6 members) for a Local Authority Trading Company, and therefore we have set out the options which the Council may want to consider. However, whatever board make-up is chosen, we recommend the following skills and experience are inherent within the Directors:

Skills and experience required –

- Financial
- Property
- Legal
- Investment
- Governance – other Board experience
- Private sector

Governance Arrangements (2)

Options for Board Make-Up -

Regardless of the make-up it is important that the rights and duties of Board Members under Company Law are understood and as a result irrespective of other Council interests, their primary responsibility as a member will be the interest of the Company.

Make-Up	Advantages	Disadvantages
1. All Members	Public accountability	Potential conflicts of interests Potential capability issues
2. All Officers	Effective and efficient link between Board and delivery team No conflicts	Potential capability issues
3. Hybrid of 1 & 2	Combines the advantages of 1 & 2	Combines the disadvantages of 1 & 2
4. 1, 2, or 3 with non-exec directors	Additional skills Independence	Non Exec Directors will expect remuneration

We strongly recommend consideration for the inclusion of Non-Executive Directors as this should bring not only bring additional skills but also demonstrate independence. In many cases of best practice we have found that a Non Exec Director has been responsible for appointment of auditors etc to demonstrate greater transparency.

Industry Practice

- Private Sector** - Best practice in the private sector is to be found in the listed and fund management sectors. In the listed property company sector it is a standard requirement to have non-executive directors on company boards as well as senior management and sometimes representatives of significant investors. In the fund management industry there is usually a separation between the manager/promoter of a fund and the investors. The manager/promoter is often an investor as well. Governance practices were reviewed following the global financial crisis and it has become common practice to have non-executive (or independent) directors on Fund Boards or Advisory Committees along with manager and investor representatives.
- Public Sector** - Arms length trading companies and Special Purpose Vehicles (SPVs) vary significantly in form and function. Some public bodies have made the decision to retain a level of Member involvement in order to ensure a level of accountability is retained; others see Member involvement as creating a potential conflict of interest. Equally others have taken the decision to focus on Officer board membership which helps addresses some of the conflict issues; however arguably given their responsibilities to Members, may not allow them the ability to work independently and in the best interests of the Company. The presence of Non Exec Directors on the board is generally seen as a positive so long as they do not have a controlling majority and conflicts of interest can be managed.

Board Function

The role of the Board, the type and nature of activity it is able to undertake, and the decisions it is able to make will be set out in the Articles of Association. We recommend that an organisational business plan, that sets out the full proposed programme of activity, is developed to support the formal set up of the company and then reviewed and signed off by the shareholders (the Council) on a yearly basis. This should set out the parameters for the Board to make individual investment decisions.

Governance Arrangements (3)

The Role of Non-Executives

The role of the non-executive director is to bring both relevant experience and independence to the Board. This will involve:

- appropriate challenge to the executive members of the Board and/or to those presenting proposals for approval
- to be a separate voice of communication to the shareholder(s)
- to be a sounding board for the SDC officers involved in the PIS
- potentially to be the independent arbiter of any internal SDC conflicts of interest that may arise in relation to the implementation of the PIS.

As such it is important that there be no inherent conflicts of interest in those selected for the role of non-executive director.

Given our recommendations on the other Board members, we believe the key skills required for the non-executive directors are

- property and investment experience, ideally both from direct property investment and development and also from the property fund management industry
- experience of working on Boards or Advisory Committees representing multiple investors
- potentially with a legal background, given the various potential delivery methods contemplated by the PIS.

Recommendations on Governance

Given the objectives and structural requirements of the PIS we would recommend

1. The set up of a separate trading company to give the PIS independence from SDC and allow it to focus on its objectives.
2. Establish a Board with the appropriate mix of skills and experience to enable the company to perform successfully. We would recommend a Board membership initially comprising of five directors – three Council officers covering the following areas of expertise – economic development & property, finance, and legal; and two non-executives. This number and mix will allow the Council to retain control of the company whilst benefiting from the external viewpoint and expertise brought by the non-executives.
3. To facilitate decision making, we would recommend that quorum would be achieved through the voting of a minimum of three directors, of which one of these would be a non-executive.
4. We recommend that the non-executive directors be selected on the basis of relevant professional experience in property investment and corporate governance, and with careful consideration given to any potential conflicts of interest.
5. We have discounted the option of members becoming directors of the company given the potential for conflict of interest and influence over any Council officers involved. If there is concern about the lack of member presence, we would recommend that this is limited to one, and the appointed member to the Board has relevant recent experience and/or has responsibility for a relevant portfolio.
6. Consideration is given on a case by case basis as to the ownership of assets within the PIS in order to minimise SDLT liability.
7. That all costs, including those associated with Council resources, are properly accounted for within the trading company to ensure compliance with State Aid regulations and minimise tax liabilities.

Summary/ Next steps

Summary

Our review of the approach being taken by the Council to set up the PIS has confirmed that based on historic and forecast operational returns from investment in property can achieve a 6% income return on investment. We have captured the strategic objectives of the key stakeholders which will inform the type and nature of the work undertaken within the PIS. This rightly prioritises return on investment, whilst also recognising that as a public body there are wider considerations and sensitivities that the Council must consider. We have provided a range of investment options which attract varying amount of risk and return. We have set out a potential model to create a balanced portfolio which supports the Council's objectives.

We have shown that the set up of a PIS is organisationally possible and that a balanced, case by case, approach between making investments either directly through the Council, or a Trading Arm, should be taken depending on which route is most beneficial. We have outlined some of the governance arrangements that would need to be put in place for the set up of the Trading Arm.

Our specific recommendations are set out on pages 24 and 32 of this report.

Next Steps

1. There are a number of key decisions that now need to be made to progress the PIS.
 - Attitude to risk - reach consensus amongst the stakeholders about the level of risk that they are willing to take within the PIS, and as result manage expectations around the level of returns that can be anticipated.
 - Investment strategy – with reference to risk and return, decide which investment options should and should not be considered for the PIS
 - Governance – review the recommendations made on governance and membership of the Board of Directors for the Trading Arm.
2. Create a Business plan and Articles of Association in order to seek formal agreement from the Shareholders for the set up of the Trading Arm. The contents of the Business Plan would be expected to include:
 - The objectives of the business
 - The investment and other resources required to achieve those objectives
 - Any risks the business might face including how to mitigate against those risks
 - The expected financial results of the business, together with any relevant outcomes the business is expected to achieve.
3. Seek further advice in relation to taxation issues and legal input into the incorporation of the Trading Arm

Annex 1 – Potential Taxation Issues

Potential Tax Liability	Relevance to the Property Investment Strategy (PIS)	Impact if investments were made through a Local Authority (LA) operating model	Impact if investments were made through a Local Authority (LA) controlled, arms length, Trading Company	Points for further consideration (risks/ opportunities)
Stamp Duty (SDLT)	A land transaction tax arising on the purchase or the granting of a lease of property. Calculated as a percentage of the transaction price including VAT (where applicable) The grant or assignment of options do not attract SDLT.	Applies to all relevant transactions.	Applies to all relevant transactions.	The purchase of shares in a company (1/2%) is often more SDLT efficient than the purchase of a property itself (4%), but brings with it the history of the company. Chattels are SDLT exempt.
VAT	Typically 20% liability on all transactions, but some exceptions can be at a rate of either 0% or 5%. Must register for VAT to be able to recover it on property purchases and construction works. A compulsory registration threshold applies where turnover exceeds £81,000.	Able to recover all VAT provided that not an exempt expenditure type (e.g. health centre and financial services).	Able to recover all VAT provided registered and the properties where necessary have opted to tax (i.e. elected to charge VAT on rents and service charges).	VAT registration must occur prior to commencement to ensure the fullest VAT recovery possible.
Corporation / Income Taxes	Tax on profits generated in the period of account. Specific expenditure such as depreciation is disallowed in assessing taxable profits.	Not applicable to a Local Authority as exempt under ICTA88 section 519.	Relevant to all trading / investment companies. Current rates are 21% for year to 31 March 2015 or up to 45% for individuals in the year to 5 April 2015.	Corporate structures ring fence liabilities within them if no external guarantees are provided. Money can be extracted through post tax dividends or through interest on LA's lending to the company on commercial terms.

Page 59

Agenda Item 5

Potential Tax Liability	Relevance to the Property Investment Strategy (PIS)	Impact if investments were made through a Local Authority operating model	Impact if investments were made through a Local Authority controlled, arms length, Trading Company	Points for further consideration (risks/ opportunities)
<p>Capital Allowances</p>	<p>Tax relief in lieu of depreciation on fixed assets within an investment vehicle. Can be claimed by corporates and individuals provided that identified in tax return.</p>	<p>As this is typically a non-taxable entity, it is unable to claim capital allowances on expenditure.</p>	<p>The use of a trading vehicle by a LA will allow for the claiming of capital allowances. Typically an office building will have a claim of 30%-45% of construction expenditure including fees. Likewise for a fitted out GP surgery, but residential and retail tend to only have claims in the region of 1%-10% depending on the specification.</p>	<p>Claims must be identified as part of the tax return and require specialist input to maximise the claim levels. NB, although investment property vehicles do not depreciate assets but reflect the moving value by adjusting for 'fair book value', they are still eligible to claim capital allowances.</p>
<p>Income Tax (for non-resident landlords)</p>	<p>If the investment vehicle is held offshore (e.g. Channel Islands, Luxembourg etc) then the company will remain liable to tax on any profits made within the UK on UK and overseas property.</p>	<p>Not applicable as the LA cannot be held 'offshore'.</p>	<p>Company will be liable to income tax at a current rate of 20% on profits. It can claim capital allowances (see above) and will be exempted from chargeable gains on subsequent disposal (see below).</p>	<p>Important to consider the political ramifications of placing the investment vehicle offshore. With regards to subsequent sales, investors are more inclined to acquire shares of a company holding the asset rather than the asset itself to save SDLT (see above).</p>

Potential Tax Liability	Relevance to the Property Investment Strategy (PIS)	Impact if investments were made through a Local Authority operating model	Impact if investments were made through a Local Authority controlled, arms length, Trading Company	Points for further consideration (risks/opportunities)
Capital gains tax / chargeable gains (CGT)	Where an asset or investment (including shares) is sold for a profit, the asset will be chargeable to CGT. For companies this is usually at the rate that profits are charged to tax (e.g.20%), but for individuals this can be at 18% / 28% depending on the asset being sold.	LAs are exempt from CGT under TCGA92 section 271.	Vehicle is subject to chargeable gains on the disposal of assets and on the disposal of the shares, which can give rise to a double charge to tax. One way to avoid the double charge is to sell the shares or by the investment vehicle being held offshore (both approaches would be seen as positive by investors looking to purchase the asset) .	Careful planning required to mitigate the impact of this tax. By placing the assets in offshore vehicles, the subsequent disposal will be outside of CGT regime, provided the vehicle is managed and controlled offshore. If management function is undertaken in the UK it will lose the offshore status.
Group relief / Consortium Relief	Where losses are being made in a company, these can often be shared amongst other companies under common corporate ownership. As the rules can allow for even minor shareholdings to claim this relief it can be of value to joint venture partners.	LAs cannot claim group relief as not subject to tax.	Helps to reduce the total tax liability in the period by netting losses against profits. Any losses that are not used in the period that they arise, are usually carried forwards and can only be offset against the profits of the company within which the original loss arose.	If the LA enters into a JV, the JV partner may wish to extract the losses by way of group / consortium relief. This will reduce an 'asset' (i.e. the losses) in the business and the JV partner may be required to pay for those losses.

Page 61

Agenda Item 5

Summary and points for further consideration

The area of taxation is complicated and will require specialist input to ensure that the structure is set up correctly at the outset to reduce future liabilities and to create an attractive asset at the point of disposal, even if that is many years away.

The use of offshore vehicles is very common amongst the property development and investment community, but will have the political implication of being used to reduce tax liabilities. Choosing the offshore location will also need to be considered as to maintain its status, all decisions will need to be made in that location and not in the UK. The day to day running can be delegated to an external trust company to help preserve this status.

Item 6 – Adoption of the Local Development Scheme (LDS) Timetable

The attached report was considered by the Local Planning & Environment Advisory Committee relevant minute extract below:

Local Planning & Environment Advisory Committee – 27 January 2015 (Minute 37)

Members considered a report which sought approval of the latest Local Development Scheme (LDS) timetable. The LDS was a rolling project plan that set the work programme for the development of Local Plan (formerly Local Development Framework) documents. It no longer had to be submitted to the Secretary of State for approval but did need to be made available and published on the Council's website. The last version was agreed by Cabinet in March 2012 and was out of date.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Cabinet that the Local Development Scheme (LDS) timetable be agreed.

This page is intentionally left blank

ADOPTION OF THE LOCAL DEVELOPMENT SCHEME (LDS) TIMETABLE

Cabinet – 5 March 2015

Report of	Chief Planning Officer
Status:	For Decision
Also considered by:	Local Planning and Environment Advisory Committee – 27 January 2015
Key Decision:	No

Executive Summary:

This report seeks approval of the latest Local Development Scheme (LDS) timetable.

Portfolio Holder Cllr. Piper

Contact Officer(s) Helen French Ext.7357

Recommendation to Local Planning and Environment Advisory Committee:

That the recommendation to Cabinet is endorsed.

Recommendation to Cabinet:

That the Local Development Scheme (LDS) timetable is agreed.

Reason for recommendation:

To ensure the timely production of planning policy documents in accordance with the Local Development Scheme (LDS).

Introduction and Background

- 1 The Local Development Scheme (LDS) is a rolling project plan that sets the work programme for the development of Local Plan (formerly Local Development Framework) documents. The LDS no longer has to be submitted to the Secretary of State for approval, but has to be made available and published on the Council's website.
- 2 The latest formally adopted version of the Local Development Scheme was agreed by Cabinet in March 2012 and is out of date.
- 3 Advisory Committee and Cabinet considered a draft timetable in July 2014, but given the uncertainties at that time over the examination of the ADMP and the Gypsy and Traveller Plan, it was agreed to postpone the adoption of a new Local

Agenda Item 6

Development Scheme until later in the year, when there would be greater certainty regarding the adoption of the ADMP and progress on the Gypsy and Traveller Plan.

- 4 The LDS has been updated to reflect the current timetable for the preparation of local planning documents. It is proposed that the LDS be updated to include the timetable as set out in Appendix A. This edition of the LDS includes amendments to bring the LDS up to date in the following ways:

Development Plan Documents (DPDs):

- 5 The timetable reflects the anticipated adoption date for the ADMP in February 2015, and the actual adoption date of the CIL Charging Schedule (February 2014).
- 6 The work programme for the Gypsy and Traveller Plan has been updated to reflect the anticipated dates for consultation and examination. Publication is now programmed for summer 2015, with the examination to take place in spring 2016 and adoption in summer/autumn 2016. Central government has recently consulted on potential changes to planning policy for Gypsy and Travellers, and therefore the proposed programme may need to be revised if these potential changes in national policy are implemented.
- 7 An additional work-stream has been added to the LDS, namely the Local Plan Review. This is a commitment from the ADMP examination, that the Council will undertake an early review of the Core Strategy, in part or in whole, within the next five years. The Council's evidence base will be updated, starting with a Strategic Housing Market Assessment (SHMA), as agreed by Cabinet in July 2014. Options will then be developed and a revised Local Plan will be prepared, culminating in initial public consultation at the end of 2016. The draft revised Local Plan will be published and submitted to the Planning Inspectorate in 2017, for examination and adoption in 2018.

Supplementary Planning Documents (SPDs):

- 8 LDS are not required to include SPDs. However, the main SPDs are included here for information to show how the timetable for their preparation relates to the proposals for DPDs. The list of SPDs is not intended to be complete and it should be noted that Conservation Area Management Plans and Neighbourhood Plans are not included.
- 9 Residential Character Area Appraisals for Swanley and Edenbridge are scheduled to be prepared in 2016, provided there is sufficient capacity within the team. However, the preparation of the Gypsy and Traveller Plan and Local Plan Review are the priorities, and the Character Area Appraisals will be re-scheduled if necessary.
- 10 The Green Belt SPD has been prepared and has been subject to public consultation. This document provides further explanation of the green belt policies contained in the ADMP and therefore will be adopted at the same time as the ADMP (programmed for February 2015).
- 11 An update of the Statement of Community Involvement was prepared and adopted in 2014.

Next Steps

- 12 Once approved, the updated LDS will be made available and published on the Council's website.

Conclusions

- 13 This report seeks approval for the updated Local Development Scheme timetable.

Other Options Considered and/or Rejected

As the LDS is out of date it cannot remain unchanged. The reasons for the changes in its content and programme are explained above.

Key Implications

Financial

None – the costs of preparing the LDS are part of the Planning Policy budget.

Legal Implications and Risk Assessment Statement

None – the Council is required to publish an up to date LDS.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Appendices

Appendix A – Updated Local Development Scheme 2014 and timetable

Background Papers

[Inspector's Report on the ADMP](#)

[Inspector's letter to the Council regarding 'main modifications'](#)

[ADMP Main Modifications consultation document](#)

[ADMP Draft for Submission](#)

[CIL Charging Schedule](#)

Richard Morris
Chief Planning Officer

This page is intentionally left blank

Sevenoaks District Council
Local Development Scheme



December 2014



Local Development Scheme December 2014

Page 70

1	INTRODUCTION	3
2	TRANSITIONAL ARRANGEMENTS	7
3	TIMETABLE FOR PRODUCTION OF SPDs	8
4	DOCUMENT PROFILES	9
5	SUPPORTING STATEMENT	12
6	GENERAL RISK ASSESSMENT FORMS	15
7	GLOSSARY OF TERMS	18

Agenda Item 6

1 INTRODUCTION

Background

- 1.1 This Local Development Scheme (LDS) is the **project plan** for the production of the Local Plan for Sevenoaks District Council and has been prepared in accordance with Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended).
- 1.2 This Local Development Scheme sets out the Council's programme for the preparation of Development Plan Documents (DPDs) for the period up to 2017. The LDS no longer needs to include the programme for preparing Supplementary Planning Documents (SPD). However, information on the Council's current proposals for preparing SPDs is included for information. Readers should check with the Council's website for any updates to the SPD programme.
- 1.3 Progress in producing Local Plan documents will be assessed on an annual basis and reported in the Council's 'Authority Monitoring Report' (AMR) published in December. The AMR will consider whether any changes are needed to the LDS in the light of changing circumstances or whether additional actions are needed to maintain the current timetable.
- 1.4 Following approval copies of the document will be made available for inspection at the Council Offices. Alternatively it may be viewed online on the Council's website at www.sevenoaks.gov.uk

About The District

- 1.5 Sevenoaks District Council has an area of 142 square miles and is located in West Kent bordering Greater London, Surrey and Sussex. The District covers three main towns, namely Sevenoaks, Swanley and Edenbridge, together with many other small towns and villages and extensive areas of countryside.

Strategic Planning Context

- 1.6 The District is subject to a number of statutory national planning designations. 93% of the District lies within the Metropolitan Green Belt and over 60% is within either the High Weald or Kent Downs Areas of Outstanding Natural Beauty. There are 24 Scheduled Ancient Monuments, approximately 2000 Listed Buildings and over 40 Conservation Areas within the District. In addition Sevenoaks has 17 designated Historic Parks and Gardens, the highest number in Kent.

Current Statutory Development Plan

- 1.7 Following the adoption of the Core Strategy for the District in February 2011 the current Development Plan for the District comprises:
- *The Sevenoaks District Core Strategy 2011*
 - *the remaining saved policies from the adopted Sevenoaks District Local Plan 2000*
 - *the saved policies from the Kent Minerals Subject Plan: Brickheath Written Statement adopted 1986*
 - *the saved policies from the Kent Minerals Local Plan: Construction Aggregates adopted 1993*
 - *the saved policies from the Kent Minerals Local Plan: Chalk and Clay adopted 1997*
 - *the saved policies from the Kent Minerals Local Plan: Oil and Gas adopted 1997*
 - *the saved policies from the Kent Waste Local Plan adopted 1998*

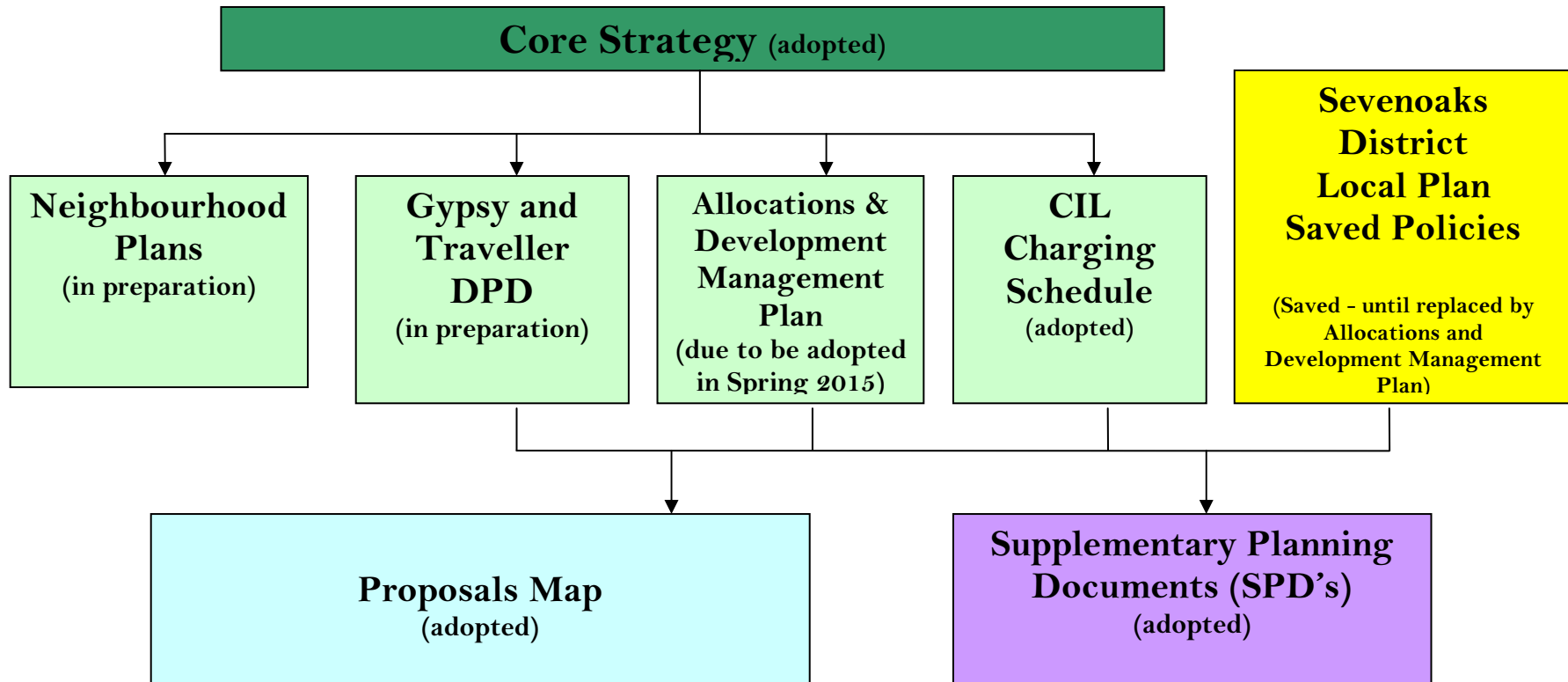
Local Plan

- 1.8 The figure over the page outlines the relationship between planning policy documents which will be or have already been produced.

- 1.9 The Council adopted the Core Strategy in April 2011. The Council has several adopted SPDs. Kent Design was adopted as SPD in 2007, whilst the Residential Extensions SPD was adopted in May 2009. The Affordable Housing SPD and Countryside Assessment SPD were adopted in October 2011 and the Sevenoaks Residential Character Area Assessment was adopted in April 2012. These documents, together with the SCI and LDS and a number of adopted Village Design Statements and Parish Plans, form the Local Plan for the District. The timetable for the production of additional Local Plan documents can be found in Chapter 3 Overall Programme and detailed descriptions of the documents can be found in Chapter 4 LDD Profiles.

- 1.10 The Council has recently adopted a revised Statement of Community Involvement (SCI). Future consultations to be carried out on all Development Plan Documents will be subject to the requirements set out in the SCI.

THE SEVENOAKS LOCAL PLAN KEY DIAGRAM



Page 74

Agenda Item 6

2 TRANSITIONAL ARRANGEMENTS

Saved Plans

- 2.1 A series of policies from the adopted Sevenoaks District Local Plan 2000 have been saved from 27 September 2007. The Core Strategy replaced some of these policies and those still remaining in force will be replaced by the Allocations and Development Management Plan, in spring 2015.

3 TIMETABLE FOR PRODUCTION OF DPDS

3.1 The following is an indicative timetable for the production of the Local Plan. Whilst the Council is no longer required to include SPDs within the timetable, they are included for information purposes. Priority will be given to the preparation of DPDs. The District will support the preparation of Neighbourhood Plans but they are not included as their preparation is led by local parish and town councils. Planning Briefs for other key development sites identified in the Core Strategy may also be required.

	2014												2015												2016												2017													
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D		
Development Plan Documents																																																		
ADMP																																																		
CIL Charging Schedule																																																		
Gypsy and Traveller Plan																																																		
Core Strategy / Local Plan Review																																																		
Supplementary Planning Documents																																																		
Residential Character Area - Swanley																																																		
Residential Character Area - Edenbridge																																																		
Green Belt SPD																																																		
Statement of Community Involvement																																																		

Development Plan Documents

- Preparation / Evidence Base
- Informal Consultation (Regulation 18)
- Pre-Submission Publication (Regulation 19)
- Cabinet/Committee Approval
- Submission (Regulation 22) - Key Milestone
- Pre-Hearing Meeting
- Hearing
- Main Modifications Consultation
- Inspector's Report
- Adoption - Key Milestone

Supplementary Planning Documents

- Preparation
- Consultation
- Adoption

4 DOCUMENT PROFILES

- 4.1 The following table profiles the Development Plan Documents to be prepared by the Council up to the end of 2017.
- 4.2 This edition of the LDS includes amendments to bring the LDS up to date. The timetabling of Gypsy and Traveller Plan and Local Plan Review has been updated to reflect the anticipated dates for consultation and examination.

Local Development Document	Area	Chain of Conformity	Led By	Other Contributors	Resources Required	Reasoned Justification
<p>Core Strategy DPD (adopted Feb 2011)</p> <p>The Core Strategy sets out the vision for the District. It contains spatial policies that deal with the distribution of development in the District and general policies that help to deliver the vision.</p>	Whole District	National Policy ▼ Core Strategy	SDC Policy Team	Adopted	Adopted	The Core Strategy is the first stage in preparing the spatial expression of the Community, and other strategies. It is a statutory requirement. It provides a strategic framework for the preparation of other local planning documents.
The Allocations and Development Management Plan	Whole District	National Policy ▼ Core	SDC Policy Team	Chief Planning Officer Chief Officer	Officer and Member time Local Planning &	This deals with the allocation and designation of areas of land. In terms of new allocations it will identify housing sites to meet the Core Strategy

<p>The DPD identifies new land use site allocations including housing and other land use designations such as the Green Belt and AONB boundaries. It also includes detailed policies for the management of development that will be used in the determination of planning applications and to ensure that development will achieve the vision of the Core Strategy.</p>		<p>Strategy ▼ Allocations and Development Management</p>		<p>Communities & Business Chief Officer Housing Chief Finance Officer Parish/Town Councils</p>	<p>Environment Advisory Committee (LPEAC) time Sevenoaks District Strategic Board time Financial resources for consultation, publication, postage and publicity</p>	<p>provision. It will also show national designations such as Green Belt AONBs and local designations which aim to protect existing uses under development pressure such as green spaces, shopping frontages and business areas. It will also include detailed development management policies where needed that will replace the remaining Saved Local Plan policies and provide an up to date local policy framework for the detailed consideration of development proposals.</p>
---	--	--	--	---	---	---

<p>The Community Infrastructure Levy (CIL) Charging Schedule</p> <p>The charging schedule sets out the charges applicable to new developments to fund necessary infrastructure improvements for the District</p>	Whole District	<p>National Policy ▼ Core Strategy ▼ CIL Charging Schedule</p>	SDC Policy Team	Adopted	Adopted	<p>The preparation of a charging schedule is a requirement for authorities introducing CIL. Funding from CIL is necessary to support necessary infrastructure improvements required to support new development in the District. The charging schedule is supported by evidence of infrastructure needs and costs drawing on the Core Strategy Infrastructure Delivery Plan.</p>
<p>The Gypsy and Traveller Plan</p>	Whole District	<p>National Policy ▼ Core Strategy ▼ Gypsies and Travellers DPD</p>	SDC Policy Team	<p>Chief Planning Officer</p> <p>Chief Officer Communities & Business</p> <p>Chief Officer Housing</p> <p>Parish/Town Councils</p>	<p>Officer and Member time</p> <p>LPEAC time</p> <p>Sevenoaks District Strategic Board time</p> <p>Financial resources for consultation, publication, postage and publicity</p>	<p>The Gypsy and Traveller Plan will make provision for sites for gypsies and travellers in response to local needs and historic demand taking account of national policy and relevant Core Strategy Policy, including Policy SP6. The DPD is supported by a local needs assessment completed in 2012.</p>
<p>Local Plan Review</p>	Whole District	<p>National Policy ▼ Local Plan</p>	SDC Policy Team	<p>Chief Planning Officer</p> <p>Chief Officer Communities & Business</p>	<p>Officer and Member time</p> <p>LPEAC time</p> <p>Sevenoaks District Strategic Board</p>	<p>An additional work-stream has been added to the LDS, namely the Local Plan Review. This is a commitment from the ADMP examination, that the Council will undertake an early review of the Core Strategy, in part or in whole, within the next five years. The Council's evidence</p>

				Chief Officer Housing Parish/Town Councils Neighbouring Authorities Statutory Consultees	time Financial resources for consultation, publication, postage and publicity	base will be updated, starting with a Strategic Housing Market Assessment (SHMA). Options will then be developed and a revised Local Plan will be prepared, culminating in initial public consultation at the end of 2016. The draft revised Local Plan will be published and submitted to the Planning Inspectorate in 2017, for examination and adoption in 2018.
--	--	--	--	---	---	---

5 SUPPORTING STATEMENT

Background Studies

- 5.1 The Council has commissioned a number of background studies that will be used as an evidence base for the preparation of the Local Plan. These are set out in the table below:

Study	Comments
Affordable Housing Viability Study	Completed November 2009 Being Updated in 2015/16
West Kent Strategic Housing Market Assessment	Completed December 2008 Being Updated 2014/15
Strategic Housing Land Availability Assessment (SHLAA)	Completed July 2008 Updated September 2009 Being Updated in 2015
Hotel Study	Completed August 2007 Being Updated in 2015/16
Employment Land Review	Completed January 2008 Being Updated in 2015
Retail Study	Completed May 2005 Updated October 2007 Updated June 2009 Being Updated in 2015/16
Open Space Study	Completed January 2009 Partial Update in 2015/16
Settlement Hierarchy	Completed October 2009 Being Updated in 2014/15
Strategic Flood Risk Assessment	Completed May 2008 Being Updated in 2015/16
Transport Study	Completed January 2007
Sevenoaks District Strategy for Transport	Completed July 2010 Being Updated in 2015/16
Gypsies and Travellers Local Needs Assessment	Completed February 2012
CIL Viability Assessment	Completed July 2012
Employment Land Review – Site Specific Update	Completed December 2012
Business Survey	Completed October 2013

Sustainability Appraisal

5.2 Sustainability Appraisal (SA) of all DPDs will be required to assess how they will impact on the social, economic and environmental fabric of the District. SA involves five stages and the preparation of three key reports as follows:

- *Stage A: Setting the context and objectives, establishing the baseline and deciding on the Scope (Scoping Report)*
- *Stage B: Developing and refining options (Initial SA Report)*
- *Stage C: Appraising the effects of the plan (Final SA Report)*
- *Stage D: Consulting on the plan and SA Report*
- *Stage E: Monitoring implementation of the plan*

5.3 Sustainability Appraisal was carried out at all stages in the preparation of the Core Strategy and Allocations and Development Management Plan.

Reporting Structures

5.4 Cabinet is responsible for making executive decisions affecting preparation of Local Plan documents, scrutinised by the Local Planning and Environment Advisory Committee (LPEAC). Draft LDDs will go to Full Council for approval prior to Formal Submission.

Resources

5.5 The Planning Policy Team is located within the Planning Services section of the Council. Members of the team have other duties in addition to the preparation of the Local Plan.

5.6 Following is a list of the Officers within the team when it is fully staffed, along with an estimate of the amount of time that each officer will give to the preparation of the Local Plan:

- *Team Manager 75%*

-
- *Principal Planning Officer 75%*
 - *Senior Planning Officer 60%*
 - *Senior Planning Officer 60%*
 - *Planning Policy Officer 60%*
 - *Local Plan Monitoring Officer 80%*
 - *Planning Policy Technical Clerk 10%*

5.8 For the preparation of specific Local Development Documents, the Council will call on the expertise of other appropriate members of staff. These include members of the Development Management Team, Housing Policy team, and Community Development Team.

5.9 The Council will draw on expertise from Kent County Council and also has access to a range of expertise and skills within the Kent Downs and High Weald AONB Units.

5.10 A Service Plan with Performance Management targets based on LDS milestones and internal reporting is prepared annually and will be reviewed in line with the Authority Monitoring Report and any revisions to this LDS. This will be used to inform individual work plans for team members.

Financial Resources

5.11 A 5 year budget plan has been prepared in consultation with the Chief Officer, Finance which will form part of the Council's overall budget setting.

6 GENERAL RISK ASSESSMENT FORMS

Date: December 2014
 Service: Local Plan
 Assessed By: Hannah Gooden
 Location: Planning Policy
 Review Date: December 2015

No	Hazard	Severity 1-5 1=low 5=high	Likelihood 1-5 1=low 5=high	Level of Risk	Control Action / Contingency Action	Result	Triggers for Action
1	External factors such as implications of the National Planning Policy Framework leading to uncertainty in the strategic planning background and potential delay	4	3	12	This is beyond the Council's direct control Maintain close liaison with PINS, and the Department of Communities and Local Government (DCLG). Monitor outcome of comparable DPDs and identify relevant lessons	N	Inspector's advice
2	Government planning reforms may lead to changes in future requirements for Local Plans	2	4	8	The Core Strategy already identifies a significant role for Parish Plans and Village Design Statements and for other initiatives developed at a local level, including Neighbourhood Plans. It is therefore well-placed to take on board the Localism agenda which reduces the severity score. Monitor proposals and be prepared to carry out a further review of the LDS if necessary. Give priority to DPDs if there are additional demands on available resources	A	Progress in implementing the Localism Act and related guidance
3	Staff turnover, sickness or	4	3	12	Incentives maintained to retain staff	N	Appraisal

Page 84

Agenda Item 6

	retirement				including market payments and career grade structures. Give priority to DPDs over SPDs should there be an extended loss of staff resources.		System and 1-1 sessions.
4	Production and Council approval of the various components of the Local Plan are late (for whatever reason) with subsequent knock-on effect on the overall timetable	3	2	6	Reporting procedures in place to review progress against timetables and intervene at an early stage to keep Local Plan work on track.	A	Failure to meet targets and milestones in the LDS
5	Extended Citrix failure. Failure of main computer server - inability to access software programs	5	1	5	Return to conventional network system Set up limited paper files for essential records	T	Known problem – if it fails, everything stops
6	The budget for Local Plan work is inadequate financial resources to complete the Local Plan according to timetable.	4	2	8	A long term rolling budget programme has been set and agreed by Members. The LDS has been reviewed to re-programme activity and achieve a substantial saving by reducing the number of separate DPDs Undertake joint working with partners to cut costs Maximise use of the website to reduce printing costs	A	Budget over spend
7	The Inspector for the Examination considers the DPD as unsound resulting in considerable extra work for planning officers and failure to meet planned timescales	5	2	10	The Council will seek to minimise this risk by ensuring that the DPDs are sound founded on a robust evidence base and high standard to stakeholder and community engagement Use of Counsel to advise on procedural and soundness issues Establish and maintain close liaison with key	A	Inspector's Report

					stakeholders and maintain close liaison with PINS, and the CLG Monitor outcome of comparable DPDs and identify relevant lessons Maintain staff training.		
8	There is a legal challenge to the adoption of the DPD	4	1	4	The Council will seek to minimise this risk by ensuring that the DPDs are sound founded on a robust evidence base and high standard of stakeholder and community engagement	T	Notice of challenge

Key;
N = Not adequately controlled (11-25)
A = Adequately controlled (6-10)
T = Trivial risk (1-5)

7 GLOSSARY OF TERMS

Abbreviation	Document Name	Document Description
AMR	Authority Monitoring Report	Authorities are required to produce AMRs to assess the implementation of the LDS and the extent to which policies in the Local Plan are delivering the Council's spatial vision.
CIL	Community Infrastructure Levy	A levy on new development to fund infrastructure improvements. The levy is supported by a charging schedule which sets out the levy for different types of development supported by evidence of future needs and costs of provision.
DCLG	Department for Communities and Local Government	DCLG sets policy on local government, housing, urban regeneration, planning and fire and rescue. In England, it has responsibility for all race equality and community cohesion related issues, building regulations, fire safety and some housing issues.
DPD	Development Plan Document	The Documents that a local planning authority must prepare, and which have to be subject to rigorous procedures of community involvement, consultation and independent examination. The Core Strategy is the key plan within the Local Plan and should be prepared by every local planning authority. Other DPDs may be prepared where necessary to provide additional detail which would not be suitable for a Core Strategy and which needs to have development plan status.
LDD	Local Development Document	LDDs comprise DPDs, and SPDs.
LDS	Local Development Scheme	The LDS sets out the programme for preparing Development Plan Documents.
NPPF	National Planning Policy Framework	Government statement of national planning policy.
NPPG	National Planning Practice Guidance	Government Planning Practice Guidance providing further explanation of the NPPF
PINS	Planning Inspectorate	Independent body which undertakes examination of the Local Plan.
SA	Sustainability Appraisal	Assessment of the social, economic, and environmental impacts of the policies and proposals contained within the Local Plan.
SCI	Statement of Community Involvement	Document explaining to stakeholders and the community, how and when they will be involved in the preparation of the Local Plan, and the steps that will be taken to facilitate this involvement.
SPD	Supplementary Planning Document	Documents which will provide further guidance regarding how development plan policies should be implemented.

This page is intentionally left blank

Item 7 – Westerham Conservation Area Management Plan

The attached report was considered by the Local Planning & Environment Advisory Committee relevant minute extract below:

Local Planning & Environment Advisory Committee – 27 January 2015 (Minute 38)

The Conservation Officer presented a report which sought Members' support for the adoption of the updated Westerham Conservation Area Appraisal and Management Plan as a Supplementary Planning Document. It was considered that the updated character appraisal and management plan for Westerham conservation area reflected the changing townscape in Westerham and would help local residents and other interested parties engage in the conservation and enhancement of the local historic environment and secure the long term preservation of the character of the area as an important heritage asset.

The Conservation Officer advised that the report would be presented to Cabinet in March 2015 after the formal adoption of the ADMP by Council in February, therefore the final document presented to Cabinet would differ from that before the Committee as it would require updating with regard to planning policies. The final draft would also undergo a 'facelift' and be presented to Cabinet in a more up to date and corporate format.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Cabinet that subject to planning policy updates, the updated Character Appraisal and Management Plan for Westerham Conservation Area be adopted as Supplementary Planning Guidance.

This page is intentionally left blank

CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN - Proposed updated Westerham Conservation Area Character Appraisal and Management Plan

Cabinet - 5 March 2015

Report of Chief Planning Officer

Status: For Decision

Also considered by: Local Planning and Environment Advisory Committee - 27 January 2015

Key Decision: No

This report supports the Key Aim of the Green and Healthy Environment theme of the Community Plan.

Portfolio Holder Cllr. Robert Piper

Contact Officer(s) Aaron Hill Ext. 7334, Rebecca Lamb Ext. 7399

Recommendation to the Local Planning & Environment Advisory Committee: That it be recommended to Cabinet that the updated Character Appraisal and Management Plan for Westerham Conservation Area be adopted as Supplementary Planning Guidance

Recommendation to Cabinet: That the updated Character Appraisal and Management Plan for Westerham Conservation Area be adopted as Supplementary Planning Guidance

Reason for recommendation. : It is considered that the updated character appraisal and management plan for Westerham conservation area reflects the changing townscape in Westerham and will help local residents and other interested parties engage in the conservation and enhancement of the local historic environment

Introduction and Background

1. This report seeks Members' support for the adoption of the updated Westerham Conservation Area Appraisal and Management Plan as a Supplementary Planning Document.
2. People in the district place a high value on the quality of its landscape, historic character and open spaces according to the Sevenoaks District Sustainable Community Plan.
3. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on local authorities to designate as conservation areas any 'areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance.' Clear and concise appraisals of the character of

Agenda Item 7

conservation areas provide a sound basis for their designation and management and will inform local development management proposals and provide a framework for the control of development. The same act also conveys a duty on the local authority to draw up and publish proposals for the preservation and enhancement of conservation areas in their districts.

Updated Westerham Conservation Area Appraisal and Management Plan

4. The current Westerham Conservation Area Character Appraisal was carried out in 2003 and does not include a management plan. The former Character Appraisal also did not reflect the many recent additions and alterations to the area and it is important that the special interest of a conservation area is clearly and accurately articulated so that it is a useful and reliable document for development management decisions. Westerham is one of the district's largest settlements which has a conservation area at its core and is the last to have been recently updated. It was also considered to be important to incorporate a management plan to help support not only the Council's functions but also other bodies that are involved with the area. Section 71 of the Planning (Listed Building and Conservation Areas) Act 1990 places a duty on local planning authorities to draw up and publish proposals for the preservation and enhancement of conservation areas in their districts.
5. This Appraisal and Management Plan is based on best practice contained within the English Heritage guidance, "Understanding Place: Conservation Area Designation, Appraisals and Management". This guidance also states;
6. "1.17 Section 69(2) of the Planning (Listed Building and Conservation Areas) Act 1990 requires local authorities to carry out reviews 'from time to time' but there is no indication in law how often this might mean. Good practice is generally accepted to be every 5 years."
7. The Appraisal describes the character and qualities of the area as a whole, and has identified different character areas. When adopted as a supplementary planning document the Appraisal and Management Plan will be a material consideration in the determination of development proposals. This means that the all new development will be assessed against the character described within the Appraisal to ensure that it preserves or enhances the character of the area as required by Section 69 of the *Planning (Listed Building and Conservation Areas) Act 1990*. The National Planning Policy Framework (NPPF) is clear that local authorities can not prescribe architectural style but are encouraged to preserve local distinctiveness. The character appraisal describes the local distinctiveness.
8. The management plan considers ways that the character could be better protected and ways that change can be sensitively managed. This section looks in more detail at the other items which effect character like street furniture, signage and surface treatments. It also signposts appropriate good practice guidance produced by relevant bodies like English Heritage and CABE.

Procedure

9. There is no statutory duty to consult when preparing appraisals/ management plans but consultation has been carried out with residents, Westerham Town

Council and Westerham Town Partnership in order to comply with the Council's Statement of Community Involvement. In total there were 4 responses from local residents and for the most part they highlighted factual inaccuracies or omissions or were concerned with issues out of the remit of the consultation. Some small amendments have been made to the draft document in response to these consultations. The results of the consultation and the response are attached at Appendix A.

Key Implications

Financial

The production of the appraisal and management plan has been accommodated within existing budgets.

The cost of printing and map production has been allowed for in existing budgets.

Legal Implications and Risk Assessment Statement.

The Council has a statutory duty under the provisions of section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to designate and review conservation areas and is now required to produce Appraisals and Management Plans for each area.

The document is based on best practice contained in the English Heritage guidance and has involved local engagement. It is therefore considered to be a sound basis for the future conservation and management of the area.

Equality Impacts

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users

Conclusions

The Council has reviewed the historic and architectural character of Westerham Conservation Area and updated the Character Appraisal to include a Management Plan. The Management Plan will help the local community, developers, local authorities and development professionals engage in the conservation and enhancement of the local historic environment and secure the long term preservation of the character of the area as an important heritage asset.

Appendices

Appendix A – Response to public consultations

Appendix B – Draft Conservation Area - Appraisal and Management Plan, including maps (updated since being considered at Local Planning & Environment Advisory Committee on 27.01.15)

Background Papers:

[Conservation Principles- English Heritage 2008](#)

Agenda Item 7

[Understanding Place: Conservation Area Designation, Appraisal and Management – English Heritage 2011](#)

[Sevenoaks Core Strategy](#)

[National Planning Policy Framework 2012](#)

Richard Morris
Chief Planning Officer- Community and Planning Services

Respondent	Comments	Response
Westerham Town Council	Approves and supports this Appraisal and Management Plan	Noted
	Map 1 to show relocation of Post Office from London Road to Market Square	The Map 1 does not show the Post Office. The first Map in the document on page 20 is from the Ordnance Survey which often takes a year to update information.
	Various suggested factual inaccuracies	Document amended, where appropriate, to reflect these comments
	Suggested a glossary for architectural terms	To be included within the final document
	Include mention of the Westerham and Crockham Hill Design Statement	To be included within the final document
	Management Plan should say how the proposals can be achieved/funded	The purpose of the Management Plan is to provide an overview of the issues to inform a variety of bodies about the harmful effect on the character of inappropriate development.
	Traffic should have a 20mph speed limit	Traffic management is the responsibility of Kent County Council
	Article 4 Directions – more information on who would prepare these.	Article 4 Directions are prepared by the local authority. An assessment on the requirement was included within the document.
	WTC does not object to the herringbone brick paving	Noted
	Would like an audit of street furniture	Noted
Agrees that excessive road markings are unnecessary but some are important for road safety	Noted	
Westerham Town Partnership	The document omits to mention two other documents 'Westerham and Crockham Hill Design Statements' and the 'SDC Westerham Conservation consultation 2003'. Wants the document to specifically say that it does not	The document has been amended to include specific reference to 'Westerham and Crockham Hill Design Statement'. The document referred to as the 2003 SDC Westerham Conservation consultation' was the previous Westerham

	replace them. If SDC has new policies which alter the meaning of the earlier documents, they should explicitly mention all the specific changes since 2003	Conservation Area Appraisal and this document replaces it. There are no new policies that have altered the meaning of the documents, the update was part of the ongoing work programme.
	The main recommendations relate to shop fronts and shop signs which is thoroughly laudable. Sympathetic to the point raised regarding street signage, but an urgent review of signage is required to help people find somewhere to park.	Noted.
John Edwards	Various factual inaccuracies	Document amended to reflect these comments
Keith Sime	Not viewed the document as unable to view the website.	The letter advised that the document was also available to view in the library and the Town Council Office
	Other amenity concerns regarding Westerham town centre	Noted but not related to the document being consulted on. Quality of painting and dirty frontages are not covered by the planning regime. Concerns relating to traffic will be forwarded to Kent County Council who has responsibility for this area. Parking concerns will be forwarded to the relevant department at SDC.
Mr and Mrs Buckley	Traffic concerns	Noted but not related to the document being consulted on. Concerns relating to traffic will be forwarded to Kent County Council who has responsibility for this area.
Maureen Oakley	Omitted reference to any local historian and concerns over the quality of the historical information used. The workhouse was not demolished and there is no mention of the original market house that is 'Deli de Luca' at the top of London Road.	The purpose of the document is not to provide a historical record of Westerham but to provide context to the character.

Westerham

DRAFT

Conservation Area Appraisal and Management Plan



PLANNING GUIDANCE 2014



Westerham

DRAFT Conservation Area Appraisal and Management Plan

The historic environment is a social asset of immense value and one of the keys to the continuing prosperity of Sevenoaks District. Conservation area appraisals and management plans are part of the process of ensuring that we make the best use of our historic environment. They are tools for the positive management of change, not a means of preventing development. Conservation is focused on the entire historic environment, not just listed buildings. Trees, open spaces, buildings, uses and streets all contribute to the character and local distinctiveness of the District's conservation areas.

The built environment of our conservation areas has used energy and materials moulded by people both past and present. The District Council will creatively manage the fabric of these areas in a sustainable way as a legacy for future generations.

It is intended that this appraisal and management plan will inform the activities of the Council, the public and other bodies where these affect the conservation area. This Appraisal and Management Plan was approved by the District Council

Sevenoaks District Council is not liable for any loss or damage, however, sustained, by others arising from reliance on the contents of this document. This document must not be reproduced in whole or in part without the prior written permission of the Council.

© Sevenoaks District Council

Published by Sevenoaks District Council
Community & Planning Services
Conservation Team
Council Offices
Argyle Road
Sevenoaks
KENT TN13 1HG

Tel: 01732 227000

Fax: 01732 451332

Website: www.sevenoaks.gov.uk

Email: policy.environment@sevenoaks.gov.uk

Contents:	page
1.0 INTRODUCTION AND SUMMARY OF SPECIAL INTEREST	5
1.1 Definition and Purpose of Conservation Areas	5
1.2 The Benefits of Being in a Conservation Area	6
1.3 Purpose of Appraisals and Management Plans	8
1.4 Key Purposes of the Plan	8
1.5 Conservation Area Boundary Review	9
2.0 GUIDANCE AND POLICIES	11
2.1 National Guidance	11
2.2 The Development Plan	11
2.2.1 Saved and Adopted Policies	11
2.2.2 Emerging Policies	12
2.2.3 Westerham and Crockham Hill Village Design Statement	13
2.3 Buildings Contributing to Character	13
2.4 Conservation and Enhancement	14
2.5 Special Controls within Conservation Areas	14
2.5.1 Permitted Development Rights	15
2.5.2 Demolition	15
2.5.3 Trees and Hedges	15
2.6 Unauthorised Works and Development	16
2.7 Maintenance and Repairs	16
2.8 Boundary Treatments	16
2.9 Listed Buildings	17
2.10 Green and Open Spaces	17
2.11 Archaeology and Historic Environment Records in Westerham	17
2.12 Squerrys Court Historic Park and Garden	18
3.0 CONTEXT AND DEVELOPMENT	19
3.1 General Description	19
3.2 Local and Geographical Context	20
3.3 Historical Development	21
3.4 Building Forms Materials, Textures and Colours, and Public Realm	24
4.0 CHARACTER APPRAISAL	28
4.1 Spatial Analysis	28
4.1.1 Townscape	28
4.1.2 Approaches	28
4.1.3 Spaces	29
4.1.4 Key views, vistas and landmarks	30
4.2 Character Areas and Key Unlisted Buildings	33
4.2.1 Quebec Square and Vicarage Hill	33
4.2.2 The Green, Market Square and Fullers Hill	34
4.2.3 London Road	36
4.2.4 Lodge Lane to Verralls Corner	38

Agenda Item 7

4.2.5	The Forge to Farley Lane	39
4.2.6	Squerryes Court and Park and Parkland to the south	40
4.3	Negative Features	41
5.0	MANAGEMENT PLAN	43
5.1	Conservation Area Management	43
5.2	Current and Future Pressures on the Area	43
5.2.1	New Development	43
5.2.2	Alterations	44
5.2.3	Streetscape and Public Realm	45
Appendix 1	– Maps	49
Map 1	– Conservation Area Boundary	50
Map 2	– Designations	51
Map 3	– Character Appraisal	52
Map 4	– Views	53
Map 5	– Squerryes Court Historic Park and Garden	54
Map 6	– Westerham 1884 – 1894	55
Map 7	– Westerham 1909	56
Map 8	– Westerham 1938 – 1939	57
Appendix 2	– Bibliography	58
Appendix 3	– Glossary	59

1.0 INTRODUCTION

SUMMARY OF SPECIAL INTEREST

Westerham is a busy town with ancient origins. It was first established as a market town in the 12th century, and then expanded with the coming of the railway and small industries, and later developed into a destination for shopping and tourism. It is set within a unique landscape, being on a small hill but within a valley, in the shadow of the North Downs. Views into the town from the undulating landscape provide a pleasant aspect of a varied, mostly red-tiled roofscape punctuated by landmarks such as St. Mary's Church. Views from the town include vistas of the North Downs to the north, and the rolling, undeveloped pasture land to the south, which helps to retain its rural setting. Westerham has always attracted residents who are drawn to the agreeable market town life whilst being in close proximity to London, as well as local crafts and business people. The built form of the town is therefore a pleasing mix of small cottages and larger dwellings of various periods, with a unifying theme of orange/red brick and hanging and roof tiles, and ragstone and brick walls. Place and building names, building types and landscape features provide clues to past industries, such as Mill Lane, Brewery Cottages and the restored mill ponds, providing continuity to the local identity. The former market square continues to be a bustling centre providing a sense of prosperity.

This document replaces the Westerham Conservation Area Appraisal that was produced in December 2003 by Sevenoaks District Council. Local authorities are required by law to regularly review their conservation areas and produce conservation area appraisals and management plans. These summarise what is important about the area and what improvements are needed.

This Appraisal and Management Plan follows the broad format suggested by English Heritage in its 2011 document *Understanding Place: Conservation Area Designation, Appraisal and Management*. The Appraisal draws heavily on the original document. The boundary was assessed for possible extension and it has been determined that there is no requirement for additions or exclusions at this point in time.

The omission of any particular feature or building does not imply that it is of no significance.

1.1 Definition and Purpose of Conservation Areas

Conservation areas first came into being as a result of the Civic Amenities Act of 1967 and are intended to identify any valuable architectural or historic characteristics in a locality that may need protection and enhancement. Along with World Heritage Sites, scheduled monuments, listed buildings, protected wreck sites, registered parks and gardens, and registered battlefields, conservation areas are defined as 'designated heritage assets' in the National Planning Policy Framework 2012 (NPPF).

Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 recognises that there are particular areas of 'architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance' and charges

Agenda Item 7

planning authorities with a duty to designate any such locations within their jurisdiction as conservation areas. This designation then empowers the local authority to pay particular attention to planning considerations and development with conservation areas and gives greater control over such matters as demolition, landscaping and trees, and the display of advertisements.

Designation also raises the awareness of local residents and businesses of the quality of their surroundings and is intended to encourage an active interest in the care and maintenance of their properties and surrounding land, fostering a sense of communal pride.

It has been recognised that designation, because of the responsibilities and obligations it places on both owners and the local authority, should only be imposed on areas that are demonstrably suitable. Where the criteria have been met, the area should then benefit from the additional control and protection that designation confers, and from official recognition of the special architectural and historic character and appearance of the locality.

One of the 12 core planning principles for achieving sustainable development within the NPPF is to 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'. Historic areas and buildings are now recognised not only as historic assets worth of protection but are increasingly being valued as important tourism, economic, education and cultural assets.

1.2 The Benefits of Being in a Conservation Area

The historic environment is of particular importance for tourism and leisure. English Heritage's annual '*Heritage Counts*' report for the South East in 2012 concluded that the number of visitors to historic sites has grown substantially over the last decade, significantly contributing towards the economy in the South East. In addition, maintaining the appearance of a conservation area and the character of the groups of buildings within it can often sustain or enhance the value of individual properties. Research carried out by the London School of Economics on behalf of English Heritage, published in 2012, proves the value of conservation areas in terms of the economic results of pride of place. Conservation areas can offer attractive living and working conditions that will encourage further investment.

The principles of conservation management planning – that managing any historic place should be based on understanding it and assessing its significance and values – are now accepted as applying to historic areas as much as historic buildings (English Heritage '*Conservation Principles, Policy and Guidance*', 2008)



The Heritage Cycle, English Heritage

Agenda Item 7

1.3 Purpose of Appraisals and Management Plans

As their number grows, it has become even more important for local authorities to include a well-defined and considered policy for designated conservation areas in their development plans. Development pressures are such that any designation is likely to be subjected to detailed scrutiny and must be readily and demonstrably defensible against adverse criticism. The criteria for designation should be kept as consistent as possible and the public involved in any proposed changes in their area.

The 1990 Act charges local authorities with the responsibility of undertaking a review of their conservation areas from time to time, both to consider the possibility of revisiting their extent, and to identify any past changes or future pressures which may affect the original reasons for their designation. English Heritage published an advisory leaflet on appraisals in 1997 and more detailed guidance on both appraisals and management plans in 2006, which was then updated in the most recent 'Understanding Place: Conservation Area Designation, Appraisal and Management' (March 2011). This document outlines the principles of the approach that local authorities and communities can take in adopting conservation areas and management plans.

Appraisals and management plans define the key elements which together give the areas their special character and appearance, and shows how they interact to enhance their individual impact. Future policies and improvements can be based on a clear understanding of the special architectural and historic qualities of the area that contribute towards its local distinctiveness. The plans will assist the District Council, development professions (planners, architects, landscape architects, highways engineers, etc.) and the local community to engage in the conservation and enhancement of the local historic environment and help secure the long term viability of the Conservation Area as an important heritage asset.

This revised appraisal and management plan for Westerham has been developed from the Westerham Conservation Area Appraisal published in 2003. The plan sets objectives for the protection and enhancement of the Conservation Area, addresses areas identified in the first appraisal and brings forward opportunities to enhance the area.

1.4 Key Purposes of the Plan

The key purposes of this plan are to:

- Review the boundaries of the conservation area and define the key characteristics and features which contribute to its special character or appearance and should be preserved or enhanced;
- provide a basis for making sustainable community-based planning decisions about the future of the conservation area;
- raise awareness of the importance and value of the local heritage;
- record those principal elements that detract from the character or appearance of the conservation area;

- identify distinctive built form and character within the conservation area;
- identify distinctive public realm character within the conservation area;
- identify opportunities for enhancement to be delivered through the accompanying management plan or other initiatives;
- inform key agencies, societies and residents whose activities impact on the conservation area and maximise the investment in the preservation and enhancement of the conservation area to the benefit of the social and economic quality of life;
- provide guidance and set out objectives to preserve and enhance the buildings, structures and features;
- Protect and maintain biodiversity;
- outline the key statutory requirements in respect of development within the conservation area;
- provide guidance and set out actions to secure the proper and effective application of these requirements;
- propose the implementation of management procedures to co-ordinate the delivery of new works and maintenance works within the public realm.

As a Conservation Area Appraisal and Management Plan, the plan will be a material consideration in the determination of development proposals.

1.5 Conservation Area Boundary Review

One building of merit has been identified that is located outside the conservation area boundary, a former oast barn at 21 Croydon Road that has been altered and converted into a house.



Agenda Item 7

However, extending the boundary to include just this building would afford it protection from demolition but otherwise has little justification for including the other buildings, roads and spaces that would also need to be included. It has been noted on the map as a building of merit and therefore is identified as being a non-designated heritage asset, in accordance with paragraph 135 of the National Planning Policy Framework.

A further considered boundary change is to include the former mill ponds directly to the east of the boundary line that wraps around Squerrys Court. However, the restored mill ponds to the north are included in the boundary, and the other ponds in question are included within the Historic Park and Garden boundary as part of Squerrys. Also, the pump house and corn mill that were associated with the ponds are now gone. Therefore, extension of the boundary in this location is not considered to have sufficient justification.



Oast roundel and barn on Croydon Road

2.0 GUIDANCE AND POLICIES

2.1 National and Regional Guidance

Government advice concerning heritage assets, including conservation areas, is set out in the National Planning Policy Framework (March 2012) and in the Planning Policy Statement 5 Planning Practice Guide, which is due for re-publication following the publication of the NPPF, which superseded PPS5. The intention is to provide three tiers of guidance, from Government online planning practice guidance, to sectoral guidance (such as the PPS5 Practice Guide substitution), through to more detailed technical guidance, including case studies.

Further advice about conservation areas, including the production of management plans, has been produced by English Heritage (2011).

2.2 The Development Plan

The government has introduced a new type of development plan known as the Local Development Framework (LDF). The Core Strategy section of the LDF for Sevenoaks District was adopted in February 2011. The saved policies of the adopted Local Plan of March 2000 will retain development plan status until other parts of the new system are adopted. As an adopted planning document the Appraisal and Management Plan will be a key material consideration in the determination of development proposals during this transition period.

2.2.1 Saved and Adopted Local Policies

The Sevenoaks District Local Plan (adopted March 2000) lists the following policies relevant to Westerham. This policy has been saved, but will eventually be replaced by the Allocations and Development Management Plan Document:

- Policy E23: *'Proposals for development or redevelopment within or affecting Conservation Areas should be of positive architectural benefit by paying special attention to the desirability of preserving or enhancing the character or appearance of the area and of its setting. The design of new buildings and alterations to existing buildings should respect local character, whilst the treatment of external spaces including hard and soft landscaping, boundary walls, street furniture and signs should be compatible with and enhance the appearance of the area.'*
- Policy E9: *'The Local Planning Authority will safeguard important areas of green space within built confines'*
- Policy EN26: *'The Proposals Map identifies a number of historic parks and gardens and the Local Planning Authority will protect these sites and their settings from intrusive development.'*

Agenda Item 7

- Policy E27: *'The design of shop fronts should accord with the guidance given in appendix 6 unless material considerations justify a departure from these principles.'*

As part of the Local Development Framework, the Council has adopted the Core Strategy Development Plan Document. This is the key document in the Local Development Framework, providing the overarching principles that will deliver the essential development needs of the District.

- Core Policy SP 1: Design of New Development and Conservation: *'All new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated. Account should be taken of guidance adopted by the Council in the form of Kent Design, local Character Area Assessments, Conservation Area Appraisals and Management Plans, Village Design Statements and Parish Plans. In rural areas account should be taken of guidance in the Countryside Assessment and AONB Management Plans. In areas where the local environment lacks positive features new development should contribute to an improvement in the quality of the environment. New development should create safe, inclusive and attractive environments that meet the needs of users, incorporate principles of sustainable development and maintain and enhance biodiversity. The District's heritage assets and their settings, including listed buildings, conservation areas, archaeological remains, ancient monuments, historic parks and gardens, historic buildings, landscapes and outstanding views will be protected and enhanced.'*
- Core Policy LO8: The Countryside and the Rural Economy: *'The countryside will be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible. The distinctive character of the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings, will be conserved and enhanced.'*

Supplementary Planning Documents (SPDs) form part of the LDF, and the following are relevant to Westerham Conservation Area:

- Kent Design Guide Supplementary Planning Document
- Countryside Character Assessment Supplementary Planning Document

2.2.2 Emerging Policies

- A draft Green Belt Supplementary Planning Document has been out for public consultation in spring 2013 and will eventually form part of the Local Development Framework.
- A draft Allocations and Development Management Plan Document has been out for public consultation in spring 2013 and will eventually form part of the Local Development Framework. This DPD will replace saved Development Management policies from the Local Plan.

2.2.3 Westerham and Crockham Hill Village Design Statement (2000)

Westerham Town Council has produced a Westerham and Crockham Hill Village Design Statement that has been adopted by Sevenoaks District Council as Informal Planning Guidance. This means that it is a consideration in the determination of planning applications.

2.3 Buildings Contributing to Character

These are identified on map 3 at the end of this document.

English Heritage’s guidance document *Understanding Place: Conservation Area Designation, Appraisal and Management 2011* recommends that key unlisted buildings that make an important contribution to the character of the conservation area are identified in conservation area appraisals, and provides a checklist in order to assess candidates for this. This checklist, reproduced below, has been used to identify buildings within the Westerham Conservation Area as being of local importance. The Council has therefore identified these buildings as contributing positively towards the character of the conservation area, and therefore as being ‘non-designated heritage assets’.

Paragraph 135 of the NPPF acknowledges this and states that *‘the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.’*

Paragraph 132 of the NPPF will also apply so that the impact of any proposed development on a building that contributes to character will be considered in terms of the impact on the significance of the conservation area, a designated heritage asset, as a whole: *‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.’*

CHECKLIST
Is it the work of a particular architect or designer of regional or local note?
Does it have landmark quality?
Does it reflect a substantial number of other elements in the conservation area in age, style, materials, form or other characteristics?
Does it relate to adjacent designated heritage assets in age, materials or any other historically significant way?
Does it contribute positively to the setting of adjacent heritage assets?
Does it contribute to the quality of recognisable spaces including exteriors or open spaces with a complex of public buildings?
Is it associated with a designed landscape, e.g. a significant wall, terracing or a garden building?
Does it individually, or as part of a group, illustrate the development of the settlement in which it stands?
Does it have significant historic association with features such as

Agenda Item 7

the historic road layout, burgage plots, a town park or a landscape feature?
Does it have historic associations with local people or past events?
Does it reflect the traditional functional character or former uses in the area?
Does its use contribute to the character or appearance of the area?

One building outside the conservation area has strong associations with the history of Westerham and has therefore been identified on the map as being a building contributing to character. This is the former oast house on Croydon Road, also mentioned in the Westerham and Crockham Hill Guide as being the last oast house in Westerham. Whilst not located within the conservation area boundary and therefore not subject to control over demolition, proposals that would impact on this building as a 'non-designated heritage asset' that may also affect the setting of the conservation area will be taken into account.

2.4 Conservation and Enhancement

The Planning (Listed Building and Conservation Areas) Act 1990 states in section 71 that Local Planning Authorities should undertake detailed assessments of conservation areas and prepare proposals for their preservation and enhancement. This includes the assessment of elements of the conservation area that contribute positively towards its special character.

Development proposals will be judged against their overall contribution to the enhancement of the character and appearance of the area. An assessment of this and the detailed analysis of the area contained should form part of any application for development within a conservation area (paragraph 128 of the NPPF).

Westerham is an historic town with a distinctive landscape and townscape of high quality. This appraisal aims to ensure that this rich context is respected and that only design solutions of a high standard are introduced, allowing the West Kent area to continue to maintain its quality and status as one of the most desirable places in the south east.

There is a richness, variety, quality and history of townscape and landscape within this area that is special and a need to maintain and enhance this is crucial. Attention to context and quality design is vitally important in reinforcing the character of this area and this character must not be harmed through undue pressure for poorly designed infill development or redevelopment of an unacceptable nature.

2.5 Special Controls within Conservation Areas

Emerging Government policy and legislation such as that being introduced through the Enterprise and Regulatory Reform Bill will have an impact on planning regulations relating to the historic environment. The requirement for conservation area consent for demolition will eventually be abolished and this type of development will instead require planning permission.

Designation of a conservation area does not mean that changes within it or close to it cannot occur, but that any change should preserve or enhance the features which make up its special character. Controls are imposed in addition to normal planning restrictions, in order to maintain the character and appearance of the area. The effect of this and the maintenance of a high quality environment are perceived by most people who live and work in conservation areas as beneficial to the value and local distinctiveness of the area.

Additional controls within conservation areas are outlined here for information. However, other planning controls may still apply and are not altered by conservation area status, such as those indicated within the Town and Country (General Permitted Development) Order 1995 (GPDO).

Any proposals should always be discussed with the Council at an early stage.

2.5.1 Permitted Development Rights

A wide range of minor works are permitted through the GPDO without the requirement for formal planning permission, granted by the Secretary of State. In conservation areas certain forms of these types of development are restricted in conservation areas (identified as Article 1(5) land in the GPDO). These include, but are not restricted to:

- Installation of flues, chimneys or soil and vent pipes
- Certain types of extension
- Alterations to the roof, including dormer windows
- Certain positions within the curtilage of outbuildings
- Positions of satellite dishes
- Positions of micro-generation equipment such as solar panels

Further information can be found on the Planning Portal website, www.planningportal.gov.uk, where you can also find an interactive house tool.

2.5.2 Demolition

Please see note above regarding forthcoming changes to controls over demolition in conservation areas, through the Enterprise and Regulatory Reform Act, which mean that changes to the legislation will require planning permission for demolition. Currently, the legislation requires conservation area consent to totally or substantially demolish a building or structure, including boundary walls, within a conservation area. Exemptions to this are set out in paragraph 31 of Government Circular 1/01, and further information can be found on the Planning Portal website.

2.5.3 Trees

Six weeks notice must be given to the Council before any work to a tree within a conservation area is carried out. The Council will then advise if it wishes to make an objection and make a Tree Preservation Order. If a response is not received from the Council within the six weeks, work may go ahead. This does not apply to trees which

Agenda Item 7

have a diameter less than 75mm (3") when measured at a height of 1.5m (4'11") above the ground, and trees already covered by a Tree Preservation Order, in which case any works will require consent.

2.6 Unauthorised Works and Development

Sometimes, landowners and others carry out works without first obtaining any necessary consent from the District Council. The Council does have certain legal powers to deal with such situations, but can only take enforcement action if it is made aware of any alleged unauthorised works and has undertaken an investigation. It is also a criminal offence to demolish a building or structure not made exempt by Government Circular 1/01, without conservation area consent.

2.7 Maintenance and Repairs

The Council has a duty to pay special attention to the character or appearance of conservation areas, in exercising its planning powers. However, these powers are limited. The principal guardians of the character and appearance of the area are the residents and business people who live and work in the conservation area and who are responsible for maintaining their individual properties.

The character of conservation areas can be altered or lost due to the use of inappropriate materials, not only on the buildings themselves but also on the ground, roads, and along boundaries. The introduction of features, such as street furniture, signs, lights, and hard surfacing, can change an area's character. In the proposed conservation area few of the buildings are isolated. Even if they are detached, they are part of a wider street scene, often of buildings of similar style and size. Altering the appearance, form or size of any one building can affect not only that building, but also the whole street.

Unsympathetic replacement windows (particularly where the size of the openings are changed or inappropriate materials used) can alter the appearance of a building considerably. Painting or rendering over original brickwork is another alteration which can dramatically change a property's appearance and irreparably damage the street scene. As well as covering up attractive brickwork, it can obscure original architectural and brick detailing and requires regular redecoration to maintain an attractive appearance. In older buildings paint or render can also trap moisture which may cause damage to walls. Many alterations to older properties using modern materials can upset the balance within these properties and can cause more costly problems, such as cracks, damp, or rot. Care should be taken with any alteration to an older building.

2.8 Boundary Treatments

Boundary treatment, especially to the street, is an essential feature of any property. Original boundaries, whether a brick or Kent ragstone wall, railings, fencing or hedges, should be retained wherever possible and every effort made to reinstate missing boundary treatments with a sympathetic replacement. The particular design and the materials used should take account of the character of the property and the surrounding area. Boundary features, particularly ragstone and brick walls, form an important part of the significance of the Conservation Area and any loss is likely to cause harm.

2.9 Listed Buildings

Many historic buildings are listed by the Secretary of State for Culture, Media and Sport because of their architectural and historic interest. The main purpose of listing a building is to ensure that care will be taken over decisions affecting its future, that alterations respect the particular character and interest of the building, and that the case for its preservation is taken fully into account in considering the merits of any development proposals. Westerham is densely populated with listed buildings.

When a building is listed, this covers the building both internally and externally, any object or structure fixed to it and any extensions whenever constructed. In addition, any object or structure within the grounds or garden of the building, which was there by 1948, is also listed. Listed Building Consent is required for the demolition, extension or alteration of listed buildings in any way that affects its character as a building of special architectural or historic interest, internally as well as externally.

New gates, fences, walls, railings or other means of enclosure surrounding a listed building will require planning permission. Similarly, most sheds, garages and greenhouses and other outbuildings will also require planning permission. The scale and design of these should harmonise with the existing building and its setting.

2.10 Green and Open Spaces

Westerham is surrounded by green spaces, and has two particularly important open green spaces that are essential elements of its special character: the Green, and the churchyard at St. Mary's. These spaces and their settings should be taken into consideration for any changes that are planned that would have an impact. The emerging Sevenoaks District Council Allocations and Development Management, which is likely to be adopted in Summer 2014, identifies areas of open space and green infrastructure within Westerham, which are to be safeguarded and enhanced. The surrounding area is designated as Metropolitan Greenbelt, which is to be safeguarded through the adopted Core Strategy.

2.11 Archaeology and Historic Environment Records in Westerham

The National Planning Policy Framework requires that applications affecting heritage assets include sufficient information about the asset (such as a conservation area) so that the impact of the proposal can be properly assessed. It states in paragraph 128 that, 'as a minimum, the relevant historic environment record should have been consulted.'

Kent County Council maintains Kent's Historic Environment Record (HER), which is a computerised database for any information that can be gathered about the historic environment in the county, which is then recorded on the website. There are several entries in the HER within the Conservation Area boundary, which can be viewed on the Kent County Council website within the Leisure and Culture, and then the Heritage section. They record both lost and existing heritage assets.

Agenda Item 7

The entries include:

- The former Black Eagle brewery at Black Eagle close;
- the milepost (only the stone backing remaining) at the corner of Market Square and Wells Close and opposite 4-6 High Street;
- Site of 19th century factory buildings behind Stratton Terrace and off of Croydon Road;
- Evidence of a post medieval wall south of Market Square; and
- Site of a group of 19th century laundry buildings in Wells Close.



Mile post marker, High Street

2.12 Squerryes Court Registered Historic Park and Garden

Overlapping with the south western corner of the Conservation Area is the grade II registered Historic Park and Garden, Squerryes Court, which includes the house itself, 9 hectares of formal and ornamental gardens and 60 hectares of parkland and woodland. This is identified in map 5. The gardens are located within the Conservation Area boundary, as are the lodge buildings and the former drive to Park Lodge to the east, which is lined with an avenue of replanted lime trees.

The English Heritage Register of Parks and Gardens of special historic interest in England recognises gardens, grounds and other planned open spaces, such as town squares. Inclusion on the register is a material consideration in the planning process and local planning authorities must consider the impact of proposed developments on the landscape's special character.

3.0 CONTEXT AND DEVELOPMENT

3.1 General Description

Westerham Conservation Area covers some 36 hectares and contains about 100 listed buildings. It was designated in 1973 and extended in 1994. It includes the historic centre of the town including St. Mary's Church and the Green, some open parkland to the south, the Squerryes Court Estate and some of its associated park, and several well known properties such as Quebec House, Pitts Cottage and the Kings Arms Hotel. The area extends from the junction of the A25 and Hosey Hill to the east, the western boundary of Squerryes Court bordering Goodley Stock Road to the west, and extends up to include parts of London Road to the north.

The surrounding countryside is designated as Green Belt and an Area of Outstanding Natural Beauty, which provides an important green setting for the town.

The town itself is a bustling small town in an attractive setting, which has a good number and variety of retail outlets, pubs and restaurants. It is well known and popular with tourists visiting nearby Chartwell and Quebec House.

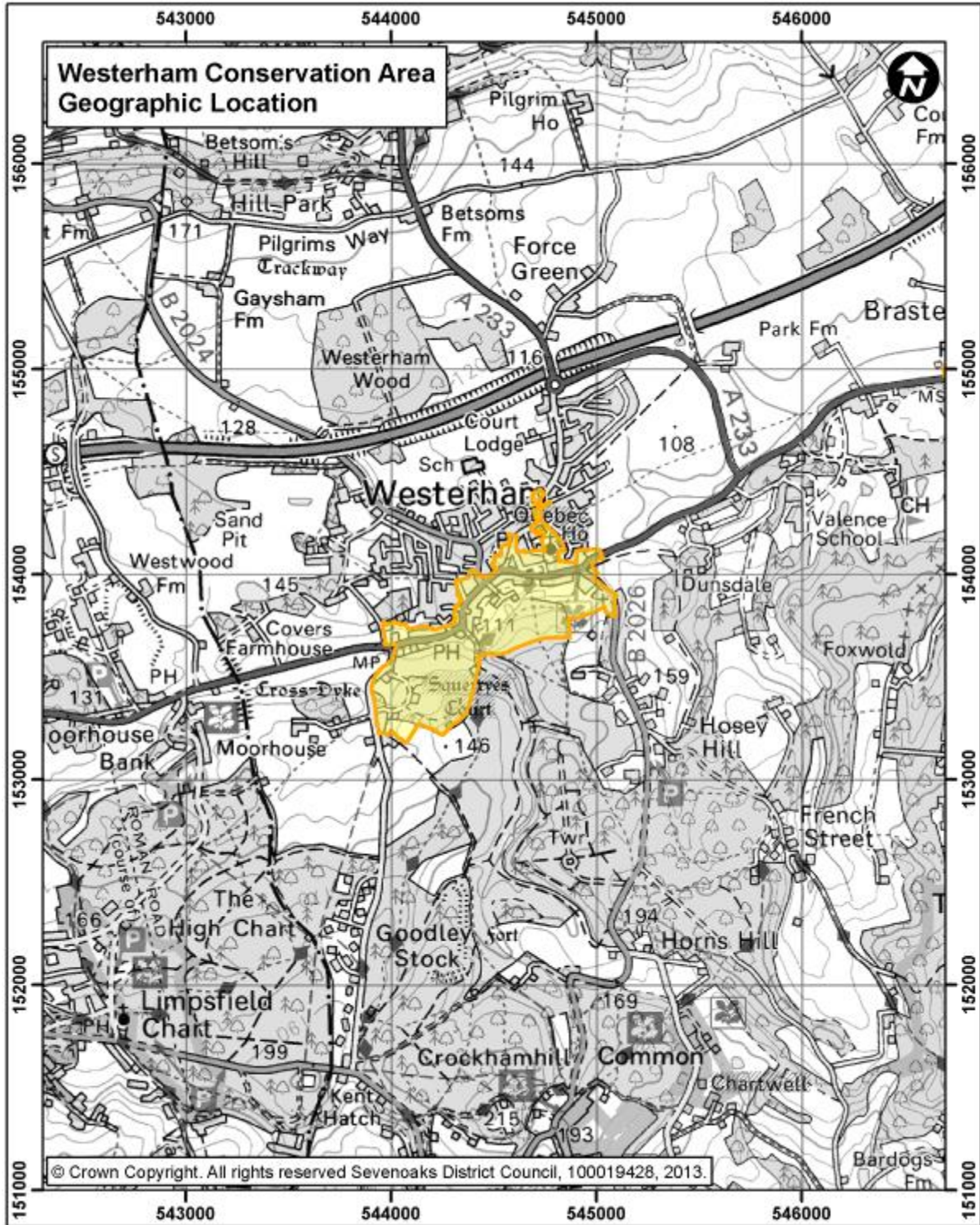
Small industry, long a part of the economic prosperity of the town, continues in the site of the old railway station to the north of the town. There are also several office developments within the centre.

The main housing developments in the 20th and 21st century have developed to the north of the A25, although there have been some recent developments on infill sites along, or just off, the main road.



Squerryes Court

3.2 Location and Geographical Context



Westerham lies on the A25, which runs east/west through the town and intersects with Beggars Lane and London Road, which turn into the A233, connecting the town to Biggin Hill and Bromley to the north.

The river Darent flows through the town, and the surrounding countryside is characterised by farmland to the north, and wooded parkland to the south.

The railway line that served Westerham was closed in 1961, and the M25 now follows the former rail route to the north of the town. The nearest motorway junctions are at Godstone in the west and Chipstead in the east. The nearest railway stations are Sevenoaks, 5 miles away, Edenbridge, 4.8 miles away and Oxted, 4 miles away. Both have connections to London. Biggin Hill, Bromley and Sevenoaks are all within easy reach by car.

3.3 Historical Development

John Newman states in the Pevsner Architectural Guide (*Kent, West and the Weald 2012*) that 'the "neat handsome well built market-town" that Defoe admired in 1724 retains much of that character today.' The small town of Westerham has over 1000 years of recorded history, but a find in 1928 of Celtic coins in Hosey Common nearby, dating from the 2nd century BC, indicated much earlier activity. The original settlement grew up from a clearing in the woodland at a point where a number of small streams joined the River Darent. Although the Cantra tribe is believed to have had an encampment on the site of the Squerryes Estate as long ago as 100BC, it was the Jutish tribes that inhabited the area until the time of the Norman conquest. A Roman road connecting London and the south coast passed close by the Westerham.

The manor of Westerham was then granted by William the Conqueror to the knight Eustace, Earl of Boulogne. In the Domesday survey of 1085 the village, as it was then, had a population of 59. At the Town Council building is a mosaic illustrating the 'Oistreham' survey, by artist Kenneth Budd. Its installation was sponsored by the Rotary Club in 1980. The Church was recorded on its present site from around 1115 and is believed to have been built on the remains of a Saxon watch tower, at the highest point of the Green. A market charter was granted by Henry III in 1227, with the last cattle market being held in 1961.



Domesday Mural

Squerryes Lodge, to the west of the town, also dates from the 12th or 13th century and there was a chapel by the river in use by monks until the dissolution of the monasteries in 1539. The present building dates mostly from the 17th century. The Squerryes estate changed hands many times after being acquired by Henry VIII along with the manor of

Agenda Item 7

Westerham. In 1751 it was sold to the Warde family, who still own the property to this day.

The town generally has a modern history of small industry and of wealthy families, given the close proximity of London, settling in large properties. Growth from a small market village didn't occur until the 19th century. Before then, links were improved by the introduction of a turnpike road from Sevenoaks to Bromley, through Westerham, in the late 18th century. Following this, further developments included a town hall, and the introduction of the railway in 1881, which was followed by the establishment of brick and tile works, lime works and a timber and coal merchant. The building of public and private schools also occurred. Other small industries included market gardens, brewing, and building industries, many of which are still evident today either in existing businesses, buildings or place names. Mill Lane, for example, is the site of one of the old corn mills, disused by the end of the 19th century. Black Eagle Close carries on the name of the former brewery in this location – the other brewery, the Swan, was located at the bottom of Hosey Hill. The oast house on Croydon Road, still in existence, is the last oast house in the area. Outside of the Conservation Area but just to the north were the old brickfields, remembered now by the cottages named Brickfield Cottages, near the bridge over the motorway on London Road. 97 High Street is the location of the former Blacksmith's and is known as Verrall's Corner, after the master blacksmith at the turn of the 20th century, George Verrall.



Colthersts Almshouses, Vicarage Hill, said to date from 1572

A notable resident whose legacy is important to the character of Westerham was General James Wolfe. He was born at Westerham in 1727 and lived at Spiers (now Quebec House) during his boyhood. A statue of General Wolfe was unveiled on the Green in 1911.

New housing development occurred in the 1920s and 30s, and in the later part of the 1930s the town centre underwent a substantial change when Winterton House and the Grange passed out of private residential ownership. The demolition of their garden walls opened up the area, and the Grange Estate was subdivided and developed. After the economic depression of the 1930s, there was an increase in light industry. The Westerham trading estate was developed and office accommodation and retail offerings also increased.

Over 50 years ago Westerham established a twin town relationship with Bonneval, France, and formed the Bonneval Association. This is commemorated in the Bonneval Garden next to the Town Council building.



Bonneval Garden plaque

Agenda Item 7

3.4 Building Forms, Materials, Textures and Colours, and Public Realm

Westerham displays a variety of building and paving materials that reflect its organic history, but there is a strong consistency to the palette, with red/orange tiles and white or other soft shades of render prevalent, as well as ragstone detailing and walls.

The Conservation Area contains examples of most of the vernacular features that are typically found in traditional Kentish buildings. Vernacular is a term to describe forms of buildings and materials used that are typical of a local area, before materials such as Welsh roofing slates were mass produced and distributed throughout the country (and world) as transportation improved. The palette of the town will have been influenced by the local building materials industry.

In Westerham today, the roofs are either covered in slates, with lead hip and ridge rolls, or clay tiles that are hung on pegs or nibs. The use of full or half hips to one side of the roof with a gable end on the other is common.



51-55 London Road – shaped tiles, gablets and tall chimneys

Chimney stacks are often tall and decorative. Dormer windows are often inserted into roof slopes historically, giving light to attic spaces. The pitches of tiled roofs tend to be steep, whilst those that are covered in slates are shallower, and the contrasting heights of the ridge lines lend variety and interest to the street scene. Catslide roofs, which sweep down from the ridge to ground floor ceiling level have long been a popular way of covering a single storey extension to the side or rear of a building.

Many timber framed buildings survive from the era before brickwork became a popular and affordable alternative construction material, although they may now be clad in brick, weatherboarding, tile or render, completely hiding the external evidence of their original construction.

In some cases the first floor timber frame remains exposed, with rendered panels between the structural members; in others the frame is clad with vertical tile hanging or painted weatherboarding. Where brick has been used on ground and first floors to encase a timber frame, a parapet gutter is often formed at roof level to give the building a 'gentrified' classical appearance.

Brick is the most popular building material and the local red stock bricks can be seen in many buildings, together with decorative arches above doors and windows. Patterns formed by the inclusion of blue headers or bands of different colour brick are common.

The use of local stone (ragstone, limestone and sandstone) either on its own or combined with brickwork, adds another colour and texture to the built environment, on buildings, walls and paving.



Substantial brick boundary wall at The Old House, Vicarage Hill

Galleting in the mortar joints is often employed as a decorative and functional feature. A typical feature of buildings in a polite, Classical style from the late 18th century onwards is the use of imitation ashlar stone frontage, which is a cheaper version of using real stone. Rendered facades are painted, originally in a colour to mimic sandstone, and lined out to simulate natural stone coursing.



Ragstone walls

Windows are either painted timber casements or sliding sashes, usually white and sometimes with the frames painted a darker colour. Leaded lights can be found in buildings of many ages, and coloured glass was popular in Edwardian and Victorian doors and windows. The detailing of the joinery to these tends to be more robust than those of earlier buildings.



Local sandstone built Drill Hall at corner of Stratton Terrace

The public realm has been altered quite a few times in the town's past and there are several areas of modern tarmac and highways interventions. In St Mary's Churchyard there is an area of ironstone paving, and there are a few examples of natural stone kerbs, whether granite or limestone. Street lighting is mainly traditional and finished in black, although new versions of early 20th century patterns.

Bollards and other street furniture are generally painted black, as is the bus shelter on the Green. Some of the pedestrian areas within the centre have late 20th century herringbone-patterned brick paving, with cross paths picked out in granite setts. The Green in Market Square has wooden benches with black metal frames, and this is also the location of the two statues that commemorate important Westerham figures – General Wolfe and Winston Churchill.



Statue of Winston Churchill



Ironstone paving



Brick paving, granite setts and cast iron bollards at Fullers Hill

Agenda Item 7

4.0 CHARACTER APPRAISAL

4.1 Spatial Analysis

4.1.1 Townscape

Westerham is a topographical paradox; on a hill but at the same time nestling in a valley. Look along almost any street from the centre and the road falls away to a backdrop of verdant countryside which provides an important setting for the conservation area. From the centre the wooded hills beyond the town are clearly seen, and form a distinctive part of Westerham's character.

The historic form of Westerham comes from the grouping of buildings around the market square on the western end, where the church is also located, and the otherwise linear format of residential and small industry or retail buildings lining the routes mostly east to west, with some development north to south. Smaller streets lead off the main routes, usually lined with workers cottages. The settlement clearly relates to the river, which gave power to the mills. The 20th century brought expansion to the residential settlement, extending the pattern of development to the north west.

Westerham's built form is mostly modest in scale, with a mixture of two and three storey buildings around the Green and Market Square, and predominantly two storey dwellings elsewhere.

4.1.2 Approaches

Entering Westerham from the east, a bend in the road leads to the first sight of the built environs of the town. From the junction with Hosey Hill at Quebec Square there are views up Vicarage Hill, but another bend in the road hides the town centre. Unfolding views such as these are characteristic of the historic layout and topography of the town.



View east into town from Quebec Square

Vicarage Hill the view opens up to take in the open space of the Green, with the historic buildings surrounding it creating a strong sense of place and enclosure of the most important space in Westerham. The Green and the Market Square are the heart of Westerham and there is a sense of bustle and prosperity about the area.

The main southern route to the town is down Hosey Hill, a very green approach and a steep hill passing first large detached houses set in expansive grounds, to the more tightly grained houses as road enters the western end of town, first passing the Catholic Church of St. John the Baptist. The chimney of the former Vulcan Plastic works, next to new residential development on the site, is also just visible.

From the north, London Road and Croydon Road are both historic routes into the town, the latter being undeveloped until the 20th century, with only the oast house remaining to provide clues as to the former use of the land. The routes both head uphill into Market Square, with Croydon Road's interwar housing leading to the historic centre, and London Road's mix of historic and newer buildings (the boundary line wraps around the historic buildings and excludes others) providing clues to the layout of the historic settlement, starting with the former National School for Girls and Infants at the northern end.

The western route into Westerham is mostly characterised by its rural nature, enhanced by the parkland setting of Squerryes Court. The A25 meets Farley Road at the entrance to the Conservation Area, demarcated by an historic brick boundary wall, and then meets Goodley Stock Road, leading to Squerryes, at the corner of which are the Squerryes Park Cottages. The buildings then start to line the road more densely further into the Conservation Area.

4.1.3 Spaces

The most important space in the Conservation Area is the Green, the focal point of the town and an important part of its special character. Spaces are otherwise mostly private rather than public, relating to former house plots, or the parkland to the south. These are mostly glimpsed from the main routes.



St. Mary's churchyard

Agenda Item 7

A sense of space is also created by the small streets and passageways leading from the main routes, which also creates a sense of the unexpected. Also important to the Conservation Area is the public space around the Church of St Mary, a large churchyard on the hill above the Green, providing a setting for this important historic building and allowing for views across the roof tops of the town.

4.1.4 Key views, vistas and landmarks

Please see map 4 for key views. The varied topography and winding routes allow for views across the town and to the Downs to the north, and parklands to the south. The roofscape is a very important characteristic which can be seen from these long views, as well as from other elevated points within the town. Glimpses into areas behind the strong built form lining the main routes provide clues to the former uses within the area, and the green setting. Unfolding views of the townscape are provided by the winding of the A25 through the town; new features are revealed at each turn.

Although hidden behind the Green, St. Mary's Church is located at the top of a hill and views to its tower can be seen from most points within, and looking into, the Conservation Area. The church is the most important landmark in Westerham.



Views from hills to the south of town to the church tower.

Specific important views that define the rich character of the area include the following:

- The unfolding view into the town entering on the A25 from the west
- The view to St Mary's Church from the junction of Hosey Hill and the A25
- Glimpses into and out of Mill Street



Mill Street



St. Mary's churchyard

- Unfolding views of the Green from the westerly approach
- Views to the east from St. Mary's churchyard and to the Greensand ridge
- The unfolding views to the north from the footpath adjacent to the church
- The eastern approach to the Green, with its statues prominent, from Market Square
- Glimpses through to the historic settlement along London Road and the North Downs, from the carriageway of the George and Dragon pub.

Agenda Item 7



George and Dragon

- The intriguing glimpses into the pedestrian area of Fullers hill from the Market Square
- The regular rhythm and planned form of the Victorian Stratton Terrace and New Street, easily viewed from the High Street



Stratton Terrace

- Glimpses into and from Lodge Lane
- The landmark of the old Forge at Verrall's Corner at the junction with Mill Lane, as viewed from the eastern approach
- The change from rural to built form as seen in views from the eastern approach, at the junction with Goodley Stock Road

- Vistas across the town, and to the Downs, seen from the parkland to the south
- Glimpses to the former mill race and ponds from the footpaths to the south



Mill race

4.2 Character Areas and Key Unlisted Buildings

4.2.1 Quebec Square and Vicarage Hill

The public car park, largely hidden down a bank adjacent to the A25, is the first feature notable when entering towards Quebec Square. To the left is an uphill bank of trees and vegetation, a positive feature contributing to the green setting of the Conservation Area. A substantial brick wall with heavy coping, a key characteristic of Westerham, lines the right hand side of the road at the boundary to Westerham Place nursing home, a former Victorian house with large 20th century extension. Next is Quebec House, a grade I listed Jacobean House with distinctive gables, which is partially hidden behind its walls and amongst mature trees, but the grouping of the grade II listed neo-classical Quebec Cottages, with later shop fronts, on the road junction is the first real indication of the quality of the built environment of the town.

To the left at the junction of Hosey Hill is the attractive picturesque West Lodge at the edge of the former Dunsdale Estate. On the opposite side is the site of the former Swan brewery. Behind the houses here is a water course of the river Darent used by former industries and footpaths leading to the open rising park and woodland that extends along the southern border of the town as far as Squerryes Court. New development on the site of the Vulcan Plastic works is a mix of traditionally designed houses with vernacular detailing, and, in Swan Place, housing of a more contemporary design but of an appropriate modest scale that utilises the spaces and is clad in brick and render to blend in well with the area.



Swan Place at site of Vulcan Plastic works

The Conservation Area includes buildings on the south west side of Hosey Hill up as far as the Old Well house. This area contains the Roman Catholic Church of St. John the Baptist, a pleasant early 20th century church with tower, as well as residential properties.

Turning the corner up Vicarage Hill, the road leads past a former public house, probably related to the brewery, and up the hill past a number of imposing and attractive residences, mixed with some more modest artisan houses, and a continuation of large brick walls with dentil course underneath the coping. Grosvenor House on the south side, and Darenth on the north are both impressive examples of their type. Darenth is a Wealden hall house with widely spaced timber frame. Otherwise, the character at this point is defined by polite, 18th and early 19th century architecture. The Old Vicarage's early 19th century façade hides a Wealden hall house behind.

20th century houses on the right hand side break the pattern of tight enclosure of the road, with buildings against the footpath, but otherwise utilise materials and roof forms that complement the area. Most of the other buildings lining the route are either listed, or buildings of merit. The Coultherst's Almshouses on the right purportedly date back to the 16th century, but appear more recent from the front, with tile hanging on the first floor and local ragstone fronting the ground floor, and modern casement windows. To the left is a long ragstone wall, another important boundary feature.

4.2.2 The Green, Market Square and Fullers Hill

The historic centre of the town boasts an abundance of listed buildings, grouped in a picturesque manner around the Green and Market Square. The Green is a focal point, with a range of historic buildings on the north side and the sweeping view down to Breaches and the Pheasantry on the south side. On the north side is the Grasshopper Inn, a popular meeting place that takes its name from the grasshopper incorporated in the crest of the Gresham family, who owned the Manor of Westerham from the time of Henry VIII till the late 17th century. At the highest point of the town St. Mary's Church is tucked behind the Green, but its elevated position means that the spire is visible from much of the town. Another landmark here, but for different reasons, is the grade II listed Church Cottage, a timber framed 17th century listed cottage that forms part of the

various views to the church, and whose exposed timber frame provides clues as to the age of the town.

The two statues, of Winston Churchill and General Wolfe, on the open expanse of the Green are well known landmarks. The Green is a pleasant open space surrounding by dwelling houses, natural paving, some of which is historic, and a number of benches for exploring the space; this contrasts with the bustling nature of the start of the Market Square. On the south side of the Green a footpath, Water Lane, leads south towards the valley of the river Darent and open countryside beyond. Detractors in the area include the long flat dormer window on the roof of Owl House, and the car parking around the Green, which detracts from its otherwise tranquil atmosphere.



View from Fullers Hill to Market Square

The triangular shape of the Green and the rising land draw the eye up to the Market Square, where the buildings are taller, and more closely spaced. The majority of the buildings both around the Green and along Market Square and Fullers Hill are either listed, or identified as buildings of merit. This includes the Grade II listed Kings Arms Hotel. The buildings to the north of the Market Square are set in a triangle between Fullers Hill and London Road, and these roads lead back down the hill, with views to the Downs beyond. Buildings are mostly dignified and substantial with enough variety to maintain interest. For example, the tiny building, tucked between two larger 'gentrified' facades of No. 24 and No.26 comes as a delightful visual surprise.

There is a mix of building ages and styles here, but most are historic and date from the 18th and 19th century, often with older cores. There is a mix of brick and rendered frontages, and many sliding sash windows. Shop fronts are mainly historic or follow the traditional pattern, and present a regular rhythm with a similar height along Market Square. Nos. 17 to 23 Market Square is an arcade of shops dating from 1890, with intact shop fronts, a good example of preserved architectural harmony. There are some exceptions to the retention of well proportioned historic shop fronts, where signage or shop fronts do not relate well to the host building, in terms of materials, scale and design.



17 to 23 Market Square

The road narrows from the wider expanse of the Market Square, and Fullers Hill has a number of listed buildings and little lanes leading off it to the characteristic small enclaves of former workers cottages, such as the grade II listed 17th century Duncan's Cottages, a terrace complete with an historic row of privies. Set back from the thoroughfare and behind Duncan's Cottages is the 1839 Evangelical Congregational Church, its Greek Revival style unique within the town. The entrance to Fullers Hill is marked by a change to a more pedestrian character, with granite setts and brick paving, and seating to either side. At the bottom of Fuller's Hill a triangular space, formerly the site of the fire station and now a small car park, allows views back up the hill to the George and Dragon public house and the centre of town.

4.2.3 London Road

The northern spur of the Conservation Area takes in a number of interesting buildings, along the busy north/south route of London Road. These include the restored Victorian, neo-Tudor Moretons Almshouses with the separately listed lych gate and wall to the front. Also a key survivor of the history of Westerham in this area is the remaining part of a goods yard where the railway station was located, at Hortons Way.



Moretons Almshouses, London Road

To the south of the almshouses and behind Westerham Hall is a former barn that has been sensitively converted into a residence, a rare remaining feature in this now largely residential area.



Barn conversion behind Westerham Hall



Station House Hortons Way

At the northern point of the conservation area is the former National School for Girls and Infants, London Road, opened in 1861, now in use as an office building. The other national school was located on Hosey Hill.

4.2.4 Lodge Lane to Verralls Corner

At the junction of Croydon Road and the High Street a small lane, Lodge Lane, leads south to Squerryes Lodge, a grade II* listed building with 13th century origins, and later additions, which was later used as the Dower House to Squerryes Court. It is mostly hidden from view except from the higher parkland beyond. Lodge Lane itself is a remarkable catalogue of architectural styles, but with a consistent palette and form characteristic of the area, dating from the 14th century to the 20th. There are a number of listed cottages on the west side, and a larger house behind a high brick wall to the east.

To the other side, where Croydon Road meets Market Square, are two of the most significant detractors to the area; the row of shops that do not relate well architecturally or in terms of layout, to the street and area, including the parking to the front, and the apartment buildings which are slightly out of scale, with uncharacteristic juliet balconies and also include parking to the front, leaked space with a poor public realm. These are excluded from the Conservation Area but have a direct impact on its setting. On the northwest side of the junction is a landmark building which draws the eye when travelling west. The Old Manor is a large manor house clad in brick dating to the late 17th century, and is an impressive presence in the street scene.

There are few listed buildings in this section, but the majority of the historic buildings are considered to be buildings of merit. These include the pleasant Victorian terraces of Stratton Terrace and New Street, which may have been related to the factory buildings just to the north east or to house other residents working within the small industries in the town. The smaller residential streets off the High Street are a quiet contrast to the busy main road.



Lodge Lane

From Lodge Lane the High Street runs southwest and south through an area of mainly residential properties, set close to the road and interspersed with the occasional larger property and office development. Some of these were former shops, with shop fronts and, in some cases, tiled plinths still remaining. At the site of the former laundry on the south side is Wells Close, a new residential development that also blends in well by using vernacular detailing and materials. An historic ragstone and brick wall borders the High Street to the entrance to the close, where the remaining stone backing of a mile marker can be seen. Opposite, The Drill Hall (now used by the Sea Cadets) is a striking building faced with randomly coursed ragstone. Shaped tiles on the first floor of buildings is particular prevalent in this area.

Heading up Mill Lane, the built form is less dense, dominated by the hall building and ragstone walls, and leading to the parkland and Park Lodge, a pleasant early 20th century lodge building. Also located behind Park Lodge is the former pond to the mills located on this site.

4.2.5 The Forge to Farley Lane

The old forge at Verralls Corner forms a node at the sharp bend in High Street, and is a landmark within the area in terms of its former use and position. Opposite to it is a small green space, opening up this corner, with a red telephone box on one side. The buildings at this end of high street maintain the consistent modest scale and red brick, tile and painted brick or render of the rest of the Conservation Area. Most are listed. The road dominates, again as with rest of the route of the A25 through the area.

Agenda Item 7

On the north side is a series of reminders of the brewing history of the town, such as the General Wolfe public house, Brewery Cottages, and the old Black Eagle Brewery house, the brewery site itself having been redeveloped as housing behind.



Brewery Cottages

Across from here is the restored Long Pond, which had been silted up and became wasteland after the war, until its restoration as a millennium project. The south side of the road here becomes markedly rural in nature, with the parkland beyond, mature trees and post and rail fencing.

Beyond the General Wolfe is a building known as Moretons, Great Moretons and Moretons End, a striking building with Dutch gables, substantial iron gates and burnt brick facade with red brick dressings. This was originally one house divided into three. Next to this is Pitts Cottage, a grade II listed timber framed building with a plaque commemorating the fact that William Pitt lived here. Wolfelands, formerly known as Farley, completes this group. This is a former farmhouse and the associated buildings to the north, and substantial brick and ragstone wall, mark the western limit of town.

4.2.6 Squerryes Court and Park, and Parkland to the South

Across the A25 at Farley Lane is Goodley Stock Road and Squerryes Cottages. Further along Goodley Stock Lane is Squerryes Court Lodge which marks the entrance to the grounds of the grade I listed Squerryes Court. Squerryes Court is a substantial Renaissance house dating from the late 17th century and set within landscaped grounds and parkland, with a home farm which is outside of the Conservation Area, but within the Squerryes Court Registered Park and Garden. Opposite the house is an ornamental pond, and to the south are the former stables, farmyard and dovecote. A grade II listed cenotaph just north of the dovecote commemorates the spot where General Wolfe, aged 14, first received news of his army commission.



Squerryes Park Cottages

From Park Cottages to the west side of Hosey Hill runs a swathe of wooded parkland that rises steeply to the south. The river runs at the bottom of the valley and there are a series of ponds on both public and private land. The area is crossed by footpaths and gives some panoramic views across the town, and glimpses of Squerryes Court among the trees. One of the footpaths connects to Water Lane, a pedestrian route to the Green. The parkland is an important part of the green setting of Westerham, a town of a reasonable size and close proximity to a motorway, but retaining its rural setting.

4.3 Negative Features

Westerham has largely retained its architectural and historic character, making it worthy of its designation as a conservation area. However, there are a number of features which, although mostly minor, together detract from the area's special character. These are as follows:

- Inappropriate street furniture and excessive road marking, resulting in visual clutter;
- heavy traffic;
- replacement architectural features of inappropriate modern materials, such as uPVC windows and concrete roof tiles;
- loss of historic paving and kerbs;



Replacement windows and concrete roof tiles

Agenda Item 7

- areas of poor landscaping and leaked space;
- satellite dishes at the front of properties;
- weak architecture within or affecting the setting of the Conservation Area;
- replacement shop fronts that are out of scale or of inappropriate materials, and excessive or inappropriate signage.



uPVC windows



5.0 MANAGEMENT PLAN

5.1 Conservation Area Management

Management of change which allows for the preservation or enhancement of the special character of the Westerham Conservation Area, and recognises local distinctiveness, is the key aim of this appraisal and management plan. The last section of the appraisal highlights areas where there may be potential for harmful change, or where there are opportunities for enhancement. The management plan sets out how pressure or neglect will be managed to ensure that the Westerham Conservation Area retains the special character that is identified in the appraisal.

5.2 Current and Future Pressures

5.2.1 New development

Westerham town is surrounded by land designated as Metropolitan Green Belt, and some of the areas within the Conservation Area boundary are located within the designated area. This is therefore afforded a level of protection as laid out in the Core Strategy. In the draft Allocations and Development Management Plan DPD (due for adoption around Summer 2014), there are no sites allocated for new housing development in the area. The Westerham Trading Centre, which is located just outside the Conservation Area boundary on the north side at Hortons Way, is supported as an employment site in Core Policy SP8 and more specifically within the Allocations Development Management Plan DPD as an area where the use will be retained, intensified and regenerated, and appropriate new development will be supported. It is important that any new development within this site looks for opportunities to enhance the setting of the Conservation Area, and does not harm its significance.

Development pressure is inevitable within Westerham and there are recent examples of new housing within the boundary. There are some areas identified as negative features in or adjacent to the Conservation Area within the appraisal where appropriate new development or landscaping could better reveal the significance of the area. The leaked space and poor architecture of certain buildings around the junction with Croydon Road, for instance, which is just outside the Conservation Area, could be improved with new landscaping or development which could better reveal the significance of the Conservation Area. Where infill development is proposed inside the Conservation Area, it must respond to its environment and context, in terms of scale, density, form, materials and detailing. Westerham boasts a diverse range of architectural form and style, of various periods, but there is a consistent palette as identified in the appraisal section. A useful guide for new development in historic areas, published by English Heritage and CABI, is *Building in Context: New Development in Historic Areas*, and its accompanying toolkit for assessing proposals for new development. Its eight principles are as follows and are useful measures for objective assessment to ensure that development within the Westerham Conservation Area maintains or enhances its significance:

Principle 1: A successful project will start with an assessment of the value of retaining what is there.

Principle 2: A successful project will be informed by its own significance so that its character and identity will be appropriate to its use and context

Agenda Item 7

Principle 4: A successful project will sit happily in the pattern of existing development and the routes through and around it.

Principle 5: A successful project will respect important views.

Principle 6: A successful project will respect the scale of neighbouring buildings

Principle 7: A successful project will use materials and building methods which are as high quality as those used on existing buildings.

Principle 8: A successful project will create new views and juxtapositions which add to the variety and text of the setting.

Place names are very important to the local distinctiveness of Westerham as they often reflect past uses that are no longer in existence, such as the mills and breweries. Retention of names should be considered with any new development.



5.2.2 Alterations

Article 4 Directions

Minor inappropriate alterations to buildings, spaces and the public realm can cumulatively detract from an area's special character. In Westerham Conservation Area, as identified in the appraisal, this includes replacement or loss of architectural features and boundary treatments, which may be a permitted development right for dwelling houses, and alterations to shop fronts and signage.

The District Council could consider making an Article 4 direction under the Town and Country Planning (General Permitted Development) Order 1995. This would require home owners to submit planning applications for any number of different minor alterations, such as replacement windows, replacement doors, or alterations to boundary treatments. As this would only apply to dwelling houses and the proportion of these within the Conservation Area boundary is not high and the process for making and subsequently enforcing an Article 4 direction is resource-heavy, it is not considered to be an effective measure to take at this time. If in the future funds may be made available to concurrently offer grants to encourage people to apply for permission to reinstate original features, this could be reconsidered. For instance, a high number of dwellings have unfortunately replaced original windows with uPVC windows, which detract from the special character of the area.

Guidance notes for minor alterations

An alternative to making an Article 4 direction that does not provide the statutory control, but could be effective in other ways, is to produce a guidance note specific to the Westerham Conservation Area that celebrates its special character and raises awareness of the importance of retaining features that contribute towards this character. A guidance note could also provide advice on maintenance and appropriate replacements where necessary. English Heritage research carried out in relation to the Conservation Areas at Risk campaign, and available on their website, provides useful information for homeowners about the value of living in conservation areas, and the effect of harmful change. This could be included in any guidance notes.

Shop fronts

There are a number of surviving Victorian and Edwardian shop fronts in the Conservation Area, including some that survive even where the building has been converted into residential use. It is very important in maintaining the significance of the Conservation Area that these shop fronts be retained, as they were designed to complement the building in which they sit, are appropriately proportioned and provide a sense of place and retention of historic character. Management of this will be through the Development Management process, and the guidance note on shop fronts that accompanies saved Policy EN27 of the Local Plan. It would be beneficial, however, to create a specific guidance note for Westerham, which acknowledges outstanding shop fronts, such as the surviving row next to the Kings Arms Hotel on the Market Square, and provides guidelines on alterations, design of new shop fronts, and advertisements. There are a few instances of signage where, for instance, the fascia sign is too deep and out of proportion with the shop front, or obscures features of the building, that should be avoided.

5.2.3 Streetscape and Public Realm

Traffic is, despite the creation of the M25 in 1986, often heavy along the A25 route through Westerham. Traffic calming measures may be a consideration, although the winding route and change in levels through town help to naturally slow traffic down. It is important that any measures taken would not produce clutter within the Conservation Area, such as excessive signage or barriers, or inappropriate colouring of surfaces. Regular liaison between traffic engineers and local authority planning and conservation officers is a constructive way of ensuring that change is effectively managed, and a formal system could be considered for this. Statutory undertakers are also required to permanently reinstate a highway where they disturb it with the existing materials, or if not possible, with the closest possible match. The historic character of the traffic and pedestrian routes, including their orientation, widths, materials and names, should be maintained. Best practice and helpful case studies can be found in the following, which should be taken into consideration for works to the public realm in the Westerham Conservation Area:

- *Manual for Streets 2, Department of Transport 2010*. This document provides guidance on delivering more contextually sensitive designs, including historic context.

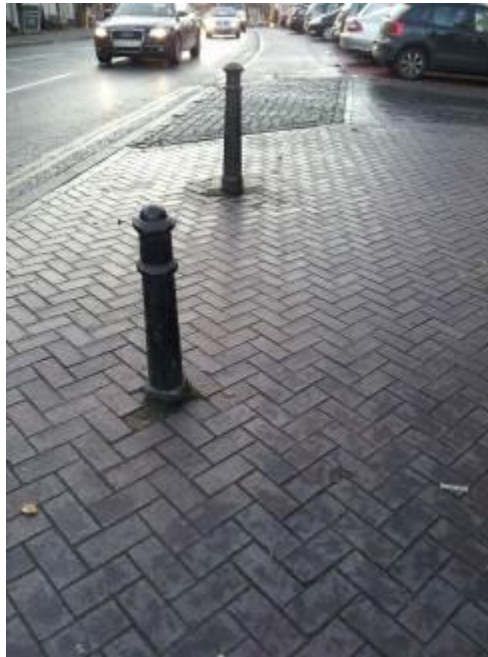
Agenda Item 7

- *Streets for All South East, English Heritage, 2005.*

The guidance provided in these documents provide best practice principles to be adopted for the following:

Surface Materials

Quality of surface materials in the public realm, and the retention of historic surfaces, is vital to the significance of the Westerham Conservation Area. There are some surviving stone kerbs which should be maintained, and consideration should be given to reinstatement where materials are made available through reuse. Parts of the pedestrianised area have herringbone brick pavers as surfaces, which is a generic and visually distracting surface that has no historic precedent. Where management plans are in place to replace these when necessary, materials used should better reflect the local distinctiveness of the area, taking into consideration what was available locally in the past (stone), or what historically was imported, such as granite setts. There are several areas of hard limestone paving and kerbs that could be replicated and should also be maintained, which historically may have been either ragstone or ironstone. Local stone such as Kentish rag stone may be an appropriate choice of material.



Generally, these principles should be followed:

- Relate ground surfaces to the local context.
- Keep paving simple and avoid discordant colours.
- Maintain and restore historic paving and detail such as kerbs and gulleys.

Street furniture

There is no particular pattern for street furniture in the Conservation Area, but the majority of the bollards, street lighting and sign posts are finished in black. This is an appropriate finish where historic colours are not known, although it needs to be acknowledged that true black is a relative latecomer to painted street furniture and railings, since the late 19th century onwards. All new or redecorated street furniture in the area should be finished in black to maintain a consistent character. The exception to this are the timber bollards surrounding the Green, which set apart this important space and soften the landscaping with the use of natural materials.

There are no historic street lamps within Westerham, but there are a few on Market Square that are replicas of Victorian patterns, and are painted black. New street lighting is likely to be more successful if it is based on historic photos of past lighting columns, or is an appropriate contemporary design and complements the area, which again would need to be finished in black.

In general, the following should be taken into consideration:

- Identify and remove superfluous or redundant items.
- Minimise signage and locate signs on existing bollards, lampposts or walls and buildings at the back edge of the pavement.
- Unify street furniture by finishing in black.
- Reduce guard rails to a minimum and use simple designs that relate to local character.
- Avoid standardised lighting and choose the design and light source most appropriate for the area.
- If traffic-calming measures are required, they should be fitted sensitively into the street scene.
- Adopt a minimalist approach. Any works should involve minimal visual interference with the established streetscape and respect the historic street layout.
- Limit road markings to those essential for highway safety and use a muted yellow colour where double lines are absolutely necessary.

Agenda Item 7



Street furniture in need of maintenance



Bespoke black painted street furniture

A positive step, along with liaison with traffic engineers, could be a complete audit of street furniture and subsequent removal of any redundant signage or other furniture.

APPENDIX 1 - Maps

Map 1 – Conservation Area Boundary

Map 2 – Designations

Map 3 – Character Appraisal

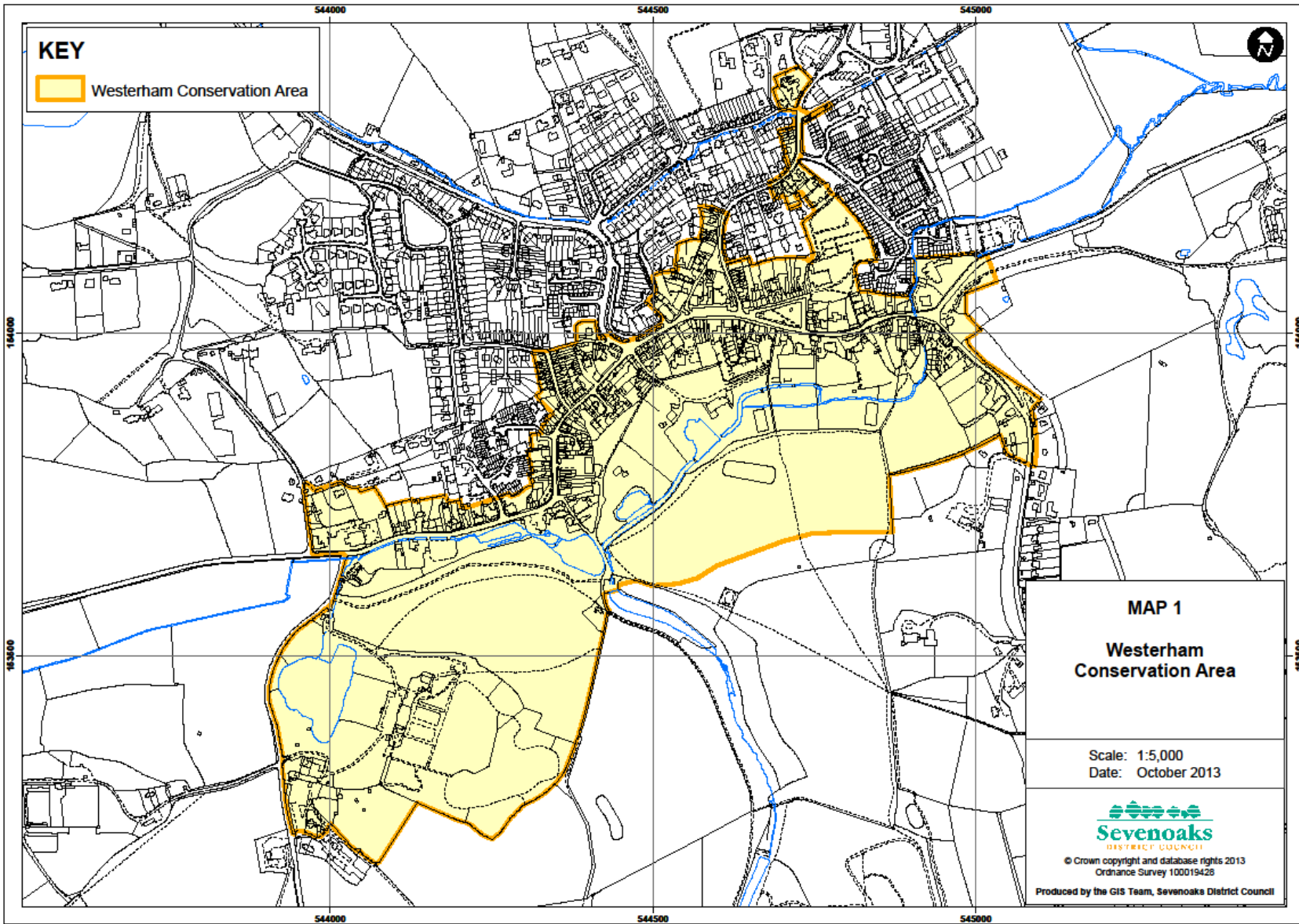
Map 4 – Views

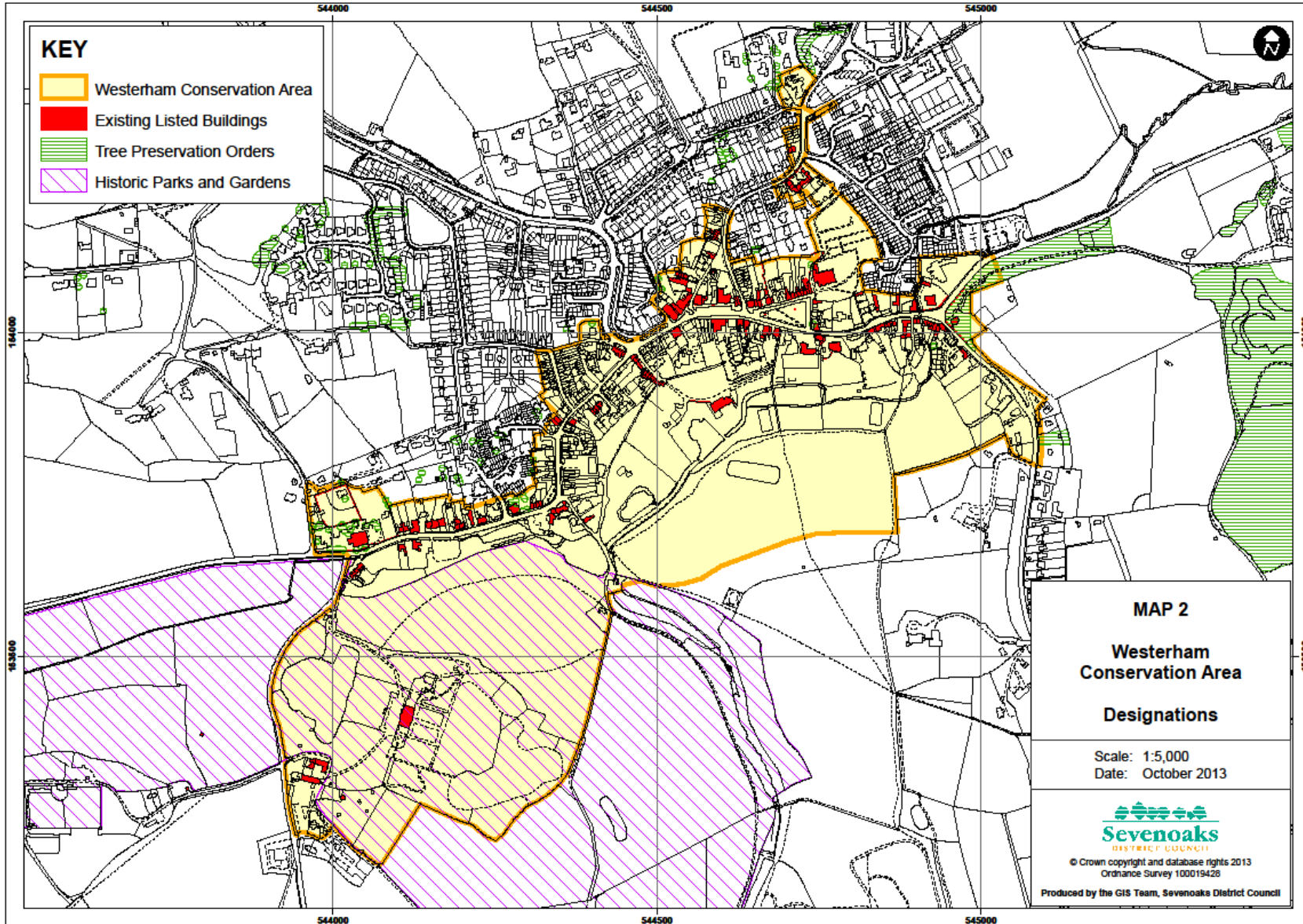
Map 5 – Squerryes Court Historic Park and Garden

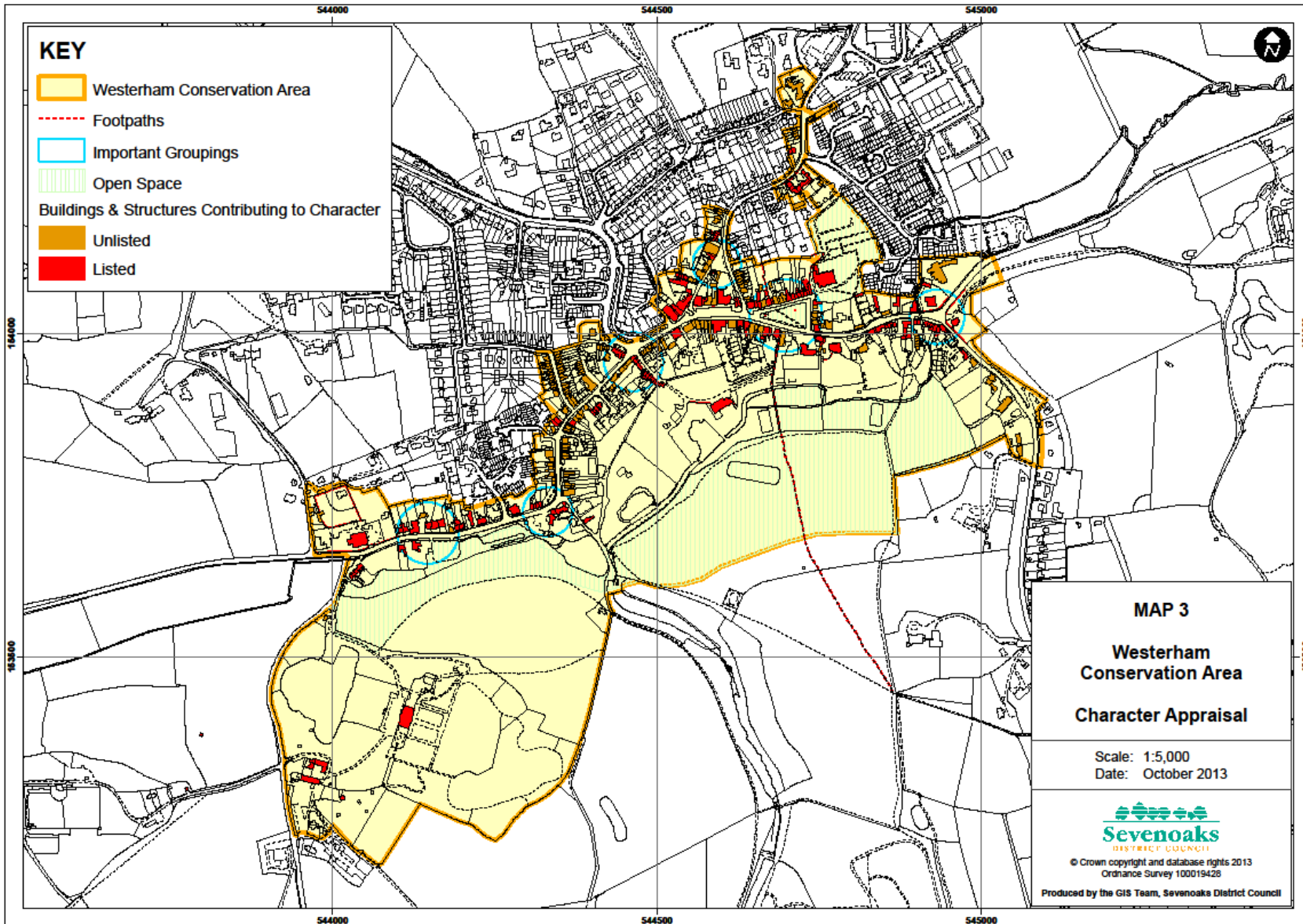
Map 6 – Westerham 1884 – 1894

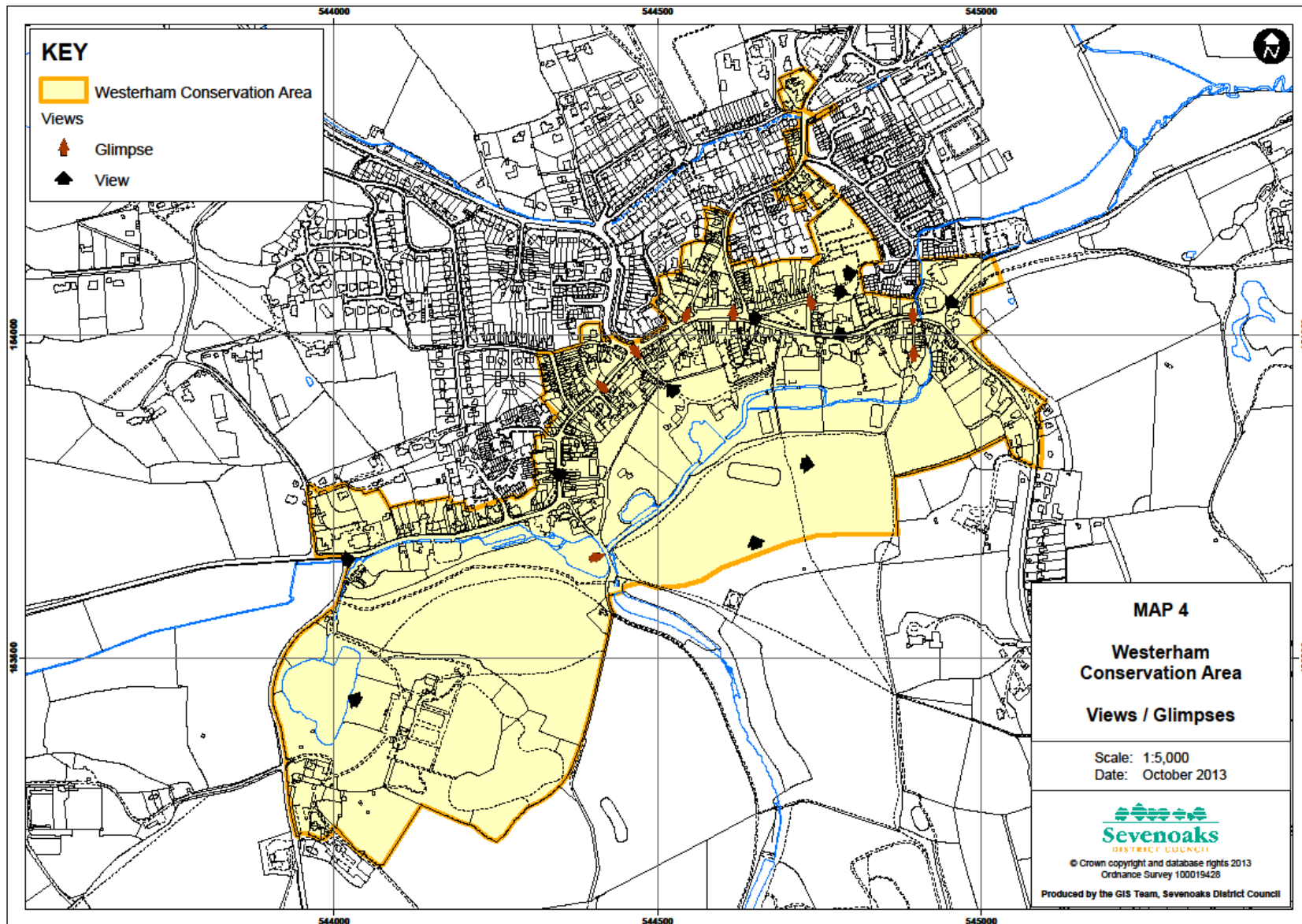
Map 7 – Westerham 1909

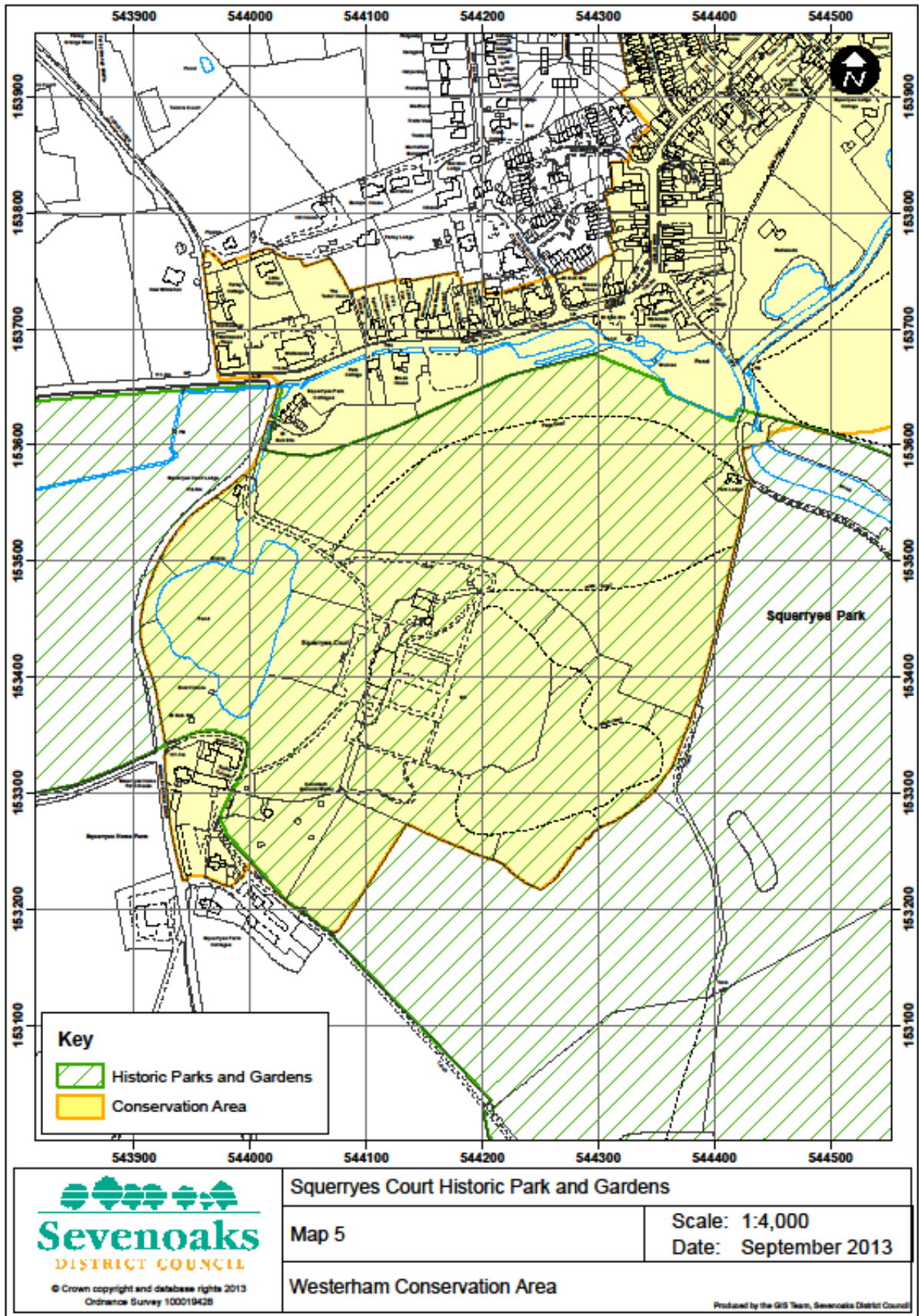
Map 8 – Westerham 1938 - 1939

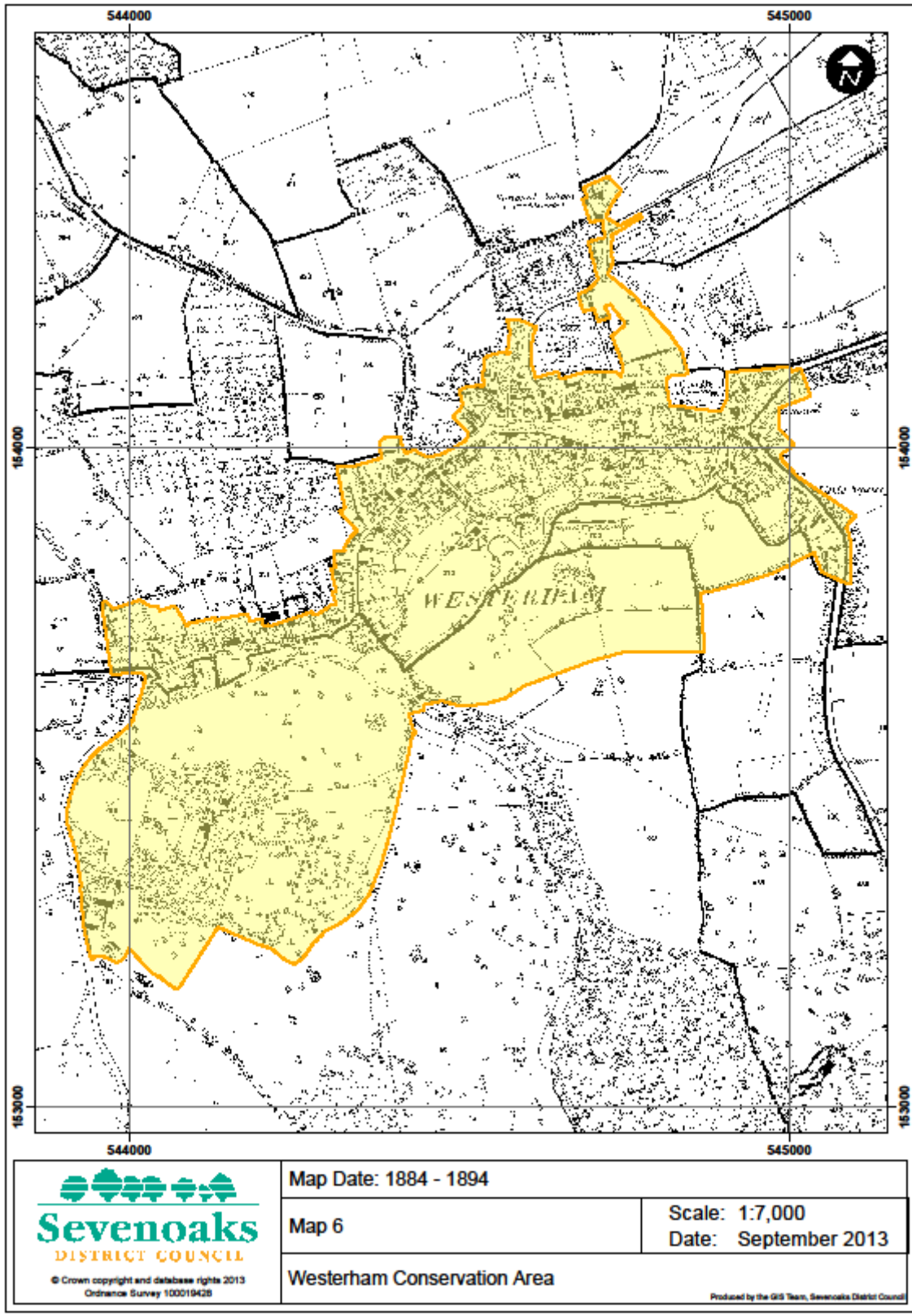


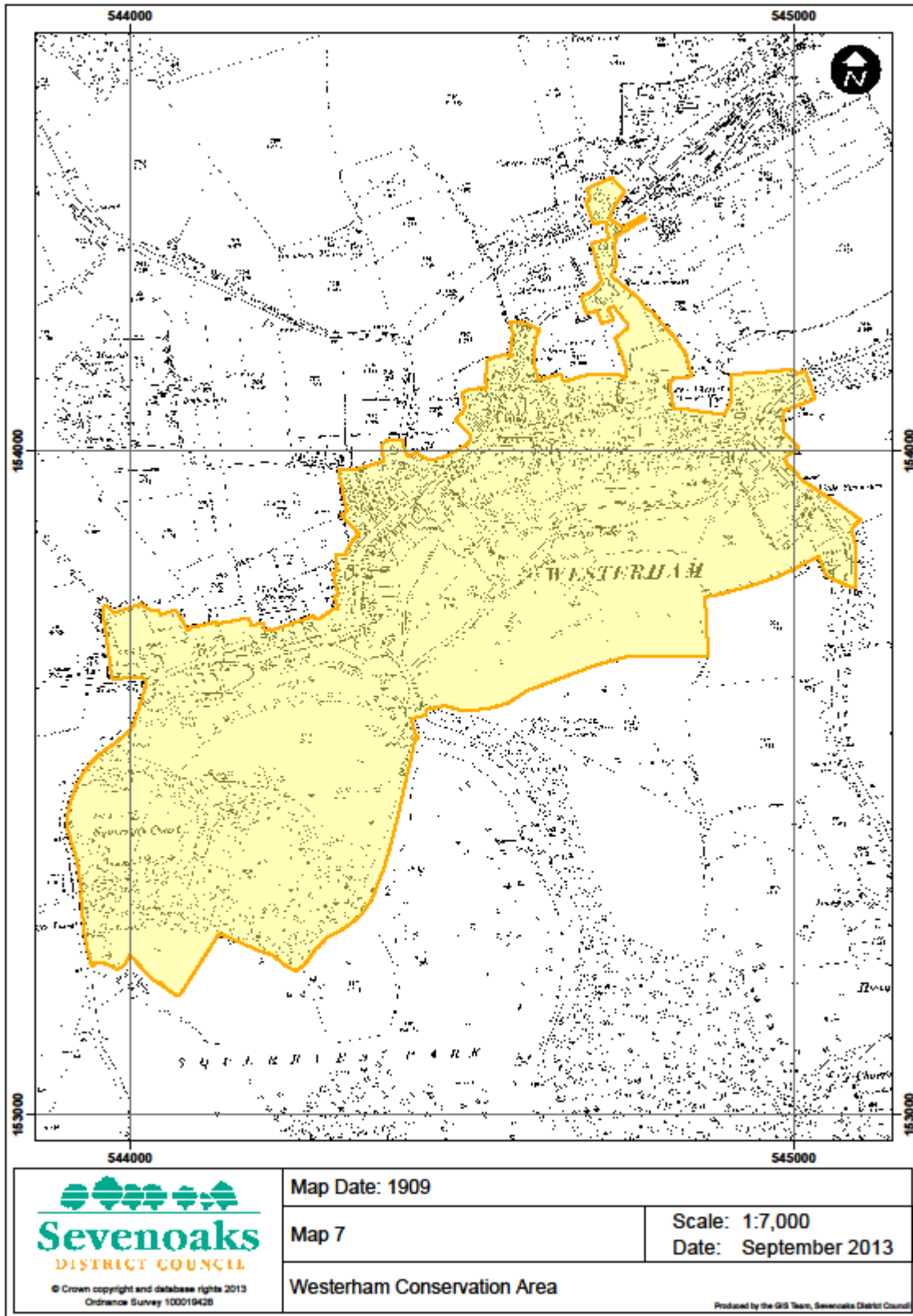


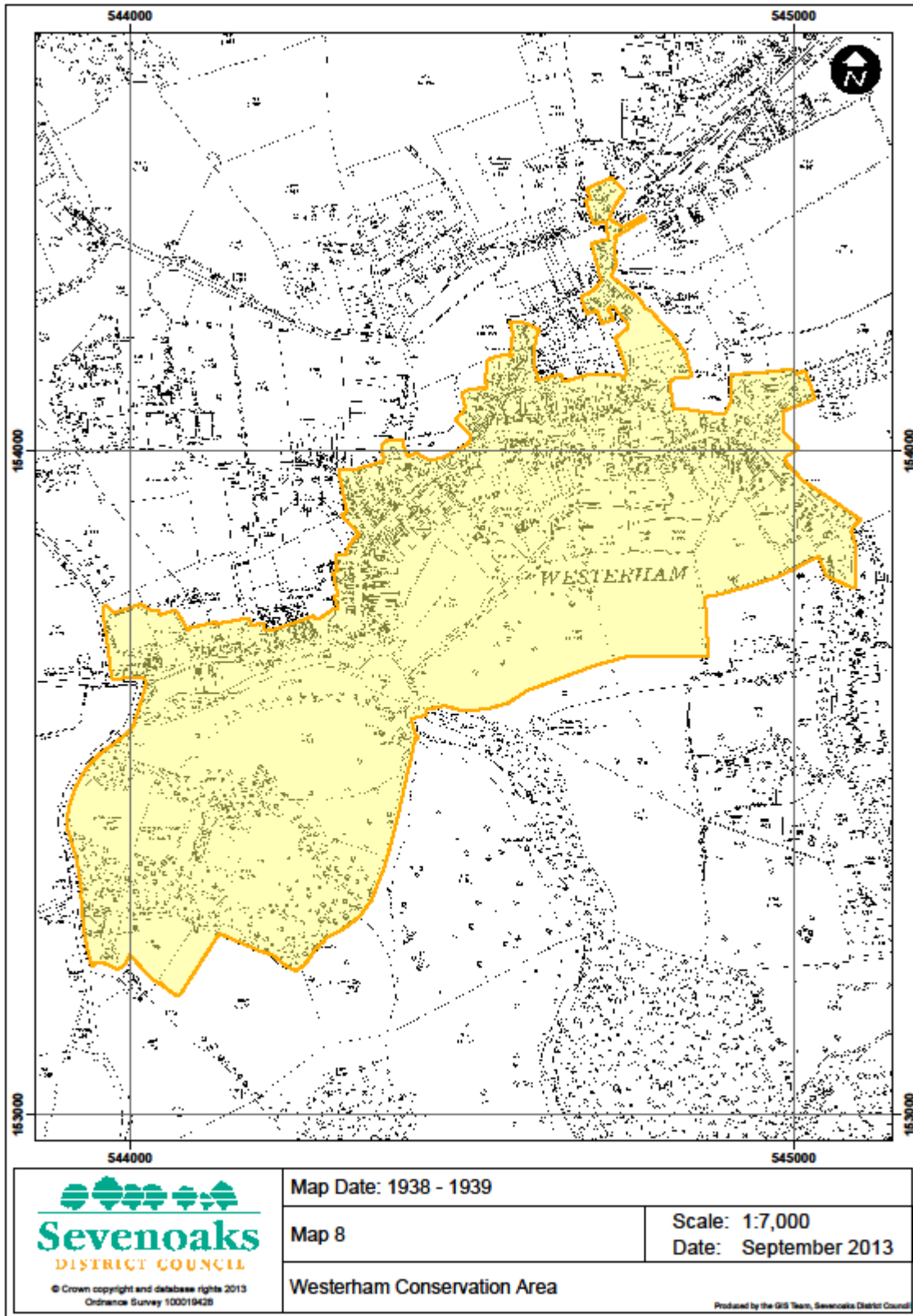












Agenda Item 7

APPENDIX 2 - Bibliography

Understanding Place: Conservation Area Designation, Appraisal and Management. English Heritage, 2011.

Kent Historic Environment Record

Westerham and Crockham Hill Guide 1984

Curtis, Bill. Westerham: A Social and Commercial History 1865 – 1915. 2012

British History Online

Newman, John. The Buildings of England. Kent: West and the Weald. 2012

Building in Context: New Development in Historic Areas (2001), and the Building in Context Toolkit (2006). English Heritage and CABE@Design Council

APPENDIX 3 - Glossary

Ashlar – Walls or facings of dressed stonework laid in courses with thin joints.

Catslide roof – A roof with one side longer than the other, continuing at the same pitch over an extension to a building

Dentil - one of a number of small rectangular blocks resembling teeth, usually found as a decoration under the moulding of a cornice at eaves level.

Hip roof – a pitched roof which has four slopes instead of the two of a gable roof.

Gable – The triangular part of an end wall of a building with a pitched roof.

Gabled roof - The commonest type of roof with sloping sides meeting at a ridge and with a gable at each end

Gallet – a flake of stone (or flint) used for filling the joints in rubble stone walls

Parapet – A low wall standing on top of an external wall or a separating fire wall, at roof level. Often obscuring guttering.

Weatherboard – Horizontal boards used to externally clad walls, typically on timber-framed buildings

This page is intentionally left blank

Item 8 – Local Enforcement Plan

The attached report was considered by the Local Planning & Environment Advisory Committee relevant minute extract below:

Local Planning & Environment Advisory Committee – 27 January 2015 (Minute 39)

The Chief Planning Officer presented a report which introduced a Local Enforcement Plan which provided information to customers on how the Council would deal with enforcement and the powers available so that complainants and those subject to complaints would know what to expect from the service.

A Member observed that Parish Councils very often formed the ‘eyes and ears’ of the enforcement section, however what constituted a breach was not always well known, and he was disappointed that more work with Parish and Town Councils was not addressed in the plan. The Chief Planning Officer replied that the Council was reliant on third party information. There would be dedicated training for Councillors on how enforcement was to be rolled out, and if necessary one to one meetings. It was suggested this could be offered to the Parish Councils.

Action 1: The Chief Planning Officer address the possibility of training at the next Parish Forum.

A number of Members referred to some individual cases in their area. It was agreed that they should approach the Portfolio Holder and Chief Planning Officer outside the meeting.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Cabinet to agree the Local Enforcement Plan for adoption.

This page is intentionally left blank

LOCAL ENFORCEMENT PLAN

Cabinet – 5 March 2015

Report of	Chief Planning Officer
Status:	For consideration
Also considered by:	Local Planning and Environment Advisory Committee – 27 January 2015
Key Decision:	No

Executive Summary: This report introduces a Local Enforcement Plan (see Appendix A) which is a document setting out how the Council will respond to breaches of planning control.

This report supports the all the key aims of the Community Plan

Portfolio Holder Cllr Piper

Contact Officer(s) Alan Dyer Ext. 7196

Recommendation to Local Planning and Environment Advisory Committee: That Cabinet is recommended to agree the Local Enforcement Plan for adoption.

Recommendation to Cabinet: That the Local Enforcement Plan be adopted and published.

Reason for recommendation: The Local Enforcement Plan provides information to customers on how the Council will deal with enforcement and the powers available so that complainants and those subject to complaints will know what to expect from the service.

Introduction and Background

- 1 The Improvement Plan for the Planning Service includes a proposal to review, revise and re-launch the 'Enforcement principles' document, last updated in 2003, as an Enforcement Handbook - a user friendly, informative, easy to read and understand guide which will explain our priorities, the options available to us and set out our service standards.
- 2 The National Planning Policy Framework (NPPF) recommends that local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate

Agenda Item 8

alleged cases of unauthorised development and take action where it is appropriate to do so (NPPF para 207).

- 3 The Government's recently published Planning Practice Guide also advocates the preparation of a Local Enforcement Plan.
- 4 The proposal in the Improvement Plan is very similar to what the Government envisages in a Local Enforcement Plan and the Improvement Plan proposal is therefore being taken forward as a Local Enforcement Plan.
- 5 The Council's enforcement service has a very high workload arising in large part from the number of complaints received. In 2013/4:
 - It received 1,272 complaints about breaches of planning control (equivalent to just over 100 new complaints every month)
 - It visited 93% of sites subject of complaint within three working days
 - It checked 829 commencements for potential breach of control
 - It rectified breaches of planning control in 319 cases (either by formal action, informal agreement or through the grant of permission)
 - It served 8 enforcement notices, 10 breach of condition notices and 19 planning contravention notices

Structure of the Plan

- 6 The plan is structured as follows:
 1. General Introduction
 2. Key Principles of the Enforcement Service. Listing six key principles which guide our approach. These are:
 - We will investigate all complaints received about breaches of planning control and aim to visit the site concerned within three working days.
 - We will give priority to the most serious complaints based on the degree of harm caused by the development subject of the complaint.
 - We will use our statutory powers to remove harmful development.
 - We will explore solutions to remove harm caused by unauthorised development.
 - We will keep complainants and those who are the subject of complaints informed throughout our investigations.
 - We will keep the identity of complainants confidential.
 3. Investigating Complaints. Covering what complaints will be investigated, how they will be prioritised and how investigations will be carried out.
 4. Securing Compliance. Setting out the powers available to the Council and the circumstances in which they will be used.
 5. Monitoring Implementation of Planning Permissions. Covering the monitoring that is carried out when development starts.

6. Commitments to Customers. Including how we communicate with people who complain and people who are subject of complaints.

Additionally there is an appendix covering relevant legislation.

- 7 The plan places greater emphasis than previously on securing compliance while remaining within the framework of Government guidance and legislative constraints. It sets out the powers that are available to the Council, including enforcement notices and stop notices, and the circumstances in which they may be used.
- 8 The powers include the ability to serve a Section 215 Notice requiring the improvement of untidy land or buildings. The Council has used this power with success, for example in tackling a house and garden in Dunton Green that had become an eyesore, and has also achieved success where it has threatened to serve a notice. It will be looking for additional opportunities to use the power in the future and will investigate all complaints received.
- 9 The plan recognises that in some cases a breach of planning control will not have a harmful impact sufficient to justify taking enforcement action. In such cases the enforcement team will always try to get a planning application submitted so that the unauthorised development can be brought under control. Where no application has been forthcoming a decision has to be made whether to close the case with no further action taken. To ensure adequate democratic oversight of the closure decision the plan proposes that local Members will be consulted on any decision to take no action on a case where there is a breach of planning control and given the opportunity to refer the matter to Development Control Committee. This is in addition to the existing power for the Local Member or the Committee Chairman to refer any enforcement case to the Committee.
- 10 Members also now receive a monthly report of all new enforcement complaints received.
- 11 Following agreement by Cabinet it is proposed that the plan be published on the Council's web site and made available to those involved in the process including complaints and those who are subject to complaints. It will also be publicised via forthcoming Town and Parish Councils and Agents' forums. Publishing the plan should raise awareness of how enforcement operates and the powers available, together with providing accessible information on the service customers can expect.

Other Options Considered and/or Rejected

There is no statutory requirement to prepare a Local Enforcement Plan and there is an option of not proceeding with the plan. However, it is considered that there are substantial benefits from adopting and publishing the plan as set out above.

Agenda Item 8

Key Implications

Financial

There are no significant financial implications from publishing the plan as the limited cost of printing can be met from existing budgets. The plan does not introduce any new procedures that have additional costs. Some potential enforcement actions do have potential financial implications for the Council and these are considered before taking action.

Legal Implications

The Legal Services Manager has been consulted on the preparation of the document and comments have been incorporated.

Equality Impacts

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and has the potential to vary between groups of people. The results of this analysis are set out immediately below.

Enforcement does have the potential to adversely affect certain groups including those with limited understanding of Planning, those with difficulty reading documents and those without access to IT. The EQIA for Enforcement which was updated in 2013 identifies potential adverse impact and measures to overcome them, including offering home visits, translation services and maintaining paper copies of documents. The Enforcement Plan should aid understanding of the service and will be made available in different formats to help those without computer access.

Conclusions

It is considered that the Local Enforcement Plan will offer benefits in aiding understanding of the service and clarity for customers in understanding what to expect from enforcement investigations. It is therefore recommended for adoption.

Appendices

Appendix A – Draft Local Enforcement Plan

Background Papers:

None.

Richard Morris
Chief Planning Officer

Sevenoaks District Council

Local Enforcement Plan

1. INTRODUCTION

Effective operation of the planning system depends on the ability to enforce against development carried out without planning permission and planning legislation gives District Councils powers to take action where necessary against development that does not have permission.

The Government provides guidance to local authorities on enforcement in its National Planning Policy Framework. It says:

Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

The Government's Planning Practice Guidance also advocates the preparation of a local enforcement plan.

This document is the Council's Local Enforcement Plan. It was adopted on [insert date].

2. KEY PRINCIPLES OF THE ENFORCEMENT SERVICE

The Council's approach to enforcement is based on the following key principles.

- **We will** ...investigate all complaints received about breaches of planning control (*) and aim to visit the site concerned within three working days.
- **We will** ...give priority to the most serious complaints based on the degree of harm caused by the development subject of the complaint.
- **We will** ...use our statutory powers to remove harmful development.
- **We will** ...explore solutions to remove harm caused by unauthorised development.
- **We will** ...keep complainants and those who are the subject of complaints informed throughout our investigations.
- **We will** ...keep the identity of complainants confidential.

(* Except that we do not investigate anonymous complaints)

The following sections explain our approach in more detail.

3. INVESTIGATING COMPLAINTS

3.1 How to Report Alleged Breaches of Planning Control

The Council welcomes the reporting of suspected breaches of planning control and looks to the public to be its eyes and ears. As development can gain immunity from enforcement action over time, it is important that any suspected breaches are reported as soon as possible in order that harmful development can be removed or minimised. Those reporting a breach of planning control are asked to do so via the Council's website:

<http://www.sevenoaks.gov.uk/services/housing/planning/planning-enforcement>

The Council will not disclose any information that would identify a complainant. Maintaining confidentiality is intended to ensure that people are not deterred from reporting breaches or possible breaches. The personal information of a complainant will be processed in accordance with the Data Protection Act 1998.

Anonymous complaints cannot be investigated. But if you do not want to reveal your identity to the Council you can ask your local Member or your local Parish or Town Council to put forward your complaint.

3.2 What is a Breach of Planning Control?

A breach of planning control is either: -

- Carrying out development without the required planning permission (this includes carrying out development contrary to approved plans);
or
- Failing to comply with any condition or limitation imposed on a planning permission that has been granted

Some development, referred to in the legislation as "permitted development", does not need an express grant of planning permission and we cannot take enforcement action against it.

The Council also has powers to take action against untidy land or buildings where their condition causes harm to the amenity of the area.

The Planning Enforcement Team only deals with breaches of planning control. There are some things that are covered by other departments or other authorities, such as on street parking, the safety of a building, fly tipping, noise/smell complaints and licensing restrictions. If complainants are unsure whether their complaint relates to a planning matter the Enforcement team can provide advice.

The Council will not intervene in private civil disputes such as breaches of restrictive covenants, boundary disputes or disputes that relate to damage to or reduction in value of land or property.

3.3 Prioritising Complaints

Taking enforcement action can be a complex process requiring significant staff time. The Council must therefore prioritise cases to ensure that prompt action is taken against the most damaging developments. In very urgent cases, a site visit will be made immediately. However, in all cases, we aim to make a site visit within 3 working days.

Complaints are prioritised as follows: -

Very Urgent

- Unauthorised works to listed buildings
- Unauthorised works to protected trees
- Any other development that causes irreversible demonstrable harm.

Urgent

- Any unauthorised development/activity which causes clear harm to the locality including the living conditions of adjoining residents
- Breach of a condition which results in demonstrable harm to amenity in the neighbourhood

Less Urgent

- Unauthorised developments which may receive planning permission
- Minor breaches, including breaches of conditions
- Unauthorised advertisements

3.4 Site Visits

In all but the most straightforward cases, officers will visit sites to establish whether a breach of planning control has taken place and establish the nature of the breach. The majority of site visits are made without prior warning so that sites can be seen in their normal state.

Officers are required to identify themselves as investigation officers as soon as they enter a site. The Council's planning investigation officers have powers of entry, for the purpose of investigating alleged breaches of planning control (see appendix).

Where site visits are made and no occupier can be found at the time of visit, officers have power to inspect the land in his or her absence, though not to force entry into any

dwelling house. Where appropriate, officers will leave a business card requesting the occupier of the land to contact the Council.

If, during a site visit, officers are refused entry onto land or buildings, the Council has the right to apply to the Magistrates' Court for a warrant to enter the property.

Whilst on site, officers will ask questions of any present occupiers, and may also take measurements and photographs. Any information gathered will be used to ascertain whether a breach of planning control has taken place. If a breach has occurred, this information will be used to assess the most appropriate course of action to resolve the matter.

3.5 Gathering Evidence

Where a complaint relates to an alleged unauthorised use of land, officers will make a reasonable attempt to determine whether a breach has taken place. In most cases a 'reasonable attempt' will consist of a number of site visits at days and/or times deemed most suitable for the allegation. This approach ensures that the Council's resources are used effectively.

Officers may use a variety of other methods to determine whether or not a breach of planning control has taken place, including obtaining information from witnesses to an alleged breach, and consultation with Council departments, HM Land Registry etc.

The Council may also seek clarification from case law or obtain legal advice where the subject of an investigation is complicated or contentious.

3.6 Planning Contravention Notices

A planning contravention notice is a tool to gather information. It can be served by the Council on owners and occupiers of land where it is believed that a breach of planning control has occurred. The Council may ask questions regarding the alleged breach, to acquire information necessary to determine whether a breach has taken place.

A planning contravention notice is a formal notice and failure to respond, or knowingly to provide false information, is a criminal offence. The notice allows the recipient to explain why there has been no breach of planning control if this is the case. Failure to reply to a planning contravention notice will not stop the Council from taking enforcement action where it is considered appropriate.

Issuing a planning contravention notice does not constitute the Council taking enforcement action. A planning contravention notice is not registered as a land charge and is not included on the Council's Enforcement Register (see paragraph 6.3 below).

3.7 What if there is No Breach of Planning Control?

Sometimes complaint investigations reveal no evidence of a breach of planning control. This may be because the development being complained about is not happening (most likely in relation to alleged change of use), that it does not require planning permission or that it is being carried out in accordance with a valid planning permission. In these circumstances the complainant will be advised of the position and the investigation will be closed. Such cases will not be reopened unless the complainant is able to provide more substantive evidence of the alleged breach of planning control

3.8 Immunity from Enforcement Action

In some cases breaches of planning control may become immune from enforcement action. Where a breach continues undetected and consequently without any intervention by way of enforcement action, it will become lawful by the passage of time. In such circumstances the Council is unable to stop the development.

Immunity timescales are as follows: -

- Four years where the breach consists of unauthorised building, mining, engineering or other operations
- Four years for a change of use of any building to use as a single dwelling house
- Ten years in any other case, including breaches of planning conditions

3.9 Deliberate Concealment

Deliberate concealment of a breach of planning control in order to gain immunity from enforcement action does not necessarily benefit from the statutory immunity timescales. New powers conferred by the Localism Act 2011 allow the Council to apply to the Magistrates' Court for a Planning Enforcement Order, where a deliberate concealment of a breach of planning control becomes evident.

4. SECURING COMPLIANCE

The Council has a variety of enforcement options that may be utilised when resolving a breach of planning control. These range from informal resolution and seeking a planning application to using the range of statutory powers available. The approach followed will depend on the severity of the breach.

4.1 Informal Action

In non-urgent cases where there is a breach of control the Council will initially seek an informal resolution. This may be by requesting a retrospective planning application within a specified period to enable the merits of the development to be assessed or it may be by setting a deadline for compliance. All requests will be made in writing, making it clear that failure to achieve compliance by the end of the period may lead to the use of statutory powers.

In more serious cases where the harmful impact of the development is such that the Council would be very unlikely to grant permission it will not seek a planning application and may go straight to the use of statutory powers rather than giving a period for compliance.

4.2 Considering a Retrospective Planning Application

Where a planning application is received for development that has already taken place the Council will assess its merits on the same basis as if the development had not yet commenced. This includes the ability of Local Members to call applications to the Development Control Committee. The proposal will receive no more or less favourable treatment because it has already taken place.

Where there is a reasonable prospect that permission would be granted for a development that has taken place without permission the Council will strongly encourage the submission of an application. Prospective applicants will be reminded of the benefit to them of obtaining a planning permission and the potential difficulties they may face in the future if there is no record of permission being granted for development, particularly if they ever want to sell the property. Local land charges searches carried out for prospective purchasers will reveal that planning permission has not been obtained and this is likely to cause difficulty for future sales.

4.3 Use of Statutory Powers

The Council has a range of powers to issue notices to remedy breaches of planning control where there is evidence of harm arising from the work carried out.

In deciding whether to use its powers the Council has a duty to determine whether enforcement action is necessary. .

Where a decision is made to take action the type of notice issued will depend on the nature of the breach of planning control. The Council is prepared to use all of the measures listed below where they are necessary to secure compliance.

- **Enforcement Notice**

These will be issued within 28 days of authorisation and are the usual method of requiring the removal of unauthorised development. The notice needs to specify what constitutes the breach of planning control and what steps are required to remedy the breach together with a timescale for compliance. There is a right of appeal against these notices on grounds which include that permission should be granted for the development, that the breach of control specified in the notice has not happened, that the requirements of the notice are excessive and that more time should be allowed for compliance.

As an enforcement notice can be overturned on appeal on the grounds that planning permission should be granted for the development, the Council will not normally take enforcement action against a development for which permission would be granted if an application had been made. An exception is a Positive Enforcement Notice which can be served to impose conditions on unauthorised development in the absence of a planning application.

Failure to comply may result in prosecution in the Magistrates' or Crown Court [maximum fine £ unlimited].

- **Listed Building Enforcement Notice**

These are very similar to Planning Enforcement Notices. They specify the unauthorised works to a listed building and the requirements necessary to remedy the harm. They can be served on their own, e.g. where unauthorised works to a listed building required only listed building consent and not planning permission, or in conjunction with a Planning Enforcement Notice. Failure to comply may result in prosecution in the Magistrates' or Crown Court [maximum fine £ unlimited].

- **Section 215 Notice**

These can be used in relation to untidy land or buildings where their condition adversely affects the amenity of the area. The notice will set out the steps to be taken and the time period for compliance. Works that can be required include planting, clearance, tidying, enclosure, demolition, re-building, external repairs and repainting but cannot include works which would themselves require planning permission. Failure to comply may result in prosecution in the Magistrates' Court [maximum fine £2,500 with additional fine for ongoing non-compliance.

- **Stop Notice**

This is a powerful tool that requires a development to stop by a specified date with no right of appeal. Stop Notices can only be used only in conjunction with an enforcement notice and only in the most serious cases where the breach of planning control is causing irreparable and immediate significant harm. Before serving a notice we will consider the likely consequences of requiring the activity to stop and will review whether there are alternative actions that will achieve the desired outcome. Although there is no right of appeal there are circumstances in which the Council may be liable to pay compensation, notably if the associated enforcement notice is quashed, varied or withdrawn or the stop notice itself is withdrawn. Failure to comply may result in prosecution in the Magistrates' or Crown Court [maximum fine £ unlimited]

- **Temporary Stop Notice**

These take effect immediately from the moment they are issued, and last for up to 28 days. A Temporary Stop Notice is issued only where it is appropriate that the activity or development should cease immediately to safeguard the amenity of the area. Failure to comply may result in prosecution in the Magistrates' or Crown Court [maximum fine £ unlimited].

- **Planning Enforcement Order**

This can be used where unauthorised development has been concealed to avoid detection in the period before it would otherwise become immune from action. Where a local planning authority discovers an apparent breach of planning control, within 6 months of discovery it may apply to the Magistrates' Court for a Planning Enforcement Order. The order allows the authority an 'enforcement year' in which to take enforcement action, even after the usual immunity limits have expired. The Magistrates may make a planning Enforcement Order only if they are satisfied that, on the balance of probabilities, the "actions of a person or persons have resulted in, or contributed to, full or partial concealment of the apparent breach or any of the matters constituting the apparent breach".

- **Breach of Condition Notice**

These will be issued within 14 days of authorisation and can be used where conditions imposed on a planning permission have not been complied with. They are not suitable for all conditions. There is no formal right of appeal. Failure to comply may result in prosecution in the Magistrates' Court [maximum fine £2,500].

- **Injunction**

Where a breach of planning control is causing, or is likely to cause, significant harm, the Council may apply to the Courts for an injunction compelling the breach to stop. In order to grant an injunction the Court needs to be satisfied that it is just and convenient as well as proportionate to do so in light of the Article 8 right

to a private life contained within the European Convention on Human Rights. At the hearing, the Judge will invariably weigh up the public interest of granting an injunction in terms of upholding the integrity of the planning system and abating the material harm, as against the private interests of the landowner/occupier to use his land as he or she sees fit. From a practical point of view, the Circuit Judge who will hear the application may be inexperienced in planning and environmental law. Accordingly, Judges commonly take a common-sense, broad-brush approach. If it can be demonstrated that there has been a flagrant breach of planning (rather than some technical or slight indiscretion), material harm is caused and the defendant shows no sign of rectifying the situation, the Court is likely to look sympathetically upon the application.

4.4 Direct Action

Where the Council has issued a statutory notice and those responsible for the breach have failed to comply, the Council has powers to carry out the works specified in the notice. This is referred to as 'direct action'. Direct action is a useful tool that can resolve many different breaches of planning control, and is generally most effective when used to remove unauthorised building operations. The Council has powers to recover from those responsible any expenses incurred as a result of direct action, and unpaid expenses can be pursued either in the County Court or registered as a land charge payable when the land is sold.

4.5 Prosecution

While it is not a criminal offence to carry out development without first obtaining planning permission, it is an offence to erect unauthorised advertisements, fell a protected tree without consent, carry out unauthorised works to a listed building or fail to comply with an enforcement, breach of condition, planning contravention or stop notice.

A prosecution is more likely to ensue where the individual or organisation has: -

- Deliberately or persistently ignored written warnings or formal notices
- Endangered, to a serious degree, the health, safety or well being of people or the environment

Prosecution may be the most appropriate course of action in other circumstances, or where direct action is considered inappropriate or has proved ineffective in resolving the breach. The Council will pursue a prosecution where there is a realistic prospect of conviction, and where it is in the interests of the wider public to do so.

The decision to prosecute will also take account of the evidential and public interests and tests set down in the Code for Crown Prosecutors.

4.6 Deciding Not To Take Action

There will be occasions where the breach of planning control does not have a harmful impact that would justify taking any enforcement action and attempts to get the submission of a planning application have not been successful. In these cases the Council has to decide whether to continue the investigation.

Where there is a breach of control and Officers propose to close a case because of lack of harmful impact local Members will be consulted and given the opportunity to refer the matter to Development Control Committee.

5. MONITORING THE IMPLEMENTATION OF PLANNING PERMISSIONS

The Planning Enforcement Team is notified of commencements of development by the Council's Building Control Department. These are then checked against the relevant planning application to ensure that:

- All necessary permissions have been granted
- All pre-commencement conditions have been discharged
- All financial contributions that form part of a Section 106 Agreement or, where relevant payments under the Community Infrastructure Levy, have been received by the Council

6. COMMITMENTS TO CUSTOMERS

6.1 Keeping People Informed

We will keep complainants and those in breach of planning control informed at each stage of the investigation. Complainants may contact the case officer and seek an update at any time during the process.

6.2 If You Are the Subject of a Complaint

If the Council believes you to be responsible for an alleged breach of planning control and contacts you in this regard, it will tell you what the allegation is and give you the opportunity to explain your side of the case.

Under the Freedom of Information Act 2000, the Council is not obliged to provide details of the source of any complaint although you will be entitled to know the name of the Councillor who lodges a complaint on his/her own behalf or on behalf of someone else.

Where the complaint is found to be without substance, you will be advised accordingly and the Council's file on the matter will be closed. If there is found to be a breach of planning control, you will be advised of the details of the breach and how it can be rectified.

Your cooperation will be sought to correct the breach, either by removing or modifying the unauthorised development or by ceasing the unauthorised work. A reasonable time period will be allowed for you to do this.

In some circumstances you may be invited to submit a retrospective planning application, although no assurance can be given as to a successful outcome to any planning application. However, if refused, such applications carry a right of appeal.

The Council will try to minimise possible impacts on any business which may be subject of enforcement action, but this does not necessarily mean that the enforcement action will be delayed or stopped.

Enforcement Notices will contain the precise details of the breach, the reasons for the action, the steps required to overcome the breach and the time period for compliance.

In the early stages of an investigation, you may be issued with a 'Planning Contravention Notice' that requires information concerning the development carried out and precise details of those responsible and/or involved. This Notice is used to establish facts so that the Council can determine whether a breach of planning control has taken place and whether formal enforcement action is appropriate. The legal implications of not completing and returning the Notice will be explained to you.

6.3 Enforcement Register

The Council has a statutory duty to hold and maintain an Enforcement Register, which is a public record of all formal enforcement action that is registered as a land charge.

6.4 Complaints Against the Service

The Council aims to investigate and assess all breaches of planning control fully, and to take enforcement action where it is justified. The Council also aims to ensure high customer service standards are maintained with all parties involved in an enforcement investigation.

Where customers have a complaint about the way an enforcement investigation has been carried out the complaint will be investigated in accordance with the Council's Complaints Policy, details of which can be found at www.sevenoaks.gov.uk.

APPENDIX

LEGISLATION AND GOVERNMENT GUIDANCE

1 Primary Legislation

When investigating alleged breaches of planning control, the Council will act in accordance with the provisions of both primary legislation [Acts of Parliament] and secondary legislation [Statutory Instruments].

The primary legislation is the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act, 1991) together with the Localism Act, 2011. This legislation sets out the definition of 'development', and provides the Council with the majority of its planning enforcement powers.

2 Secondary Legislation

Key secondary legislation includes: -

The Town and Country Planning (Use Classes) Order 1987, and all amendments

The Use Classes Order [UCO] separates the many different uses of land into 'classes', and sets out which changes of use of land are outside the scope of development. The UCO deals only with 'primary' uses of land; any use class that is not listed or constitutes a 'mixed use' is defined as 'sui generis' and sits within its own class. The UCO defines the changes of use that cannot be 'material', and therefore advises only which changes of use are excluded from development. The UCO does not define what constitutes a material change of use, therefore if a change of use is not excluded it must be assessed on its own merits as a matter of fact and degree.

The Town and Country Planning (General Permitted Development) Order 1995, (as amended)

The General Permitted Development Order (GPDO) sets out what forms of development have the benefit of 'deemed' planning permission. All works or activities that are defined as being 'development' that are not covered by the GPDO will require express planning permission.

3 Government Guidance

Paragraph 207 of the National Planning Policy Framework sets out the general approach to planning enforcement.

The Council will also have regard to Planning Practice Guidance (Department for Communities and Local Government)

4 Other Legislation, Guidance and Codes of Practice

When investigating breaches of planning control the Council will also act in accordance with the following: -

- Code for Crown Prosecutors
- Human Rights Act 1998
- Equality Act 2010

5 Powers of Entry

The Council's planning investigation officers have powers of entry, for the purpose of investigating alleged breaches of planning control, under the following provisions: -

- Town and Country Planning Act 1990 (as amended)
- Town and Country Planning (Listed Buildings and Conservation areas) Act 1990 (as amended)
- Planning (Hazardous Substances) Act 1990 (as amended)
- Planning (Hedgerow Regulations) Act 1997
- Local Government (Miscellaneous provisions) Act 1976, 1982
- Planning (Consequential Provisions) Act 1990 (as amended)

Item 9 – Community Infrastructure Levy (CIL) Governance

The attached report was considered by the Local Planning & Environment Advisory Committee relevant minute extract below:

Local Planning & Environment Advisory Committee – 27 January 2015 (Minute 40)

The Chief Planning Officer presented a report which set out recommendations arising from the Member/Officer workshops for the structure of a new board, guidance on the information that would need to be supplied to support bids for funding and the factors that the Council would need to take into account in making a decision. It also recommended that the Council prepare an Infrastructure Plan, which would inform the allocation of funding to schemes that supported development planned in the Allocations and Development Management Plan. It was not anticipated that the Board would meet until after May 2015. It was also noted that there should be an extra recommendation to the report for preparation of the Infrastructure Plan.

The Committee agreed with the Chairman that training before attendance on the Board should be mandatory, as it was for Licensing Hearings and Development Control Committees, and requested that the Portfolio Holder make this clear to Cabinet when considering the report.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Cabinet that

- a) a Community Infrastructure Levy (CIL) Spending Board be established to recommend to Cabinet how CIL funding should be prioritised with Terms of Reference consistent with the body of the report;
- b) the CIL pro-forma attached as Appendix A to the report, setting out the information that bidding organisations, including SDC, would need to provide, be published;
- c) the guidance on the CIL decision making process, attached as Appendix B to the report, be published; and
- d) an Infrastructure Plan be prepared, in order to inform the allocation of funding to schemes that support development planned in the Allocations & Development Management Plan (ADMP).

This page is intentionally left blank

COMMUNITY INFRASTRUCTURE LEVY (CIL) GOVERNANCE

Cabinet – 5 March 2015

Report of	Chief Planning Officer
Status:	For Decision
Also considered by:	Local Planning & Environment Advisory Committee – 27 January 2015
Key Decision:	No

Executive Summary:

In March 2014, the Local Planning and Environment Advisory Committee resolved that a member/officer workshop should be set up to begin to consider CIL governance issues. Two workshops have now been held and the recommendations in this report represent officers’ understanding of the majority view expressed. There was a strong view from the workshops that a new board should be established to decide on CIL expenditure. The report sets out recommendations for the structure of the new board, guidance on the information that will need to be supplied to support bids for funding and the factors that the Council will take into account in making a decision. It is also recommended that the Council prepares an Infrastructure Plan, which will inform the allocation of funding to schemes that support development planned in the Allocations and Development Management Plan.

Portfolio Holder	Cllr. Piper
Contact Officer(s)	Richard Morris Ext. 7268 Emma Boshell Ext. 7315

Recommendation to Local Planning and Environment Advisory Committee:

That the recommendation to Cabinet is endorsed.

Recommendation To Cabinet:

- (a) That a Community Infrastructure Levy (CIL) Spending Board is established to recommend to Cabinet how CIL funding should be prioritised with Terms of Reference consistent with the body of this report.
- (b) That the CIL pro-forma (Appendix A) is published to set out the information that bidding organisations, including SDC, will need to provide.
- (c) That the guidance on the CIL decision making process (Appendix B) is published.

Reason for recommendation:

To ensure that the Council is able to make decisions on how CIL funding is prioritised in an open and transparent manner.

Introduction and Background

- 1 The Council adopted the CIL Charging Schedule on 18 February 2014 and qualifying developments permitted since 4 August 2014 are now liable to pay CIL.
- 2 As part of the process of adopting the CIL Charging Schedule, Cabinet tasked Local Planning and Environment Advisory Committee with developing the CIL governance arrangements. In March 2014, the Local Planning and Environment Advisory Committee resolved that a member/officer workshop should be set up to begin to consider CIL governance issues. It was proposed that, following this workshop, LPEAC would formally debate different CIL governance models and make a recommendation to Cabinet.
- 3 Two CIL governance workshops were held with LPEAC members in October and November 2014. The recommendations in this report represent what officers understand to be the majority view of those in attendance. The workshops focused on the structure and processes that will be used to make decisions on CIL expenditure priorities not on what schemes, or types of schemes, money will be spent on.
- 4 Following a recommendation from LPEAC in October 2014, Cabinet resolved that the Council should publish a regulation 123 list, which sets out broadly what CIL will be spent on. The list is not intended to be exclusive. It also resolved that all town and parish councils should receive the equivalent of 25% of the £125 per sq m residential CIL rate when chargeable development takes place in their area, regardless of whether or not it has a neighbourhood plan. Officers have briefed town and parish council colleagues on CIL on a number of occasions over the past 2-3 years and will continue to do so to ensure that they are aware of the limitations of CIL expenditure and the requirements placed upon them.
- 5 The Government intends that CIL will largely replace the use of planning obligations for securing the provision of infrastructure required to support new development. CIL can not be used to rectify existing deficiencies in infrastructure provision. It has long been identified that **CIL will not fund all of the infrastructure schemes that partner organisations have previously identified as being necessary to support development in the District**. There is a great deal of uncertainty when estimating CIL receipts because of the number of different variables (e.g. house sizes, locations of development, amounts of existing on-site floorspace, percentage of affordable housing). However, it is estimated that between 2014 and 2026 the delivery of the development proposed in the Allocations and Development Management Plan would lead to the Council receiving approximately £6 million (after 25% of £125 per sq m has been passed to town and parish councils). This equates to an average of approximately £500,000 per annum. Costed projects previously identified in the (now out of date) infrastructure planning evidence that the Council used to support the

preparation of the Charging Schedule for the 2014-2026 period sum to approximately £33,000,000.

Structure

- 6 There was a strong view from the workshops that a **new spending board** should be established to decide on CIL expenditure. Whilst this will create additional pressure on member time and work for officers, there is considered to be benefit in a dedicated board considering this issue. This will help to ensure that members are kept up to date with changes in CIL legislation that may affect expenditure and that sufficient time is made available to debate different schemes bidding for funding.
- 7 Those present at the workshops considered that members should not be able to vote on proposals in their ward. Therefore, a **'pool system'** was proposed, which would see approximately 15 members identified as a group from which CIL Spending Boards of 7 members would be called. All relevant ward members, whether part of the 15 member group or not, will be given the opportunity to speak for or against the proposals for a total of 3 minutes. It is proposed that this should be written into the terms of reference rather than be at the discretion of the chairman.
- 8 A **fixed chairman and vice chairman** for the CIL spending boards should be appointed on an annual basis. However, these members would not be able to sit on a board meeting if there is a proposal in their ward. If this is the case then the board should appoint a chairman for that meeting.
- 9 It is considered that CIL expenditure should be a function of the Council's executive. Therefore, the final decision making on CIL expenditure should rest with Cabinet. The view from the workshops was that **Cabinet should be asked to ratify the recommendations of the CIL Spending Board or request that it reconsiders a certain issue**, rather than re-open the detailed debates that will have been had at the Spending Board.
- 10 Meetings of the CIL Spending Board would be held in public. **Interested parties would also be given the opportunity to speak for or against proposals for a total of 3 minutes each.** This would include town/parish council representatives. A representative from the organisation promoting the scheme would be expected to attend.
- 11 It was recognised that the CIL spending board is likely to have to determine applications for CIL funding from SDC. As a result, it was proposed by attendees at the workshop that **members of Cabinet should not be part of the Spending Board group.** For the same reason, it was considered that **representatives of other organisations (such as KCC members) should not be invited to sit on the board.**
- 12 The workshop recommended that **Spending Board meetings should be held 2-3 times per year.** It is likely that 2 meetings will be sufficient in the first year, when receipts are likely to be lower than they will be in future years because of the need for schemes to be granted permission after CIL charging came into effect and then

Agenda Item 9

built out (CIL is generally paid 60 days after this). There will be the power to call extraordinary meetings, if necessary.

Form of Spending Board Meetings

- 13 It was proposed that CIL Spending Board meetings should assess applications for funding made by relevant organisations (including SDC). Applications should be made by way of the completion of a **standard pro-forma** (along with any relevant appendices) and **attendance by a relevant individual(s) at the Spending Board**, in order that members' questions on the schemes can be answered.
- 14 Applications for CIL funding would first be **validated by the lead officer** appointed to the CIL Spending Committee (it is proposed that this should be the Strategic Planning Manager). This validation process would be carried out with the chairman of the committee to ensure that schemes do not go to Spending Board meetings if:
- sufficient information is not provided in advance to enable members to make an informed decision (i.e. if the pro-forma is not completed);
 - if the scheme is clearly not a form of infrastructure; or
 - the scheme promoter is not able to deliver the scheme or does not have support from the statutory provider of that form of infrastructure.
- 15 Papers relating to those schemes that are to be considered by a Spending Board meeting will be circulated in advance by Democratic Services in the normal way.
- 16 Spending Board meetings will consider whether or not a scheme should be funded and then, if it is decided that it should not, **reasons will be given**. A potential reason for why a funding bid may not be successful is that further information is required. Where this is the case, the applicant may be encouraged to reapply once this information is available. In some cases an independent assessment of project costs may be sought from the scheme promoter.

Information considered by the Spending Board

- 17 A **pro-forma has been prepared** (appendix A) that organisations bidding for funding would be expected to complete. This requires information to be provided on:
- The public benefit of proposed schemes;
 - The value for money that a scheme provides;
 - The proportion of funding that CIL will be providing (with the expectation being that it will be some way short of 100%);
 - The deliverability of the scheme;
 - The maintenance arrangements that are in place; and

- The information that will be provided by the bidder following any grant of funding.

Infrastructure Planning

- 18 The Council needs to strike a balance between identifying the infrastructure that is required to support development in advance and providing flexibility to infrastructure providers to address requirements that result from windfall developments. If the Council does not have a plan of the infrastructure that is required to support planned development then there is a risk that CIL receipts necessary to provide critical infrastructure will be spent on smaller, less critical schemes on first come, first served basis. **The Council's CIL receipts should be treated as an 'accumulation fund' to pay for the most critical schemes.** It is not necessary for each meeting of the spending board to allocate the funding available at the time of the meeting. If schemes are not deemed important enough, the money should not be allocated.
- 19 It is proposed that the Council should undertake consultation with infrastructure providers in early 2015 to identify schemes necessary to support the development planned in the Council's Allocations and Development Management Plan. This consultation will be used to **develop a new Infrastructure Plan**, which will inform the allocation of funding to developments that are consistent with development planned in the Allocations and Development Management Plan. The Plan will have regard to likely available funding.
- 20 The **CIL Infrastructure Plan will be considered by Local Planning and Environment Advisory Committee after May 2015** and (subject to any modifications) put to Cabinet to agree. The Infrastructure Plan will be reviewed every two years.
- 21 A Draft CIL Infrastructure Plan was previously prepared to inform the preparation of the Council's Charging Schedule. This is based on information that is now a number of years out of date. It also did not seek to provide a realistic plan for how CIL funding would be prioritised. It should not be relied upon to fulfil the role that the now proposed infrastructure plan will.

Factors considered in determining whether schemes should be funded

- 22 Appendix B sets out the **factors that the Council will consider in determining whether or not a scheme should be funded.** It is proposed that this document should be published as guidance but should not limit members on the Spending Board from giving weight to other factors that are relevant on a case-by-case basis. The factors listed include:
- The public benefit of proposed schemes;
 - The value for money that a scheme provides;
 - Whether the scheme is included in the Council's CIL Infrastructure Plan or there is good reason why it is not;

Agenda Item 9

- Whether the CIL contribution will be matched by funding from other sources, including funding from the CIL paid to town and parish councils. The Council will not fund 100% of infrastructure schemes;
 - Whether the scheme is supported by the relevant ward member(s).
 - Whether evidence has been provided to demonstrate that the scheme is deliverable and that there are sufficient maintenance arrangements in place.
- 23 Members at the workshops considered that the **support of ward members** should be a prerequisite of funding being granted. It was also considered that the **support of town/parish councils** would be highly beneficial but this was not considered to be vital. Where a scheme would benefit more than one town/parish then support should be sought from all of the relevant councils.
- 24 A scheme would not need to take place in Sevenoaks District to qualify for funding. However, there must be a **clear benefit to residents in Sevenoaks District** and a clear link between the infrastructure scheme and new housing or large retail development in Sevenoaks District.
- 25 There was **no support for weighting the criteria** to be used in reaching decisions. The Spending Board would instead be expected to reach a balanced judgement and give reasons for its decision.
- 26 In some circumstances funding would be agreed 'in principle'. For example, an infrastructure scheme would **not need to have planning permission** to secure an agreement for funding but the funding would not be transferred until the delivery of the scheme was guaranteed.

Once the funding decision has been made

- 27 Successful applicants for CIL funding will be expected to **maintain communication** with Sevenoaks District Council on the progress of their scheme after a decision has been made to provide funding. Where funding has been agreed 'in principle' or where staged payments are agreed, the scheme promoter will be expected to provide information to justify funding being transferred.
- 28 Scheme promoters should **continue to provide information until the scheme has been completed** and all CIL funding has been spent. At minimum, an annual return will need to provide information on the progress of each scheme that funding has been allocated to in order that the Council is able to fulfil its monitoring requirements under the CIL Regulations. A requirement to submit this information forms part of the declaration that the scheme promoter is required to sign.

Timetable

- 29 It is proposed that the new arrangements should come into force from **May 2015**.
- 30 The workshops recommended that any arrangements should be **reviewed after 12 months** (i.e. from May 2016).

Training for CIL Spending Board members

- 31 It is acknowledged that not all board members will have been involved in CIL considerations before. Therefore, initial training will be provided for all board members, after May 2015 but prior to the first meeting.
- 32 Training will cover the most up to date CIL legislation, the information that is to be considered by the board, and the factors to be considered in determining whether or not a scheme should be funded.

Conclusions

- 33 It is recommended that a new CIL Spending Board is established, in accordance with the recommendations in this report.

Other Options Considered and/or Rejected

Cabinet could decide not to agree to the adoption of the proposed governance arrangements. This option is not recommended by Officers on the basis that the proposals have been developed through a member-led process that has considered the issue in some detail. In addition, any identified weaknesses in the system can be addressed through the proposed review process.

Key Implications

Financial

There are no financial implications of this recommendation. However, the establishment of a new committee will place additional work pressures on existing staff, unless there is a reduction in the number of other committee meetings.

Legal Implications and Risk Assessment Statement.

Governance arrangements that are consistent with the CIL regulations must be agreed. If they are not then the Council runs the risk of challenges from developers over the use of CIL to the Ombudsmen being upheld.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Agenda Item 9

Appendices

Appendix A – CIL Bid for Funding Pro-forma

Appendix B – Decision Making Process Guidance

Background Papers:

[Draft CIL Infrastructure Plan](#) (July 2013).

Richard Morris
Chief Planning Officer

Sevenoaks District Council

Community Infrastructure Levy Spending Board

Bid for Funding Pro-forma

Scheme name:	
Description of Scheme:	
Is this scheme promoted by your organisation in partnership with another organisation(s)?	<p>Yes / No</p> <p>Organisation Name(s):</p> <p>Responsible individual(s):</p> <p>Signature(s) on behalf of other supporting organisation(s) :</p>
<u>Need for the Scheme</u>	
List of developments that result in the need for this scheme:	
How is the scheme related to these developments (additional information, such as usage forecasts and existing and alternative capacity assessments, can be attached as an appendix):	
Public benefit of the scheme proposed for residents in Sevenoaks District:	

Economic	
Social	
Environmental	
Is the need for the scheme identified in any adopted strategy/plan? If so, which?	
Funding	
Total project cost:	£
Funding required from CIL:	£
Identify other funding sources for this project, what contribution they are making and why these can not be used to fund the scheme in its entirety:	1)
	2)
	3)

	4)
Is the bid for staged payments / will staged payments be accepted?	Yes / No Details of anticipated funding requirements and timetable:
Has a bid(s) for CIL funding been made to relevant town and parish councils?	Bid made: Yes / No Details of bid: Has a decision been made by the town/parish council?: Yes / No Details of decision:
Would the scheme be fully funded if the CIL contribution is agreed:	Yes / No
Has this scheme benefited from CIL funding previously:	Yes / No
<u>Deliverability</u>	
Does your organisation have the legal right to carry out the proposed scheme?	Yes / No If not, you must attach documentation showing that the statutory provider of this service supports this scheme.
Anticipated start date for delivery of the scheme:	
Anticipated completion date for the delivery of the scheme:	
Does land need to be purchased to facilitate the scheme:	Yes / No Details:
Has consultation been carried out on the scheme or is any planned?	Carried out / Planned / No consultation is planned Details:

Is planning permission required for the scheme?	Yes / No If yes, has it been applied for?	
Details of any other consent required (if appropriate):	Consent required:	Date applied for / granted:
Is a relevant SDC ward member(s) supportive of the scheme?	Yes / No Signature of at least one SDC ward member:	
Is the relevant town/parish council(s) supportive of the scheme?	Yes / No Signature of town/parish council chairman:	
<u>Maintenance</u>		
Which organisation will be responsible for ongoing maintenance:		
Are funding arrangements in place for maintenance:	Yes / No Details:	
<u>Declaration</u>		
I am authorised to submit this bid for funding on behalf of the organisation that I represent. At the time of writing, the information contained in this submission (including appendices) is correct and true to the best of my knowledge. If CIL funding is committed and circumstances change prior to the completion of the scheme, the organisation that I represent will notify Sevenoaks District Council, who will reserve the right to reconsider the allocation of funding. If CIL funding is committed to the above project then the organisation that I represent commits to providing Sevenoaks District Council with sufficient information to enable it to undertake its reporting requirements under the CIL Regulations 2010 (as amended), or any subsequent relevant regulations.		
Signature		
Name		
Position		
Organisation		

Name, role and contact details of the person that will be attending SDC's CIL Spending Board to support this bid:	
---	--

This page is intentionally left blank

Sevenoaks District Council

Community Infrastructure Levy Spending Board

Decision Making Process

Lead Officer's initial validation of bids

The lead officer will undertake an initial validation of bids. The following will not be put to the spending board for consideration:

- Those schemes for which a pro-forma has not been completed.
- Those schemes where the bidding organisation does not have the legal right to carry out the proposed scheme or the support from the statutory provider of that service.
- Those schemes that could clearly not be defined as infrastructure to support development.

The lead officer's validation of bids will be agreed by the chairman of the CIL Spending Board in advance of papers being published for the spending board meeting.

A written response will be provided to the bidder to explain this decision. This may suggest that a revised submission is considered at a future meeting.

CIL Spending Board's consideration

The CIL spending board's key considerations will be whether there is a public benefit of the proposed scheme for residents in Sevenoaks District and whether the scheme constitutes value for money. In determining this, the spending board will consider the following issues in making its recommendation.

- Whether sufficient evidence has been provided to demonstrate a strong social, environmental or economic justification for the scheme.
- Whether sufficient evidence has been provided to demonstrate a strong link between new development and the scheme.
- Whether the scheme forms part of a planned strategy to address the need for infrastructure.
- Whether the CIL contribution will be matched by funding from other sources.
- Whether the use of other funding sources has been maximised.
- Whether there is sufficient certainty that the scheme will be delivered.

- Whether the scheme is supported by at least one of the relevant SDC ward members (note: this will be a prerequisite of a successful funding bid).
- Whether the scheme is supported by the relevant town/parish council.
- Whether evidence has been provided to demonstrate that there are sufficient maintenance arrangements in place.

The board may also take into account other factors that it considers relevant.

Limited CIL funding is available and it is unlikely that it will fund all of the infrastructure schemes that are considered necessary to support development. Where it is necessary to choose between schemes that could both be appropriate uses of CIL (i.e. they satisfy all of the considerations set out above), the board will give particular consideration to the public benefit of the schemes for residents in Sevenoaks District and the link between development and the scheme.

Types of recommendation

The board may make the following recommendations to Cabinet for it to ratify:

- Funding for the scheme is approved.
- Funding for the scheme is not approved on the basis that other proposed schemes have been given greater priority.
- Funding for the scheme is not approved on the basis that insufficient evidence has been provided to justify it.
- Funding for the scheme is not approved on the basis that the scheme is not considered to be an appropriate use of CIL.

These recommendations should give bidders an indication of whether they should consider bidding for this scheme again and what additional information, if anything, should be provided with any resubmission.

**Item 10 – Changes to Government Guidance on Planning Obligations -
implications on SDC's Affordable Housing Policies**

The attached report was considered by the Housing & Community Safety Advisory Committee on 10 February 2015, and the relevant Minute extract was not available prior to the printing of this agenda.

This page is intentionally left blank

CHANGES TO GOVERNMENT GUIDANCE ON PLANNING OBLIGATIONS – IMPLICATIONS ON SDC’S AFFORDABLE HOUSING POLICIES

Cabinet – 5 March 2015

Report of: Chief Officer Housing and Chief Planning Officer

Status: For Decision

Also considered by: Housing and Community Safety Advisory Committee – 10 February 2015

Key Decision: No

Executive Summary:

The Government has recently published changes to the National Planning Practice Guidance and a written ministerial statement was issued on planning obligations. In most areas, contributions to affordable housing should not now be sought from developments of 10-units or less. In designated rural areas, local authorities can choose to seek financial contributions on developments of 6-10 dwellings in designated rural areas. In addition, where developments involve the conversion or demolition of existing buildings the contribution should be proportionate to the net increase in floorspace. Therefore, developments that do not increase the amount of floorspace on a site will not have to make an affordable housing contribution. These changes will have a significant impact on the Council’s ability to secure the delivery of affordable housing. There are not currently considered to be any opportunities for the Council to ‘work-around’ these changes to national policy. As a result, it is considered that the Council should lobby the Government to rescind or amend these policy changes.

This report supports the Key Aim of Sustainable Economy from the Community Plan.

Portfolio Holder Cllr. Lowe

Contact Officer(s) Alan Dyer (ext. 7196)
Gavin Missons (ext. 7332)

Recommendation to Housing and Community Safety Advisory Committee:

That the recommendation to Cabinet is endorsed.

Recommendation to Cabinet:

- a) That the Council lobbies Government to rescind or amend recent changes to national policy on the use of planning obligations for securing affordable housing.

Agenda Item 10

-
- b) That the Council seeks financial contributions to affordable housing consistent with the percentages applied in Core Strategy policy SP3 on developments of 6-10 units in designated rural areas in the District.
-

Reason for recommendation:

The changes to national policy on the use of planning obligations will have a significant impact on the Council's ability to secure new affordable housing in the District.

Introduction and Background

1. Since February 2011 the Council has sought both financial contributions towards affordable housing and on-site provision in new developments under policy SP3 of the Core Strategy. All developments that lead to a net increase in the number of dwellings are liable to make a contribution or provide affordable housing on-site. The following thresholds are applied:

Sites of 15 dwellings or more	40% on-site affordable housing
Sites of 10-14 dwellings	30% on-site affordable housing
Sites of 5-9 dwellings	20% on-site affordable housing
Less than 5 units	Equivalent to 10% financial contribution

2. Planning permission can be refused where the required level of contribution/provision has not been made and the applicant has not proven to the Council's satisfaction that this is justified on the basis of viability.
3. The Affordable Housing Viability Assessment sets out how the 10% financial contribution is calculated, amongst other things.
4. Financial contributions can be used in the following ways:
- Provision of new affordable housing, through adding to on-site provision on development sites or bringing forward stand alone developments;
 - Initiatives to make better use of existing stock;
 - Management of need - homelessness prevention and benefit advisory services;
 - Assisting those in need to access low cost home ownership; and
 - Supporting the development of rural exception sites.
5. A joint portfolio holder decision between the planning and housing portfolio holders is made on an annual basis to determine how the money that has been received is to be spent. The money has been used, amongst other things, to deliver the highly successful bespoke shared-ownership project (A Home of Your Own) with Moat (24 purchases funded, assisting families onto the property ladder) and the under-occupation initiative with West Kent Housing Association (WKHA)

(which up to October 2014, has assisted 37 households to downsize and in 60% of cases, the ensuing freed up home has been used to house a homeless family).

Changes to National Planning Practice Guidance

6. On 28 November 2014, the Government published changes to the National Planning Practice Guidance and a written ministerial statement was issued on planning obligations. The key changes for SDC are:
- In most areas, contributions should not be sought from developments of 10-units or less (where the combined gross floorspace is no more than 1000sqm);
 - In designated rural areas, the Council can choose to apply a lower threshold and require financial contributions (not on-site provision) on sites of 6 units or more. Rural areas are defined under the Housing Act 1985 and in Sevenoaks District are Areas of Outstanding Natural Beauty and areas exempt from right to acquire / right to enfranchise.
 - Where planning permissions involve bringing a vacant (but not abandoned, as defined by planning law) building back into lawful use or it is demolished to be replaced by a new building, the developer should be offered a ‘financial credit’ equivalent to the building’s floorspace, which can offset part of the contribution. Therefore, contributions should be proportionate to the increase in floorspace, regardless of the use of the buildings.

Development Scenario Examples

7. The changes to the NPPG affect both the financial contributions that SDC has sought from smaller sites and on-site provision on larger sites. All of these scenarios are purely hypothetical. It must also be noted that a variation on scenario A is likely to be very common across the District and will significantly reduce the financial contributions that the Council can secure in the future.

A. Development of 4 2-bed houses in one of the District’s main urban areas on a greenfield site	
Total floorspace = 400 sq m Total existing non-abandoned floorspace to be demolished = 0 sq m Value of each house = £250,000	
Contribution previously due = £44,620 (or £11,115 per unit)	Contribution now due = £0
Reason: The development falls below the new threshold for the number of dwellings in	

Agenda Item 10

urban areas and is below 1000 sq m total development.

B. Development of 4 6-bed houses in one of the District's main urban areas on a greenfield site

Total floorspace = 1010 sq m

Total existing non-abandoned floorspace to be demolished = 0 sq m

Value of each house = £1,000,000

Contribution previously due =
£262,200 (or £65,550 per unit)

Contribution now due =
£262,200 (or £65,550 per unit)

Reason: The development is above the 1000 sq m threshold and, therefore, the contribution is due on all of the new floorspace. In reality, the developer is likely to ensure that the total floorspace is below 1000 sq m in a situation like this. The Council would not be able to refuse permission on the basis that the developer is proposing smaller units.

C. Development of 6 3-bed houses in one of the District's smaller villages on a greenfield site

Total floorspace = 800 sq m

Total existing non-abandoned floorspace to be demolished = 0 sq m

Value of each house = £500,000

Contribution previously due =
1 unit on site

Contribution now due =
£262,200 (or £43,700 per unit)

Reason: The development is in an identified rural area and the lower threshold applies. However, on-site provision can no longer be sought under this lower threshold.

D. Development of 6 3-bed houses in one of the District's smaller villages on a brownfield site

Total floorspace = 800 sq m

Total existing non-abandoned floorspace to be demolished = 400 sq m

Value of each house = £500,000

<p>Contribution previously due = 1 unit on site</p>	<p>Contribution now due = (£262,200 x 0.5) = £131,100 (or £21,850 per unit)</p>
<p>Reason: The development is in an identified rural area and the lower threshold applies. However, on-site provision can no longer be sought under this lower threshold. Because the existing floorspace represents 50% of the proposed new floorspace, the contribution is halved</p>	

<p>E. Development of 15 3-bed houses in one of the District's main urban areas on a brownfield site</p>	
<p>Total floorspace = 1800 sq m Total existing non-abandoned floorspace to be demolished = 450 sq m Value of each house = £300,000</p>	
<p>Contribution previously due = 6 units on site</p>	<p>Contribution now due = (6 x 0.75) = 5 units on site</p>
<p>Reason: The site is not affected by the new thresholds but is affected by the 'vacant building credit'. The floorspace to be demolished is 25% of the floorspace to be built as part of the development. Therefore, the number of units on site is reduced to 5 (4.5 rounded up, as per the Affordable Housing SPD)</p>	

<p>F. Development of 300 units of a variety of sizes on a brownfield site</p>	
<p>Total floorspace = 50000 sq m Total existing non-abandoned floorspace to be demolished = 50000 sq m Value of average house = £500,000</p>	
<p>Contribution previously due = 120 units on site</p>	<p>Contribution now due = 0 units on site</p>
<p>Reason: The site is not affected by the new thresholds but is affected by the 'vacant building credit'. The floorspace to be demolished is equal to the floorspace to be built as part of the development. Therefore, the number of units on site is reduced to 0.</p>	

Sites with existing planning obligations

8. Where a developer has an existing legal agreement but has not implemented the permission then they will be bound by it unless they apply to vary it. However, the developer could apply for a minor material amendment to the planning permission and renegotiate the s106 agreement. In these circumstances, the Council would have no choice but to agree to amend the obligation so that it is consistent with the new guidance. The vacant building credit could only be applied if the buildings were on-site at the time that the application to vary the planning permission is made (i.e. not if they have already been demolished).
9. Developers that have made contributions or provision already as part of a development will not be entitled to a refund.

Financial Implications

10. It has been estimated that approximately £2.5m of affordable housing contributions are currently expected on sites of 10 units or less (or 5 units or less in rural areas) where the planning permission has yet to be implemented. If developers apply to vary these agreements then it is likely that the Council will receive very little of this money (if anything).
11. To date, £2.45 million has been collected in financial contributions towards affordable housing. In 2013/14, the Council received £1,351,111, which was up from £356,032 in 2012/13. The sums received per annum were expected to continue to increase as more developments permitted after the affordable housing policies came into effect were built out and house prices increased. Therefore, it is likely that the Council stands to forego at least £1.5m per annum in affordable housing contributions as a result of these changes. The range of projects and initiatives that the Council is able to fund to deliver key priorities, under the Community Plan and Housing Strategy, will therefore be severely curtailed.
12. Of approximately 1500 new dwellings allocated on sites in the emerging Local Plan: Allocations and Development Management Plan (including land west of St Johns Way, Edenbridge, and Fort Halstead), approximately 1000 are on sites with existing buildings. This will reduce the on-site affordable housing provision required on these sites, in some cases significantly.

Potential to Overcome the Issues?

13. It is considered that there is no realistic prospect of the Council winning appeals if it was to refuse planning applications on the basis that developments are not providing the level of affordable housing contribution/provision required by the Core Strategy policy. This would have a considerable impact on the Council's performance in planning appeals and also, because of the additional work pressures on officers, on performance targets for determining applications. Both of these performance indicators are used to determine authorities that the Government is going to place in 'special measures', where applicants can apply for planning permission directly to the Planning Inspectorate. It must be acknowledged, however, that some local authorities are taking this route.
14. It has been questioned whether there is anything that can be done to increase site densities and require sites to accommodate numbers of dwellings that would put them above these thresholds where possible. The Core Strategy affordable housing policy does contain a section that reads 'permission will be refused where the size of the development is artificially reduced to fall below the threshold requiring provision of affordable housing'. This is now likely to take on greater importance.
15. It has also been questioned whether reviewing the Core Strategy would help to resolve this issue. Unfortunately, new local plan documents must be consistent with national policy in order to be found sound. Therefore, a revised Core Strategy would not be able to include lower thresholds unless national policy/guidance was changed first. As a result, there doesn't seem to be any possibility of overcoming the issues caused by these changes to national policy.

Next Steps

16. Given the significant impact on affordable housing delivery in the District and the apparent lack of opportunities to work around the policy change, it is recommended that the Council lobbies Government to rescind or amend changes to national policy on the use of planning obligations. The Council objected to the proposed changes when they were consulted on in early 2014, as did the LGA and the District Councils Network, amongst others. The points made in these consultation responses could form the basis for any lobbying action that the Council takes. The Council should also use its contacts at Member and Officer levels to encourage those organisations that previously objected to the changes to lobby on this issue. The Council's previous response included the following points:
 - Affordable Housing contributions and the projects that they can deliver are crucial in an area with as limited opportunities for new development as Sevenoaks District.
 - The Council has local evidence (the Affordable Housing Viability and CIL Viability Assessments) that demonstrates that seeking affordable housing

Agenda Item 10

contributions on sites of less than 10 units and on sites with existing buildings does not make them unviable.

- The Council's policy affordable housing policy offers developers the opportunity to provide viability evidence to show why the development would not be viable with the required level of affordable housing and to negotiate a lower (including nil) provision/contribution. Therefore, the Government's blanket approach is completely unnecessary.
 - Sevenoaks District regularly achieves its Core Strategy annual average housing target and has a very healthy 5 year housing land supply when judged against it. Small sites continue to make a significant contribution to this even with affordable housing requirements in place.
 - The implementation of this top-down policy is clearly contrary to the principles of localism in the context of Sevenoaks District, where a sound and flexible affordable housing policy is operating effectively without compromising housing delivery or viability.
 - Rather than incentivise brownfield development, the Government's approach will see planning applications for change of use or redevelopment of brownfield sites resisted by local communities, who will see that local authorities have no way of securing much needed affordable housing as part of developments.
 - A combination of the proposed 10 unit threshold and the restriction on requiring provision or contributions from brownfield developments will have a catastrophic effect on the delivery of affordable housing in the District.
17. The Council's Legal Services Manager has advised that it has no legal obligation to directly inform those developers that have a signed agreement but have not yet begun the development that national guidance has changed. The Planning Department is, however, updating guidance on the Council website and, in due course, will need to review the Affordable Housing SPD.
18. Training on this issue for the Development Control committee was held on Thursday 18 December, when two applications that previously would have been required to make an affordable housing contribution were considered.

Other Options Considered and/or Rejected

19. The Council could choose to simply accept these changes and do nothing in response to them. However, given the impact that the change to national policy will have on the Council's ability to deliver affordable housing, it is considered that lobbying Government to rescind the recent changes and applying the lower threshold in rural areas is the appropriate approach.

20. There is considered to be no realistic prospect of the Council winning appeals if it was to refuse planning applications on the basis that developments are not providing the level of affordable housing contribution/provision required by the Core Strategy policy.

Key Implications

Financial

21. The financial implications of the changes to national policy are set out in the report. The recommendations seek to reduce the expected negative impact.

Legal Implications and Risk Assessment Statement.

22. The recommendations have legal implications. The application of a lower affordable housing threshold in rural areas is consistent with Government policy and the Council's adopted Core Strategy.

Equality Assessment

23. The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

24. Given the impact of the change to national policy on the use of planning obligations on the Council's ability to deliver affordable housing, it is considered that it should lobby Government to rescind or amend these changes and apply the lower threshold of 6 units for seeking affordable housing contributions in rural areas.

Appendices

None

Background Papers:

SDC's response to the Planning Performance and Contributions Consultation

[LDF Core Strategy](#)

[Affordable Housing SPD](#)

Pat Smith
Chief Officer Housing

Richard Morris
Chief Planning Officer

This page is intentionally left blank

Item 11 – Citizens Advice Bureaux 3 Year Service Level Agreement 2015-2018

The attached report was considered by the Economic & Community Development Advisory Committee on 12 February 2015, and the relevant Minute extract was not available prior to the printing of this agenda.

This page is intentionally left blank

CITIZENS' ADVICE BUREAUX SERVICE LEVEL AGREEMENT

Cabinet – 5 March 2015

Report of	Chief Officer Communities & Business
Status:	For Decision
Also considered by:	Economic & Community Development Advisory Committee – 12 February 2015
Key Decision:	Yes

Executive Summary: This report outlines progress on the work of the Citizens' Advice Bureau during the current year and seeks approval for the Service Level Agreement for the next three financial years.

This report supports the Key Aim of: Caring Communities – Providing the right support at the right time and reduce poverty and social exclusion.

Portfolio Holder Cllr. Roddy Hogarth

Contact Officer(s) Lesley Bowles Ext. 7335

Recommendation to Economic & Community Development Advisory Committee:

That Cabinet be recommended to agree the draft Service Level Agreement for 2015/18.

Recommendation to Cabinet:

It be RESOLVED that the draft Service Level Agreement for 2015/18 is agreed subject to the conditions set out in paragraph 12 of this report and the Leader of the Council satisfied with the proposed merger arrangements.

Reason for recommendation: The Service Level Agreement outlines funding for the Citizens' Advice Bureau to provide a General Advice Service and a Housing Advice Service in the Sevenoaks District and sets out Service Standards for the delivery of these services.

Introduction and Background

- 1 The three year Service Level Agreement (SLA) with Sevenoaks & Swanley and Edenbridge & Westerham Citizens' Advice Bureaux was approved at the Cabinet Meeting of 12 January 2012.

Agenda Item 11

- 2 The SLA three year agreement started on 1 April 2012 and will finish on 31 March 2015.
- 3 Quarterly monitoring meetings are held between Officers and CABx Managers and an annual review meeting is held between the Portfolio Holder, Chief Officers for Communities & Business and Housing, CABx Chairs and Managers.
- 4 The information required from the Bureaux for quarterly meetings is set out at in Schedule B of the Service Level Agreement 2015/18 and that required for the Annual Review meeting is set out in Schedule C. The annual review period is from October to September each year.

SLA 2015-18

- 5 Discussions regarding the 3 year SLA to cover the period 2015/18 have taken place during 2014/15.
- 6 During the year, both CABx have had the opportunity to make suggestions on changes to the 2015/18 SLA to be taken forward.
- 7 Suggested changes have been incorporated into the draft SLA set out at Appendix A. These relate to the monitoring information that CABx are required to provide, taking account of changes to the way CABx nationally record and report data and do not reduce the effectiveness of the information in any way.
- 8 The payment for the General Advice Service for 2015/16 and each subsequent year is £ 98,540, unchanged from 2014/15. Payment for the Housing Advice Service continues at £ 18,000 per year, unchanged from 2014/15. Payment of the funding annually in advance enables the CABx to plan their services over the year
- 9 The hours of opening and access to the public also remain unchanged.
- 10 The Bureaux are required to agree between themselves how the funding is to be apportioned to each Bureau. They will then let the Council know so that payment can be made.
- 11 The Sevenoaks and Swanley CAB is likely to merge with Gravesham and Tonbridge CABx during the next financial year. Safeguards to ensure that Sevenoaks residents and volunteers are not disadvantaged by this arrangement are included in the revised SLA at paragraphs 1.7 and 3.6. Whilst the name of the organisation will change, it is proposed that the individual bureaux will be known by the name of the towns in which they are based, eg Swanley CAB and Sevenoaks CAB.
- 12 The new Service Level Agreement will be conditional upon any merger between CABx undertaking the following :
 - a) The level of service provided to Clients will remain as set out in paragraph 2.2 for the term of this Service Level Agreement.
 - b) The new merged Sevenoaks/Swanley/Tonbridge & Malling/Gravesham Citizens' Advice Bureau will include a proportionate or better geographic representation from the Sevenoaks & Swanley area, including at least one

(and no fewer than other local authority's) representative, who should be nominated by Sevenoaks District Council.

- c) SDC's funding will be ring-fenced for the benefit of clients in the Sevenoaks District and the annual accounts will show spend in the Sevenoaks District separately from spend elsewhere.
- d) The pool of volunteers supporting Sevenoaks and Swanley Bureaux will include a proportionate or better percentage of volunteers from the Sevenoaks District.

Key Implications

Financial

- 13 The level of grant in the Council's ten year financial plan is £98,540 per year for the General Advice Service and £18,000 per year for the Housing Advice Service and these sums are included in the draft SLA.

Legal Implications and Risk Assessment Statement.

- 14 This is a Service Level Agreement as opposed to a contract that has contractual liabilities. Accordingly, this is a statement of what is expected from CABx and the Council, with a requirement for the CABx to provide performance data on the level and nature of advice given to clients.
- 15 The Service Level Agreement covers statutory obligations, including Child Safety Equalities and Safeguarding Policies.

RISK	IMPACT	CONTROL
Failure of the Bureaux to decide how to apportion the General Advice Service SLA between the CABx	This could result in delayed payment to the Bureaux and consequent threat to the service.	If agreement has not been reached between the two Bureaux by 31 March 2015, the Council will apportion it.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	CABx provide assistance to those most in need in the District. They assist residents on issues around benefits, debt, education, employment, financial services & capability, health & community care, housing, immigration & asylum, legal, relationships, tax and discrimination. The service is available to all residents in the Sevenoaks District.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	The Council makes referrals or signposts customers to CABx relating to high

Agenda Item 11

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
		hedges, debt and benefits, council tax, social housing, building control, land charges and nuisance.
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		There are no adverse impacts.

Conclusions

- 16 The Service Level Agreement outlines funding for the Citizens' Advice Bureau to provide a General Advice Service and a Housing Advice Service in the Sevenoaks District and sets out Service Standards for the delivery of these services. It is recommended that the draft SLA for 2015/18 be agreed.

Appendices

Appendix A – Draft Service Level Agreement 2015/18

Background Papers:

Draft Service Level Agreement 2015/18

Lesley Bowles
Chief Officer Communities & Business

**Service Level Agreement between Sevenoaks District Council
(SDC) and Citizens Advice Bureaux in the Sevenoaks District –
2015/18**

Section		Page
1	Scope of the Agreement	2
2	Service Standards	3
3	Policies and Safeguards	4
4	Performance Review and Monitoring	4
5	Payment and Financial Conditions	5
6	Contact Officers	5
7	Termination of the Agreement	6
8	Undertaking	6
Schedule A		
1	The Scope of the Housing Advice Service	8
2	Eligibility for the Housing Advice Service	9
3	Information relating to the Housing Advice Service to be held by the Provider	9
Schedule B	Performance data required for quarterly monitoring	10
Schedule C	Information required for the annual review	11
Schedule D	Definition of Homelessness	12

1. Scope of the Agreement

- 1.1 This Agreement establishes the relationship between the **Purchaser** and **Provider** in the provision of independent advice and information services and Housing Advice.
- 1.2 **The Purchaser** means Sevenoaks District Council, its employees and any person authorised to act on behalf of Sevenoaks District Council.
- 1.3 **The Provider** means Sevenoaks & Swanley Citizens' Advice Bureau and Edenbridge & Westerham Citizens' Advice Bureau, acting together to provide a cohesive, District-wide, integrated service.
- 1.4 **Clients** are residents and people working in the Sevenoaks District seeking information or advice and, for independent Housing Advice, any person who has ties to the District and falls within the scope of the Housing Advice eligibility conditions set out in Schedule A. It is recognised that CABx may be required to provide a service to other callers but that is outside the scope of this Agreement.
- 1.5 **The Service** is the provision of the following, according to the Service Standards and other arrangements set out in this Agreement:
- a) **General Advice Service:** free, confidential, impartial and independent advice to residents of the District on a wide range of issues including, but not exclusively, benefits, housing, money advice, employment, consumer relationships and taxation in line with the membership standards of Citizens' Advice.
- b) **Housing Advice Service:** a specialist approach to provide debt counselling and mortgage arrears advice and to prevent homelessness where possible. Eligibility conditions are set out in Schedule A. The definition of homelessness is taken from s.175 Housing Act 1996, an extract of which is attached at Schedule D.
- 1.6 **Period of the Agreement**
- This is a three year Agreement that will start on 1st April 2015 and finish on 31st March 2018 unless it is terminated or varied in line with the terms and conditions set out in this Agreement.
- 1.7 During the period of this agreement, Sevenoaks & Swanley Citizens' Advice Bureau may merge with Tonbridge & Malling Citizens' Advice Bureau and Gravesham Citizens' Advice Bureau. Edenbridge & Westerham CAB will continue in its sole capacity. When the merger takes place, it will be documented by a memorandum being annexed to this Agreement, and from its date thereof, this Agreement shall be read and construed as though the providers are respectively the two entities Sevenoaks/Swanley/Tonbridge & Malling/Gravesham Citizens' Advice Bureau and Edenbridge & Westerham Citizens' Advice Bureau and all terms and conditions shall be interpreted accordingly.

2. Service Standards

- 2.1 The Provider will operate to the requirements of the Community Legal Service Quality Mark (General Help Level) and will comply with Citizens' Advice Quality Assurance Standards Membership Agreement.
- 2.2 The Provider will make available drop in and telephone advice and information to Clients, offering a minimum of 40 hours face to face access and a minimum of 30 hours telephone contact per week. This should be on a minimum of 3 days per week in each of the following three locations:
- Sevenoaks CAB
Swanley CAB
Edenbridge CAB
- The Service will not be offered during the two weeks over the Christmas and New Year period or on Bank Holidays.
- 2.3 The Provider will timetable the Service so that at least one of the participating Bureaux can be accessed in person and by telephone every day of the week from Monday to Friday for a minimum of 4 hours per day, with the exception of the period set out at 2.2 above.
- 2.4 Clients requiring Housing Advice will be assisted within 2 working days of their approaching the Provider.
- 2.5 For Housing Advice, the Provider will keep a record of all discussions with the Client including the type of advice provided as set out in Schedule A to enable a seamless service to be provided to the Client.
- 2.6 The Provider will notify the Purchaser of the agreed hours of access at each location in April of each year. Any changes to the hours of access will be undertaken only after consultation with the Purchaser, unless it is for a part of the service funded wholly by other funders. This consultation must be undertaken in advance of any public notice of intention to make such changes.
- 2.7 The Provider will maintain an appropriate core of volunteer trained advisers covering the District.
- 2.8 The Provider will advertise the Service in local communities, local libraries, District Council premises, the District Council's website and from time to time in conjunction with the District Council, in the In Shape magazine.
- 2.9 The Provider will consult the Purchaser annually about the content of a uniform client satisfaction survey which the Provider will undertake on an annual basis for each year of the Agreement, using a minimum random sample of 500 Clients, evenly distributed between the three Bureaux.
- 2.10 Where appropriate Citizens' Advice Bureaux and Sevenoaks District Council will share training sessions which benefit the Bureaux staff and Housing officers and are cost

effective.

- 2.11 The Provider will acknowledge the financial support of Sevenoaks District Council in all its publicity and will display the District Council's logo in a prominent position at each of the three Bureaux.
- 2.12 The Purchaser and Provider will work together to attract external funding for the work of the Bureaux.

3 Policies and Safeguards

3.1 Statutory Obligations

The Provider will ensure that policies are in place so that the Service complies with existing and future legislation. This should include an Equal Opportunities Policy together with appropriate monitoring of BME groups to ensure fairness and equal access among those eligible for the Service. The Provider should embrace Sevenoaks District Council's Racial Equality Scheme.

3.2 Child Safety and Safeguarding Policies

The Provider will ensure that the Service is covered by a Child and Vulnerable Adult Protection Policy, will adhere to Citizen Advice's Safeguarding Policies, that all staff have read and understand the Policy and that appropriate enhanced level DBS checks are in place. The Provider will have regard to the District Council's Safeguarding Policy.

3.3 Assessment of Risk

The Provider will maintain an up-to-date risk assessment relating to the provision of the Service and make this available to the Purchaser.

3.4 Insurance

The Provider will make arrangements to insure professional negligence, public and employers' liability.

- 3.5 The Provider will make available copies of the policies and other safeguards mentioned in this section if requested by the Purchaser.

3.6 Merger

During the course of this SLA, if and when Sevenoaks & Swanley CAB merges with Tonbridge & Malling and Gravesham CABx, the payment will be conditional upon the new organisation undertaking the following:

- a) The level of service provided to Clients will remain as set out in paragraph 2.2 for the term of this Service Level Agreement.
- b) The new merged Sevenoaks/Swanley/Tonbridge & Malling/Gravesham Citizens' Advice Bureau will include a proportionate or better geographic representation from the Sevenoaks & Swanley area, including at least one (and no fewer than other local authority) representative, who should be

nominated by Sevenoaks District Council.

- c) SDC's funding will be ring-fenced for the benefit of clients in the Sevenoaks District and the annual accounts will show spend in the Sevenoaks District separately from spend elsewhere.
- d) The pool of volunteers supporting Sevenoaks and Swanley Bureaux will include a proportionate or better percentage of volunteers from the Sevenoaks District.

4 Performance Review and Monitoring

- 4.1 Monitoring will be carried out on a quarterly basis with an annual service review. Payment for years 2 and 3 will be dependent upon successful delivery of the Agreement in years 1 and 2.
- 4.2 The Provider will provide the Purchaser with a combined quarterly monitoring report in July, October, January and April of each year using the report headings set out in Schedule B, relating to the quarters April-June, July-September, October-December, January-March.
- 4.3 The Provider will provide the Purchaser with information for the annual service review by the end of November each year using the report headings set out in Schedule C.
- 4.4 The Provider agrees to meet the Purchaser quarterly in the last week of the month preceding the end of the quarter to review progress.

5 Payment and Financial Conditions

The Purchaser will pay the Provider annually in advance by April 10th in each year, the sums set out below subject to satisfactory performance in delivering this Agreement.

Year	General Advice Service	Housing Advice Service	Total £ per year
2015/16	£98,540	£6,000 for Edenbridge. £12,000 for Sevenoaks & Swanley	£116,540
2016/17	£98,540	£6,000 for Edenbridge. £12,000 for Sevenoaks & Swanley	£116,540
2017/18	£98,540	£6,000 for Edenbridge. £12,000 for Sevenoaks & Swanley	£116,540

6 Contact Officers

The Purchaser's Contact Officers are as follows:

General Advice Service:

Lesley Bowles, Chief Officer – Communities & Business
Simon Davies, Partnership & Project Officer

Housing Advice Service:

Pat Smith, Chief Housing Officer
Jane Ellis, Housing Advice & Standards Manager

The Provider's Contact Officers are as follows:

Edenbridge & Westerham CAB
Graham Coldman, Chairman
Jill Eyre, General Manager

Sevenoaks & Swanley CAB
Martin Wells, Chairman
Angela Newey, General Manager

7 Termination of the Agreement

- 7.1 If either party to this Agreement wishes to withdraw from the Agreement, at least 12 months' notice must be given in writing. Where termination is the result of the Provider not fulfilling the terms of the Agreement, a minimum of 6 months' notice should be given.
- 7.2 If the Provider cannot meet the commitments as set out in the Agreement, it will notify the District Council's Head of Community Development immediately the issue is identified. The Purchaser will review together with the Provider the ability to continue in the Agreement.

8 Undertaking

I agree on behalf of _____ to provide the services identified in the Service Specification, and to meet the terms and conditions contained in this Agreement.

Signed

_____ Chair, on behalf of the Trustee Board of Edenbridge & Westerham
Citizens Advice Bureau

_____ Chair, on behalf of the Trustee Board of Sevenoaks & Swanley Citizens
Advice Bureau

Date

Signed

_____ Chief Officer - Communities & Business
Sevenoaks District Council

Date

Schedule A

A1	The Scope of the Housing Advice Service
i	To provide an effective independent Housing Advice service to people who are eligible for Housing Advice as set out in A2 below. The principal aim of the Housing Advice Service is to avoid homelessness.
ii	Where appropriate, in order to avoid homelessness, to undertake debt counselling and/or mortgage arrears advice and assist with budgets which may include negotiating on the client's behalf with external organisations
iii	To signpost homeless or potentially homeless clients to relevant agencies. This will include, for example, advising people to join the Housing Register, making Homeless applications to Sevenoaks District Council or suggesting contact with the Home Improvement Agency to have disabled adaptations undertaken with support.
iv	To share information relating to specific cases where an applicant provides written permission/authorisation to the Council or Citizens' Advice Bureau in advance of the request.
v	<p>Special Needs</p> <p>The special needs of a client (those with physical disabilities or those with mental health and or learning disabilities) must be considered when offering housing advice. Any issues concerning aids and adaptations should be signposted to the Council, the Home Improvement Agency or relevant housing association, if a tenant.</p>
vi	<p>Non English-speaking applicants</p> <p>Reasonable efforts must be made to ensure that clients understand the Housing Advice provided or any related documentation. There should be access for applicants to use Language Line or similar if appropriate.</p>
vii	<p>Blind and deaf applicants</p> <p>Reasonable efforts must be made to ensure that applicants understand the Housing Advice or related documentation Braille documentation to be provided where possible.</p> <p>Where possible, the Service Provider should work with the Purchaser to investigate the provision of appropriate audio tapes or signing from a registered signer.</p>

A2	Eligibility for the Housing Advice Service
	<p>Eligible applicants must be:</p> <p style="padding-left: 40px;">People who will be homeless within 28 days of approach or</p> <p style="padding-left: 40px;">People who are potentially homeless within a maximum of 3 months of approach</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 40px;">live or work within the District or</p> <p style="padding-left: 40px;">can demonstrate that they have lived here at least 6 months out of the last 12 months or 3 years out of the last 5 years or</p> <p style="padding-left: 40px;">applicants or close relatives must demonstrate a special need to be rehoused in this District (for example, through fear of violence in another district)</p>

A3	Information relating to the Housing Advice Service to be provided where possible
	<ul style="list-style-type: none"> a) household composition, including gender, age and race b) applicant’s housing requirements c) applicant’s special needs where they have been identified with the applicant d) applicant’s request for low cost home ownership (if applicable) e) applicant’s financial details particularly savings and income details f) applicant’s local connection to the District, using the information upon which the Client’s eligibility for the Housing Advice Service is based. g) relevant medical information (if applicable) h) applicant’s relevant past history, eg past evictions, debt problems, etc.

Schedule B

	Performance Data required for quarterly monitoring by 21 st of the month following the end of the quarter
B1	Number of advertised hours of opening each week for telephone and drop in advice in Edenbridge, Sevenoaks and Swanley.
B2	The number of people assisted this quarter, including those from outside the District.
B3	The number of issues raised this quarter.
B4	The number of Clients who have received the Service this quarter including a breakdown by type of enquiry, level of enquiry and ward of residence.
B5	Percentage of the number of Clients who have received the Service and who are from Black and Minority Ethnic groups.
B6	The total number of trained advisers, recorded on the last day of each quarter.
B7	The number of benefits appeal, employment appeal and legal appeal cases opened this quarter.
B8	The number of face to face contacts conducted this quarter with the people set out in B2 above
B9	The number of telephone contacts conducted this quarter with those people set out in B2 above and the number of other contacts (letter, email etc) conducted this quarter with those set out in B2 above.
B10	Exception reporting: Dates on which a service was not available in the District, excluding weekends and bank holidays.
B11	Exception reporting: Weeks during which the Service was not available at any location for the agreed number of opening hours, with the exception of Bank Holidays and 2 weeks over Christmas and New Year.
B12	Exception reporting: No of Housing Advice Clients who could not be assisted within 2 working days of their approaching the Provider.
B13	A quarterly spreadsheet report showing Actual and Threatened Homelessness Gateways, setting out: Bureau, short description and AIC elements completed as relevant for the case.
B14	A quarterly spreadsheet report showing Actual and Threatened Homelessness enquiries, setting out: Bureau, short description and AIC elements completed as relevant for the case.
B15	Outcomes sheet setting out the number of cases where it is estimated that homelessness has been prevented for households included in B13 and B14.

Schedule C

Information required for annual review by end November	
C1	A copy of the most recent Citizens' Advice Membership confirmation, updated every three years, including the CLS Quality Mark.
C2	The results of the annual uniform customer satisfaction survey, which should separately identify Clients of the Housing Advice Service.
C3	Total number of people assisted October to September.
C4	Total number of Clients (see 1.4 for definition of 'Client') receiving the Service (see 1.5 for definition of the Service) October to September
C5	Copies of publicity material produced during the year.
C6	Copies of the most recent annual accounts
C7	The average number of paid staff hours per week during the year
C8	The number of voluntary staff hours worked during the year.
C9	A summary of any changes in the way the Service as been delivered during the year.
C10	A summary of any proposed changes to the Service in the ensuing year.
C11	A statement of how the Service has assisted in the delivery of Sevenoaks District Community Plan objectives during the year.
C12	A copy of the budget for the ensuing year.

Schedule D

The definition of 'homelessness' is taken from s.175 Housing Act 1996

175 Homelessness and threatened homelessness

(1) A person is homeless if he has no accommodation available for his occupation, in the United Kingdom or elsewhere, which he—

(a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,

(b) has an express or implied licence to occupy, or

(c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of another person to recover possession.

(2) A person is also homeless if he has accommodation but—

(a) he cannot secure entry to it, or

(b) it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it.

(3) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.

(4) A person is threatened with homelessness if it is likely that he will become homeless within 28 days.

Item 12 – Community Grant Scheme Draft Allocations 2015/16

The attached report was considered by the Economic & Community Development Advisory Committee on 12 February 2015, and the relevant Minute extract was not available prior to the printing of this agenda.

This page is intentionally left blank

COMMUNITY GRANT SCHEME DRAFT ALLOCATIONS 2015/16

Cabinet - 5 March 2015

Report of Chief Officer – Communities & Business

Status: For Decision

Also considered by: Economic & Community Development Advisory Committee – 12 February 2015

Key Decision: Yes

Executive Summary: This report sets out information about the Community Grant Scheme and summarises applications received by the Council from voluntary organisations for funding during 2015/16.

Details of the appraisal process are provided. This included a lengthy and detailed consultation with the Portfolio Holder for Economic & Community Development and the Deputy Portfolio Holder for Economic & Community Development, Cllr Mrs Bosley. Both Members have been trained in appraisal techniques. Recommended grants are set out in Appendix C.

Copies of the applications received are available in the Members' Room.

Officers would be pleased to answer detailed questions about individual applications in advance of the meeting.

This report supports the Key Aim of Effective Management of Council Resources and the Community Plan Vision for Safe & Caring Communities, a Green & Healthy Environment and a Dynamic & Sustainable Economy.

Portfolio Holder Cllr. Roddy Hogarth

Contact Officer(s) Lesley Bowles Ext. 7335

Recommendation to Economic & Community Development Advisory Committee: for information.

Recommendation to Cabinet: Grants, as set out in Appendix C of this report be approved subject to the conditions set out in paragraph 14.

Reason for recommendation: Applications received have been appraised according to the Council's Guidelines and those recommended for funding support the aims of the scheme and represent value for money.

Agenda Item 12

Introduction and Background

- 1 The Council's Community Grant Scheme supports local charities and voluntary sector organisations that, through their work, contribute to the priorities set out in the Community Plan 2013-28.
- 2 The grant guidelines were reviewed during 2013/14 and revised guidelines were agreed by Cabinet on 12 September 2013.
- 3 The grant scheme was publicised widely across the District within the voluntary sector, through town and parish councils, libraries and in the press in September 2014. The closing date was 28 November 2014. The total budget available for distribution in 2015/16 is £153,331, including £98,540 for the Citizens' Advice Bureaux in the District. Funding for the Citizens' Advice Bureaux is subject to a three year Service Level Agreement (SLA) and is the subject of a separate report.
- 4 The 2015/16 budget available for voluntary sector organisations is as follows:-

Funding for the CABx SLA	£ 98,540
Amount available for grants	£ 54,791
Total Budget	£ 153,331

- 5 A total of 31 grant applications have been received, representing total grant requests of £124,626.45.
- 6 A copy of the Council's Corporate Code of Practice for making grants is attached at Appendix A.
- 7 A copy of the scheme guidelines is attached at Appendix B.
- 8 A full schedule of applications is attached at Appendix C. The Portfolio Holder for Economic & Community Development has copies of all of the applications and a full set is available in the Members' Room. Officers would be pleased to deal with any detailed queries in advance of the meeting.
- 9 In 2014/15, the voluntary organisations funded supported 294,122 volunteer hours, which represented a benefit to the District of £3.67 million.

Appraisal Process

- 10 Members will appreciate that the recommended grants in Appendix C have been put forward following an appraisal by Officers trained in grant appraisal and a detailed consultation with the Portfolio Holder for Economic & Community Development and the Deputy Portfolio Holder for Economic & Community Development, Cllr Mrs Bosley. Recommendations have been made in accordance with the Scheme Guidelines and the Council's Corporate Code of Practice for grants and take into account various factors, including:

- i. the extent to which the application supports the District Council's priorities;
- ii. the extent to which the application assists residents across the District and its impact;
- iii. the extent to which the application should be funded by other organisations;
- iv. whether performance indicators are relevant and appropriate;
- v. whether the applicant meets the eligibility criteria established in the Guidelines and the Corporate Code of Practice for grants;
- vi. the level of reserves held by the applicant.
- vii. Whether the applicant has appropriate child protection and safeguarding arrangements in place.

Recommended Level of Grant

- 11 A summary of the total value of recommendations in this report and the total draft budget is set out below.

Total 2015/16 grant budget available to voluntary and community sector organisations (subject to approval of budget)	£153,331
Grants to CABx for 2014/15 under the terms of a three-year SLA	£98,540
Recommended grants to all other voluntary and youth groups	£54,790
Total recommendations	£153,330

- 12 A full list of grants recommended to voluntary and youth groups is attached at Appendix C.
- 13 Unsuccessful applicants will be informed of the reason for this decision, and encouraged to contact Voluntary Action Within Kent or North West Kent Council for Voluntary Service for advice and support in seeking funding elsewhere if appropriate.

Recommended Conditions

- 14 It is recommended that grants be made to voluntary organisations subject to the following conditions:
- (i) that performance indicators as set out in the application forms are adhered to and monitored;

Agenda Item 12

- (ii) that appropriate Safeguarding policies and arrangements are in place, where necessary;
- (iii) that appropriate recognition of this Council's funding contribution is made in all their publicity; and
- (iv) where services are provided over a wider area than the District boundaries, organisations will be required to hold grant aid from this Council in a restricted fund for the benefit of Sevenoaks District residents.

Key Implications

Financial

- 15 The level of funding recommended is in accordance with the draft 2015/16 budget of £153,331.

Resources (Non-financial)

- 16 The work connected with the Community Grant Scheme administration and monitoring is being undertaken through existing resources.

Legal Implications and Risk Assessment Statement.

- 17 There are no legal or human rights issues relating to this report. All organisations applying for funding are required to have an equalities policy and where appropriate child protection and/or adult protection policies.

Risk	Mitigation
Grants allocated are lower than requested	Application forms ask whether the project could continue if funding were reduced. Appraisal looks at realistic performance indicators for the amount of grant recommended. Performance indicators are agreed with Voluntary and Community Groups.
As a condition of grant any organisation allocating onward funding on behalf of the Council to another organisation must check whether appropriate police checks and child or vulnerable adult protection policies are in place.	Condition of grant to ensure checks carried out and that application forms seek confirmation. Monitoring process to confirm an effective process is in place.
Grant allocations not approved in	A timetable is in place to ensure grants are considered by Cabinet in

March.	March and processes in place to ensure grant payments are made in the first week of the financial year.
--------	---

Equality Assessment

18 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and varies between groups of people. The results of this analysis are set out immediately below.

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	The community grants scheme assists with the provision of services to support District residents, particularly those in the greatest need. The grant scheme provides funding for specific groups, such as older people, families, young people and people with disabilities
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		No negative impacts identified

Conclusions

19 The work of the voluntary sector across the Sevenoaks District is highly valued. The Council's grants programme supports the dedication and commitment of the many volunteers who help the most vulnerable people in the District. Members are asked to agree the draft grant allocations as set out in Appendix C.

Appendices

Appendix A - Council's Corporate Code of Practice for making grants

Appendix B - Community Grant Scheme guidelines

Agenda Item 12

Appendix C – Full schedule of applications

Background Papers:

[Grant scheme guidelines](#)

[Sevenoaks District Council Code of Practice for grant-making](#)

Lesley Bowles
Chief Officer Communities & Business

Sevenoaks District Council Grants

Code of Practice September 2003

For this purpose, a grant is taken to mean:

'a cash award for a specified initiative, project or service not provided by the Council which benefits residents or those working in the district'

Each grant scheme should have:

1. Written criteria outlining:
 - Eligibility
 - Scheme objectives
 - How the grant decision will be made in relation to the extent to which the scheme criteria are met.
2. An application form
3. Guidelines for completing the application form.
4. Minimum and maximum grant level
5. Performance indicators
6. Monitoring arrangements

Principles

- The criteria must be in line with the Council's overall objectives
- All grant schemes and benefits in kind must support and complement the Council's Strategic Objectives.

Eligibility

- The applicant group must have a constitution (or at least be working towards adopting one). For most grants a constitution is essential.
- The applicant group should have a management committee.
- The applicant group must have a bank account with 2 signatories. If they do not have a bank account, they must nominate a voluntary organisation to take responsibility for the money on their behalf.
- The applicant must have, and enclose with the application, a set of audited or independently examined accounts for the latest year available
- The project should be for the benefit of people living or working in the Sevenoaks District.

The application form should:

- Identify how the application meets the scheme criteria
- Contain performance indicators by which the success of the project will be measured.
- Be targeted to the potential recipients. The degree of information required should be proportionate, reasonable and reflect how much money they are eligible to apply for.
- Identify if the applicant has applied to the Council before for funding or if they have an external bid outstanding. Identify how much they have applied for and when applicants are likely to know the outcome. Include details of any other funding applied for and whether bids have been successful.
- Make it clear that grants have to be paid back if the proposal does not go ahead and that if they do not notify the Council, this may jeopardise future applications.
- Make it clear at what stage the funding will be made available e.g. on receipt of invoices, 100% in advance, staged payment etc.
- Include a checklist for applicants to ensure everything has been filled in and all documents are enclosed etc.
- Include an outline of the project timetable.
- Identify whether the applicant group has policies which cover child protection/health and safety/equal opportunities etc.
- Identify if the organisation is working towards any form of accreditation.

The application process;

- Application forms must be accompanied by the scheme criteria guidelines for completing the application form and an explanation of the timescale, including deadlines, during which the application will be processed.
- Applicants need to be informed at the outset about the level and timing of monitoring, evaluation and annual reporting required
- Applications should be acknowledged within 10 days of receipt.
- A list must be kept of everyone who is sent a form so that reasons for not replying can be gained if necessary
- Applicants should be informed of the timescale for consideration and notification of decision at the outset.
- If the application has not been approved, reasons should be given.

Deadlines

- Dates for consideration of applications need to be publicised and deadlines set for receipt of applications.
- No applications will be considered after closing dates.

Grants application appraisal

- Grant appraisers should be trained.
- Appraisal must be against the given criteria and applicants must meet set criteria in order to receive the grant.
- The scheme/proposal must meet the main aim of the grant scheme.
- Applications should be assessed according to the extent to which the identified need is met. Applicants should therefore be asked to state the need.
- Audited accounts should be considered when the application is appraised.
- Applicants need to demonstrate financial need and financial viability.

Approval

- All grant applications should receive a response indicating that the grant has been approved held over or refused
- Approval letters should indicate clearly whether there are any conditions attached to the grant.

Payment

- Payment of money – timescale for payment should be included in the written notification of grant approval.
- Cheques should go out with a letter reiterating what the money will be spent on and the required monitoring of performance indicators. There should also be a receipt which the applicant signs, dates and sends back to confirm they have received the money and that it will be used for the purpose for which it was approved.
- As part of the monitoring/evaluation process, receipts to prove that the money has been spent on what it was intended for should be provided by the applicant where necessary. For example, where grants have been made for capital/equipment purchase. (*The financial threshold needs to be considered*).

Monitoring & Evaluation

- Monitoring has to be relevant and targeted to the applicant group, degree of detail reflecting the size of grant.

- Monitoring – must relate to key outputs/targets/milestones which should be part of the original application. Monitoring should assess achievements against agreed outputs/targets.
- A progress report must be provided – frequency determined by the level of grant.
- Recipients of grants must keep a record of user numbers, who has benefited from the grant and any feedback from users.
- PIs should be part of target setting. This should be proportionate to the size of grant.
- How often and by whom they will be monitored must be specified.
- Schemes must be evaluated using the monitoring information provided.
- The applicant group should have client evaluation – satisfaction survey e.g. play scheme – how did the parents find it, did the children enjoy it etc. proportionate to the size of grant.

Promotion

- Applicants need to make clear what publicity/promotion is being undertaken for the scheme/grant and must acknowledge the grant provided by the District Council in all publicity.

Review

- The grant process itself must be reviewed internally at regular intervals, at least every 3 years to ensure the system is still effective. This includes review of application forms, criteria, reporting etc. with feedback from applicants.

General

- There should be a SDC database which everyone can access which gives details of those groups who have applied for funding and the outcome.

**Sevenoaks District Council
Community Grants Scheme 2015/16
SCHEME GUIDELINES**

Please read the following Guidelines carefully before completing the application form. If you have any queries regarding the application process, please contact Simon Davies at Sevenoaks District Council, Argyle Road, Sevenoaks, Kent, TN13 1HG. Tel: 01732 227000.
Email grants@sevenoaks.gov.uk.

The Sevenoaks District Council Community Grant scheme exists to help voluntary organisations which provide services, activities or projects that benefit Sevenoaks District residents, focussing on those in greatest need.

In particular, the Council wishes to support services, activities or projects that are delivered with the help of volunteers and that support Sevenoaks District Community Plan priorities set out below:

Please note: We can only accept **one** application per organisation.

Please complete the application form electronically – we cannot accept hand-written applications.

1. WHAT ARE THE SCHEME'S PRIORITIES?

Volunteering:

- Promote, encourage or support volunteers and volunteering as part of a project, service or activity.

Social Inclusion:

- Improve opportunities for vulnerable or elderly people;
- Encourage community participation by excluded or vulnerable groups;
- Improve the wellbeing of local residents.

Community Safety:

- Reduce crime or anti-social behaviour.

Information, Advice, Advocacy and Counselling:

- Provide information, advice, advocacy or counselling to residents when they are in particular need.

Young People:

- Projects, services and activities that encourage participation in local communities or provide positive activities or opportunities for young people.

Arts & Sports:

- Funding for the Sevenoaks District Arts and Sports Councils to support arts and sports projects that contribute to the overall wellbeing of residents and encourage the inclusion of groups with particular needs.

2. WHO CAN APPLY?

You can apply if you deliver services to Sevenoaks District residents in two or more parishes and are one of the following:

- “Not for profit” registered charity
- Youth Organisation
- Voluntary Organisation
- Community Interest Company

If your organisation works with children, young people or vulnerable adults, you should have a Safeguarding Policy and staff and volunteers must have enhanced level Disclosure & Barring Service checks and appropriate training.

3. HOW MUCH AND WHAT CAN I APPLY FOR?

The minimum you can apply for is £100

The most we will award for any one application is £5,000

The grant can be spent on project costs such as support for volunteers, equipment or premises hire. In addition you can apply for core running costs that are commensurate with the project, service or activity applied for.

4. WHAT ARE THE MAIN CONDITIONS?

By applying, you are confirming that you comply with the terms and conditions. The main conditions include:

- Your organisation has a constitution;
- Your organisation has a bank account with at least two authorised signatories;
- Your organisation either has an equalities policy in place and is prepared to sign the Council’s Equalities Statement;

- All appropriate legal agreements, insurances and processes needed to deliver the project are in place, including safeguarding arrangements for children and vulnerable adults;
- Any grant you are awarded will be used only for the project set out in your application and will be ring-fenced to help Sevenoaks District residents. It must not be used for any other purpose;
- You will be required to submit monitoring for your project with supporting evidence;
- All publicity materials and annual reports must acknowledge Sevenoaks District Council's support;
- Your organisation can only submit one application in any financial year;
- Any grant unspent at the year end will be refunded to Sevenoaks District Council.

5. WHAT WE WILL NOT FUND

We will not fund the following:

- Projects, services or activities that serve only one Parish;
- Costs for projects, services or activities that your organisation is already delivering in the District as part of an existing contract or service level agreement with another funder;
- Costs for projects that have already started or been delivered;
- Projects where the beneficiaries are not Sevenoaks District residents;
- Private concerns operated as a business;
- Organisations seeking to add capital to their reserves;
- Local organisations seeking funding for a central HQ;
- Religious or political organisations;
- Individuals;
- Work that should be provided by statutory, educational, health organisations or social services;
- Schools or parent/teacher organisations.

6. HOW WILL THE COUNCIL ASSESS YOUR PROJECT?

The appraisal process will look at:

- Your eligibility to apply;
- The extent to which your project meets the Scheme's priorities;
- How many people will benefit;
- The level of need for the project;
- The level of benefit to Sevenoaks District residents;
- The level of reserves held by your organisation.

7. WHEN WILL YOU KNOW IF YOUR APPLICATION IS SUCCESSFUL?

The deadline for submitting your completed application form is Friday 28th November 2014. Applications received after this date will not be considered.

During March, we will decide who will receive funding. We will write to you during April to let you know if your application has been successful.

If you require any assistance, please contact:

Simon Davies, Partnership and Projects Officer, on 01732 227000

Applications must be signed by the applicant on behalf of the organisation and returned by post to the address below:

**Community Grant Scheme, Communities & Business Team,
Sevenoaks District Council, Council Offices, Argyle Road,
Sevenoaks, Kent, TN13 1HG**

Deadline for completed applications: 28th NOVEMBER 2014

Community Grant Scheme - Schedule of Applications 2015/16

Ref No	Name of Organisation	Purpose	2013/14	2014/15	Grant app. 2015/16	Suggested allocations	Reason for refusal	Notes
3	North West Kent Volunteer Centre (Northern Parishes)	1. Volunteer Driver Community Transport Scheme, 2. Befriending Scheme, 3. Gardening support scheme, 4. partnering 200 local charities and support organisations.	£5,000	£4,500	£5,000	£4,500		
8	Sevenoaks District Arts Council (District-wide)	To distribute funding to arts groups/societies across the Sevenoaks District	£4,600	£4,250	£5,000	£4,250		
21	Sevenoaks Area MIND (Sevenoaks and Southern Parishes)	Mini Mind Fitness - A term time programme of mental health wellbeing awareness sessions to be delivered to three age groups: 6-11 year olds, older children and young adults in schools, colleges and youth groups across Sevenoaks District	£4,200	£4,200	£5,000	£3,000		
23	Relate West & Mid Kent (District-wide)	1. Provide bursaries for families, 2. Provide counselling for children 5-18 yo, 3. To train counsellors	£800	£800	£15,000	£2,000		
30	Sevenoaks District Sports Council (District-wide)	1. Group coaching and/or training in all sports, 2. Individual coaching, 3. Organised coaching/training courses, 4. Help new clubs set up sports for young and disabled, 5. Social sports for the older generation, 6. Help all ages with disabled sports and coaching, 7. Individual grants for talented sportsmen/women, boys/girls	£4,600	£4,250	£5,000	£4,250		

Community Grant Scheme - Schedule of Applications 2015/16

Ref No	Name of Organisation	Purpose			Grant app. 2015/16	Suggested allocations	Reason for refusal	Notes
			2013/14	2014/15				
44	Sevenoaks Christian Counselling Service (District-wide)	Contribution towards provision of a counselling service, offering confidential counselling to clients of all religious belief and none	£750	£600	£800	£600		
51	Family Matters (District-wide)	To run a focussed project which provides specialist rape trauma therapy for victims of rape	£1,200	£1,200	£3,330	£1,200		
58	CVSNWK (Swanley and the Northern Parishes)	To provide support and infrastructure services to 3rd sector within north west Kent, supporting Swanley and the Northern Parishes.	£890	£900	£3,000	£1,000		
66	Edenbridge Voluntary Transport Service	Contribution to cost of volunteer car drivers' car running costs	£500	£500	£500	£500		
83	Cruse Bereavement Care West Kent Area (District-wide)	To train 2 volunteers to work specifically with children to offer bereavement care, expanding Cruse's children's section and send qualified counsellors into all local schools to promote work	No application	No application	£5,000	£1,500		
85	VAWK (District-wide)	1. Volunteer Centre - £5,000, 2. Infrastructure support - £ 2,750, 3. Youth volunteering - £3,000, 4. Kent Young Carers - £ 5,000, 5. Dial2Drive - £ 4,000	£13,500	£12,000	£19,750	£12,000		

Community Grant Scheme - Schedule of Applications 2015/16

Ref No	Name of Organisation	Purpose			Grant app. 2015/16	Suggested allocations	Reason for refusal	Notes
			2013/14	2014/15				
148	Sevenoaks Home Library Service (Sevenoaks and surrounding Parishes)	Annual running costs and maintenance of the library van	£150	£100	£150	£150		
173	Compaid Trust (Sevenoaks and surrounding parishes)	Medical DialaRide - Running costs for 1st year of providing adapted passenger vehicle to take disabled residents to medical appointments and other bespoke destinations	No application	No application	£4,500	£4,000		
196	Sevenoaks PHAB (District-wide)	Weekly sessions for adults who live in Sevenoaks District and have a learning and/or physical disability	£300	£400	£500	£400		
206	Sevenoaks Volunteer Transport Group	To defray running costs of providing low cost transport for elderly, infirm and disabled residents to medical appointments	£500	£500	£500	£500		
264	West Kent Mediation (District-wide)	Continued provision of a free, impartial, professional, confidential community mediation service for SDC residents.	£5,000	£5,000	£5,000	£5,000		
344	Kent Friendz (District-wide)	To provide a club for 20 children with severe and complex needs including challenging behaviour at regular intervals through the year, including school holidays and weekends	£500	£1,000	£2,000	£1,000		
394	BRIDGES (Edenbridge and surrounding villages)	1. Installation of permanent PA system plus hearing loop, 2. Supporting elderly people with fortnightly dementia café, 3. Purchase of chairs with arms, 4. Contribution to Centre manager's salary	£1,000	£1,000	£4,200	£1,000		
413	West Kent YMCA (Dunton Green)	The Fishing Programme - Vehicle for Change Project (V4C) to run a fishing programme to help disadvantaged youths in Dunton Green	No application	No application	£457	£0	8	

Community Grant Scheme - Schedule of Applications 2015/16

Ref No	Name of Organisation	Purpose	2013/14	2014/15	Grant app. 2015/16	Suggested allocations	Reason for refusal	Notes
425	Play Place Innov8 Community Interest Company (Dunton Green, Kemsing)	To deliver a 1 night per week x 12 sessions Arts Award/Youth Projects for young people of Dunton Green and Kemsing	£2,000	£2,550	£3,884	£2,240		
436	West Kent Extra	Contribution towards 3 x 3 day summer residential trips for vulnerable 8-12s living in Sevenoaks District	No application	£1,500	£4,500	£1,000		
443	Vitalise	To provide 9 essential breaks for people with disabilities and their carers	£0	£0	£3,114	£0	2	
446	Domestic Abuse Volunteer Support Services (District-wide)	Funding towards core costs and volunteer expenses for provision of support services for people experiencing domestic abuse, 1. Cost effective helpline, 2. Face to face support, 3. personal/family safety planning, 4. Support to court project, 5. Staffing Sevenoaks One Stop Shop, 6. Raising public awareness	£3,000	£3,000	£5,000	£3,000		

Community Grant Scheme - Schedule of Applications 2015/16

Ref No	Name of Organisation	Purpose			Grant app. 2015/16	Suggested allocations	Reason for refusal	Notes
			2013/14	2014/15				
455	Community Futures Kent	To bring together older family carers and support them to lead round table discussions with community groups and statutory agencies in Sevenoaks District to better understand their issues and plans for the future	No application	£1,300	£1,455	£600		
459	DGSM yourChoice	Purchase a mobile multi-interactive white board for use in Day Services	No application	No application	£3,290	£0	3	
460	Westerham & Crockham Hill Community Play	To put together a community plan for Westerham and surrounding villages to involve 300 volunteers, including a cast of over 100 in 12 performances of a play specially written for and about the town	No application	No application	£2,000	£0	4	
461	Youth Empowerment Services (YES+)	To deliver 3 x 6 session "Breaking Free" group work programmes for young people in mainstream or alternative education at risk of permanent exclusion and/or offending	No application	No application	£5,000	£0	4	
462	Project Salus	To provide a 2 week "Safety in Action" event (20/4/15 to 1/5/15) for West Kent students	£800	£1,000	£1,000	£1,000		
463	Edenbridge Community First Responders	To purchase equipment to provide response to emergency 999 calls on behalf of SECAM	No application	No application	£4,800	£0	4	
464	Funding For All	To provide a mentoring service for volunteer-led organisations to develop and deliver new community projects	No application	No application	£4,537	£0	3	
465	Baby Bundles (National Childbirth Trust)	To provide baby equipment, clothing and toiletries to disadvantaged local families	No application	No application	£1,360	£100		
			TOTAL	TOTAL	£124,626	£54,790		

Ref No	Name of Organisation	Purpose			Grant app. 2015/16	Suggested allocations	Reason for refusal	Notes
			2013/14	2014/15				

AVAILABLE FUNDING £54,791

- Refusal Reasons
- 1 The organisation's reserves are considered to be too high to enable a grant to be recommended
 - 2 The application has not demonstrated that the project for which funding is sought sufficiently meets the priorities of the grant scheme
 - 3 The available level of funding is not sufficient for the Council to be able to support this priority
 - 4 This service is primarily the responsibility of another agency
 - 5 This is an advice service that does not have CLS accreditation
 - 6 This application is for work taking place in a different financial year
 - 7 Application is ineligible under the Community Grant Guidelines
 - 8 This application cannot be supported as priority has been given to applications supporting a wide area of the District