

Public Document Pack



Town Hall
Royal Tunbridge Wells

Tuesday 18 July 2017

To the Members of the Tunbridge Wells Borough Council

I request your attendance at a meeting of the Tunbridge Wells Borough Council to be held at the Council Chamber, Royal Tunbridge Wells, Kent TN1 1RS, on Wednesday, 26 July 2017, at 6.30 pm, when the following business is proposed to be transacted.

- 1 **Apologies for absence**
- 2 **Declarations of Interest**
To receive any declarations of interest by Members in items on the agenda.
For any advice on declarations of interest, please contact the Monitoring Officer before the meeting.
- 3 **Announcements**
To receive announcements from the Mayor, the Leader of the Council, members of the Cabinet and the Chief Executive.
- 4 **The minutes of the previous meeting** (Pages 1 - 6)
The minutes of the previous meeting held on 24 May 2017 to be approved as a correct record.
- 5 **Questions from members of the public**
To receive questions from members of the public, of which due notice has been given, pursuant to Council Procedure Rule 8, to be submitted and answered.
- 6 **Questions from members of the Council**
To receive questions from members of the Council, of which due notice has been given, pursuant to Council Procedure Rule 10, to be submitted and answered.
- 7 **Amendment to the Constitution - Agreement of Planning Call-In wording**
(Pages 7 - 16)
- 8 **Amendment to the Constitution - Amendment to Contract Procedure Rules** (Pages 17 - 52)

- 9 **Request to waive the six month attendance requirement - Cllr Hastie**
(Pages 53 - 56)
- 10 **Audit and Governance Committee Annual Report** (Pages 57 - 72)
- 11 **Overview and Scrutiny Committee Annual Report** (Pages 73 - 82)
- 12 **Petition - Civic Development** (Pages 83 - 100)
- 13 **Petition - Planning Decisions and Policy** (Pages 101 - 118)
- 14 **Motions** (Pages 119 - 120)
To consider one Motion on Notice, in accordance with Council Procedure Rule 11, submitted by Councillor Chapelard
- 15 **Urgent Business**
To deal with any business the Mayor regards as urgent due to special circumstances.
- 16 **Common Seal of the Council**
To authorise the Common Seal of the Council to be affixed to any contract, minute, notice or other document arising out of the minutes, or pursuant to any delegation, authority or power conferred by the Council.
- 17 **Date of next meeting**

William Benson
Chief Executive

All visitors wishing to attend a public meeting at the Town Hall between the hours of **9.00am and 5.00pm** should report to reception via the side entrance in Monson Way. **After 5pm**, access will be via the front door on the corner of Crescent Road and Mount Pleasant Road, except for disabled access which will continue by use of an 'out of hours' button at the entrance in Monson Way

Notes on Procedure

- (1) A list of background papers appears at the end of each report, where appropriate, pursuant to the Local Government Act 1972, section 100D(i).
- (2) Members seeking factual information about agenda items are requested to contact the appropriate Service Manager prior to the meeting.
- (3) Members of the public and other stakeholders are required to register with the Democratic Services Officer if they wish to speak on an agenda item at a meeting. Places are limited to a maximum of four speakers per item. The deadline for registering to speak is 4.00 pm the last working day before the meeting. Each speaker will be given a maximum of 3 minutes to address the Council.
- (4) All meetings are open to the public except where confidential or exempt information is being discussed. The agenda will identify whether any meeting or part of a meeting is not open to the public. Meeting rooms have a maximum public capacity as follows:
Council Chamber: 100, Committee Room A: 20, Committee Room B: 10.
- (5) Please note that this meeting may be recorded or filmed by the Council for administrative purposes. Any other third party may also record or film meetings, unless exempt or confidential information is being considered, but are requested as a courtesy to others to give notice of this to the Democratic Services Officer before the meeting. The Council is not liable for any third party recordings.

Further details are available on the website (www.tunbridgewells.gov.uk) or from Democratic Services.

If you require this information in another format please contact us, call 01892 526121 or email committee@tunbridgewells.gov.uk

Accessibility into and within the Town Hall – There is a wheelchair accessible lift by the main staircase, giving access to the first floor where the committee rooms are situated. There are a few steps leading to the Council Chamber itself but there is a platform chairlift in the foyer.

Hearing Loop System – The Council Chamber and Committee Rooms A and B have been equipped with hearing induction loop systems. The Council Chamber also has a fully equipped audio-visual system.

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TUNBRIDGE WELLS BOROUGH COUNCIL

MINUTES of the Annual Meeting of the Tunbridge Wells Borough Council, duly convened and held at the Council Chamber, Royal Tunbridge Wells at 10.00 am on Wednesday 24 May 2017

PRESENT:

The Mayor Councillor David Neve (Chairman)
Councillors Backhouse, Barrington-King, Dr Basu, Bland, Bulman, Chapelard, Mrs Cobbold, Dawlings, Elliott, Hamilton, Hannam, Heasman, Hill, Hills, Horwood, Huggett, Jamil, Jukes, Lidstone, Mackonochie, March, McDermott, Moore, Munn, Noakes, Nuttall, Oakford, Ms Palmer, Podbury, Rankin, Reilly, Scholes, Simmons, Sloan, Mrs Soyke (Vice-Chairman), Stanyer, Stewart, Mrs Thomas, Uddin, Weatherly, Williams and Woodward

IN ATTENDANCE: William Benson (Chief Executive), Mark O'Callaghan (Democratic Services Officer) and Keith Trowell (Senior Lawyer and Deputy Monitoring Officer)

APOLOGIES FOR ABSENCE

FC1/17 Apologies for absence were reported from Councillors Hastie and Lewis-Grey.

DECLARATIONS OF INTEREST

FC2/17 No declarations of pecuniary or significant other interest were made.

ELECTION OF MAYOR FOR THE ENSUING MUNICIPAL YEAR

FC3/17 The Mayor, Councillor Neve, asked that the Chief Executive take the meeting for this item. The Chief Executive invited nominations for the position of Mayor of the Borough for the municipal year 2017/18.

Councillor Neve proposed that Councillor Mrs Soyke be elected as Mayor. He added that Councillor Mrs Soyke had an impressive attendance record and had held several demanding roles within the Council. She was also involved with many community groups and ran a successful farm, bed & breakfast and campsite demonstrating a tireless work ethic and organisation skills. All these attributes would stand her in good stead for the duties that lay ahead.

Councillor Jukes seconded the motion and added that he had known Councillor Mrs Soyke for many years working on Speldhurst Parish Council and having encouraged her to stand for election to the Borough Council. He was confident that Councillor Mrs Soyke would make a first-class Mayor.

Councillor Hill welcomed the nomination of Councillor Mrs Soyke and noted that there had not been a female Mayor since 2011. She wished her well.

Councillor Chapelard congratulated Councillor Mrs Soyke on behalf of the Liberal Democrats.

The Chief Executive took a vote on the motion.

RESOLVED – That Councillor Mrs Soyke be elected Mayor of the Borough for the municipal year from 24 May 2017 to the date of the Annual Meeting 2018.

The newly-elected Mayor made the declaration of acceptance of office.

Following the declaration the retiring Mayor, the newly-elected Mayor and the Chief Executive left the Chamber to enable the newly-elected Mayor to be robed. Upon return to the Chamber the Mayor, Councillor Mrs Soyke, took the Mayor's chair.

Return of thanks from the newly-elected Mayor

The Mayor, Councillor Mrs Soyke, thanked Councillor Neve for his tireless efforts during his Mayoral year. She added that she would work hard to justify the trust that had been placed in her. She was grateful for the encouragement from Councillor Jukes to stand for election and for taking on the chairmanship of the Planning Committee; she added that she was proud of the achievements of the Planning Committee over the past few years in difficult circumstances. She commended the Council's officers whose commitment to keeping the Council running often went above and beyond the call of duty. The Mayor would be supported by her family, particularly her husband, Mr Peter Soyke, who would also be serving as Mayor's Escort.

Councillor Mrs Soyke stated that the main aim for her Mayoral year was to continue the direction highlighted by the donors of the Mace of the Borough in 1891 as a token of their earnest desire for the continued advancement and prosperity of the Borough. She would do all that she could and welcomed the challenge.

Councillor Mrs Soyke announced that her chosen charity was Domestic Abuse Volunteer Support Service (DAVSS). She had been introduced to them after hearing the harrowing story of domestic abuse on The Archers. DAVSS was a charity, established seven years ago and currently operated only in west Kent. She had initially attended the first day of volunteer training but then completed the 14 day course. During the course she had learnt many shocking and upsetting statistics demonstrating the scale of domestic abuse which included the fact that in the UK, on average, Police attend an incident of domestic abuse every 60 seconds of every day and a woman is murdered by a partner or ex-partner every three days. DAVSS provided free, practical and individualised support for clients, aiming to break the cycle of abuse to enable survivors to take control of their lives again and to improve life opportunities for children who are often traumatised by the experience.

Councillor Mrs Soyke introduced the Reverend Steven Hills, Vicar of St Lawrence Church, Bidborough, as her appointed Chaplain for the year.

The Mayor then presented the Mayor's Escort with his badge of office.

PRESENTATION OF BADGE TO IMMEDIATE PAST MAYOR

FC4/17 A badge of office was presented to the immediate past Mayor, Councillor Neve, and the past Mayoress, Mrs Jill Neve. In addition, a photo book was presented to them both containing memories of his year in office.

Return of thanks from the immediate past Mayor

Councillor Neve commented that he had had a wonderful time and it had been a privilege to serve as Mayor. He had attended 319 events in addition to many day-to-day meetings, details of which were set out in the written

summary which had been made available to members. A book would be produced nearer to Christmas containing all of the events attended and the associated puns for the benefit of his charity, Beat.

Councillor Neve gave special thanks to the Mayoral team and for the steadfast support of his wife, Mrs Jill Neve.

Councillor Neve thanked the team from Beat for their work behind the scenes which made the fundraising possible. Groups, individuals, local and national businesses had given to or sponsored events with donations. He presented a cheque for £26,000 to Beat with more still being received.

Mr Philip Roethenbough received the cheque on behalf of Beat and thanked all those involved in the fundraising. He commented that eating disorders were not 'just fussy eating' and in fact Anorexia had the highest mortality rate for any mental illness. Support differed and was patchy even amongst health service providers. Beat was a small national charity with a focus on early intervention. The money would be used to create a lasting legacy by making Tunbridge Wells a centre of excellence.

APPOINTMENT OF DEPUTY MAYOR FOR THE ENSUING MUNICIPAL YEAR

FC5/17 Councillor Jukes proposed that Councillor Horwood be appointed Deputy Mayor. He noted that Councillor Horwood had had a long career in British Rail during which he had taken his accountancy exams and becoming a chartered accountant; he went on to manage the pension fund and be involved in major projects. Taking early retirement from British Rail, Councillor Horwood then became a V.A.T. consultant and was able to enjoy a number of sporting interests. Councillor Horwood had been a member of the Council for approximately 25 years during which he had occupied all of the top offices at some stage.

Councillor McDermott seconded the motion and added he had known Councillor Horwood for eight years and was delighted to recommend him.

Councillor Neve commended Councillor Horwood.

Councillor Hill congratulated Councillor Horwood and noted that his 25 year apprenticeship would serve him well.

Councillor Chapelard expressed his congratulations.

Councillor Hills commented that Councillor Horwood would make a good Deputy Mayor and the Borough would also be getting a great Deputy Mayoress.

Councillor Barrington-King welcomed the appointment of Councillor Horwood.

The Mayor took a vote on the motion.

RESOLVED – That Councillor Horwood be appointed Deputy Mayor of the Borough for the municipal year from 24 May 2017 to the date of the Annual Meeting 2018.

The newly-elected Deputy Mayor made the declaration of acceptance of office.

Following the declaration the newly-elected Deputy Mayor received his robes and chain of office and took the Deputy Mayor's chair.

The Deputy Mayoress received her badge of office.

Return of thanks from the newly-elected Deputy Mayor

The Deputy Mayor, Councillor Horwood, commented that he did not expect to be making such a speech but thanked those who had supported his appointment. He added that he would endeavour to undertake the role of Deputy Mayor and give the Mayor all the support he could in the forthcoming year.

ANNOUNCEMENTS FROM THE MAYOR AND THE CHIEF EXECUTIVE

FC6/17 The Mayor had no announcements to make.

The Chief Executive had no announcements to make.

APPOINTMENTS TO COMMITTEES, INCLUDING CABINET PORTFOLIOS

FC7/17 The Mayor, Councillor Mrs Soyke, introduced the item to approve the allocation of seats to political groups and nominations for committees as per the report. She added that the names of those to be appointed had been tabled at the meeting.

Councillor Jukes proposed that members be appointed as set out in the tabled papers subject to an amendment to be set out by Councillor McDermott.

Councillor McDermott confirmed that Councillor Dr Hall would replace Councillor Hannam on the Planning Committee; subject to this change he seconded the motion.

The Mayor took a vote on the motion.

RESOLVED –

1. That the allocation of seats to committees as set out in paragraph 2.7 of the report, be approved;
2. That appointments to the committees in accordance with the nominations made by each political group leader as set out in Appendix A, except that Councillor Hannam be replaced on the Planning Committee by Councillor Dr Hall, be approved;
3. That the Chairmen and the Vice-Chairmen of the committees, as set out in Appendix A, be approved; and
4. That the appointments made by the Leader of the Council to the Cabinet portfolio holder positions, as set out in Appendix B, be noted.

COMMON SEAL OF THE COUNCIL

FC8/17 **RESOLVED** – That the Common Seal of the Council be affixed to any contract, minute, notice or other document arising out of the minutes or pursuant to any delegation, authority or power conferred by the Council.

NOTE: The meeting concluded at 11.05 am.

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Full Council

26 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Proposed changes to the Constitution (Planning Scheme of Delegation) as recommended by the Constitution Review Working Party

Final Decision-Maker	Full Council
Portfolio Holder(s)	The Leader, Councillor Jukes and the Portfolio-holder for Planning & Transportation, Councillor McDermott
Lead Director	Lee Colyer, Director of Finance, Policy & Development
Head of Service	Karen Fossett, Head of Planning
Lead Officer/Report Author	Stephen Baughen, Building Control and Development Manager
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That, in order to ensure the Constitution is up-to-date and provides for good decision-making, the Full Council is requested to approve revised wording to:

(a) Paragraph 8.1 of Table 3 of Annex C to Part 3 of the Constitution as set out in paragraph 2.4 below; and

(b) Paragraph 5.1 of the Planning Committee Procedure Rules in Part 4 of the Constitution as set out in paragraph 2.5 below.

This report relates to the following Five Year Plan Key Objectives:

- A Confident Borough ensuring that planning applications are determined within legislative time limits and to ensure that robust decision making processes for planning applications are in place such that all relevant matters are properly and thoroughly considered

Timetable	
Meeting	Date
Constitution Review Working Party	2 June 2017
Audit and Governance Committee	27 June 2017
Full Council	26 July 2017

Proposed changes to the Constitution (Planning Scheme of Delegation) as recommended by the Constitution Review Working Party

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Under the Tunbridge Wells Borough Council Constitution, the Audit and Governance Committee is responsible for “oversight of the effectiveness of the Constitution and making appropriate recommendations for change”. The Constitution Review Working Party (“the CRWP”) meets as and when required to assist the Audit and Governance Committee with consideration of reviews of the Constitution prior to recommendation to Full Council and to act as a ‘sounding board’ for the delegated decision making power of the Monitoring Officer.
- 1.2 The CRWP reviewed elements of the Constitution at their meeting on 2 June 2017 at the request of officers and supports the recommended changes set out in this report. The Audit and Governance Committee considered this matter at their meeting held on 27 June and unanimously supported the recommendations.
- 1.3 This report supersedes the original report on this matter published as part of the Agenda for the Audit and Governance Committee (published on 19 June 2017). The original report set out only part of the changes recommended by CRWP (at paragraph 2.4 of that report). This supplementary report corrects that error – please refer to paragraph 2.4 below.
- 1.4 Appendix A to this report has also been superseded to reflect the final draft minutes of CRWP.
- 1.5 The Council has a statutory duty to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness.

2. INTRODUCTION AND BACKGROUND

- 2.1 At CRWP meetings during 2016 amendments to the procedure for calling-in planning applications in order to clarify and better define the process were discussed in depth. One particular question arose concerning a change in the procedure that had been in place in 2005. In the 2005 Good Practice Guidelines for Members Taking Part in the Planning Process, members were enabled to call-in planning applications for consideration where there was a planning issue that warranted consideration by a Planning Committee or where there was a significant level of local concern.

- 2.2 However, in later editions of the Constitution the significant local concern element as a reason for call-in was omitted from paragraph 8.1 of Table 3 in Annex C of Part 3. The current wording in Paragraph 8 is :

“8. Determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Localism Act 2011 or under any related principal or secondary legislation, except the following:

8.1 those applications that any member of the Council requests be determined by the Planning Committee and the grounds on which it warrants discussing by the Planning Committee (such must be made in writing to the Head of Planning specifying material planning grounds on which the request is made and received within 21 days or publication of the weekly list whichever is the latter);”

It was the view of CRWP that the clarification proposals were acceptable but also that the element of significant local concern should be reintroduced and officers were asked to revise Paragraph 8.1 so as to include that element.

- 2.3 Proposed revised wording was considered at a CRWP meeting on 10 March 2017 when officers were asked to amend and further clarify the proposed wording. Subsequently a revised wording was referred to all members via their respective political groups and feedback was referred back via their designated representatives on the CRWP.
- 2.4 The CRWP met on 2 June 2017 and considered and approved the following wording :

8. Determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Localism Act 2011 or under any related principal or secondary legislation, except the following:

8.1 those applications where any Member has requested in writing that the application be “called in” to be determined by the Planning Committee, and the “call in” and reasons for the “call in” have been agreed as valid by the Portfolio Holder for Planning and Transportation following discussion with the Head of Planning (or delegated deputy).

8.1.1 The reasons for which an application can be called in must include:

A) the material planning issue(s) that warrant(s) the application being determined by Committee;

and/or

B) evidence and the reason(s) of significant local concern that warrant(s) the application being determined by Committee.

8.1.2 The request for the “call-in” must be received in writing addressed to the Head of Planning Services within five weeks (35 days) of the date that the application is originally made valid.

- 2.5 Additionally, CRWP agreed an amendment to Paragraph 5.1 of the Planning Committee Procedure Rules in consequence of the proposed changes to paragraph 8 of Table 3. The current wording is :

“5.1. The Constitution provides that any member may “call in” any planning application – i.e. require that an application be determined by the Planning Committee rather than by an officer under delegated authority. Members should exercise discretion in using this power and should only call in applications where there is a material planning issue which warrants consideration by the Planning Committee. Any request to call in an application should be made in writing to the Head of Planning Services and give a material planning reason for the call in.”

The proposed wording agreed by CRWP is :

5.1. The Constitution provides at Paragraph 8 in Table 3, of Annex C of Part 3 that any member may “call in” any planning application – i.e. require that an application be determined by the Planning Committee rather than by an officer under delegated authority. Members should exercise discretion in using this power and should only call in applications where there is a material planning issue which warrants consideration by the Planning Committee, or where there is evidence of local concern that warrants consideration by the Planning Committee. Any request to call in an application should be made in writing to the Head of Planning Services.

3 AVAILABLE OPTIONS

- 3.1 The proposed changes outlined above need to be considered by the Council to ensure that the Constitution is clear, up-to-date and provides certainty for all interacting with the Planning Service, but also to ensure that significant planning decisions are made at the right level and that the risk of development being allowed to go ahead by default is limited.

Do Nothing

- 3.2 After consideration of the issues, the Council could choose to do nothing and continue to operate in accordance with the Constitution as currently drafted. This would result in the members being unable to call-in planning applications on the sole grounds of significant local concern. Whilst the Head of Planning could continue to use referral powers to ensure these decisions are taken by the Planning Committee, the Constitution does not provide the necessary level of certainty about the decision making procedures.
- 3.3 Furthermore, the “do nothing” option would mean leaving the rules and procedures unchanged thereby potentially failing in the statutory duty to secure

continuous improvement in the way in which the Council's functions are exercised.

Approve as set out

- 3.4 To ensure that the Constitution is: (a) up-to-date and (b) provides greater opportunity for applications attracting significant local concern to be determined by the Planning Committee.

4 PREFERRED OPTIONS AND REASONS FOR RECOMMENDATIONS

- 4.1 Preferred Option: (a) The Committee is asked to approve and recommend to Full Council the proposed changes to paragraphs 8.1 of Section 8 of Table 3 of Annex C to Part 3 of the Constitution to ensure it is up-to-date and provides for good decision making; and

(b) The Committee is asked to approve and recommend to Full Council the proposed changes to paragraph 5.1 of the Planning Committee Procedure Rules in Part 4 of the Constitution to ensure it is up-to-date and provides for good decision making.

5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The proposed changes have been discussed by members at Group meetings and been broadly supported also with CRWP who agreed them. The Audit and Governance Committee have also considered this matter and have given their unanimous support for the recommendations. The relevant paragraphs of the final draft minutes from the most recent CRWP meeting are attached as supplementary Appendix A.

6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The recommendations in this report, if agreed, will be progressed as set out in the timetable on the front sheet.
- 6.2 If agreed by Full Council on 26 July 2017, the approved changes to the Constitution will be made.
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7 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	The Council is required by the Local Government Act 2000 to have a Constitution that is up to date and fit for purpose. The Council also has a statutory duty to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness. Review of the Constitution demonstrates compliance with the requirements and duties.	Keith Trowell Senior Lawyer and Deputy Monitoring Officer (31/08/16)
Finance and other resources	There are no new financial implications.	Lee Colyer Director of Finance, Policy and Development (s151 Officer) (5/9/16)
Equalities	Decision-makers are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (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 have remote or low relevance to the substance of the Equality Act. However, it should be noted that the recommendations in this paper do not alter the need to consider the requirements of the Public Sector Equality Duty within individual planning decisions.	Sarah Lavallie West Kent Equalities Officer (8/9/16)

8 REPORT APPENDICES

The following document is to be published with this report and forms part of the report: Appendix A – Extract from Draft Notes of Constitutional Review Working Party meeting held on Friday 2 June 2017

9 BACKGROUND PAPERS

The Tunbridge Wells Borough Council Constitution - December 2013 (as updated June 2016)

Constitution Review Working Party Notes from meetings held on 11 August 2016 and 10 March 2017

Amendment to the Constitution - Agreement of Planning Call In wording

7 Mr Baughen updated members on the proposed wording as set out in the agenda report. Officers considered that the proposed 5 week timescale provided sufficient time for both the Parish and/or Ward Councillors to consider whether they wished to call in an application for consideration at the Planning Committee, whilst providing applicants, neighbours etc with a degree of certainty as to how an application would be determined. Officers also agreed with the proposals that had been discussed by members at the previous CRWP meeting and considered that the dual signoff by the Head of Planning Services and the Portfolio Holder provided the appropriate balance.

The Chairman advised that he had emailed officers and the CRWP members to question the way it was worded as it appeared to give a veto to the Head of Planning Services and he questioned whether that was the intention. Consequently, officers had liaised with Mr Trowell and had suggested the alternative wording of *'the Portfolio Holder in consultation with the Head of Planning Services'*. Councillor Rankin agreed that both parties could not individually make the decision and supported the alternative. This was supported by feedback that she had received from Conservative Group members, where the consensus was that the Portfolio Holder should be the principal decision maker. Councillor Rankin advised that only one member had indicated that 5 weeks was too short a consultation period and she did not think one person's view was sufficient to change the proposed wording. Councillor Rankin did suggest, however, that the words 'as valid' should be inserted into the sentence to read *'...reasons for the "call in" have been agreed as valid...'* as this would better qualify the statement.

Councillor Mrs March advised that Cabinet members would be happy that the Portfolio Holder had the ultimate say but that would have to be as a result of discussion with the Head of Planning. Cabinet members had also accepted the wording 'and/or' in 8.1.1.

Councillor Munn provided feedback from the other political groups and commented that the wording might give either the Portfolio Holder or the Head of Planning Services the opportunity to re-word the call in. He hoped that a veto would rarely be used. Feedback he had received also raised concerns over the previous wording but he felt the revised wording as discussed was acceptable.

The Chairman asked Mr Trowell if there was a revised wording for paragraph 5.1. Mr Trowell suggested it was sufficient to insert a specific reference to paragraph 8.1. Members agreed the insertion.

Councillor Munn referred to part B) of 8.1.1 and asked what constituted evidence of significant local concern and whether it had to be provided or simply referred to. Feedback had indicated concern that complainants would be identified. Councillor March advised that Cabinet members had discussed

what was “significant” or constituted evidence but they considered it would be too difficult to quantify as a general rule as it would be relative to the individual circumstances. Councillor Rankin felt that a degree of common sense was required but agreed there would be a need for evidence and that its significance would depend to an extent on proportionality. She also considered that the evidence would need to be in the public domain.

The Chairman agreed that ‘and/or’ was the correct option within 8.1.1 (in lower case) and also agreed that as far as the actual evidence was concerned that would have to be a judgement call for the Portfolio Holder.

As a result of the discussion, the CRWP recommended a revised wording to go forward to Audit & Governance and Full Council for adoption as follows:

The following matters below are delegated to the Head of Planning:

8. *Determine all forms of planning and other applications and all notifications*

submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Localism Act 2011 or under any related principal or secondary legislation, except the following:

8.1 *those applications where any Member has requested in writing that the application be “called in” to be determined by the Planning Committee, and the “call in” and reasons for the “call in” have been agreed as valid by the Portfolio Holder for Planning and Transportation following discussion with the Head of Planning (or delegated deputy).*

8.1.1 *The reasons for which an application can be called in must include:*

A) the material planning issue(s) that warrant(s) the application being determined by Committee;

and/or

B) evidence and the reason(s) of significant local concern that warrant(s) the application being determined by Committee.

Additionally, CRWP recommended an amendment to Paragraph 5.1 of the Planning Committee Procedure Rules in consequence of the proposed changes to paragraph 8 in Table 3 of Annex C as follows:

5.1. *The Constitution provides at Paragraph 8 in Table 3, of Annex C of*

Part 3 that any member may “call in” any planning application – i.e. require that an application be determined by the Planning Committee rather than by an officer under delegated authority. Members should exercise discretion in using this power and should only call in applications where there is a material planning issue which warrants consideration by the Planning Committee, or where there is evidence of local concern that warrants consideration by the Planning Committee. Any request to call in an application should be made in writing to the Head of Planning Services.

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Full Council

26 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Proposed Changes to the Constitution – Amendment to Contract Procedure Rules

Final Decision-Maker	Full Council
Portfolio Holder(s)	Cllr David Reilly, Portfolio-holder for Finance and Governance
Lead Director	Lee Colyer, Director of Finance, Policy and Development
Head of Service	Jane Fineman, Head of Finance and Procurement
Lead Officer/Report Author	Dan Hutchins, Procurement Manager
Key Decision?	No
Classification	Non-Exempt
Wards affected	Not Applicable

This report makes the following recommendations to the final decision-maker:

1. That the Full Council be requested to approve the updated Standing Orders on Procurement and Contracts, as set out in Appendix A.

This report relates to the following corporate priorities:

- A Prosperous Borough
- A Green Borough
- A Confident Borough

Timetable

Meeting	Date
Management Board	29 March 2017
Constitution Review Working Party	2 June 2017
Audit & Governance Committee	27 June 2017
Full Council	26 July 2017

Proposed Changes to the Constitution – Amendment to Contract Procedure Rules

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The current Standing Orders on Procurement and Contracts in the Constitution were written around 6 years ago, and since then there have been major legislative changes in procurement. The Social Value Act was introduced in 2012 and the new Public Contracts Regulations 2015 were implemented on 26 February 2015. Whilst the Council has been compliant with OJEU (Official Journal of the European Union) legislation, the Constitution needs to be updated to reflect the updated mechanisms and thresholds for taking tenders to the market. A review of the current Contract Standing Orders has been undertaken and they have been re-written to ensure that they now reflect the current legislation.
- 1.2 This report is seeking approval to include the updated Standing Orders on Procurement and Contracts into the Constitution.

2. INTRODUCTION AND BACKGROUND

The Standing Orders on Procurement and Contracts (known internally as Contract Standing Orders or Contract Procedure Rules)

- 2.1 The proposed Contract Standing Orders mainly reflect the changes in legislation. There is little judgement that can be applied. However, public sector bodies can set their own Constitutional procurement strategies for contracts of less than OJEU value, providing they still advertise their opportunities to enable the market to be open to competition.
- 2.2 The Council is required to advertise any contract with a value of or above £164,176 (supply and service contracts), £4,104,394 (public works contracts) and £589,148 (social and other specific service contracts) in accordance with OJEU regulations. All contracts above OJEU thresholds must follow the OJEU Procurement process as laid out by the Public Contracts Regulations 2015.
- 2.3 Government guidelines now suggest that any contract with a total lifecycle cost of more than £25,000 be advertised in a way that promotes fair and equal competition (achieved at TWBC by advertising on “Contracts Finder” and the “Kent Business Portal”). If this were adhered to strictly, many more contracts would need to be formally tendered, which would considerably increase the procurement resource required by the Council. Practically, it appears that there is a balance to be struck between the cost of procurement administration and the risk of challenge and potential legal proceedings.
- 2.4 Our current contract standing orders are as follows:

Contract Value (total lifecycle cost*)	Procedure
Less than £10k	1 quote required
£10k - £49,999	3 quotes required
£50k - £74,999	4 quotes required
£75k – OJEU	Consult Legal for advice
On or above OJEU threshold	Fully compliant OJEU process

2.5 It is proposed that these be updated to:

Contract Value (total lifecycle cost*)	Procedure
Less than £14,999k	2 quotes required (inc. local supplier)
£15k - £99,999	3 quotes required (inc local supplier)
£100,000k - £OJEU	Full Process with Advert
On or above OJEU threshold	Fully compliant OJEU process

2.6 The proposal enables smaller contracts of low risk to be procured efficiently, by obtaining quotations, but includes a local supplier bid to assist local businesses and comply with the Social Value Act. It is considered that a procedure valued at up to £100,000 is unlikely to attract legal challenge because of the costs that would be associated with it, but in order to get a good sample of the market three quotes will be required. Above £100,000, it is important that we get the very best value for money from the market and the additional cost of a lengthy procedure should be offset by the gains made from the competition. It is also considered that the threat of legal challenge increases above £100,000 as the value of the contract then makes the potential legal cost a viable risk.

2.7 A benchmark analysis has been undertaken of the thresholds adopted by the other authorities in Kent (see Appendix B). It can be seen that the thresholds proposed for TWBC are very much within the normal parameters for the other authorities.

3. AVAILABLE OPTIONS

- 3.1 The Contract Standing Orders can remain unchanged. This leaves the Council's standing orders out of step with current legislation.
- 3.2 The Contract Standing Orders can be amended as proposed (as set out in Appendix A), which will ensure compliance with current legislation and a balance of procurement cost, value for money and risk of challenge.
- 3.3 The Contract Standing Orders can be amended as proposed, with a variation to the procedure to market (from Note 2.5 above).

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option would be 3.2 above. This recommendation was benchmarked against other local authorities in Kent, as evidenced in Appendix B. The £100,000 threshold for quotations, rather than a full process, was verified as a reasonable risk ceiling in discussions with professionals from procurement consultants. It builds social value criteria into the procedure by promoting working with local businesses. It also reduces exposure to risk associated with the lowest value threshold, as a single quotation will no longer be acceptable.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Management Board agreed the proposed changes at the meeting on 29 March 2017 and gave permission for the changes to be taken to the Constitution Review Working Party.

- 5.2 The Constitution Review Working Party agreed with the proposed changes at the meeting on 2 June 2017 and agreed that the changes should be put before the Audit and Governance Committee before going to Full Council.
- 5.3 At their meeting held on 27 June 2017, the Audit and Governance Committee unanimously supported the recommendations.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Having had the unanimous support of the Audit and Governance Committee, this matter is now presented to the Full Council for final approval and adoption.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	The Legal team have been heavily involved in this process and the proposed changes bring the Council's Constitution into line with the legislative changes that have been made in regards to procurement. There are no consequences arising from the recommendation that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998.	Senior Lawyer (Corporate Governance)
Finance and other resources	The changes will allow the Procurement service to continue working cross-functionally with the other services in the organisation without increasing the burden of administration.	Head of Finance and Procurement
Staffing establishment	There are no specific implications.	Head of HR or deputy
Risk management	The report is presented to members for information rather than decision and so raises no new implications for the Council's risk register.	Head of Audit Partnership
Environment and sustainability	There are no specific implications.	Sustainability Manager
Community safety	There are no specific implications.	Community Safety Manager
Health and Safety	There are no specific implications.	Health and Safety Advisor
Health and wellbeing	There are no specific implications.	Healthy Lifestyles Co-ordinator
Equalities	There are no specific implications.	West Kent Equalities Officer

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

Appendix A Standing Orders on Procurement and Contracts

Appendix B Analysis of Other Local Authority Standing Orders

9. BACKGROUND PAPERS

Constitution Review Working Party – Friday 2 June 2017


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Proposed Change to the Constitution

Please fill in the following form with details of any proposed changes to the Constitution. If the change is minor, it may be possible to incorporate the amendment under delegated powers. All other changes to the Constitution have to be considered by the Audit and Governance Committee and, if recommended, approved by full Council. Requests for changes will be required at least ten working days before an Audit and Governance Committee date.

All changes must be presented, preferably electronically as a word document, in arial font, size 11 and showing the tracked changes.

Once completed please pass this form to Cheryl Clark in Democratic Services.

Relevant section of the Constitution (including page/paragraph number):
Part 4 Rules of Procedure: Contract Procedure Rules page 68
Description of proposed change: <i>(please show the tracked changes here or attach as a separate word document)</i>
See attached replacement section entitled: Appendix A - Standing Orders on Procurement and Contracts
Reason, including referenced documents/acts, for proposed change:
The current Contract Procedure Rules are to be deleted from the Constitution and replaced to reflect current legislation: the Public Contract Regulations 2015 and the Concession Contracts Regulations 2016.
Timescale: <i>(The proposed changes will be considered at the next meeting of the Committee, if not approved under delegated powers)</i>
CRWP 2 June 2017 Audit & Governance 27 June 2017 Full Council 26 July 2017
Proposed by – Name: Jane Fineman, Head of Finance, Procurement & Parking Date: 11/05/2017
Approval
Proposed major changes to be submitted to Audit and Governance Committee for approval
Signature of Monitoring Officer:  Date: 11/05/2017
Amendment No: _____ Date incorporated: _____

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Standing Orders on Procurement and Contracts

Standing Orders on Procurement and Contracts

Section 1: Authority to Contract and Responsibilities of Key Officers

1. Scope of Standing Orders

- 1.1 These Standing Orders apply to all spend with external suppliers regardless of the source of funding (for example, revenue, capital, grants, ring-fenced government money and/or any third party funding). They apply to contracts let by the Council on its own behalf and when it is acting as a purchasing authority on behalf of others.
- 1.2 The purpose of these Standing Orders and the supporting Guide to Standing Orders is to set out and explain the Council's minimum requirements when contracting for goods, services and works. They are designed to:
- (a) make sure we spend public money **legally** and avoid undue criticism or allegation of wrongdoing;
 - (b) secure Value for Money;
 - (c) generate market competition through transparent, fair and consistent ways of working; and
 - (d) support supplier diversity, sustainability objectives, and equality of treatment.
- 1.3 These Standing Orders do not apply to the following instances, which are managed by separate policies and guidelines:
- (a) contracts for the acquisition or lease of land and/or real estate;
 - (b) contracts for permanent or fixed term employment (but note rules on consultants contracts);
 - (c) works or orders placed with utility companies (for example, re-routing gas pipe work);
 - (d) services to be delivered by a local authority's in-house service;
 - (e) direct payments to customers following care assessment, for example, payments provided under Self Directed Support or individual budgets; and
 - (f) non-trade payments to third parties, such as insurance claims, pension payments, statutory payments to public bodies.
- 1.4 Where the proposed contract falls within the Public Contracts Regulations 2015 (PCR 2015), those regulations apply in addition to these Standing Orders. In the event of a conflict, Legal Services shall determine which takes precedence. More detailed information on how officers can comply with Standing Orders in relation to contracts whose value exceeds the relevant PCR 2015 thresholds and therefore fall within the PCR 2015, and those whose

value is below the relevant PCR thresholds is contained in the Guide to Standing Orders.

2. Principles of contracting

2.1 The Council and its officers must adhere to the following principles in carrying out all procurement activity:

- (a) procurement procedures shall be fair, transparent, and properly planned;
- (b) all bidders and prospective bidders shall be treated equally;
- (c) the objective of all procurement shall be to achieve Value for Money;
- (d) officers shall seek and comply with any advice from Legal Services and Procurement Services; and
- (e) officers shall keep appropriate records of all decisions taken and communications between the Council and bidders or prospective bidders.

2.2 It is a disciplinary offence to fail to adhere to these Standing Orders.

3. Authority to contract

3.1 All Executive Directors are responsible for ensuring these Standing Orders are applied and understood across their directorates.

3.2 Executive directors must not commence or permit the commencement of a procurement process without specific delegated authority to act under the scheme of delegation, or from the relevant Cabinet Member, through a published decision or other authorised decision in accordance with the Council's Constitution.

4. Key responsibilities

4.1 Executive directors shall:

- (a) be responsible and provide strategic direction for all procurement undertaken in their directorate;
- (b) ensure all procurement and delegated decision-making adheres to the Scheme of Delegation;
- (c) obtain Cabinet Member approval where required to do so by the Council's scheme of delegation before undertaking any procurement activity;

Appendix A

- (d) comply with the Financial Procedure rules, especially with regard to the adoption of vendors and creation of a valid purchase order;
- (e) notify and engage with Procurement and Legal Services for all proposed contracts with an estimated total value of £25,000 or more (annual value x number of years including extensions) by completing the necessary form;
- (f) nominate appropriately skilled and qualified Officers to undertake procurement activity;
- (g) ensure all sourcing decisions represent Value for Money and are within approved budgetary limits;
- (h) provide for appropriate and effective contract and supplier relationship management for all contracts under their responsibility; and
- (i) ensure sufficient funds are available/approved for relevant procurement and contracting activity and allocate appropriate funds in their budget.

4.2 **Officers** shall:

- (a) manage the procurement process in compliance with these Standing Orders, the PCR 2015 and the Council's internal systems and processes for commissioning and procurement;
- (b) ensure they have adequate information to support and justify all commissioning and procurement activity;
- (c) seek appropriate advice and support from their Executive Director, Procurement and Legal Services and Financial Services;
- (d) conduct all tendering activity in a fair, transparent and non-discriminatory manner;
- (e) devise a procurement plan that is efficient and suitable for the purchase and the market concerned, taking into account any other relevant sourcing options, such as the use of existing contracts and frameworks; and
- (f) maintain a full record and audit trail of all procurement activity (the 'Procurement File'), including decisions made and communication with suppliers.

- 4.3 The **Officer** shall take advice from **Procurement and Legal Services** on the following aspects of public procurement:

Strategic sourcing

- (a) help in shaping commissioning outcomes and decisions, whether or not these result in procurement activities;
- (b) Departmental management principles and strategic sourcing;

Supplier relationship management

- (a) spend and supplier intelligence;
- (b) contract assurance and performance quality assurance services of strategic contracts (but not operational contract management); and
- (c) development and management of opportunities for innovation in supply chain;

Procurement operations

- (a) transactional, operational and administrative procurement activity; and
- (b) the use and operation of an electronic tendering system.

- 4.4 **The Officer** shall take advice from Legal Services:

- (a) on all legal, regulatory and constitutional aspects of the procurement process; and
- (b) concerning the content and form of any contract before it is made available to bidders and/or to be entered into on behalf of the Council.

Section 2: Pre-procurement Activity

5. Options appraisal

- 5.1 The Officer shall ensure that the appropriate sourcing approach is adopted in each case taking into account the budget allocation, the needs of the Council and its services users and residents, the nature of the market and other commercial considerations.
- 5.2 In considering a sourcing approach for services contracts, the Officer shall consider and record on the Procurement File how the sourcing approach might improve the economic, social and environmental well-being of the Borough of Tunbridge Wells.
- 5.3 The Officer shall ensure a report on the sourcing decision is included in the Procurement File and clearly referenced in any decision to approve commencement of the procurement.

6. Market testing and engagement

- 6.1 The Officer shall determine the sourcing approach based on:
 - (a) any available views from service users and other stakeholders;
 - (b) consultation or testing with the relevant market;
 - (c) current performance and future objectives for the product or service;
 - (d) budgetary limits; and
 - (e) the existence of other public contracts and Framework Agreements which might be suitable for the Council to use.
- 6.2 The Council's Procurement and Legal Services functions shall provide professional support in carrying out all market engagement exercises and the Officer shall comply at all times with such guidance.
- 6.3 Where the nature of the services could fall into a Concession arrangement, please consult Procurement or Legal Services for additional advice on the most appropriate process to follow.

Section 3: Procurement Procedures, Advertising, Publication of Award Notices

7. Summary of requirements as to advertising, use of procedures and award notices

7.1 The procedures which must be used to award specific types of contract are set out below.

	Goods, services contracts valued at or above the EU Threshold* (Section 4, rule 8 & 9 below)	Goods, services contracts and works between £100,000 and the EU Threshold* (Section 5, Rule 13)	Goods, services and works contracts valued between £15,000 and £99,999 (Section 5, Rule 14)	Contracts valued below £15,000 (Rule 15)	Schedule 3 (Light Touch) contracts at or above the EU Threshold* (Section 4, Rule 10)
Advertising	Mandatory - on OJEU, Contracts Finder and Kent Business Portal	Publish on Contracts Finder and Kent Business Portal.	If the Council has advertised the contract on the Kent Business Portal, it must also be advertised on Contracts Finder.	n/a unless KBP used	Mandatory – on OJEU, Contracts Finder and Kent Business Portal
Award notice	Mandatory - on OJEU and Contracts Finder	Mandatory – on Contracts Finder	Mandatory - on Contracts Finder	n/a unless KBP used	Mandatory - on OJEU and Contracts Finder
Procedures	One of the procedures mandated by PCR 2015; or use a framework agreement	OJEU; or Contracts Finder; or use a framework agreement	Three quotations required, one of which should be from a suitable local company, where feasible; or use a framework agreement, if suitable	Two quotations required, one of which should be from a suitable local company, where feasible; or use a framework agreement, if suitable	Procedure devised by the Legal department and the Procurement department in compliance with regulation 76, PCR 2015 and detailed in the Guide to Standing Orders

*Thresholds are amended every two years. Current thresholds are available from Procurement, Legal Services or found in the Guide to Standing Orders

- 7.2 If during the course of a procurement an issue arises upon which these Standing Orders are silent or incomplete, the Officer shall refer the matter to Legal and Procurement Services.

Section 4: Procurements at or above the EU Thresholds*

8. Requirement to advertise

- 8.1 Contracts which exceed the EU Thresholds set out in the PCR 2015 must be advertised on the OJEU by publishing a Contract Notice or, where advised, a Prior Information Notice (PIN) as a call for competition.
- 8.2 The Officer must take advice from Procurement and Legal Services before publishing any document on OJEU.
- 8.3 All contracts which are advertised on OJEU must also be advertised on Contracts Finder within 24 hours of the time the Council becomes entitled to post it, that is after either:
- (a) it appears on OJEU;
 - (b) it has not appeared but 48 hours have elapsed from the time the EU Publications Office confirmed receipt of the notice to the Council.
- 8.4 All Procurement Documentation must be available from the time the Contract Notice is published on OJEU. Therefore, no advertisement should be placed until the Procurement Documentation is complete. The Officer must ensure the Contract Notice includes a specified location where interested parties can electronically access all Procurement Documentation.
- 8.5 The Council may use a Prior Information Notice (PIN) as a call for competition when using the restricted or competitive procedure with negotiation (see Guide to Standing Orders).
- 8.6 The Officer is responsible for ensuring all Contract Notices and publications on Contracts Finder are published in accordance with these rules.

9. Procurement procedures

- 9.1 For public contracts equal to or greater than the EU threshold, the Council shall:
- (a) advertise the contract on OJEU using one of the procurement routes mandated by the PCR 2015; or
 - (b) where appropriate and lawful, use an existing contract or Framework Agreement which was procured in compliance with the PCR 2015.

10. Contracts subject to the 'light touch regime'

Social care, education services and other services which are listed in

Schedule 3 to the PCR 2015 are subject to the PCR 2015. However, the Council is not obliged to use one of the procedures listed in the PCR 2015 to award these contracts. Instead, the procurement procedure must comply with the principles of regulation 76 of the PCR 2015 (commonly referred to as the 'light touch regime' – see Guide to Standing Orders). The Officer shall take advice from Procurement and Legal Services on the most appropriate approach.

11. Contracts reserved for social enterprises and the employee-owned sector

11.1 The Officer may reserve participation in procurement processes for limited types of services contracts to certain qualifying organisations from the employee ownership and voluntary sectors. The maximum duration of contracts awarded under this power is three years (see Guide to Standing Orders).

11.2 The Officer must obtain written approval from the Legal services before commencing a procurement in reliance on this Standing Order.

12. Use of negotiated procedure without prior publication of an OJEU notice for above EU threshold contracts

In the limited circumstances listed in regulation 32 of the PCR 2015 (see Guide to Standing Orders), the Council may dispense with a Contract Notice and engage in negotiations with a single supplier under the negotiated procedure. The Officer must receive written authorisation from the Legal services before using this procedure.

*Thresholds are amended approximately every two years. Current thresholds are available from Procurement, Legal Services or found in the Guide to Standing Order.

Section 5: Contracts below the EU Thresholds

13. Contracts valued between £100,000 and EU thresholds

13.1 The Responsible Officer shall use one of the following procurement routes to award a contract valued between £100,000 and the appropriate EU threshold:

- (a) competitive procurement process advertised on OJEU and Contracts Finder, and the Kent Business Portal;
- (b) competitive procurement process advertised on Contracts Finder and The Kent Business Portal; or
- (c) use of contract or Framework Agreement procured by another contracting authority.

13.2 The Responsible Officer must devise a fair and transparent sourcing route

based on sound commercial principles and designed to achieve Value for Money, taking advice from Procurement and Legal Services. The Responsible Officer shall ensure that any decision relating to the sourcing route for a particular contract or service shall include an assessment of risk attaching to that decision and that analysis shall be recorded in writing and stored on the Procurement File (see Guide to Standing Orders).

14. Contracts with a value between £15,000 and £99,999

14.1 When awarding a contract valued between £15,000 and £99,999 the Officer must:

- (a) use one of the procurement routes set out in Standing Order 13; or
- (b) with the prior written approval to tender of the relevant Executive Director, obtain 3 written tenders or quotes from reputable suppliers where the Officer can demonstrate sufficient knowledge of the market to be reasonably certain that such an approach would elicit submissions representing Value for Money. At least one of these submissions should be from a local supplier where feasible.

14.2 The Officer must devise fair and transparent sourcing route based on sound commercial principles and designed to achieve Value for Money, taking advice from Procurement and Legal Services where appropriate. The Responsible Officer shall ensure that any decision relating to the sourcing route for a particular contract or service shall include an assessment of risk attaching to that decision and that analysis shall be recorded in writing and stored on the Procurement File (see Guide to Standing Orders).

Section 6: Contracts with a value of less than £15,000

15. Contracts with a value of less than £15,000

When awarding a contract with a value of less than £15,000 the Officer must:

- (a) use one of the procurement routes set out in Standing Order 13; or
- (b) with the prior written approval to tender of the relevant Executive Director, obtain 2 written tenders or quotations from reputable suppliers where the Officer can demonstrate sufficient knowledge of the market to be reasonably certain that such an approach would elicit submissions representing Value for Money. At least one of these submissions should be from a local supplier where feasible.

Section 7: Consultancy Contracts, Framework Agreements and Assessing Value

16. Consultancy contracts

- 16.1 Before engaging a Consultant or for other specialist professional, the Officer must refer to, and ensure compliance with, the Council's Procurement Policy on Buying Consultancy Services and the related documents: Guide to Buying Consultancy and the HR Policy on the Use of Self-Employed Consultants.
- 16.2 All such engagements of an aggregate value of £100,000 or more must be competitively tendered. Where any corporate contract or arrangement is approved and established for the buying of consultancy or specialist professional services, these must be used for sourcing all such contracts whatever the aggregate value of the contract.
- 16.3 Contracts for all other interim staff covering existing staff positions and all temporary or agency staff must be sourced through the Council's corporate temporary staffing contract, unless permitted otherwise in writing by the Head of Human Resources.

17. Framework agreements

- 17.1 All Framework Agreements for contracts with a value above relevant thresholds set out in the PCR 2015 shall be awarded in accordance with the PCR 2015.
- 17.2 Framework agreements valued at below the relevant EU Threshold shall be awarded in accordance with these Standing Orders.
- 17.3 Officers shall consult Procurement and Legal Services before using a framework agreement set up by another contracting authority and the validity of the framework and its contractual terms must be approved by Legal Services.

18. Assessing value for the purpose of these rules

- 18.1 The value or estimated value of all contracts to be procured must be properly assessed to determine whether or not they meet particular thresholds set out in these Standing Orders and under the PCR 2015.
- 18.2 The value of all contracts which may have a value which meets or exceeds the relevant EU Threshold shall be assessed in accordance with the PCR 2015 (see Guide to Standing Orders for details).
- 18.3 The value of all other contracts shall be the value:
 - 18.3.1 net of VAT;
 - 18.3.2 including the maximum possible extensions and renewals;

- 18.3.3 in the case of a framework agreement, the maximum estimated value of all the contracts to be awarded during the term; and
- 18.3.4 inclusive of any potential spend through the contract concerned by other contracting authorities.

19. Lots

- 19.1 For every procurement relating to a contract which exceeds the EU Threshold, the Responsible Officer must:
 - 19.1.1 consider whether the contract should be sub-divided into and procured in lots;
 - 19.1.2 provide reasons for any decision not to subdivide into lots, which shall be included in the Procurement Report; and
 - 19.1.3 comply with the PCR 2015 in the manner in which it requires tenderers to bid for lots (see Guide to Standing Orders for full details).

Section 8: Standing to Contract and Award Criteria

20. Use of Selection Questionnaires (SQ)

- 20.1 The Officer shall apply minimum standards of experience, reputation and economic standing to suppliers to test their suitability to bid for a Council contract. For contracts above EU thresholds suitability is usually tested by means of a SQ.
- 20.2 All the methods and criteria used for assessing the suitability of suppliers shall be transparent, objective and non-discriminatory.
- 20.3 The Officer must use the SQ provided by the Government and adhere to its statutory guidance for all procurements of contracts above the relevant EU Threshold.
- 20.4 The Officer shall not use a SQ for contracts with a value less than the OJEU threshold.

20.5 The following table provides a summary of the rules on the use of SQs:

Contract type and value	Rules on use of SQs
Contracts up to £25,000	SQs must not be used
Contracts valued between £25,000 and the EU Goods and Services Threshold whether for goods, services or works	Use of SQ prohibited. The Council may only ask Candidates suitability assessment questions which are relevant to the subject-matter of the procurement and proportionate having regard to any guidance issued by the Cabinet Office
Contracts at or above the EU goods and services Threshold for goods and services, or the EU Threshold for works	The Council must adhere to the guidance issued by the Cabinet Office on qualitative selection (see Guide to Standing Orders). The Council shall adopt the standard SQ without deviation
Contracts above the EU Threshold for goods and services but: For works contracts, below the EU Threshold for works contracts	Officers shall either use the Standard SQ or an alternative means of assessing tenderers' suitability which has been agreed by Procurement & Legal Services

21. Eligibility to bid

- 21.1 Suppliers who fail to meet all of the Council's minimum standards of reputation, technical ability, experience or economic and financial standing as specified in the SQ and accompanying documents shall be excluded from the procurement process.
- 21.2 Where the supplier is being excluded because one of the exclusion grounds in regulation 57 of the PCR 2015 applies (see Guide to Standing Orders), but provides evidence in support of its reliability despite the existence of a relevant ground of exclusion, the Officer must consider that evidence and determine whether to exclude that supplier.
- 21.3 The Officer shall consult with Legal Services before reaching any decision under Standing Order 21.2.

22. Assessing past experience and financial standing

- 22.1 The Officer shall ensure suppliers' past experience and technical ability are assessed, for all contracts.
- 22.2 When assessing the suppliers' financial standing, the Officer shall not require prospective tenderers to have an annual turnover of more than twice the estimated contract value, unless otherwise agreed with Legal Services.

22.3 Only those suppliers who meet the Council's minimum requirements of economic and financial standing and technical and professional ability shall be invited to participate in a tender process or awarded the contract.

22.4 All assessment of supplier's financial standing must be conducted by the Council's Finance team (or such other service unit designated from time to time to undertake this activity).

23. Award criteria

23.1 The Officer shall adopt award criteria which are fair, transparent, proportionate and appropriate to the subject matter of the contract (see Guide to Standing Orders).

23.2 The Officer shall award the contract to the most economically advantageous tender, being the tender that represents best Value for Money applying the award criteria.

23.3 The Officer shall adopt evaluation methodologies that are robust, have been tested to ensure they are appropriate for the procurement in question, and transparent (see Guide to Standing Orders).

Section 9: Tendering Procedure

24. Opening tenders

24.1 All tenders undertaken must be conducted through the Council's mandated e-tendering portal except as permitted in these Standing Orders or with the prior written approval of the Head of Finance & Procurement and Legal Services.

24.2 Where the Officer permits the receipt of tenders outside of the Council's mandated e-tendering portal, the Officer must ensure that all the tenders received are opened:

24.2.1 after the deadline for receipt of tenders has expired; and

24.2.2 at the same time by two members of staff: one from the directorate seeking the tenders and one on behalf of Legal Services;

24.2.3 after they are opened, the tenders must be listed in the tender register and the list must be signed by both persons who witnessed the opening of the tenders.

25. Contract award

25.1 All contracts shall be awarded in accordance with the criteria set out in the Procurement Documents.

25.2 For contracts with a value at or above the EU Thresholds, the Officer shall

adhere to the contract award procedures set out in the PCR 2015 and observe a standstill period before entering into the contract. The standstill period will normally end at midnight at the end of the tenth day after the date the Council sends notice to the tenderers, electronically or by fax, that it has made an award decision (see Guide to Standing Orders).

26. Correction of errors and late tenders

26.1 All tenders must comply with the conditions set out in the Procurement Documents. Tenderers should be advised that any failure to adhere to the specific rules applicable to the tender in question could result in their tender being rejected.

26.2 The Officer may reserve the right in the Procurement Documents to accept late submissions or documents forming part of the tender at the Council's discretion, for example, where:

26.2.1 the delay was caused by a mistake or failure of the Council; or

26.2.2 the submission in question is affected by external factors which could not have been foreseen or avoided.

26.3 The Tender Response Policy of Tunbridge Wells Borough Council should be adhered to for the avoidance of doubt in these circumstances.

26.4 In all cases, the Council shall adhere to the rules it established in the Procurement Documents and document any decision to permit a late or corrected tender.

26.5 The following authorisation must be obtained before a Officer can accept a late or corrected tender from Procurement and Legal.

27. Clarifications raised by suppliers

27.1 The Officer shall maintain a Clarification Log containing a list of questions raised by suppliers during the course of a procurement process, with the Council's responses, to which all Candidates or Tenderers shall have unrestricted access. Where Procurement and Legal Services is involved with the conduct of a particular procurement process, it may maintain the Clarification Log itself and will notify the Officer of that approach.

27.2 Where a clarification raises an issue which leads to the amendment of one of the Procurement Documents, the Council shall consider whether the deadline for submission of responses should be extended, or the procurement process otherwise revised to ensure equal treatment of suppliers, and take action accordingly.

28. Evaluation

28.1 The Executive Director shall appoint evaluators who have the necessary skills and experience to undertake the role.

28.2 Procurement and Legal Services shall provide appropriate guidance, advice

and support on all aspects of tender evaluation and the Officer shall have regard to all such guidance.

29. Conflicts of interest

- 29.1 All Executive Directors shall ensure that officers involved in procurement processes in their directorates are familiar with the Guidance on Propriety and Official Conduct for Officers
- 29.2 Any officer involved in a procurement shall:
 - 29.1.2 comply with the all relevant policies and codes of conduct provided by the Council for Officers; and
 - 29.2.2 disclose in writing to their Executive Director or Legal Services any direct or indirect, financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a procurement procedure.
- 29.3 Where an officer discloses such a conflict of interest the Executive Director shall, in consultation with Legal Services make arrangements to allocate the role to another person and shall consider whether any changes to the procurement process should be made to address any issues arising from the conflict.
- 29.4 Any officer involved in a procurement shall take appropriate measures to ensure competition is not distorted where a Candidate or Tenderer, or an undertaking related to that Candidate or Tenderer, has advised the Council on the procurement in question or been involved in the preparation of the procurement.

Section 10: Form of Contract, Mandatory Clauses and Formalities

30. Form of contract

- 30.1 For contracts valued at £15,000 or less, the relevant Executive Director can choose to accept the supplier's standard terms, provided that such terms are fair and reasonable in the circumstances and provide Value for Money. The form of contract must be recorded in its final agreed form and shall contain, as a minimum the items required by Standing Order 31.1.
- 30.2 Legal Services are responsible for providing or approving all forms of contract with a value exceeding £15,000, unless agreed in writing from the relevant Executive Director.
- 30.3 All contracts with a value exceeding £5,000 must be written or in an electronic form capable of providing a permanent record of the intentions of the parties to the contract.
- 30.4 Where contract terms are to be published by the Council in connection with

any competitive tender or single tender process, the Officer must ensure that the proposed form of contract has been approved by Legal Services before it is made accessible to Tenderers or any other external interested party.

- 30.5 The Officer shall ensure that an electronic copy of every concluded contract shall be provided to Procurement and Legal Services for entry onto the Council's Contract Register and shall ensure that appropriate arrangements are made for the safe storage of original contract documents. With regard to the options available for the safe storage of original contract documents the Officer shall seek advice from Legal Services, if required.
- 30.6 The Council may require the completion of a performance bond or parent company guarantee for any contracts as may be specified by Legal Services in relation to a particular procurement.

31. Specifications

- 31.1 The Officer shall ensure the specification for the contract:
- 31.1.1 clearly and effectively sets out the obligations on the supplier to deliver to the Council's requirements;
 - 31.1.2 complies with the requirements of the PCR 2015 in respect of technical specifications; and
 - 31.1.3 is legally enforceable, taking advice from Legal Services where necessary.

32. Mandatory clauses

The Officer or Legal Services, as the case may be, shall be responsible for ensuring that every contract awarded by the Council with a value over £5,000 includes the mandatory requirements set out in this section 10.

33. General clauses

- 33.1 Every contract must clearly specify:
- 33.1.1 the services, goods or works to be provided together with applicable standards and performance level;
 - 33.1.2 the price to be paid, with a statement of discounts and other deductions, including any Value Added Tax payable and any provisions for price variations, whether by indexation or other means;
 - 33.1.3 the duration of the contract including any specific dates by which any aspects are to be performed, together with any possible extensions of the contract term. Contracts should not normally exceed five years, or seven years with extensions, but contracts may be set for longer periods where the relevant industry practice, or partnership arrangements to be entered into, make it in the

interests of the Council to do so. The Head of Procurement and Legal Services must be consulted on any business case for proposing a contract term longer than 7 years and the reasons for doing so must be recorded in the Procurement Document; and

- 33.1.4 in the case of all building and engineering contracts exceeding £100,000 in value, the liquidated damages to be paid by the contractor if the contract is not completed on a specified date. A provision for liquidated damages may be included in contracts valued at £100,000 or less.

34. Insurance levels

- 34.1 Every contract must clearly specify that the supplier shall hold and maintain for the duration of the term of the contract where the relevant type of cover is applicable the following levels of insurance cover for each single incident:

Type of insurance cover	Minimum insured for each
Public liability	£10 million
Employer's liability	£5 million
Product liability	£2 million
Professional indemnity	£2 million

- 34.2 Legal Services may specify higher levels of insurance cover as they deem fit for particular contracts or types of contracts and may also agree to lower levels of insurance cover provided the Officer provides an account of the reasons for the lower level of cover and includes an assessment of risks associated with the contract.

35. Prevention of bribery and exclusion grounds arising during the term of the contract

- 35.1 Every contract shall include provision for termination if the supplier, their employees or anyone acting on the supplier's behalf:

35.1.1 corruptly offers, gives or agrees to give anyone an inducement or reward in respect of any contract with the Council;

35.1.2 commits an offence under the Bribery Act 2010; or

35.1.3 commits any of the offences listed in regulation 57(1) of the PCR 2015.

36. Termination for breach of regulation 73

- 36.1 For contracts above the EU Threshold, the contract shall provide that the Council shall have the right to terminate the contract if any of the provisions

of regulation 73(1) of the PCR 2015 apply. These are where:

- 36.1.1 the contract has been subject to a substantial modification which required a new procurement procedure to be started;
- 36.1.2 at the time of contract award, one of the mandatory exclusion criteria in regulation 57 applied and the supplier should therefore have been excluded from the procurement procedure; or
- 36.1.3 the ECJ or any competent court has held that the contract should not have been awarded to the contractor in view of a serious infringement of the obligations under the EC Treaty and the PCR 2015.

37. Prevent

The contract shall make appropriate provision for information sharing between the supplier and the Council, and/or such other measures as are appropriate, such as staff training, to support the Council in meeting its duty under section 26 of the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism (see the Council's applicable policy, where relevant).

38. Payment terms

- 38.1 Every contract shall provide that the Council shall pay its supplier 30 days from receipt of an undisputed invoice.
- 38.2 The contract shall also provide that the Council's that the Council's suppliers shall pay their sub-contractors within a maximum of 30 days of receipt of an undisputed invoice.
- 38.3 The Officer must obtain the agreement of the Head of Procurement and Legal Services for any deviation from the 30 day standard payment terms set out in this paragraph 38, such agreement to be recorded in writing as a Payment Exception.

39. Execution of the contract

- 39.1 All contracts shall be signed but not sealed unless they must be signed under seal in accordance with this Standing Order 39.
- 39.2 The following contracts shall be signed under seal:
 - 39.2.1 certain contracts involving land transactions; and
 - 39.2.2 contracts with a value of £75,000 or more.
- 39.3 The relevant Executive Director shall be permitted to sign all contracts not required to be sealed.
- 39.4 Legal Services shall execute all contracts which are required to be executed by the Council as a deed under seal and may execute all simple contracts not

required to be sealed.

40. Certification of the contract

Legal Services shall be responsible for determining whether any contract should be certified under the Local Government (Contracts) Act 1997. This Act empowers local authorities to agree terms that will survive the main contract being set aside in the event of a finding that the Council has exceeded its statutory powers in entering into the contract. In these circumstances, the certification process ensures that the private sector party is compensated. All such certificates shall be in a form approved by and executed by Legal Services.

41. Contract and supplier relationship management

41.1 The Executive Director shall ensure that there are in place arrangements that will monitor and actively address any concerns with:

41.1.1 the performance of the contract against the specification and any key performance indicators or other performance monitoring regime;

41.1.2 costs and Value for Money; and

41.1.3 service user or end user satisfaction.

41.2 Where a contract is to be extended or re-tendered, the Executive Director shall ensure that a report on the performance of the contract is prepared to inform any decision regarding the extension or lessons learnt for re-tendering.

41.3 The Executive Director shall ensure Officers comply with guidance updated by the Council from time to time on effective contract and supplier relationship management.

Section 11: Varying and Extending Contracts

42. Variations to contracts

Legal Services shall advise any officer as to whether a particular variation is subject to the PCR 2015 and can be entered into.

43. Authority to vary a contract

Subject to Standing Order 42, all contract variations must be approved in accordance with Standing Order 3 (Authority to Contract).

44. Extensions and renewals

44.1 Contracts subject to the PCR 2015 can only be extended where expressly provided for in their terms, or as otherwise permitted by the PCR 2015.

44.2 Contracts with a value below the EU Threshold can be extended only where

expressly provided for in their terms.

44.3 All contract extensions or renewals must be approved as follows:

44.3.1 if the value of the extension is less than £100,000, by the Executive Director; or

44.3.2 if the value of the extension is £100,000 or more, by Legal Services and the Director of Finance.

44.4 In determining how a contract extension or renewal shall be approved in accordance with paragraph 44.3, the Officer shall not disaggregate or otherwise sub-divide any known spend during the period of any such extension or renewal with a view to avoiding obtaining the approvals referred to in paragraph 44.3.2.

44.5 The Extension of Contracts Policy of Tunbridge Wells Borough Council should be adhered to for the avoidance of doubt in these circumstances.

Section 12: Disclosure, Transparency and Record Keeping

45. Electronic availability of documents

The Officer shall ensure that all Procurement Documents for contracts that are at or above the EU Thresholds are available online free of charge without restriction from the time the OJEU Notice is published (or an ITCI is sent when a PIN is used as a call for competition).

46. Duty of confidentiality owed to suppliers

The Officer shall not disclose information which has been forwarded by a supplier and designated by that supplier as confidential or commercially sensitive, including technical or trade secrets and the confidential aspects of tenders, without express authorisation from Legal Services who shall balance the duty of confidentiality owed to suppliers against the Council's obligations under FOIA and any other disclosure obligations. The Procurement Documents should inform interested parties of the Council's duties of disclosure and invite tenderers to designate information as confidential or commercially sensitive. However, the Council cannot guarantee that all information so designated will be withheld.

47. Publication of contract award notices in the Official Journal

The Officer shall ensure that a Contract Award Notice is published on OJEU for all procurements subject to the PCR 2015 in accordance with those regulations.

48. Publication of contract award notices on Contracts Finder

The Officer shall ensure that a Contract Award Notice is published on

Contracts Finder for all contracts with a value of £25,000 or more. This Standing Order 48 applies to all contracts including contracts let under Framework Agreements, whether or not that Framework Agreement was itself advertised on Contracts Finder or anywhere else.

49. Debriefing tenderers

For contracts valued at or above the EU Threshold, the Officer shall ensure that all Candidates and Tenderers are offered debrief information during the procurement process, in accordance with regulation 55 of the PCR 2015, and at contract award, in accordance with regulation 86 of those regulations.

50. Procurement Report

50.1 The Officer shall keep a copy of all Procurement Documents in accordance with the Council's records retention policy.

50.2 The Officer shall prepare a written report in relation to each procurement with a value at or above the relevant EU Threshold containing the following information (unless such information is contained in the Contract Award Notice):

50.2.1 the subject-matter and value of the contract, Framework Agreement or dynamic purchasing system;

50.2.2 where applicable, the results of the qualitative selection and reduction of numbers under regulations 65 and 66, namely:

- (a) the names of the selected Candidates or Tenderers and the reasons for their selection;
- (b) the names of the rejected Candidates or Tenderers and the reasons for their rejection;
- (c) the reasons for the rejection of tenders found to be abnormally low;
- (d) the name of the successful tenderer and the reasons why its tender was selected and, where known the share (if any) of the contract or Framework Agreement which the successful tenderer intends to subcontract to third parties, and the names of the main contractor's subcontractors (if any);
- (e) for competitive procedures with negotiation and competitive dialogues, the circumstances as laid down in regulation 26 which justify the use of those procedures;
- (f) for negotiated procedures without prior publication, the circumstances referred to in regulation 32 which justify the use of this procedure;
- (g) where applicable, the reasons why the contracting authority

has decided not to award a contract or Framework Agreement or to establish a dynamic purchasing system;

(h) where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders; and

(i) where applicable, conflicts of interests detected and subsequent measures taken.

50.3 The Officer shall maintain an electronic Procurement File containing sufficient information to justify decisions taken at all stages of the procurement such as documentation on:

50.3.1 communications with suppliers and internal deliberations;

50.3.2 preparation of the procurement documents;

50.3.3 dialogue or negotiations, if any; and

50.3.4 selection and award of the contract.

50.4 The Procurement File shall be kept for a period of at least three years from the date of award of the contract.

50.5 The Officer shall prepare a report containing such information as the Cabinet Office may request in respect of procurements at or above the relevant EU Threshold.

Section 13: Waiver of Standing Orders

51. Authority to waive Standing Orders

51.1 Procurement and Legal Services shall, jointly, be responsible for determining any requests to waive these Standing Orders on behalf of the Section 151 Officer and Monitoring Officer.

51.2 Any request to waive Standing Orders shall be set out in writing with clear reasons why the waiver is necessary and proportionate.

51.3 No waiver of Standing Orders can be made if it would contravene the PCR 2015 or any other applicable legislation.

51.4 No waiver can be granted retrospectively.

51.5 All waivers to these Standing Orders must be reported in writing to Procurement and Legal Services for logging in the register maintained for this purpose.

51.6 For contracts valued at less than the relevant EU Threshold, the procuring officer may obtain a tender from a single contractor:

- 51.6.1 where the reasons provided to the Procurement and Legal Services explain why the services, goods or works can only, or most satisfactorily be provided by that contractor; or
- 51.6.2 where a statutory undertaker has an exclusive statutory right to provide the relevant goods, services or works.
- 51.7 The procuring officer must ensure that any contractors invited to submit a tender under Standing Order 51.6 meet the Council's minimum requirements under Standing Order 22.

Annex A: Glossary

Candidate	An economic operator that has sought an invitation or has been invited to take part in a restricted procedure, a competitive procedure with negotiation, a negotiated procedure without prior publication, a competitive dialogue or an innovation partnership.
Consultant	An individual or company commissioned to do a short term, and clearly defined piece of specialised work, with clear outcomes where the work is project based, outside business as usual and there is a defined end point for the Consultant's involvement.
Contract Award Notice	A notice containing the information set out in regulation 86 of the PCR 2015, for above EU Threshold contracts, and regulation 112 for below EU Threshold contracts.
Contract Notice	A notice advertising a public contract on OJEU.
Contracts Finder	A Government website on which all public contracts over a minimum threshold must be advertised.
ERDF	Means the European Regional Development Fund.
Framework Agreement	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded in a given period, in particular with regard to price and, where appropriate, the quality envisaged (regulation 33(2), PCR 2015).
FOIA	The Freedom of Information Act 2000.
ITCI	Invitation to confirm interest.

Appendix A

Key Decision	An executive decision, which is likely: <ul style="list-style-type: none"> to result in the Council incurring expenditure which is greater than £500,000 or which is otherwise significant having regard to the Council's budget for the service or function to which the decision relates; or to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in West Sussex.
OJEU	Official Journal of the European Union, where all public contracts which exceed the EU Thresholds must be advertised.
PCR 2015	Means the Public Contract Regulations 2015 as amended and in force from time to time.
PQQ	Means a pre-qualification questionnaire.
Procurement Documents	Any document produced or referred to by the Council to describe or determine elements of the procurement or the procedure, including the: <ul style="list-style-type: none"> Contract Notice (or PIN where it has been used as a call for competition) Technical specifications Descriptive document Proposed conditions of contract Formats for the presentation of documents by candidates and tenderers Information on generally applicable obligations Any additional documents.
Procurement File	The record of each procurement that the Council must maintain in accordance with regulation 84(7)-(9) of the PCR 2015.
Procurement Report	The report that the Council is obliged to maintain in respect of each procurement of a contract valued at or above the relevant EU Threshold under regulation 84(1) of the PCR 2015 (see Standing Order 13.5).
Officer	The person or persons charged by the Executive Director to conduct a procurement process, or to participate in or lead a team of officers assembled for that purpose or dealing with a variation to a contract as the context requires.
Scheme of Delegation	The Council's formal written scheme of delegation in force and as amended from time to time.

Appendix A

Value for Money	<p>The optimal use of resources to achieve the intended outcomes taking into account:</p> <ul style="list-style-type: none">(a) Economy: minimising the cost of resources used or required (inputs), i.e. spending less;(b) Efficiency: the relationship between the output from goods or services and the resources to produce them, i.e. spending well; and(c) Effectiveness: the relationship between the intended and actual results of public spending (outcomes), i.e. spending wisely.
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Analysis of other Local Authority Standing Orders

	Ashford	Canterbury	Dartford	Dover	Maidstone	Sevenoaks	Shepway	Thanet	Tonbridge	Swale	Rother	Twells	KCC
0 - £1K										1 Quote			
0 - £5k		1 Quote							1 Quote		1 Quote		
0 - £8k													1 Quote
0 - £10k				1 Quote	1 Quote	1 Quote	1 Quote						
0 - £15k	1 Quote											2 Quotes	
£1k - £5k										2 Quote			
£1k - £10k								1 Quote					
£8k - £50k													3 Quotes
£5k - £25k										3 Quotes			
£5k - £100k									3 Quotes				
£5k - £164k		3 Quotes											
£10k - £50k											3 Quotes		
£10k - £75k					3 Quotes	3 Quotes		3 Quotes					
£10k - £100k				3 Quotes			3 Quotes						
£15k - £100k												3 Quotes	
£15k - £164k	3 Quotes /tenders												
£15k - £50k			1 Quote										
£25k - £164k										Full process with Advert			
£50k - £100k			2 Quotes										
£50k - £164k											Full process with Advert		Full process with Advert
£75k - £164k					Full process with Advert	Full process with Advert		Full process with Advert					
£100k - £164k			3 Quotes	Full process with Advert			Full process with Advert		Full process with Advert			Full process with Advert	
£164k	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU	OJEU

Gravesham Borough Council were also assessed, but their policy is to use Framework agreements for all procurement requirements

TWBC proposed limits
 Limits as per Public Contracts Regulations 2015 without discretionary changes (as adopted by Swale BC).

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Full Council

26 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Request to Approve the Reason for Non-Attendance of a Member of the Council

Final Decision-Maker	Full Council
Portfolio Holder(s)	Councillor Jukes – Leader of the Council
Lead Director	Lee Colyer – Director of Finance, Policy and Development
Head of Service	Jane Clarke – Head of Policy and Governance
Lead Officer/Author	Mike McGeary – Democratic Services Officer
Classification	Non-exempt
Wards affected	Goudhurst and Lamberhurst

This report makes the following recommendations to the final decision-maker:

1. That, pursuant to Section 85(1) of the Local Government Act 1972, the Full Council approves the employment reason set out in the report in respect of Councillor Hastie's failure to attend meetings of the authority during the period 23 February 2017 to 21 February 2018.

This report relates to the following Five Year Plan Key Objectives:

- A Confident Borough

Timetable

Meeting	Date
Discussion with Leader of the Council	13 July 2017
Council	26 July 2017

Request to Approve the Reason for Non-Attendance of a Member of the Council

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Councillor Hastie has been posted outside the UK for work-related reasons until the end of the year. Under the terms of his election to the Council if he fails to attend a meeting of the authority within any six month period, he will cease to remain an elected member, unless the Full Council has given its formal approval for the reason for non-attendance.
 - 1.2 The purpose of this report, therefore, is to seek Full Council approval for him to be absent beyond that six month period.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 Section 85(1) of the Local Government Act 1972 states that, if a member of a local authority fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the authority they shall cease to be a member of the authority. The only exception to this is if their reason for non-attendance has been approved by the authority, before the expiry of that period.
 - 2.2 Councillor Hastie has been posted outside the UK for work-related reasons until the end of the year.
 - 2.3 His last attendance at a meeting of the Council was 22 February 2017, when he attended the Full Council meeting. This means that this is the last opportunity for the Full Council to approve the reason for Councillor Hastie's non-attendance at meetings.
-

3. AVAILABLE OPTIONS

- 3.1 The Full Council can either approve Councillor Hastie's request or decide that the reason for his non-attendance is insufficient.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 It is considered that work-related issues are a perfectly valid reason for approving Councillor Hastie's non-attendance. This is the first such request made by Councillor Hastie and there has been no suggestion that he will need to repeat this.
- 4.2 At the time of writing this report, it is known that Councillor Hastie will be returning to the UK at the end of this year, thus it seems reasonable to approve

his non-attendance until 21 February 2018. This date is suggested as it will be his first opportunity to attend a meeting of which he a member – i.e. the Full Council meeting on that date – although he might wish to attend any formal meeting before then, as a visiting member.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 N/A

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 Councillor Hastie will be advised of the Full Council decision, which will also be published in the minutes of the meeting.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	The legal authority for this decision lies within Section 85(1) of the Local Government Act 1972.	Keith Trowell, Senior Lawyer and Deputy Monitoring Officer 7 July 2017
Finance and other resources	There are no financial implications.	Report author
Staffing establishment	N/A	
Risk management	N/A	
Environment and sustainability	N/A	
Community safety	N/A	
Health and Safety	N/A	
Health and wellbeing	N/A	
Equalities	N/A	

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None

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Full Council

26 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Audit and Governance Committee – Annual Report 2016/17

Final Decision-Maker	Full Council
Portfolio Holder(s)	Councillor David Reilly – Portfolio Holder for Finance and Governance
Lead Director	Lee Colyer – Director of Finance, Policy and Development (S151 Officer)
Head of Service	Rich Clarke – Head of Audit Partnership
Lead Officer/Author	Frankie Smith – Audit Manager
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That the Annual Report of the Audit and Governance Committee 2016/17 be noted.

This report relates to the following Five Year Plan Key Objectives:

- A Prosperous Borough
- A Green Borough
- A Confident Borough

This report is concerned with the internal control and governance of the Council. Successful controls and effective governance are a crucial underpinning for all corporate priorities.

Timetable

Meeting	Date
Audit and Governance Committee	27 June 2017
Full Council	26 July 2017

Audit & Governance Committee Annual Report 2016/17

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The report outlines how the Audit and Governance Committee has effectively discharged its duties during 2016/17. The report provides assurance to the Council that important internal control, governance and risk management issues are being monitored and addressed by the Committee. The report seeks to provide additional assurance to support the Annual Governance Statement.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 The Audit Committee is required to monitor audit activity (internal and external), review and comment on the effectiveness of the Council's regulatory framework and review and approve the Council's annual statements of accounts and scrutinise associated strategy and policy. This reports sets out how this has been achieved during 2016/17.
-

3. AVAILABLE OPTIONS

- 3.1 The production and presentation of an annual report is required by the Committee's terms of reference. Therefore no other alternative could be recommended.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The production and presentation of an annual report is required by the Committee's terms of reference.
-

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 At their meeting held on 27 June 2017, the Audit and Governance Committee agreed that the Annual Report – as attached at Appendix A – be presented to a meeting of the Full Council, to demonstrate how the Committee has discharged its duties.
-

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	No implications	Frankie Smith Audit Manager 7 June 2017
Finance and other resources	The role of the Audit & Governance Committee includes the review of the financial reports for the Council, including the approval of the Annual Statement of Accounts.	
Staffing establishment	No implications	
Risk management	The role of the Audit & Governance Committee requires it to consider the effectiveness of the Council's risk management arrangements.	
Environment and sustainability	No implications	
Community safety	No implications	
Health and Safety	No implications	
Health and wellbeing	No implications	
Equalities	No implications	

7. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: Audit & Governance Annual Report 2016/17

8. BACKGROUND PAPERS

None

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Audit & Governance Committee

Annual Report 2016/17



Introduction by Chairman of Audit & Governance Committee

This report provides an overview of the Audit & Governance Committee's activity during the municipal year 2016/17.

I am pleased to report the continued good work of the Committee in providing an independent overview of the Council's governance. This role includes detailed consideration of the work of external and internal audit plus robust scrutiny and challenge of the Council's financial performance and, through our Standards role, the approach the Council takes in investigating complaints made about Members.

During 2016/17 the Committee met six times and was pleased to note, among the highlights, a further unqualified accounts and value for money opinion from our external auditors and a positive conclusion on the Council's control and governance from our internal auditors.

Once again during 2016/17 the Committee is grateful for the contributions of its members, including independent and parish members, as well as to those officers who support its work.



*Councillor Len Horwood
Audit & Governance Committee Chairman (2016/17)*

Introduction

Tunbridge Wells Borough Council has always supported and understood the value and benefits of having an independent Audit Committee. The Council established the Audit and Governance Committee in 2012; its functions incorporate those undertaken by the former Audit Committee as well as some of the functions previously the responsibility of the Standards Committee.

The Audit Committee is an essential check on the corporate governance framework; providing an independent and high-level overview of the internal control, governance and risk management for the Council.

The Committee monitors internal and external audit activity, reviews and comments on the effectiveness of the Council's regulatory framework and reviews and approves the Council's annual statements of accounts.

The Committee is independent from the Council's Executive and Scrutiny functions and has clear reporting lines and rights of access to discharge its responsibilities in line with its Terms of Reference (Appendix I). This includes direct access to the Council's Appointed Auditor and Head of Audit Partnership without the presence of other officers where appropriate.

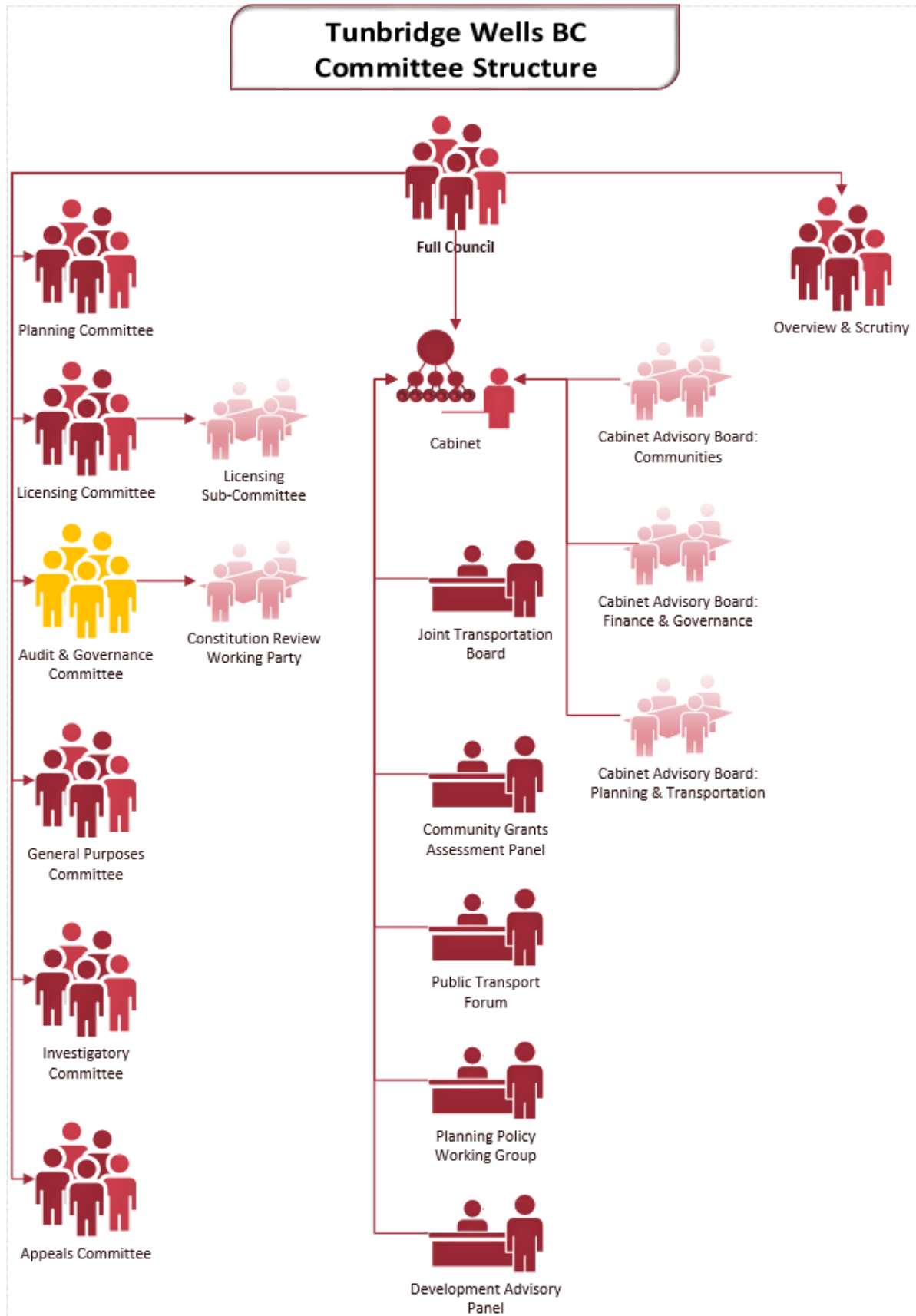
The Committee is not a substitute for the Executive function in the management of internal or external audit, risk management, governance, or any other review or assurance function. It is the Committee's role to examine these functions, and to offer views and recommendations on the way the management of these functions is conducted.

Benefits

Effective audit committees can bring many benefits to local authorities:

- Increased public confidence in the objectivity and fairness of Council financial and other reporting.
- Reinforcing the importance and independence of internal and external audit and similar review processes.
- Providing additional assurance through the process of independent review and challenge.
- Increasing emphasis and awareness of internal control, governance and risk management.

*CIPFA's Audit Committees
- Practical Guidance for
Local Authorities*



Membership & Attendance

The Audit and Governance Committee comprises of 8 Borough Councillors, 4 co-opted independent members and 2 parish representatives.

The following table summarises attendance at all of the Audit and Governance Committees held in 2016/17:

Name	Role	25 May	28 Jun	26 Jul	20 Sep	5 Dec	4 Apr
Tunbridge Wells BC Members							
Councillor Len Horwood	Chairman	✓	✓	✓	✓	✓	✓
Councillor Tom Dawlings	Vice Chairman	✓	✓	Apologies	Apologies	✓	✓
Councillor Ben Chapelard	Committee Member	✓	✓	✓	x	✓	✓
Councillor Joy Podbury	Committee Member	✓	✓	✓	✓	✓	✓
Councillor Ms Beverley Palmer	Committee Member	✓	✓	Apologies	✓	✓	Apologies
Councillor Sarah Hamilton	Committee Member	✓	✓	✓	✓	✓	Apologies
Councillor Sue Nuttall	Committee Member	✓	✓	✓	✓	✓	✓
Councillor Tracy Moore	Committee Member	✓	✓	✓	✓	Apologies	Apologies
Independent Members							
Gary Shiels	Committee Member	Apologies	✓	✓	✓	✓	✓
James Hedges ¹	Committee Member	✓	Apologies	✓	Apologies	✓	
Jane Hough	Committee Member	Apologies	✓	✓	✓	✓	✓
Tony Quigley	Committee Member	Apologies	✓	✓	✓	✓	✓
Parish Representatives							
Parish Councillor Coleman	Committee Member	✓	✓	✓	✓	✓	✓
Town Councillor Henshaw	Committee Member	x	✓	✓	Apologies	✓	✓
Tunbridge Wells BC Officers							
William Benson	Chief Executive				✓		
Lee Colyer	Director of Finance, Policy and Development (S151 Officer)	✓	✓	✓	✓	✓	✓
Jane Clarke	Head of Policy & Governance				✓		
Jane Fineman	Head of Finance & Procurement (Deputy S151 Officer)		✓	✓			✓

¹ Mr Hedges term as an independent member expired in January 2017

Name	Role	25 May	28 Jun	26 Jul	20 Sep	5 Dec	4 Apr
Jane Lynch	Head of Planning Services			✓			
Adam Chalmers	Head of Communities and Engagement						✓
David Candlin	Head of Economic Development					✓	
Stephen Baughen	Acting Head of Planning Services				✓		
Mike McGeary	Democratic Services	✓	✓	✓	✓	✓	✓
Mid Kent Audit (Internal Audit)							
Rich Clarke	Head of Audit Partnership		✓	✓	✓		✓
Russell Heppleston	Deputy Head of Audit Partnership					✓	
Frankie Smith	Audit Manager		✓			✓	✓
Mid Kent Legal Services							
John Scarborough	Head of Legal Services and Monitoring Officer	✓	✓		✓		
Estelle Culligan	Interim Head of Legal Partnership and Monitoring Officer					✓	
Keith Trowell	Senior Lawyer and Deputy Monitoring Officer						✓
Grant Thornton (External Audit)							
Ade Oyerinde	External Audit - Grant Thornton			✓	✓	✓	
Darren Wells	External Audit - Grant Thornton		✓	✓			✓

Meetings on 28 June and 4 April were also attended by members of the public.

All of the Audit & Governance Committee agenda papers and minutes are available on the Council's [website](#).

Business

During the year the Audit and Governance Committee has commented, examined and reviewed the following:

Audit Activity	
• Internal Audit Annual Report	
• Internal Audit Interim Report	
• Internal Audit Plan	
• Internal Audit Charter	
• Safeguarding audit update	
• Strategic Risk Annual Report & Updates	
External Audit (Grant Thornton)	
• Planned Audit Fee	
• Annual Audit Letter	
• Audit Committee Update	
• Certification of Grant Claims	
• Progress Report	
Finance	
• Draft Financial Report	
• Annual Financial Report and Audit Findings	
Governance	
• Update on Complaints received under the Member's Code of Conduct	
• Annual Complaints Report	
• Appointments to the Constitution Review Working Party	
• Proposed Changes to the Constitution – Planning Committee & Planning Scheme of Delegations	
• Benefit Fraud Annual Report	
• Work Programme	
• Audit and Governance Committee Annual Report	
• External Auditor Procurement	
• Annual Complaints Report and Local Government Ombudsman Annual Review	

Conclusion

The Audit and Governance Committee, in partnership with the Council's Internal and External Auditors, and with the support of Officers has provided robust and effective independent assurance to the Council on a wide range of risk, governance and internal control issues.

The Audit Committee can demonstrate that it has appropriately and effectively fulfilled its duties during 2016/17.

Sources of Assurance

In drawing a conclusion for the year, the Audit and Governance Committee gained assurance from the following sources:

The work of Internal Audit

The Head of Audit Partnership issued an unqualified Head of Audit Opinion in 2015/16 which concluded that the Council was operating an effective sound system of internal control, governance and risk management. Throughout the year the Committee has been kept up to date with delivery of the Internal Audit plan, implementation of audit recommendations, and has been kept aware of any emerging risks.

The Internal Audit plan for 16/17 included a breakdown of internal audit assurance for the coming year, and the Committee were given the opportunity to comment on the work of internal audit prior to endorsing the plan for delivery.

The Committee has received regular updates on the Council's strategic risks, and risk owners have attended meetings to provide assurance to Members on the effectiveness of mitigation strategies.

Adverse audit opinions have been presented to the Committee and at request, have been provided with regular progress updates on the implementation of audit recommendations. The Committee has continued to show its support to the Internal Audit team throughout the year, and has recognised the role, responsibility and authority of the service within the Audit Charter which was updated and agreed by the Committee in March 2016.

The work of External Audit (Grant Thornton)

The external auditors report back to the Audit and Governance Committee providing regular updates on their programme of work. During the year, the External Auditors presented an unqualified value for money conclusion and an unqualified opinion on the financial statements.

The Audit Committee has provided effective challenge to the External Auditors as appropriate and gained assurance from the reports and updates provided during the year.

Finance & Governance Reports

The Committee provided robust challenge prior to approving the financial reports of the Council in September 2016.

The Committee specifically gains assurance from the Annual Governance Statement which is a statutory document that explains the processes and procedures in place to enable the council to carry out its functions effectively.

The statement is produced following a review of the council's governance arrangements and includes actions address any significant governance issues identified. The Committee reviewed and approved the 2015/16 Annual Governance Statement.

Dealing with Complaints about Council Members

The Localism Act 2011 obliges Councils to have both a Code of Conduct and a procedure for dealing with allegations that a member has breached that Code of Conduct. The Act further provides that the District/Borough Council for the area is responsible for dealing with complaints against all the Parish and Town Councillors for its area as well as dealing with complaints against Borough Councillors. Full Council, at its meeting on 18 July 2012, resolved to adopt the 'Kent Procedures' for dealing with Member Complaints. The 'Kent Procedures' are so called because they were devised by the Kent Monitoring Officer Group and have been adopted by Kent County Council and most of the Kent Districts/Boroughs. The concept of proportionality runs through the procedures such that the level of resource and decision on each complaint should be proportionate to the seriousness of the complaint. This very much represents the guidance from Central Government which has stressed Councils should not adopt 'gold plated' arrangements.

Under the procedures authority is delegated to the Monitoring Officer to make an initial assessment of the complaint (in consultation with the Independent Person appointed under the provisions of the Localism Act 2011) and, if appropriate, the Monitoring Officer will seek to resolve the complaint informally. If it is decided the complaint should be investigated then following that investigation a Sub-Committee of the Audit and Governance Committee will determine the complaint.

The Localism Act 2011 sets out the role of the Independent Person in any procedures designed for investigating allegations that a member has breached the Code of Conduct. The Independent Person's views must be sought and taken into account prior to a decision being made following an investigation into a complaint and whose views may be sought at other times during the process. This Council's Independent Person, Mr Michael O'Higgins, was appointed by Full Council in October 2015 following an interview process.

During the year ending 31 March 2017, three new member complaints were received. One of the complaints did not proceed and two resulted in findings of no breach of the respective Code of Conduct.

Member Development

Proposed Programme 2017/18

Continued professional development is key to the effective operation of the Audit and Governance Committee. Briefings enable Members of the Committee to be kept up to date on the latest developments in the areas of governance, risk and internal control.

The table below sets out a development programme which could be provided to Members of the Audit and Governance Committee in 2017/18. The topics suggested below mirror the responsibilities of the Committee and complement the role the Committee has to oversee the effective governance of the Council:

Briefing theme & potential specific topics
Internal Audit Standards <ul style="list-style-type: none"> ○ How standards are set and monitored ○ Specific work on IA conformance
Risk Management <ul style="list-style-type: none"> ○ Risk appetite ○ Specific strategic and operational risks ○ Risk management strategy ○ Local government risk outlook
Treasury Management <ul style="list-style-type: none"> ○ Investment and borrowing options for local authorities ○ Prudential Code ○ Financial outlook for local authorities
Reviewing the Annual Governance Statement <ul style="list-style-type: none"> ○ The AGS within the Council's governance ○ Specific topics within the AGS ○ Comparative review of AGS across local government

Audit Activity	
	<ul style="list-style-type: none"> a) To consider the Internal Audit Manager's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements. b) To agree the external Audit Plan for the year. c) To approve the cost of the Audit. d) To consider summaries of specific internal audit reports as requested. e) To consider reports dealing with the management and performance of the providers of internal audit services. f) To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale. g) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance. h) To consider specific reports as agreed with the external audit work and to ensure it gives value for money. i) To comment on the scope and depth of external audit work and to ensure it gives value for money. j) To liaise with the Audit Commission over the appointment of the Council's external auditor. k) To commission work from internal and external audit. l) To oversee the whistle-blowing policy and make appropriate recommendations for change to the policy; m) To liaise with the Overview and Scrutiny Committee Chairman to coordinate cross-cutting issues and avoid duplication.

Regulatory Framework	
	<ul style="list-style-type: none"> a) To maintain an overview of the Council's constitution and the Code of Conduct. b) To review any issue referred to it by the Chief Executive, Directors, S151 Officer, Monitoring Officer or any council body. c) To monitor the effective development and operation of risk management and corporate governance in the council, and to ensure that these matters are effectively embedded. d) To oversee the production of the authority's Statement on Internal Control and to recommend its adoption. e) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice. f) To consider the Council's compliance with its own and other published performance standard.

Accounts

- a) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- b) To consider the external auditor's report to those charged with governance on issues arising from the audits of the accounts.

Governance

To discharge the functions (other than those which are reserved to Council) as set out in Part 1, Chapter 7 of the Localism Act 2011 including:

- a) To promote and maintain high standards of conduct by Members and Co-opted Members of the Council and to make recommendations to Council on improving standards.
- b) To advise and assist Parish/Town Councils and Parish/Town Councillors to maintain high standards of conduct and to make recommendations to Parish/Town Councils on improving standards.
- c) To advise the Council on the adoption of or revisions to its Code of Conduct.
- d) To advise, train or arrange to train Members, Co-opted Members and Parish/Town Councillors on matters relating to the Code of Conduct.
- e) To assist the Councillors, Co-opted Members and Parish/Town Councillors to observe their respective Codes of Conduct.
- f) To monitor and assess the operation and effectiveness of the Code of Conduct and to review and manage the Arrangements for dealing with Code of Conduct Complaints.
- g) To advise on local ethical governance protocols and procedures.
- h) To maintain oversight of the Council's arrangements for dealing with Code of Conduct complaints.
- i) To act as an advisory body in respect of any ethical governance matter.
- j) To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.
- k) To receive quarterly reports (or less frequently if there are no complaints to report) from the Monitoring Officer on the number and nature of complaints received and action taken as a result in consultation with the Independent Person.
- l) To receive an annual report on the Council's ethical governance arrangements.
- m) To appointment a sub-committee to deal with Code of Conduct complaints, following investigation.
- n) To grant dispensations pursuant to S33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct where:
 - (i) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - (ii) that the authority considers that the dispensation is in the interests of persons living in its area; or where the Committee considers that it is otherwise appropriate to grant a dispensation.

Full Council

26 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Annual Report of the Overview and Scrutiny Committee 2016/17

Final Decision-Maker	Full Council
Portfolio Holder(s)	Leader of the Council, Councillor David Jukes
Lead Director	Director of Finance Policy and Development, Lee Colyer
Head of Service	Head of Policy and Governance, Jane Clarke
Lead Officer/Report Author	Scrutiny and Performance Officer, Nick Peeters
Classification	Non-exempt
Wards affected	All Wards

This report makes the following recommendations to the final decision-maker:

1. That the Overview and Scrutiny Committee's Annual Report be approved.

This report relates to the following Five Year Plan Key Objectives:

- A Prosperous Borough
- A Green Borough
- A Confident Borough

The work of the Overview and Scrutiny Committee covers many of the Borough-wide issues referred to in the Council's Five Year Plan.

Timetable

Meeting	Date
Overview and Scrutiny Committee	10 April 2017
Full Council	26 July 2017

Annual Report of the Overview and Scrutiny Committee 2016/17

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Constitution requires the Overview and Scrutiny Committee to prepare an Annual Report for Full Council (part 3 - Responsibility for Functions and Scheme of Delegations 8.6).
-

2. INTRODUCTION AND BACKGROUND

- 2.1 The Overview and Scrutiny functions provided by section 21 of the Local Government Act 2000, the Police and Justice Act 2006, the relevant provisions of the Local Government and Public Involvement in Health Act 2007, the Localism Act 2011 and associated rules and regulations are delivered by the Overview and Scrutiny Committee.
- 2.2 The Overview and Scrutiny Committee deals with issues that affect the Borough at all levels. The report provides a summary of the Overview and Scrutiny Committee's work over the previous year and highlights areas where the Committee has been able, through member-led work, to have a positive impact on a number of Borough-wide issues. When looking at its work over the last year, the Committee has been mindful of the following:
- I. To consider any matter affecting the Borough of Tunbridge Wells or its inhabitants.
 - II. To make a contribution to the locality by in-depth analysis of policy issues.
 - III. To liaise with other external organisations operating in the locality, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
-

3. AVAILABLE OPTIONS

- 3.1 The Overview and Scrutiny Committee is constitutionally required to produce a report to Full Council on its work.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The Overview and Scrutiny Committee Annual Report (attached at appendix A) provides a thorough summary of the Committee's work throughout the last year.
- 4.2 At their meeting on 10 April 2017, the members of the Overview and Scrutiny Committee endorsed the Annual Report for presentation to Full Council.
-

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The Full Council's decision will be included in the published version of the minutes, which will also be available on the Council's website.

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	There are no legal or human rights implications resulting from the recommendations in the report.	Estelle Culligan, Interim Head of Mid-Kent Legal Partnership
Finance and other resources	There are no financial implications resulting from the recommendations in the report.	Jane Fineman, Head of Finance and Procurement
Staffing establishment	There are no staffing implications resulting from the recommendations in the report.	Nicky Carter, Head of H and Customer Services
Risk management	There are no risk issues that are raised within the report.	Nick Peeters Scrutiny & Performance Officer 13/07/17
Environment	There are no environment and sustainability issues identified in the report.	Nick Peeters Scrutiny & Performance Officer 13/07/17
Community safety	Although many of the topics looked at by the Overview and Scrutiny Committee are related to community safety, there is a low or negligible impact.	Nick Peeters Scrutiny & Performance Officer 13/07/17
Health and Safety	There are no health and safety issues identified in the report.	Nick Peeters Scrutiny & Performance Officer 13/07/17
Health and wellbeing	There are no health and wellbeing issues identified in the report.	Nick Peeters Scrutiny & Performance Officer 13/07/17
Equalities	Decision-makers are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people from different groups, and (iii) foster good	Sarah Lavallie, Equalities Officer

	<p>relations between people from different groups. The work of the Overview and Scrutiny Committee assists the Council with having due regard to the Public Sector Equality Duty. Over the last year the Committee has focused on topics which could affect people with protected characteristics. These include:</p> <ul style="list-style-type: none"> – How the Council is meeting its objectives under the Cultural Strategy which focuses on the Civic Development, including provision of a new theatre to enable more people to have an opportunity to participate in culture. – Providing support to elderly and vulnerable residents who have been subjected to cold-calling. – Supporting elderly and those with mobility issues when considering the impact of the closure of the last bank in Southborough. – Providing support to elderly and young people in villages and rural areas by looking at the impact of excessive speeding. 	
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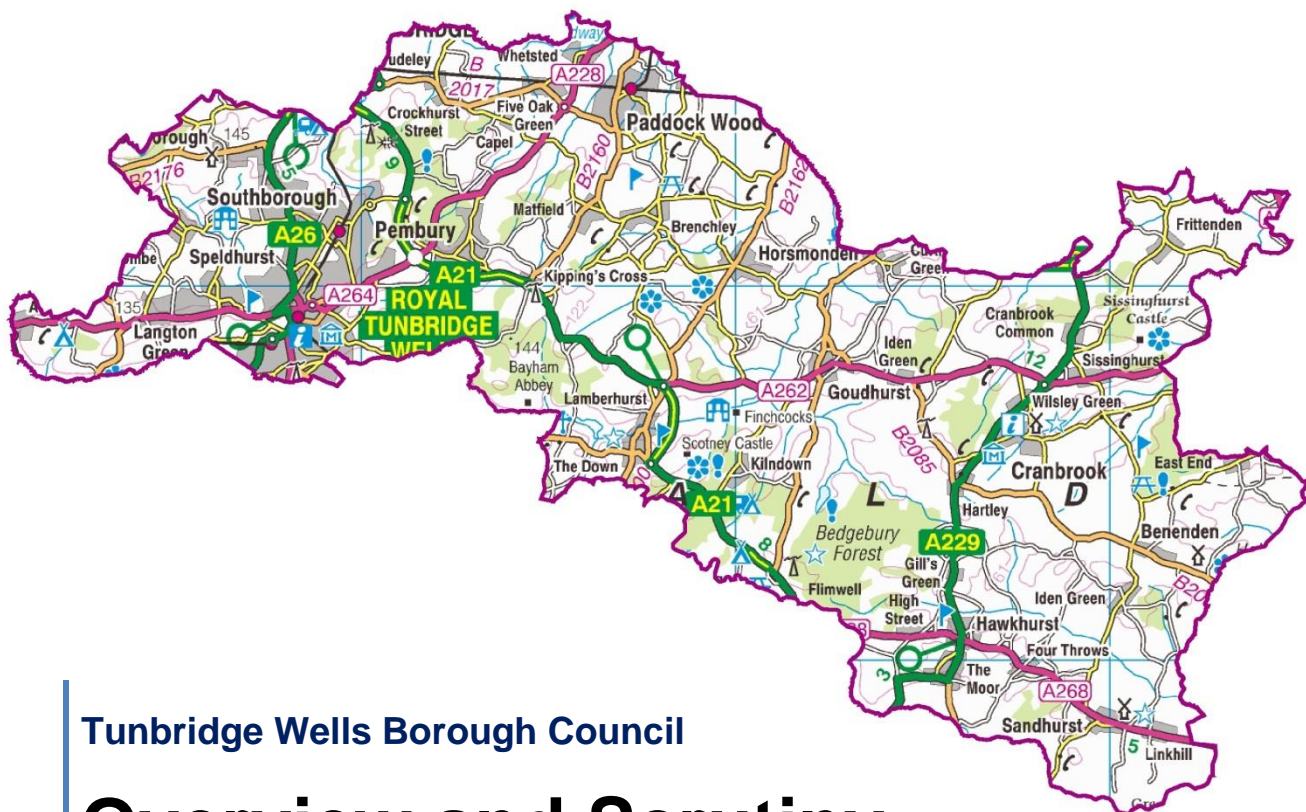
7. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Overview and Scrutiny Committee Annual Report 2016/17

8. BACKGROUND PAPERS

None



Tunbridge Wells Borough Council

Overview and Scrutiny Committee Annual Report

2016-17

DEVO NEXT



Introduction

The Centre for Public Scrutiny considers that the role of Overview and Scrutiny Committees in councils across the country is to '*understand, investigate and where necessary challenge decisions which affect ordinary people's lives*'. The government's austerity measures and the continued reduction of the Local Government Financial Settlement means that local authorities must find alternative funding streams and look at how services will be delivered in the future. The challenges that local authorities have faced over the last five to six years are set to continue and it is important that good governance is maintained in order to meet these challenges. It is equally important that Members involved in scrutiny, are able to continue influencing policy and challenging decision making within the Council and elsewhere in the borough, where the lives of residents and the services they receive are affected.

Throughout the last year the Overview and Scrutiny Committee has sought to add value to the Council's work and provide a democratic route through which members of the public can influence the Council's decision and policy making processes. In the last 12 months, the Committee has looked at a number of borough-wide issues including excessive speeds on rural roads, the Council's next recycling and household waste contract, the closure of the last bank in Southborough and the progress of the Council's civic complex development.

As part of the Committee's efforts to engage with local communities, and in response to the issue of excessive speeding on rural roads – raised by the Hawkhurst Speedwatch Group, the February 2017 Overview and Scrutiny Committee meeting was held at a venue in Hawkhurst. The meeting was attended by parish, borough and county councillors, as well as Hawkhurst residents.

Looking ahead to 2017/2018 – the Government's Devolution agenda will start to have more of an impact on the shape of local government and how local authorities operate, as will the triggering of Article 50 following the Brexit referendum. Scrutiny will have a continued role in this changing environment and the need to challenge decision making positively, as a 'critical friend'; will be part of that role.

This report seeks to highlight the work undertaken by the Overview and Scrutiny Committee in 2016-17.

Our Committee

The Overview and Scrutiny Committee exercises a specific function required by law to support local democracy. The Committee can review decisions made by the Cabinet or any other part of the Council and its committees, as well as consider any matter which affects the Council's area and its inhabitants. The Centre for Public Scrutiny notes four key principles for effective scrutiny: providing a '*constructive critical friend challenge*'; '*amplifying the voices and concerns of the public*'; work is undertaken by independent minded councillors; and the scrutiny acts as a driver for improvement.

Following the introduction of revised governance arrangements in 2012, enabling the now well established Cabinet Advisory Boards to undertake the role of 'pre-scrutiny' of Cabinet decisions, the Overview and Scrutiny Committee continues to have a part to play in the 'pre' and 'post-scrutiny' of those decisions but, in practice, there has only been one call-in since the Cabinet Advisory Board system was introduced, and in that instance, the Committee resolved that no further action on the call-in was required. The Committee continues to proactively consider issues raised by elected members, residents and local community groups

Public meetings of the Overview and Scrutiny Committee are held every two months and normally at the Town Hall in Royal Tunbridge Wells. Since the last annual report, the Committee has met six times.

At every meeting, a member of the Cabinet is invited to attend so they can personally update the committee on their portfolio area and their achievements against the Council's priorities. Additionally in 2016-2017, the Committee was provided with updates on the Council's Civic Complex Development at each of its meetings.

Guest speakers from partner agencies and external organisations addressed task and finish groups initiated by the Committee, and we have invited staff from across the Council and our shared services, to update committee members on their work programmes and discuss how best to respond to issues affecting residents in their local area.

A draft work programme was developed and agreed in August 2016 and the Committee was also given an opportunity at the end of each meeting to highlight any additional topics Members felt were important and that they wished to add to the work programme. A copy of the work programme is published as part of agenda papers, which are available on the Council's website.

Where possible the Issues raised were aligned with the attendance of Cabinet members to enable a well informed discussion to take place with the right people around the table. These question and answer sessions were particularly valuable and enabled Cabinet member to focus their updates on issues which were topical at the time of the meeting.

Meeting our statutory responsibilities

Community Safety

The Overview & Scrutiny Committee is required to act as the relevant Crime and Disorder Committee for the purposes of the Police and Justice Act 2006 and Crime and Disorder (Overview and Scrutiny) Regulations 2009, and reviews the work of the Community Safety Partnership once a year.

In April 2016 the Committee heard from the Partnership about Kent Police's continuing work in dealing with gang related criminality; the work of the Troubled Families Partnership, and how domestic abuse was dealt with in the borough. The Committee also discussed road safety and the Council's work with Twenty's Plenty and Road Safety Week. The district commander for Tunbridge Wells, Chief Inspector Dave Pate, talked about policing levels and the important role police community support officers play in local policing.

The Committee also looked at the Council's CCTV operations; and initiatives to deal with night-time drinking such as the Safe Recovery Zone scheme, and anti-social behaviour in the borough – noting that this was on a downward trend. The use of the police's non-emergency 101 number was promoted at the meeting as a means of reporting various types of criminality.

The Committee was advised that Tunbridge Wells continued to be the safest place to live in Kent.

Health

Although health is not an obvious area for a Borough Council to work in, the Overview & Scrutiny Committee does have a role to play and the Government's devolution agenda has highlighted opportunities for health care to be delivered more locally.

Through the Kent Leaders Group, representatives are appointed to Kent County Council's Health Overview & Scrutiny Committee and the West Kent Health and Wellbeing Board. The Committee has a watching brief on both groups and receives updates from the Council's representatives.

The Committee received an update from the Portfolio Holder for Communities and Wellbeing in August 2016 and noted a number of health initiatives undertaken by the Council's Healthy Lifestyles Team including the promotion of outdoor gyms, the implementation of an action plan to reduce health inequalities and agreeing a budget to deliver public health improvement initiatives.

Budget and policy framework

The Committee plays a role in assisting with the development of the Council's budget and policy framework. In November 2016, Members had an opportunity to look at the Council's refreshed Corporate Priorities and the Draft Budget for 2017/18. Members were able to discuss the potential impact of devolution on the services the Council would provide in the future and how those services would be managed financially. The Committee also discussed the enabling of community groups to provide local amenities and the progress of one of the Council's key priorities - the Local Plan

Portfolio Holder Plans and Progress

Tunbridge Wells Borough Council's Cabinet is made up of six executive elected members, with each member having responsibility for specific functions of the Council. Each Cabinet member attends at least one Overview and Scrutiny Committee meeting a year which enables committee members and the public to learn more about their work and find out what progress is being made towards the Council's priorities.

The meetings are an opportunity for the public to directly question or challenge a Cabinet member, as is also possible at Cabinet and at Full Council. These updates have continued to prove successful in the last year with committee members increasing their understanding and Cabinet members better appreciating the thoughts and concerns of elected members as well as those of their residents.

Civic Complex Development

In 2015 the Council embarked on an ambitious programme including the provision of new council offices and a new theatre. In 2016/17, the members of the Overview and Scrutiny Committee were keen to provide input into the development of the project and it was agreed that an update would be provided at each of the Committee's meetings. Each update provided an overview of the development and discussion focussed on those elements of the project that were relevant to each of the Portfolio Holders who attended throughout the year, although the Leader of the Council was normally also present and could answer any more general questions about the project and its progress to date.

The Committee is keen to retain a focus on the project and looks forward to receiving further updates as the development progresses throughout 2017/18.

Member-led reviews

Tackling Excessive Speeds in Rural Areas

In June 2016 Hawkhurst Speedwatch contacted the Overview and Scrutiny Committee to highlight the problems the village was experiencing with speeding motorists. Hawkhurst Speedwatch and representatives from other Speedwatch groups in the borough addressed the committee at its August 2016 meeting. Members agreed to appoint a Task and Finish Group comprising Councillors Tom Dawlings, Bill Hills (Chair), Thelma Huggett and Bev Palmer to look further at the issue.

The Task and Finish Group met on two occasions and were provided with testimonies from Kent Police and Kent Speedwatch representatives. Additionally, two of the Group's members – Councillors Hills and Huggett visited members of Hawkhurst Speedwatch during one of their observation sessions and saw, first-hand, the difficulties being faced in and around the village.

The Task and Finish Group presented an interim report to the Overview and Scrutiny Committee in February this year with a number of recommendations including a request to the Kent and Medway Police and Crime Commissioner, to commission a joint county-wide review by the KCC Road Safety Team and the Kent and Medway Safety Camera Partnership of the resources devoted to road speed management. The Group also asked the Commissioner to consider whether, within the existing resources overall, any changes in practice, policies or priorities could lead to more effective outcomes.

The Group decided there was some more work to be done on the issue and will provide a final report to Members at the Committee's April 2017 meeting.

Hydrocarbon Fracturing Policy Position Statement Task and Finish Group

Although much of the work by the Task and Finish Group was done throughout the previous year, in June 2016 the Committee was presented with a final report on hydrocarbon fracturing and how the Council would respond to applications as a statutory consultee. The Cabinet requested that Overview and Scrutiny include the subject in its work programme and the Task and Finish Group undertook considerable research into the issue including witness testimony from industry experts and other stakeholders, and a site visit to a (conventional) operational well to see the environmental impact of a drilling pad.

In August 2016 a report was provided to the Cabinet with the findings of the Task and Finish Group including a suggested policy position statement.

Recycling/Household Waste Contract Task and Finish Group

A key topic highlighted when the Committee discussed its 2016/17 work programme was the renewal in 2018 of the Council's Recycling and Household Waste Collection Contract. Members felt this was an area where scrutiny could provide a valuable insight into what residents and communities across the borough might want from the service in the future.

Councillors Chapelard, Dawlings (Chair), Hill and Rankin were appointed to the Group and met on four occasions. The Group talked to a number of stakeholders including representatives from Kent Resource Partnership, Biffa (providers of the current Household Waste Collection Contract) and Maidstone Borough Council's Waste and Environment Service.

The Task and Finish Group looked at the Council's current role as the waste collection authority and how the service meets the requirements of Kent County Council as the waste disposal authority. The Group also looked at how the service could be shaped to meet future challenges such as recycling rates and the need to reduce landfill. There was strong support amongst the members for the kerbside collection of glass.

The Group discussed the Council's Civic Amenity Vehicle Service and were updated on the outcomes of recent changes to the Service.

The final report of the Task and Finish Group was considered by the Overview and Scrutiny Committee on 13 February 2017 and the recommendations were endorsed. The report and recommendations will be presented to the Cabinet on 13 April.

And what else have we learnt...

In addition to the more detailed reviews that have taken place, the Overview and Scrutiny Committee have heard about a range of topics involving the Council and its partner agencies.

Community Safety

The Committee was contacted by the Chairman of Bidborough Parish Council regarding problems residents in the parish had experienced with cold-callers. The Committee was advised that a number of the cold-callers had been abusive - causing the residents to feel intimidated. The Committee was advised by the Council's Community Safety Manager that, both the Community Safety and Licensing teams were aware of these types of incidents and were looking at a number of solutions, including use of the Police's non-emergency 101 number to report incidents. The Community Safety Manager advised that the Community Safety Unit would be distributing 'no cold-calling' stickers to local communities and encouraging the promotion of 'no cold-call' zones by Parish Councils or through local Neighbourhood Watch Schemes.

Local Facilities

In June 2016 Committee member Councillor Uddin used the Committee's 'Councillor Call for Action' procedure to request that the Committee look at the imminent closure of a Lloyds Bank branch in Southborough. This issue was highlighted to Councillor Uddin by Southborough residents who were concerned that the branch represented the last bank in Southborough and that its closure constituted the loss of a local amenity and it would have an adverse impact on the local community. At the June meeting Members discussed the issue and agreed that a letter should be sent by the Committee, to the directors of Lloyds Bank, requesting that they reconsider the decision to close the branch. Greg Clark MP also wrote to Lloyds Bank. Regretfully, the above still went ahead.

Road Conditions

In August 2016, Members looked at a report which highlighted the poor condition of some of the roads in the Borough, the number of potholes, and the programme of repairs being undertaken to resolve the problem. Members noted that, as the Highways Authority, Kent County Council (KCC) was prioritising its repairs across the county, although with funding decreasing. The Committee also noted that road repair schedules were regularly provided to the Council's Joint Transportation Board and members of that Board, and any other councillors who attended its meetings, were able to highlight particular areas of concern.

Complaints

In October 2016, the Committee was provided with an annual review of the Council's Corporate Complaints Policy and given the opportunity to look further at the types of complaints received by the Council. Members felt the large number of complaints reflected the fact that residents were able to resolve many issues without needing to make an official complaint.

Looking ahead

Each year the Committee produces a work programme that lists those topics Members have chosen to look at, as well as those items which the Committee has a constitutional or statutory requirement to consider.

The Committee is keen to inform the 2017/18 work programme and hear from councillors at all levels, from residents and community groups - to understand what matters most to people in their local areas, what is working well and what their concerns are. Although the committee will be meeting in June to plan for the municipal year ahead, it reviews the work programme at every meeting. There is always an opportunity to raise concerns, either through borough, parish or county councillors, or through a member of the Overview and Scrutiny Committee, or directly with the Council. The Council's website has an online form on the Overview and Scrutiny Committee page allowing anyone concerned about a local issue to suggest it is added to the Committee's work programme. Alternatively anyone may email scrutiny@tunbridgewells.gov.uk. Views submitted may well be discussed at the next Overview and Scrutiny committee meeting and if taken forward could bring about a beneficial change to communities.

Copies of agenda papers and minutes can be found on the Council website at:
<http://democracy.tunbridgewells.gov.uk/ieListMeetings.aspx?Committeeld=359>

Final Words from the Chair

I would like to thank the Committee members, supporting officers, colleagues from partner organisations and members of the public who have attended Overview and Scrutiny Committee meetings over the last year.

Overview and Scrutiny Committee members 2015-16:

Councillors Catherine Rankin (Chair), Bill Hills (Vice Chair), Ben Chapelard, Tom Dawlings, Nathan Gray, James Hannam, Bill Hills, Thelma Huggett, Dianne Hill, Bev Palmer, Joe Simmons, Zulhash Uddin and Chris Woodward.

Supporting officers: Jane Clarke and Nick Peeters

Full Council

26 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Civic Development Petition

Final Decision-Maker	Full Council
Portfolio Holder(s)	Councillor David Jukes – Leader of the Council
Lead Director	Lee Colyer – Director of Finance, Policy and Development
Head of Service	Jane Clarke – Head of Policy and Governance
Lead Officer/Author	Mark O’Callaghan – Democratic Services Officer
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

That the petition be considered and resolved accordingly.

This report relates to the following Five Year Plan Key Objectives:

- A Confident Borough

The Council welcomes petitions and recognises that they are one way in which people can let us know their concerns. A healthy democracy builds confidence, trust and satisfaction.

Timetable

<i>Meeting</i>	<i>Date</i>
Council	26 July 2017

Tunbridge Wells Committee Report, version: April 2017

Civic Development Petition

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 A petition has been received. Whilst the petition was conducted outside of the Council's e-petition platform available on its website, the Council has accepted the petition in good faith and agreed to consider it under the terms of its published scheme. The petition was signed by more than 1,000 people and will therefore be discussed at a meeting of Full Council.
 - 1.2 This report sets out the terms of the petition, the procedure for dealing with petitions at Full Council and some background information on the issues raised by the petition.
 - 1.3 Members are asked to debate the issues and determine a response.
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2. INTRODUCTION AND BACKGROUND

The petition

- 2.1 The petition was hosted on the change.org website and a paper version was distributed by hand in and around Tunbridge Wells town centre. The two versions and different text therefore we will use the online version which had the greatest number of signatures.
- 2.2 The petition states:

"Save Tunbridge Wells from the council's £70m civic complex before it's too late.

Tunbridge Wells Borough Council proposes to build a new theatre and council offices in and around Calverley Grounds. The plan will cost £70m+, leave the existing civic complex empty and will spoil a historic park.

The council's plans are ill-conceived and expose the town to huge risks:

- 1) The new development will built in and around Calverley Grounds with considerable potential for overshadowing park users.
- 2) Cost of £2.5m+ pa to service the debt and £500k pa theatre subsidy for an already cash-strapped council - are you prepared to pay increased council tax or cut local services to fund new council offices/theatre?
- 3) Result in the loss of the Great Hall and Mount Pleasant Avenue car parks with 300 spaces for the many years of construction - local businesses have expressed significant concern.

- 4) No parties have signed up to occupy the existing council offices and Assembly Hall, risking a second derelict site in the centre of town.

Please sign this petition to force the council to consider again the alternatives. The council's own consultants put forward a plan that would provide a similar-sized theatre on the current Assembly Hall site. This would deliver all the benefits of the proposed theatre, but at a fraction of the cost (£10m for a complete renovation and £25m for something similar to that proposed for Calverley Grounds). It would also preserve precious car parking in the centre of town, link the theatre with the new cultural hub to create an exciting cultural quarter and remove the risk of creating a second "old cinema site".

Reworking and renovating the existing civic buildings would be far greater value for money than the current proposal with significantly less disruption. Sign this petition to force the council to drop its current plans and save Tunbridge Wells."

- 2.3 A copy of the front sheet of the petition is attached at appendix A. A copy of the paper version is attached at appendix B.
- 2.4 As the online version was available worldwide through change.org we have omitted any signatures of people with an address outside the United Kingdom. We also omitted two signatures of people with an address outside the United Kingdom from the paper version.
- 2.5 At the time the petition was submitted, the online version was electronically signed by 1,746 people and the paper version was signed by 272 people. 2 signatures were discounted as duplicates therefore a total of 2,016 are acknowledged as having validly signed this petition.
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- 2.7 The petition organiser(s) have up to 10 minutes to address the Council and set out their argument.
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- 4.1 This report and its appendices sets out the issues and options to be considered but do not make a recommendation.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The petition organiser will be informed in writing of the decision taken by Full Council. The decision will also be published on the Council's website.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The report is procedural and not subject to consultation.
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7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	The Council's published Petition Scheme and the Constitution (Council Procedure Rule 9) set out how a petition will be dealt with. This report is in accordance with the scheme.	Estelle Culligan, Interim Head of the Mid Kent Legal Partnership 14 July 2017

Finance and other resources	This report is procedural. There are no specific implications arising from this report. However, it is noted that any proposed actions in response to the petition may have their own implications. If the Council intended to take any such actions the decision would be subject to a separate report.	Mark O'Callaghan, Democratic Services Officer 11 June 2017
Staffing establishment		
Risk management		
Environment and sustainability		
Community safety		
Health and Safety		
Health and wellbeing		
Equalities		

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: Front sheet of the online version of the petition
- Appendix B: Front sheet of the paper version of the petition
- Appendix C: Response to the petition

9. BACKGROUND PAPERS

Tunbridge Wells Borough Council Constitution:

<http://www.tunbridgewells.gov.uk/council/councillors-and-meetings/how-the-council-works/council-constitution>

Tunbridge Wells Borough Council Petition Scheme:

<http://democracy.tunbridgewells.gov.uk/meetings/ecSDDisplay.aspx?NAME=SD973&ID=973&RPID=377178>

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Petitioning Chief Executive - TWBC William Benson and 1 other

Save Tunbridge Wells from the council's £70m civic complex before it's too late



Tunbridge Wells Borough Council proposes to build a new theatre and council offices in and around Calverley Grounds. The plan will cost £70m+, leave the existing civic complex empty and will spoil a historic park.

The council's plans (available here <http://www.tunbridgewells.gov.uk/business/enterprise-and-regeneration/regeneration/civic-complex-development>) are ill-conceived and expose the town to huge risks:

- 1) The new development will ***built in and around*** Calverley Grounds with considerable potential for ***overshadowing*** park users.
- 2) Cost of **£2.5m+** pa to service the debt and **£500k** pa theatre subsidy for an already cash-strapped council - are you prepared to pay ***increased council tax*** or ***cut local services*** to fund new council offices/theatre?
- 3) Result in the loss of the Great Hall and Mount Pleasant Avenue car parks with 300 spaces for the ***many years*** of construction - local businesses have expressed significant concern.
- 4) No parties have signed up to occupy the existing council offices and Assembly Hall, risking a second ***derelict site*** in the centre of town.

Sign this petition

First name

Last name

Email

United Kingdom

ME14

I'm signing because: (optional)

☐ Share with Facebook friends

Sign

☒ Keep me updated on this campaign and others from Save Our Park

☒ Display my name and comment on this petition

By signing, you accept Change.org's [Terms of Service](#) and [Privacy Policy](#) and agree to receive occasional emails about campaigns on Change.org. You can unsubscribe at any time.

Please sign this petition to force the council to consider again the alternatives. The council's own consultants put forward a plan that would provide a similar-sized theatre on the current Assembly Hall site. This would deliver all the benefits of the proposed theatre, but at a fraction of the cost (£10m for a complete renovation and £25m for something similar to that proposed for Calverley Grounds). It would also preserve precious car parking in the centre of town, link the theatre with the new cultural hub to create an exciting cultural quarter and remove the risk of creating a second "old cinema site".

Reworking and renovating the existing civic buildings would be far **greater value for money** than the current proposal with **significantly less disruption**. Sign this petition to force the council to drop its current plans and save Tunbridge Wells.

Find us on [Twitter](#) and [Facebook](#) for more information.

This petition will be delivered to:

Chief Executive - TWBC
William Benson

Council Leader - TWBC
David Jukes

Save Our Park!

We the undersigned petition Tunbridge Wells Borough Council to stop the proposed development of a new theatre and offices in Calverley Grounds and to consider again the redevelopment of the existing Town Hall and Assembly Hall

Name	Address	Email	Signature



Save Calverley Grounds



@SaveCalverley #SaveOurPark!



Name	Address	Email	Signature

 Save Calverley Grounds

 @SaveCalverley #SaveOurPark!

Response to the Petition

Full Council on 22 February 2017 agreed to continue with Stage 3 of the Civic Development to ensure it had an informed position before taking a decision on whether to proceed or not. The timetable for returning to Full Council for a decision with this information was outlined.

The Council has from the outset undertaken a staged process with decisions by Cabinet/Full Council to progress with expenditure and investigation at each stage. We have been operating along the RIBA (Royal British Institute of Architects) Plan of Work. It has been made clear from the outset that any work completed prior to a formal decision to proceed is at risk.

The current programme will see the completion of developed design by the middle of August with draft reports being submitted, with all associated information by the beginning of September, in advance of the Council being able to consider all the factual information to take an informed decision on whether to proceed in December 2017 at Full Council. A number of detailed elements have been brought forward in the programme from later stages at the Council's expense to address the concerns of stakeholders.

Calverley Grounds

The Council has identified the Mount Pleasant Avenue Car Park and Great Hall Car Park fronting Calverley Grounds as the preferred location for the development of a new Civic Centre and Theatre which would release the current Town Hall and Assembly Hall Theatre sites for a future redevelopment. The proposal has the opportunity to heal the western edge of Calverley Grounds and create a new public space between the buildings establishing an improved entrance from the heart of the Town Centre into Calverley Grounds. There will be encroachment into the grounds but once built this is equivalent to less than 2% (993sqm) of the total size (46,133sqm) of Calverley Grounds. An area at the entrance which is currently the access to the Great Hall Car Park (530sqm) will become part of the new open space and entrance to the Grounds. The inclusion of this area would bring the loss of public space to less than 1%. This is shown in Appendix Two.

There will be disruption and an impact on Calverley Grounds during construction. However this is temporary with a longer term landscaping plan for the areas affected, replacing poor quality and predominately self-sown trees. The details of this are being prepared together with a longer term vision for Calverley Grounds. The Council would like to work with the Friends of Calverley Ground on this vision.

Building on the edge of Calverley Grounds will introduce a building line that is not currently there replacing the existing trees. While the design is being carefully considered the new buildings will increase the level of overshadowing. Information on the current level of overshadowing contrasting with the potential overshadowing by the new buildings is being prepared for pre-planning discussions and for wider stakeholder engagement in the next few weeks. It is however expected that there will be an increased area of overshadowing.

Building on the current site

Building a new theatre on the current Civic Complex site has been examined. In the report Assembly Hall Theatre Update to Cabinet in October 2014 there is reference to the Stephen Browning Associates report. The consultants were asked to identify if an auditorium of 1,200 seats could be delivered on the current Assembly Hall Theatre site. This did not address fundamental issues with the capacity of the public areas, the height of the fly tower, wing space, access to the building for shows and the lack of changing facilities. In short the main limitations in not being able to attract leading shows would remain. The cost quoted is based on assumptions in 2013. A summary of the Stephen Browning Associates report was included as appendix b on the Assembly Hall Theatre Update report (Item 6) on the 30 October 2014 Cabinet papers. The report noted that:

SBA notes that it would need to be considered whether there was sufficient space for audience access and fire exits from either side and noted it may be necessary to break through the current footprint of the building to achieve the necessary scale.

We have updated these figures for this limited approach to 2017 with the potential cost of this being estimated as £31m.

While the original mandate was to look at a theatre on or adjacent to the Civic Complex, or on land owned by the Council a key requisite was continuity of theatre use. Initial options considered did look at the implications of the theatre being reprovided on the current Civic Complex. In addition the provision of a 1,200 seat theatre with the required facilities to attract leading shows. The footprint of the proposed new theatre gives an indication on the impact on the listed Civic Complex, impacting on the AHT, Town Hall and Police Station. There are issues with compromising the other buildings on site from both a commercial and an historic listed basis. While the theatre would be closed for approximately three years with additional impact on the Town Hall during this period.

The footprint of a 1,200 seat theatre addressing the back of stage and technical areas space requirements, the public space including foyer and bars superimposed on the current Civic Complex is attached at Appendix Three.

The opportunity to attract leading shows in the current venue is highlighted in this response from UK Productions who were approached regarding the forthcoming Legally Blonde tour:

“I just wanted to confirm our reasons for not including the Assembly Hall Theatre on the UK tour we are producing.

As you know we are very aware of your space and the technical limitations therein. Whilst we would love to bring the show to Tunbridge Wells we would have to compromise the physical production too much to get it on stage. There are several elements in the design of the show that simply wouldn't make it on to the stage due to lack of wing space and a useable dock area.

I know that there are ongoing discussions to build a new theatre for Tunbridge Wells and as a touring producer I can assure you that were this to go ahead

there would be no shortage of number one productions queuing up to be a part of your programme. The market in your area is absolutely right for large scale shows and deserves a theatre capable of fulfilling this potential, and showing them off as they were designed to be seen."

In our wider planning for the new theatre other production companies have also expressed their support for the market offer that Tunbridge Wells would be able to support. Selladoor Worldwide highlighted:

"We've thoroughly enjoyed developing a strong relationship with the Assembly Halls, and developing daring, dynamic and diverse shows with them. The team at Tunbridge Wells has the audience at their heart, and is interested in making the building a home for all patrons – with a strong programming ethos and friendly staff base. We look forward to continuing to work with a building with such strong ambition. I think the new theatre will regenerate the area and continue to build Tunbridge Wells as a destination town for A-quality shows that the AHT cannot currently host."

As part of the Stage 3 process, a business plan for the theatre is being produced.

Leaving the Civic Complex empty

A key component of the investigation of the delivery of a new Civic Centre and theatre is how the current Civic Complex site is brought to market in the future. The Council despite its best endeavours has never had the legal ownership of the cinema site to influence the assessment of a new owners ability to deliver. It does however own and control the Civic Complex. The Council has already carried out two stages of soft-market testing to investigate the offer, its attractiveness to the market and the steps needed to bring this to the market. This has demonstrated that the site is attractive to potential developers, but that a sale up to five years before being available is not a realistic proposition. Disposal to the market needs to take place approximately two years before we exit the site. The consultancy team have been looking at the legal approaches that would allow the Council to retain control over development on our site to ensure delivery.

Less Disruption and Greater Value on the Civic Complex

There is no financial assessment provided by the petitioner to confirm the greater value for money that they believe will be received. The current Town Hall has a value of £4m. The refurbishment for modern purposes at 2017 prices would cost approximately £13m and the building on the asset register would still have a value of £4m. Yet a new office development will provide the Council with an ongoing income stream and be an appreciating asset.

Redevelopment of part of the town or elsewhere in the borough will have some form of disruption to someone or something. Through the construction plans being considered and through the planning process disruption will be minimised as much as possible as it is for any development. The proposal in the petition is that a redevelopment on the Civic Complex would result in less disruption in the Town Centre. On one level with disruption only on the Civic Complex site this could be correct however other elements of disruption would be closure of the Theatre for at least three years with the short to medium term loss to the local economy, loss of cultural market share and theatre staff being made redundant. In addition the current

Town Hall would be both compromised as a future opportunity and would need to be vacated while it was rebuilt. Suitable office space in the Borough would be required with associated costs for this period and a double decant.

Servicing the Debt

The Full Council decision on the 16 July 2016 requested that the s151 officer in consultation with the Portfolio Holder for Finance and Governance, bring back to a future meeting options to address the revenue implications for funding the capital cost, when or before, the capital request is being considered.

This remains the position and a fully costed and independently audited plan will be provided to Full Council to enable an informed decision to be made with the Stage 3 information on the Civic Development.

The Council has already confirmed publically that there will be no additional increase in Council Tax to pay for the Civic Development project.

The Council has also confirmed publically that the proposed initial increase in subsidy, part of the Council's wider business planning for a new theatre, is included in the total cost. Incorrectly the petitioner has stated that the subsidy to the theatre is an additional cost. Councillors have already had confidential briefings on the funding of the capital cost within which it has been made clear that any subsidy to the theatre is included in the overall cost.

20,000sqft of new office space will be brought to the market, helping to replace office space in the town centre currently being lost to permitted developments. This element will pay for itself in 25 years bringing longer term income stream to the Council. The underground car park will also pay for itself within 50 years. While the theatre will not directly pay for itself, it is an investment in the cultural and economic future of Tunbridge Wells over the next 50 to 100 years. The benefit to the local economy is estimated between £14m - £18m per annum (Bonnar Keenlyside). The increased benefits of a new theatre have been demonstrated elsewhere such as Canterbury.

Loss of Car Parking

The reprovion of car parking is a fundamental element of the scheme. The Council is proposing to build a new 250 space car park under an area of Calverley Grounds which will provide spaces to a higher standard and size than those currently in the Great Hall car park and Mount Pleasant Avenue car park. An additional 100 spaces are also to be created with the expansion of Crescent Road car park. During the construction period there would be a reduction in car parking spaces in the Town Centre, however there is sufficient capacity in the Town Centre car parks to accommodate the temporary loss of car parking. Analysis of current use of car parking in Tunbridge Wells highlights that the overall average occupancy of the town centre car parks on a weekday is 71%.

The petitioner refers to concerns raised by local businesses about loss of car parking, however we have not directly received any comments from local businesses regarding this, but would be happy to discuss this with any businesses that are concerned about this aspect.

Appendix One

Engagement

Set out below is a list of the meetings in the public domain including Cabinet Advisory Boards, Cabinet and Full Council where papers and minutes are available.

The Mandate to investigate:

7 October 2014 Finance and Governance CAB **Item 6 - Assembly Hall Theatre (AHT) Update**

30 October 2014 Cabinet **Item 8 - Assembly Hall Theatre (AHT) Update**

Progression to Stage 1

As a potential office tenant had been identified and with a very specific timetable a report on progressing with the potential office element was considered prior to the full report and wider agreement.

5 October 2015 Planning and Transport CAB **Item 7 – Mount Pleasant Avenue – Office Accommodation**

6 October 2015 Finance and Governance CAB **Item 8 – Mount Pleasant Avenue – Office Accommodation**

29 October 2015 Cabinet **Item 8 – Mount Pleasant Avenue – Office Accommodation**

The report on the Assembly Hall Mandate followed to Full Council in December 2015 again progressing through Finance & Governance CAB and Cabinet.

10 November 2015 Finance and Governance CAB **Item 11 - Assembly Hall Theatre Mandate and Next Steps**

3 December 2015 Cabinet **Item 13 - Assembly Hall Theatre Mandate and Next Steps**

9 December 2015 Full Council **Item 8 - Assembly Hall Theatre Mandate and Next Steps**

Progression to Stage 2

The report for approval to progress into Stage 2 and 3 was taken at Full Council on 20 July 2016.

7 June 2016 Finance and Governance CAB **Item 11 - Civic Complex Review of Stage 1 and Next Steps**

22 June 2016 Cabinet **Item 11 - Civic Complex Review of Stage 1 and Next Steps**

20 July 2016 Full Council **Item 8 - Civic Complex Review of Stage 1 and Next Steps**

Progression to Stage 3

Progression to Stage 3 had in the decisions of the 20 July 2016 been delegated to the Leader, Finance & Governance Portfolio Holder, Director of Planning & Development and s151 officer. However a decision by Cabinet was that a Full Council decision to progress would be undertaken. This was considered at Full Council on 22 February 2017.

22 February 2017 Full Council **Item 14 Civic Development – Delivery of Stage 3**

Other committees that, in public, have discussed the proposal are:

Audit & Governance Committee

The review of the Strategic Risk Register – Risk 10 Development Programme was considered on the Audit & Governance Committee on 5 December 2016. The Civic Development was a main part of the discussion related to the programme.

5 December 2016 Audit & Governance Committee **Item 6A – Strategic Risk Report**

Overview & Scrutiny Committee

In addition the Civic Development has been a regular item on the Overview & Scrutiny Committee agenda.

20 June 2016 Overview & Scrutiny Committee **Item 7 - Civic Complex Development**

15 August 2016 Overview & Scrutiny Committee **Item 8 - Civic Complex Development**

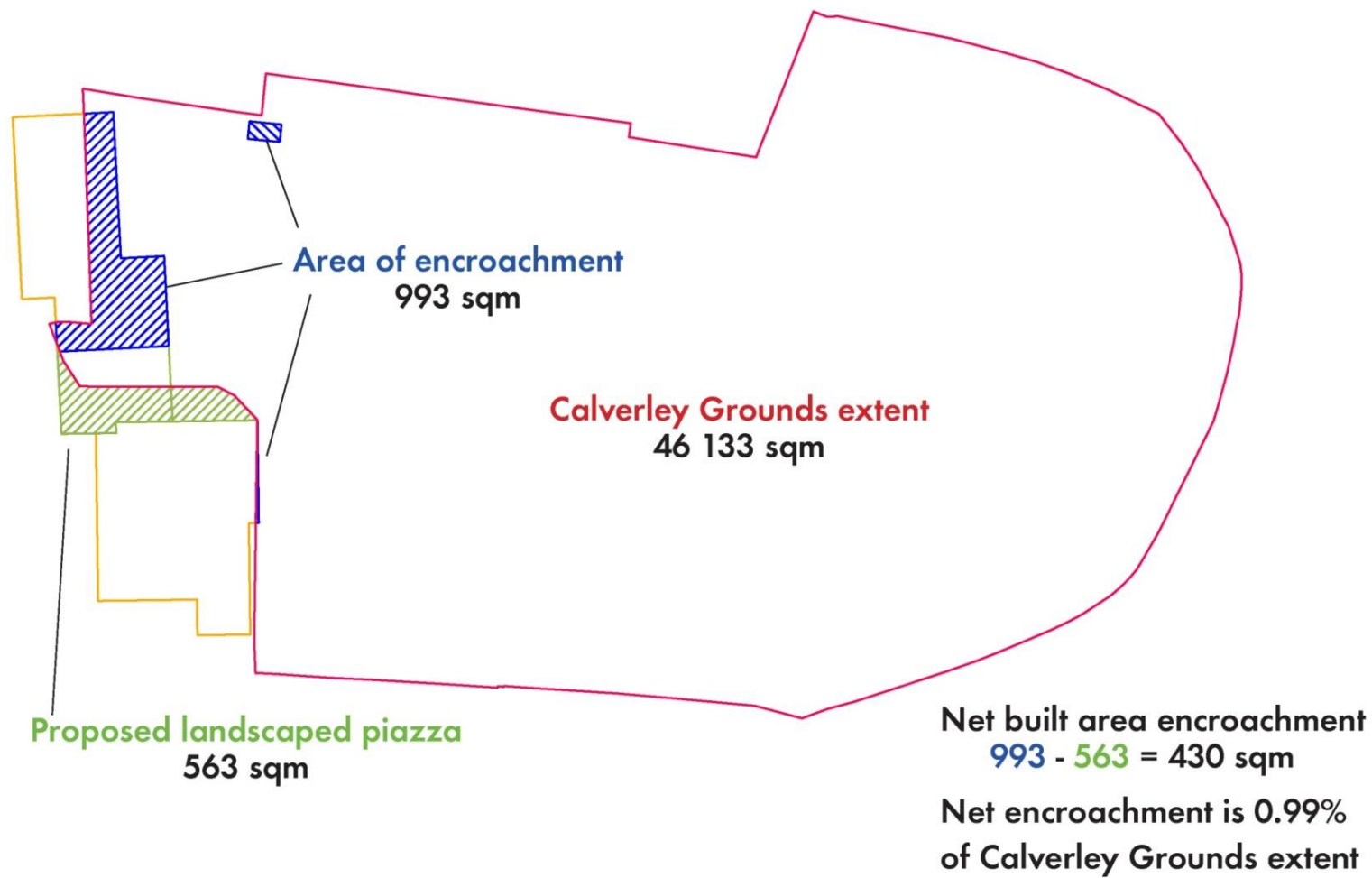
31 October 2016 Overview & Scrutiny Committee **Item 8 - Civic Complex Development**

28 November 2016 Overview & Scrutiny Committee **Item 7 - Civic Complex Development**

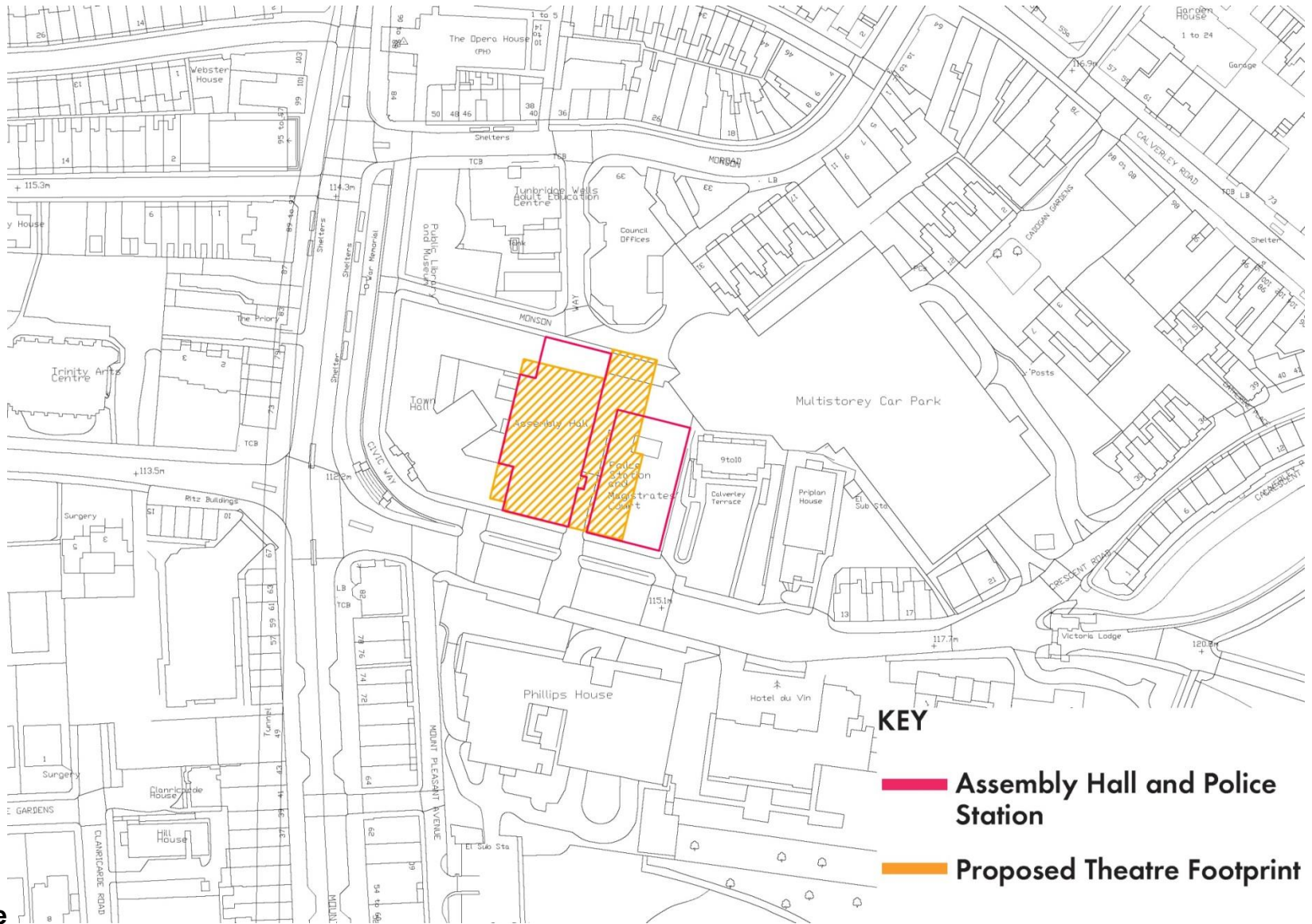
13 February 2017 Overview & Scrutiny Committee **Item 7 - Civic Complex Development**

10 April 2017 Overview & Scrutiny Committee **Item 7 - Civic Complex Development**

12 June 2017 Overview & Scrutiny Committee **Item 8 - Civic Complex Development**



Appendix Three



Full Council

26 July 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Planning Decisions and Policy Petition

Final Decision-Maker	Full Council
Portfolio Holder(s)	Councillor Alan McDermott – Portfolio Holder for Planning and Transportation
Lead Director	Lee Colyer – Director of Finance, Policy and Development
Head of Service	Jane Clarke – Head of Policy and Governance
Lead Officer/Author	Mark O’Callaghan – Democratic Services Officer
Classification	Non-exempt
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Tunbridge Wells Committee Report, version: April 2017

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"Sign to stop ill-considered planning and development in Royal Tunbridge Wells.

Tunbridge Wells Borough Council is allowing developers to fill our town with inappropriately large-scale property developments, with second rate architecture and little to no parking. Our planners and councillors are not listening to experts so it is time for the community to be heard. They do not have the will or skill to shape developers applications. They also do not have a firm plan this town.

- 43 units planned for Good Station Road (near Fenwicks) with not enough parking.
- 112 flats are planned at Calverley House in the town centre with not one parking space.
- 110 room Premier Inn hotel on London Road, with only 20 parking spaces, approved for London Road, despite the Transport Manager saying the town won't cope..
- 110 apartments on the old cinema site.
- 127 flats at Union House at the Pantiles.
- 20,000+ sq ft soon to be converted to flats at Vale House, off London Road.

- 48 flats and no parking at 7-9 Lonsdale Gardens.
- ...and many more.

The impact is significant. Our roads, on street parking bays and car parks cannot take the extra pressure. And air quality is suffering from the pollution. Development is being permitted with very little consideration to whether the infrastructure can cope.

Although some developments are replacing bland 1960's architecture, our planners and conservation officers are allowing poor and obtrusive architecture to replace it. There is an opportunity to put right the wrong, but TWBC are simply making bad, worse. Where has the pride in our towns architecture gone?

More and more office buildings are being converted to residential blocks. There is little office space left in the town. Where will people work? They will drive out, on our already congested roads, to their office job elsewhere.

Progress is good, but we deserve much better. Sign this petition and demand Tunbridge Wells Borough Council listen and develop a strategy for quality development. Having a list of objectives for the town is not enough, we need a Master Strategic Plan. And in the meantime stop saying 'yes' to large. Obtrusive developments that are not sympathetic to the town, and have major impact on the towns infrastructure."

- 2.3 A copy of the front sheet of the petition is attached at appendix A. A copy of the paper version and a covering letter from the petition organiser are attached at appendix B and C respectively.
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Finance and other resources	This report is procedural. There are no specific implications arising from this report. However, it is noted that any proposed actions in response to the petition may have their own implications. If the Council intended to take any such actions the decision may be subject to a separate report.	Mark O'Callaghan, Democratic Services Officer 11 June 2017
Staffing establishment		
Risk management		
Environment and sustainability		
Community safety		
Health and Safety		
Health and wellbeing		
Equalities		

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: Front sheet of the online version of the petition
- Appendix B: Front sheet of the paper version of the petition
- Appendix C: Petition covering letter
- Appendix D: Response to the petition

9. BACKGROUND PAPERS

Tunbridge Wells Borough Council Constitution:

<http://www.tunbridgewells.gov.uk/council/councillors-and-meetings/how-the-council-works/council-constitution>

Tunbridge Wells Borough Council Petition Scheme:

<http://democracy.tunbridgewells.gov.uk/meetings/ecSDDisplay.aspx?NAME=SD973&ID=973&RPID=377178>

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Petitioning [Chief Executive and Director of Planning and Development, Tunbridge Wells Borough Council William Benson and Jonathan MacDonald](#)

Sign to stop ill-considered planning and development in Royal Tunbridge Wells

 [sara wootton](#) tunbridge wells, United Kingdom



Tunbridge Wells Borough Council is allowing developers to fill our town with inappropriately large-scale property developments, with second rate architecture and little to no parking. Our planners and councillors are not listening to experts so it's time for the community to be heard. They do not have the will or skill to shape developers applications. They also do not have a plan this town.

- 43 units planned for Good Station Road (near Fenwicks) with not enough parking.
- 112 flats are planned at Calverley House in the town centre with not one parking space.
- 110 room Premier Inn hotel, with only 20 parking spaces, approved for London Road, despite the Transport Manager saying the town won't cope.
- 110 apartments on the old cinema site.
- 127 flats at Union House at the Pantiles.
- 20,000+ sq ft soon to be converted to flats at Vale House, off London Road.
- 48 flats and no parking at 7-9 Londsedale Gardens.
- ...and many more.

Sign this petition

Last name


Email

United Kingdom



ME14

I'm signing because... (optional)

☐  Share with Facebook friends

Sign

☒ Display my name and comment on this petition

By signing, you accept Change.org's [Terms of Service](#) and [Privacy Policy](#), and agree to receive occasional emails about campaigns on Change.org. You can unsubscribe at any time.

The impact is significant. Our roads, on street parking bays and car parks cannot take the extra pressure. And air quality is suffering from the pollution. Development is being permitted with very little consideration to whether the infrastructure can cope.

Although some developments are replacing bland 1960's architecture, our planners and conservation officers are allowing poor and obtrusive architecture to replace it. There is an opportunity to put right the wrong, but TWBC are simply making bad, worse. Where has the pride in our towns architecture gone?

More and more office buildings are being converted to residential blocks. There is little office space left in the town. Where will people work? They will drive out, on our already congested roads, to their office job elsewhere.

Progress is good, but we deserve much better. Sign this petition and demand Tunbridge Wells Borough Council listen and develop a strategy for quality development. Having a list of objectives for the town is not enough, we need a Master Strategic Plan. And in the meantime stop saying 'yes' to large, obtrusive developments that are not sympathetic to the town, and have major impact on the towns infrastructure.

This petition will be delivered to:

Chief Executive and Director of Planning and Development, Tunbridge Wells Borough Council
William Benson and Jonathan MacDonald



Tunbridge Wells Borough Council is allowing developers to fill our town with inappropriately large-scale property developments, with second rate architecture and little to no parking. Road, parking and general infrastructure cannot take it.

- 112 flat, Calverley House, not one parking space.
- 110 room Premier Inn hotel on London Road, 17 car parking spaces.
- 110 apartments, old cinema site.
- 127 flats at Union House, Pantiles.
- 20,000+ sq ft in Vale House, off London Road soon to be flats.
- 48 flats and no parking at 7-9 Londsedale Gardens.

We the undersigned demand that Tunbridge Wells Borough Council apply some joined up thinking and develop a strategy for quality development. Stop saying 'yes' to large, obtrusive developments that are not sympathetic to the town.

Name	Address	E-mail	Signature	Date
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

Appendix B

We the undersigned demand that Tunbridge Wells Borough Council apply some joined up thinking and develop a strategy for quality development. Stop saying 'yes' to large, obtrusive developments that are not sympathetic to the town.

[illegible]

Mr William Benson
Chief Executive
Town Hall
Royal Tunbridge Wells
Kent
TN1 1RS

3 May, 2017

Dear Mr Benson

Re: Petition calling for ill-considered planning and development to be stopped.

Please find attached more than 1000 signatures demanding that Tunbridge Wells Borough Council stop the ongoing, ill-considered planning and development that is ruining Tunbridge Wells.

We are asking Tunbridge Wells Borough Council the following:

Stop saying 'yes' to large, obtrusive, simply over-scaled developments. The Planning Department need to find the will and skill to help shape developments with planning applicants. Risk appeal where necessary as a development will be evaluated on its merits.

Listen to experts. You have The Civic Society, external conservation experts, planning consultants and your own Transport Department. They are all telling you the same thing – developments are too big, over dominant and the town is struggling to function.

Fix the infrastructure before putting extra pressure on it. The infrastructure cannot cope. Large scale development is being permitted with very little consideration to the impact it will have on the infrastructure; roads, on street parking bays and car parks are at breaking point. Stop adding to the problem and fix it first.

Ensure that any new development includes adequate parking. The average household in Tunbridge Wells has 1.3 cars. And a 110 bedroom hotel being permitted with 20 car parking spaces, despite your own Transport Manager advising the towns parking could not cope with the surplus hotel guests cars, is simply appalling.

Develop a strategy for quality development, architecture that is sympathetic to the town. Although some developments are replacing bland 1960's architecture, TWBC planners and conservation officers are allowing poor architecture to replace it. Something that is 'better' than what is there now is not 'best'. Where has the pride in our town's architecture gone?

Articulate what this town stands for and stand by defined brand values. Our town is a brand. It needs a proposition and everything TWBC does should support that proposition. Slowly the town is loosing its soul – what has made it special up until now. Soon Tunbridge Wells will become unattractive to existing residents, and those that you aim to attract.

The attached list of e-signatures is from people who all live in the borough. There are more signatures but I have removed those that are from outside the borough. All signed the petition hosted on Change.org. Change.org is a global online e-petition platform recognized the world over. I have also enclosed for your reference some signatures collected in person. If you or Democratic Services need an electronic excel document then this can be supplied.

Please advise when this petition will be debated by the Full Council.

I am the organizer of the petition and my details are below.

As an aside an attempt was made to use the e-petition on the Tunbridge Wells BC website, but, like others have found with more recent petitions, the facility does not work.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'E. Kent', with a long horizontal flourish extending to the right.

Ms. Ellen Kent.

Copy also to:

Head of Policy and Governance, Democratic Services, Town Hall.

Response to the Petition

A petition has been received stating: “Sign to stop ill-considered planning and development in Royal Tunbridge Wells.

Tunbridge Wells Borough Council is allowing developers to fill our town with inappropriately large-scale property developments, with second rate architecture and little to no parking. Our planners and councillors are not listening to experts so it is time for the community to be heard. They do not have the will or skill to shape developers applications. They also do not have a firm plan this town.

The petition identifies 7 sites within Royal Tunbridge Wells:

- Good Station Road (near Fenwicks)
- Calverley House
- 42 – 46 London Road
- Cinema site Mount Pleasant Road
- Union House Pantiles
- Vale House London Road
- 7-9 Lonsdale Gardens

and continues; “The impact is significant. Our roads, on street parking bays and car parks cannot take the extra pressure. And air quality is suffering from the pollution. Development is being permitted with very little consideration to whether the infrastructure can cope.

Although some developments are replacing bland 1960’s architecture, our planners and conservation officers are allowing poor and obtrusive architecture to replace it. There is an opportunity to put right the wrong, but TWBC are simply making bad, worse. Where has the pride in our towns architecture gone?

More and more office buildings are being converted to residential blocks. There is little office space left in the town. Where will people work? They will drive out, on our already congested roads, to their office job elsewhere.

Progress is good, but we deserve much better. Sign this petition and demand Tunbridge Wells Borough Council listen and develop a strategy for quality development. Having a list of objectives for the town is not enough, we need a Master Strategic Plan. And in the meantime stop saying ‘yes’ to large. Obtrusive developments that are not sympathetic to the town, and have major impact on the towns infrastructure.”

As stated in the main report the online and paper forms of the petition are worded slightly differently.

Introduction

This report briefly confirms the national planning context within which individual applications for planning permission are considered and determined, and confirms the status of the Development Plan documents applicable to the borough. The report also provides some background information on the sites referred to in the petition and finally confirms the work currently under way to produce a new Local Plan for the borough.

National Planning Context

Planning law requires that applications for planning permission must be determined in accordance with the development plan for the area unless material considerations indicate otherwise.

The National Planning Policy Framework (NPPF) set out the Government's planning policies and how these are expected to be applied. The NPPF must be taken into account in the preparation of local plans and is a material consideration in planning decisions.

Para 14 of the NPPF confirms at the heart of the Framework is a presumption in favour of sustainable development. For decision making this means;

- Approving development proposals that accord with the development plan without delay and
- Where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - Specific policies in the Framework indicate development should be restricted.

Para 49 of the NPPF states: Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

Local Development Plan Policies and Allocations

The development plan for the borough comprises the saved policies of the Local Plan 2006, the Core Strategy 2010 and the Site Allocations Local Plan 2016.

The sites listed in the petition are located within the Town Centre boundary, as defined by the Site Allocations Plan, and a number are specifically allocated for development.

At present the Council is unable to demonstrate a five year supply of housing as referred to in para 49 of the NPPF and accordingly the provisions of para 14 apply.

Planning Applications and Prior Notifications

Planning permission is required for most new buildings and in many instances to change the use of a building. When considering applications for planning permission, it is necessary to assess the proposal against the policies in the local development plan and in national policy.

National legislation allows some limited building works and changes of use to be carried out without planning permission. This is called “permitted development”. In 2013 the Government amended the national legislation so that the change of use of offices to residential no longer required planning permission, but could be undertaken as permitted development following a “light touch” prior notification procedure. The Government’s key reason for removing the need for planning permission was/is to boost the supply of housing

The national legislation sets out that only limited matters can be considered under this prior notification procedure: flooding risks, transport and highways impacts, noise and contamination risks. Matters such as the impact of the loss of offices on the economy cannot be considered and there is no ability to secure affordable housing or other contributions.

Ahead of the change to the national legislation in 2013 TWBC Planning made a very comprehensive approach to the Department for Communities and Local Government (DCLG) which sought that two very tightly defined areas of the Town be made exempt from the change. This would have meant that planning permission would still be required to change the use of buildings from offices to residential in these locations. Despite this targeted and comprehensive approach, DCLG completely disregarded it.

As a result of the national permitted development legislation it is difficult to resist the loss of office accommodation to residential through the “light touch” prior notification procedure.

Consideration of Proposals for the Sites Identified in Petition

The seven sites identified fall into two main categories:

1. The conversions from offices to residential under the “light touch” prior notification scheme (Vale House, Calverley House and 7 – 9 Lonsdale Gardens), and;

2. Those proposals for sites which are allocated for mixed use or residential development in the current development plan (Union House, Merevale House, the Travis Perkins site on Good Station Road and the old cinema site).

Vale House, Calverley House and 7 – Lonsdale Gardens

As above, the matters which can be considered under the “light touch” prior notification scheme are limited: flooding risks, transport and highways impacts, noise and contamination risks.

The proposals at Vale House include the retention of parking spaces within the site, on the basis of approximately 1 space per residential unit and was found to be acceptable in terms of flooding, noise and contamination risks.

The proposals at Calverley House and 7 – 9 Lonsdale Gardens were acceptable in terms of flooding, noise and contamination risks. Although no on-site car parking was proposed for these sites, as a result of the national legislation and the particular circumstances in Tunbridge Wells, it is not considered that these proposals could be refused due to a lack of car parking.

The Government has seriously curtailed the ability of the Council to control the loss of office accommodation to residential through the changes which have been made to the permitted development legislation.

Union House

This site is allocated in the Site Allocations Local Plan 2016 for around 130 residential units, public car parking, leisure and retail, restaurant and office development: the planning application was for 127 residential units, together with public parking, a square and leisure, retail, restaurant and office development which accords with the policy.

In terms of private car parking, 11 of the larger apartments have 2 spaces per household, with the remaining 116 apartments having 97 spaces which equates to an average of 0.76 spaces per residential unit (for the 116 apartments). The parking standards for the site (given that it is within the Tunbridge Wells Central Access Zone) is a *maximum* of 1 space per unit and the proposal therefore accords with this.

Matters such as the quantum of development, impact on heritage assets, design and car parking were all subject to the utmost scrutiny during the course of considering the application, were addressed in detail in the relevant Committee reports and were debated and discussed by Members at the Planning Committee.

Merevale House

Merevale House is located in the part of the town (referred to as the Vale Avenue Area of Change) which is allocated for mixed use development (including a hotel) in the Council’s recently adopted Site Allocation Local Plan.

The proposal for a hotel here broadly corresponds with local policy. In terms of the amount of car parking provided, Merevale House is close to the train station and public car parks where, on the evidence available, it was (and is) considered that there is sufficient capacity for the parking of cars associated with this use. This point was well debated at the Planning Committee.

In addition, and as with Union House, matters such as the quantum of development, impact on heritage assets, and design were all subject to the utmost scrutiny during the course of considering the application, were addressed in detail in the relevant Committee reports and were debated and discussed by Members at the Planning Committee. The Planning Committee resolved to grant planning permission.

Travis Perkins site on Good Station Road

This site forms the main part of an allocation for housing in the Site Allocations Local Plan. The applications are currently being considered, and the Planning Department has not formed a recommendation and therefore detailed comment cannot be made at this time.

It is however pertinent to set out that the proposals seek to broadly comply with the local allocation policy. It is proposed to provide approximately 1 parking space per residential unit: the site is in the Central Access Zone where the parking standards are a maximum of 1 space per residential unit.

The old cinema site

The site is allocated for mixed use development in the Site Allocations Local Plan. The application has only just been received at the Council, and is still within the “consultation period” during which comments from interested parties are being sought.

It is pertinent to set out that the proposals seek to broadly comply with the allocation policy. It is proposed to provide 0.69 parking spaces per residential unit. The site is in a highly accessible location at the town centre and is within the Central Access Zone where the parking standards are a maximum of 1 space per residential unit.

Preparation of a New Local Plan for the Borough

The Council has commenced work on the preparation of a new Local Plan which when complete and adopted will replace the existing development plan documents.

The Local Plan will make clear what is intended to happen regarding development and growth in the borough over the life of the Plan 2013/2033, where and when this will occur and how it will be delivered.

As part of the plan making process the Council recently completed what is known as an Issues and Options consultation. The stage represents the publishing of a document to scope and inform what should be included in the draft Plan and,

through the consultation, invite comment on what the Plan should seek to address and how. It provided an opportunity for wider debate on the future of the borough and the current social, economic and environmental issues.

Over 6000 responses were received to the questions posed in the Issues and Options document. These representations will now be considered as the next stages of plan making progress. Once a draft Local Plan has progressed there will be a further stage of public consultation.

The new Local Plan will set out an updated vision and a framework for the future development of the borough, addressing needs and opportunities in relation to not only housing and the economy, but also community facilities and infrastructure – as well as a basis for safeguarding the environment, adapting to climate change and securing good design. The Local Plan when adopted will guide decisions about individual development proposals since as stated above it is the starting point in law for considering and determining planning applications.

Conclusions

The Council's ability to control the change of use from office to residential has been seriously curtailed by changes which the Government has made to national legislation. In the absence of further changes, the Council will have to continue to assess such proposals for the conversion of office to residential under this legislation.

In terms of determining planning applications, the majority of the largest recent, current and forthcoming proposals within Royal Tunbridge Wells/Southborough have been on sites which are allocated for development in current (and recently adopted) local planning policy documents. They have been, and will be, subject to detailed review and assessment by both Officers and the Planning Committee.

For future applications which are received and are not allocated in current local planning policy documents, detailed consideration will be undertaken as to infrastructure capacity and the cumulative impact of other developments, and will again be subject to detailed review and assessment by both Officers and the Planning Committee.

The planning policies and development allocations pursuant to the adopted Core Strategy seek to deliver sustainable development, satisfactorily balancing the need for growth with protection and enhancement of the boroughs valued built and natural environment.

In preparing a new up to date Local Plan the Council will seek to retain the same objectives promoting high quality development and ensuring that the right type of development happens in the right places.

MOTION FOR FULL COUNCIL

Submitted by: Councillor Chapelard

Seconded by: Councillor Lidstone

“Before Tunbridge Wells Borough Council's Full Council takes the final decision on the Civic Complex Development (to build a new town hall, offices and theatre), Tunbridge Wells Borough Council will hold a borough-wide local referendum on this matter.”

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