



# A G E N D A

## OVERVIEW AND SCRUTINY COMMITTEE

Tuesday 1 September 2020 at 2.00 pm  
Virtual Meeting - Online

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**Members:** Councillor Woodward (Chairman), Councillors Mrs Soyke (Vice-Chairman), Atwood, Bland, Chapelard, Hayward, Morton, Neve, Ms Palmer, Pound, Stanyer and Thomson

**Quorum:** 3 Members

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- 1 Apologies for Absence** (Pages 5 - 6)  
Apologies for absence as reported at the meeting.
- 2 Declarations of Interest** (Pages 7 - 8)  
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 Notification of Persons Registered To Speak** (Pages 9 - 10)  
To note any Visiting Members or members of the public wishing to speak, of which due notice had been given in accordance with Council Procedure Rule 18 or 19, and which items(s) they wish to speak on.
- 4 Items Called in** (Pages 11 - 12)  
To consider any items 'Called-In' under Overview and Scrutiny Procedure Rule 13, details of which will have been circulated to Members under separate cover.
- 5 Phased Reopening of Council Sports Centres** (Pages 13 - 24)  
To consider the proposals to Cabinet set out in the associated report.
- 6 Cemetery Depot, Benhall Mill Road** (Pages 25 - 46)  
To consider the proposals to Cabinet set out in the associated report.

- 7 Annual Corporate Health and Safety Report 2019/20** (Pages 47 - 64)  
To consider the proposals to Cabinet set out in the associated report.
- 8 Urgent Business** (Pages 65 - 66)  
To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.
- 9 Date of the next meeting** (Pages 67 - 68)  
To note the next scheduled meeting is Monday 21 September 2020.

#### Exempt Items

#### EXEMPT ITEMS

It is proposed that, pursuant to section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following items of business on the grounds that they may involve the likely disclosure of exempt information as defined in Schedule 12A of the Act, by virtue of the particular paragraph(s) shown on the agenda and on the attached reports.

- 10 Exempt Appendices to the Phased Reopening of Council Sports Centres (Item 5)** (Pages 71 - 90)  
Exempt by virtue of Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended): Information relating to the financial of business affairs of any particular person including the authority holding that information.
- 11 Exempt Appendices to Cemetery Depot, Benhall Mill Road (Item 6)** (Pages 91 - 102)  
Exempt by virtue of Paragraph 3 of Schedule 12 A of the Local Government Act 1972 (as amended): Information relating to the financial or business affairs of any particular person including the authority holding that information.

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**Mark O'Callaghan**  
**Scrutiny and Engagement Officer**  
Tel: (01892) 554219  
Email: [Mark.O'Callaghan@TunbridgeWells.gov.uk](mailto:Mark.O'Callaghan@TunbridgeWells.gov.uk)

**Town Hall**  
**ROYAL TUNBRIDGE WELLS**  
**Kent TN1 1RS**



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**During the Coronavirus outbreak, and the recovery which follows, the way we conduct meetings will change. This page summarises the process. If you have any questions please contact Democratic Services via the contact details on the previous page.**

### **Attending meetings**

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Any member of the public may watch/listen to the meetings online live via our website on the relevant committee's meeting page. A recording of the meeting will also be available shortly after the end of the meeting.

All meetings and agenda are open to the public except where confidential information is being discussed. The agenda of the meeting will identify whether any meeting or part of the meeting is not open to the public and explain why.

All public meetings will start at 10.30am. This is to reduce the draw on the council's resources at this time.

### **Speaking at meetings**

Members of the public are encouraged to participate and those wishing to comment on an agenda item will need to register with Democratic Services in advance. Registration opens when the agenda is published and closes at 4pm on the last working day before the meeting.

There may be up to 4 speakers per agenda item and speakers have up to 3 minutes each.

Once registered, speakers may submit their comments in writing to Democratic Services no later than 4pm on the last working day before the meeting. Your comments will then be read during the meeting by an independent officer. Alternatively, speakers may join the meeting via telephone. Speakers will need to provide a telephone number and the clerk will call the speaker during the meeting to enable them to speak.

Comments should be in the form of a statement giving your opinion on the matter. Members of the committee may not answer questions or get into a debate with you.

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## **Overview and Scrutiny Committee**

**1 September 2020**

## **Apologies for Absence**

### **Procedural Item:**

To receive any apologies for absence.

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## **Overview and Scrutiny Committee**

**1 September 2020**

## **Declarations of Interest**

### **Procedural Item:**

To receive any declarations of interest by members in items on the agenda, in accordance with the Members' Code of Conduct. For any advice on declarations of interest, please contact the Monitoring Officer before the meeting.

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## Overview and Scrutiny Committee

1 September 2020

## Notification of Persons Registered to Speak

### Procedural Item:

To note any Visiting Members or members of the public wishing to speak, of which due notice has been given in accordance with Council Procedure Rule 18 or 19, and which item(s) they wish to speak on.

### Information for members of the public wishing to speak

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## **Overview and Scrutiny Committee**

**1 September 2020**

### **Items Called-In**

#### **Procedural Item:**

To consider any items 'Called-In' under Overview and Scrutiny Procedure Rule 13, details of which will have been circulated to Members under separate cover.

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<b>Cabinet</b>	<b>10 September 2020</b>
Is the final decision on the recommendations in this report to be made at this meeting?	<b>Yes</b>

## Phased Reopening of Council Sports Centres

<b>Final Decision-Maker</b>	Cabinet
<b>Portfolio Holder(s)</b>	Councillor Jane March – Portfolio Holder for Culture, Leisure and Economic Development
<b>Lead Director</b>	Paul Taylor – Director of Change and Communities
<b>Head of Service</b>	Gary Stevenson – Head of Housing, Health and Environment
<b>Lead Officer/Author</b>	Gary Stevenson – Head of Housing, Health and Environment
<b>Classification</b>	<b>Part Exempt</b> Exempt Appendix A and B by virtue of paragraph A,B and C of Schedule 12A of the Local Government Act 1972 (as amended): Information relating to the financial or business affairs of any particular person including the authority holding that information
<b>Wards affected</b>	All

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

1. To note the impact of the various restrictions put in place in response to Covid-19 on the operation of the Council’s three sports centres,
2. To waive the £249,634 management fee income due from Fusion Lifestyle in 2020/21
3. To provide Fusion Lifestyle with interim financial support up to a maximum of £420,000 to 31 March 2021 to facilitate the reopening of the Council’s three sports centres
4. To delegate to the Head of Housing Health and Environment in consultation with the Director of Change and Communities, the Monitoring Officer, and the Portfolio Holder for Culture, Leisure and Economic Development authority to vary the existing contract and all necessary legal agreements with Fusion Lifestyle to enable the reopening of the Council’s three sports centres.
5. To instruct the Head of Housing Health and Environment to prepare a report that reviews the options for the future the delivery and extent of sports centre activities from 1 April 2022.

**Explain how this report relates to the Corporate Priorities in the Five Year Plan:**

- A Well Borough and Our Services – providing financial support will ensure that the Council can continue to deliver important services that contribute to the health and wellbeing of residents, providing opportunities for exercise and participation in leisure and sports activities.

**Timetable**

# Agenda Item 5

<b><i>Meeting</i></b>	<b><i>Date</i></b>
Overview and Scrutiny	1 September 2020
Cabinet	10 September 2020

Tunbridge Wells Committee Report, version: March 2019

## Phased Reopening of Council Sports Centres

### 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report considers the provision of interim financial support to Fusion Lifestyle to the end of March 2021 to enable the Council's three sports centres to reopen quickly in line with Covid secure restrictions.
  - 1.2 Consideration of the longer term service delivery options for the next contract period from March 2022 will take place in the coming months and be the subject of a further Cabinet report.
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### 2. INTRODUCTION AND BACKGROUND

- 2.1 The Council's three sports centres at Putlands Paddock Wood, The Weald at Cranbrook and the Tunbridge Wells Sports Centre are operated by Fusion Lifestyle under a facilities management contract until 31 March 2022.
- 2.2 Prior to the award of the contract to Fusion in 2006, the Council subsidised the provision of this important but discretionary area of service provision. Fusion's proposition to invest in the centres and services plus their experience in the gym and leisure market created a new annual management fee source of income for the Council. This year's management fee is £249,634
- 2.3 In 2013 the Council considered a proposal to exercise an extension to the contract accompanied by an investment in the facilities at the Tunbridge Wells Sports Centre and an increase in the management fee income. Although not part of the original proposal, the Council approved a loan to Fusion to fund the works, repayable over the period of the extension. As at 31 March 2020, the outstanding loan balance was £681,063.
- 2.4 In response to COVID-19 pandemic emergency legislation was introduced that required sectors of the economy to close their premises. This included the closure of sports centres from the end of business on 20 March 2020. The Council's sports centres closed and arrangements were put in place with Fusion to carry out essential maintenance and operational tasks to 'moth ball' the facilities for the duration closure period.
- 2.5 The closure has had a significant economic impact within the public and private leisure sector in the UK. The extended period of enforced closure has resulted in revenue lines collapsing and, while the industry has placed staff on furlough to reduce staffing costs, many of the fixed costs to maintain facilities have remained. This has led to most leisure providers and trusts requesting additional financial support to reopen these important community facilities.
- 2.6 The pandemic is also projected to have a longer term impact on the industry due to the requirements necessary to ensure facilities are made COVID-19

secure and because of demand issues arising from site users having confidence in returning to use them. This is likely to lead to a period of uncertainty and rationalisation within the industry.

- 2.7 Various easements to the closure legislation have been made over recent weeks, including the reopening of indoor swimming pools and gyms from 25 July, subject to compliance with the appropriate guidance to be 'Covid secure' to protect staff and customers using the facilities.
- 2.8 At the time of writing this report, the Council's three sports centres remain closed, a decision made by Fusion due to the financial implications of reopening in compliance with the Covid secure guidance.
- 2.9 A proposal to reopen all three centres on a reduced phased basis has been put forward by Fusion. The proposal seeks financial support from the Council of up to £355,000 with the potential for up to a further £65,000 to underwrite 5% of the projected income for the period August 2020 to March 2021.
- 2.10 There is an ongoing dialogue with senior Fusion management about the detail of the package, recognising the financial impact of the Covid secure guidance on the centres' capacity and the predicted change in customer participation levels.
- 2.11 Details of Fusion's projected income and expenditure for this period are set out in Appendix A. The figures are in the process of being revised, with the support requested expected to reduce, to reflect the time that has elapsed and the intention that the reopening is now planned to take place in at the beginning September prior the Cabinet considering this report.
- 2.12 Fusion is confident about the accuracy of the forecast expenditure. It has already sought to mitigate costs through the renegotiation of key supply contracts and a reduction of between 40% and 50% of payroll costs relative to pre-crisis levels, including a significant reduction in the head office overhead. The projections contain no allowance for profit during this interim period.
- 2.13 The projected income levels are based on pre-Covid actuals adjusted to reflect local market conditions and the revenue growth factors published by UKActive in the Covid-19 Impact Report "the Fitness & Leisure Sector's Path to Recovery". This industry body forecast is based on multiple data sources and provides prior year growth factors for health & fitness, group exercise and swimming. In summary the UKActive analysis envisages the overall sector trading at 30% of the normal levels during July with this improving to 60% by March 2021.
- 2.14 Fusion is less confident about the projected income figures and much will depend on the customers' desire and confidence to return. If the projections fall below expectations, Fusion will be responsible for up to 95% of the shortfall. However, it has asked the Council to underwrite the remaining 5%, a figure of to £65,450. If the financial performance exceeds the projections the Council has proposed the sharing of any surplus between the two parties.



- 2.15 Remobilisation of the centres will take 10 to 14 days. To avoid further delays, some elements of the work and activities needed to remobilise are in progress at the time of writing this report. As part of the dialogue with Fusion, a draft Letter of Intent has been produced which, in return for commitments from Fusion including revisions to key performance indicators around performance and customer satisfaction, offers that the Council will underwrite up to £20,000 of any abortive staff costs associated with remobilisation should the overall support package not be approved.
- 2.16 The package of support also seeks the waiver of the management fee income for 2020/21 as part of the proposed reopening plans. Approximately 70% of the management fee income should be recoverable via the Government's scheme to assist local authorities with lost income however full details of this scheme are to be announced.
- 2.17 To support their business plan, Fusion has submitted an application for the Coronavirus Large Business Interruption Loan Scheme (CLBILS). This application has been approved on the basis that Fusion's remobilisation plans are approved by the councils for which they deliver contracts. The CLBILS funding will cover the costs of the restart, including staff restructure, site configuration, and IT systems which will enable Fusion to operate more efficiently with reduced staff levels.
- 2.18 Fusion has outstanding invoices to the value of circa £257,000 from before the Covid closure, including management fees and loan repayments. As a condition of the package of support, these invoices will be paid in March 2021. The CLBILS funding will also be used to pay Fusion's pre Covid debts to the Council and the outstanding loan repayments from 2020/21 in March 2021.
- 2.19 If financial support is agreed by the Council, Fusion's actual financial performance would be reviewed monthly on a fully open book basis. This will require Fusion management accounts to be submitted setting out a detailed breakdown of actual costs incurred, and income generated, for each site. These would be compared to the baseline projections in Appendix A and any variations would be challenged and fully understood before the monthly support payment is made.
- 2.20 A review of Fusion financial position has been carried out by Local Partnerships on behalf of a number of Local Authorities who have contracts with Fusion together with a credit check from Dun & Bradstreet.
- 2.21 The Local Partnership's report is at Exempt Appendix B. The confidential details of the report can be discussed in exempt session, but it highlights that Fusion acted quickly to deal with the impact of COVID-19. They have worked with their client councils to quickly mothball facilities and have taken action to reduce costs. In particular they have successfully utilised the Job Retention Scheme to minimise current staff costs. During the closure Fusion are in a steady state financial position and generating a small surplus. Some councils have provided direct financial support during the closure period. No such direct

support has been provided this Council however, the recovery action for the outstanding debt was held in abeyance.

- 2.22 The contract with Fusion ends on 31 March 2022. Re-commissioning work was in hand prior to the Covid restrictions coming in to force to review the current services and develop options for consideration by councillors towards the end of 2020 with a procurement process following in 2021.
- 2.23 This work will continue, taking account of the current market conditions and projections for the future, which will impact on the financial viability of the sports offer. It is proposed the work will incorporate a review of the service delivery options.

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### **3. AVAILABLE OPTIONS**

- 3.1 Provide financial assistance requested to enable all three sports centres to reopen with a full range of activities on offer.
- 3.2 Consider the option of reopening some activities at Tunbridge Wells Sports Centre with no financial support.
- 3.3 Reject the request for financial assistance and continue negotiations with Fusion to open all three centres
- 3.4 Reject the request for financial assistance and seek a contractual remedy to the position.

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The preferred option is to provide the financial support requested to 31 March 2021, up to a maximum of £420,000. This option will lead to the reopening of the sports centres in good time with all activities being available to residents, although subject to the government guidelines.
- 4.2 It will ensure that the facilities and equipment are operating and maintained, avoiding the need for moth balling maintenance and associated costs.
- 4.3 Reopening in September will reduce the potential loss of custom to other types of fitness offers and nearby sports centres, helping to protect the viability of the Council's sports offer which will be important in both the short and long term, whoever the future provider is.
- 4.4 If the Council did not provide the requested subsidy for each site that it wishes to re-open Fusion are likely to be in a position to claim that the current contract is frustrated. In that case responsibility for the maintenance of the sites would revert to the Council. It is considered unviable for the Council to operate the sports centres directly itself in the short-medium term, due to a lack of available resource/expertise within the Council. This would result the sports centres remaining closed and the Council being responsible for all the costs associated

with maintaining the plant, equipment and buildings until alternative arrangements could be put in place.

- 4.5 Providing the financial support and continuing with the contractual relationship reduces the likelihood of formal debt recovery action being required.

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## 5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 No external consultation has been undertaken. The issue has been discussed at Group Leaders' meetings.

### RECOMMENDATION FROM

- 5.2 The [insert committee] were consulted on this decision on [insert date] and agreed the following recommendations:

[Insert text from the Committee resolution]

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## 6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The contract variation agreement will be put in place together with arrangements to measure progress.
- 6.2 The reopening of the three sports centres will be communicated through usual channels in conjunction with Fusion's marketing campaign.

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## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Legal</b> including Human Rights Act	The recommendation is In line with Government guidelines - PPN 02/20 Supplier Relief (and PPN 01/20 Responding to Covid 19 (Reg 72)). This is an interim measure. Payments will be reviewed on a monthly basis (open book accounting) and paid in arrears. Detailed records have been and will be kept by the Council. Elsewhere on the agenda is a report that recommends that Cabinet make available £6,658,000 of reserves to close the budget deficit associated with the impact Covid 19	Lucinda MacKenzie-Ingle Team Leader - Contracts and Commissioning 21 August 2020

# Agenda Item 5

	<p>assistance.</p> <p>A further report will be put forward regarding the long term future of the sites which will review all options for the service</p>	
<b>Finance and other resources</b>	<p>The in-year budget variance required to open the sports centres will need to be met from reserves. The Revenue Management report elsewhere on the agenda recommends that £6.658 million of reserves be made available to manage the financial impact of the Covid-19 pandemic.</p>	<p>Lee Colyer Director of Finance, Policy and Development (s151 Officer) 21 August 2020</p>
<b>Risk Management</b>	<p>There are risks associated with providing support to Fusion Lifestyle. Due diligence has been undertaken the Monitoring Officer and Section 151 Officer are comfortable with the current legal and financial position of the company within the context of the leisure sector as a whole and the need to balance risk with the delivery of service and protection of assets.</p> <p>The Dun &amp; Bradstreet The credit risk for Fusion as at April 2020 shows the overall business risk is low to moderate.</p> <p>The Corporate Insolvency and Governance Act 2020 provides temporary relief until 30 September 2020 from being subject to a winding up petition and from wrongful trading provisions where a business can demonstrate its difficulties arise from trading conditions arising from the COVID-19 pandemic.</p> <p>Performance and pensions liability bonds are in place and renewal will be a condition of the provision of support. The financial support would be paid monthly in arrears and is capped. This will be incorporated in to the contract variation.</p>	<p>Gary Stevenson Head of Housing Health and Environment 24 August 2020</p>
<b>Staffing establishment</b>	<p>There no staffing implications arising from the recommendations</p>	
<b>Data Protection</b>	<p>The decision to provide financial support to reopening of the sports centres does the proposed project or decision not have any impact on the privacy of, or use of personal data. Fusion will need to put in place an</p>	

	appropriate contact tracing system for non members under the NHS Trace and Test requirement.	<p>Gary Stevenson Head of Housing, Health and Environment</p> <p>20 August 2020</p>
<b>Environment and Sustainability</b>	No relevant issues	
<b>Community Safety</b>	No relevant issues	
<b>Health and Safety</b>	The sports centres will need to be Covid secure, complying with the Government’s workplace guidance. Revised Risk Assessments and Method Statements are being prepared by Fusion and will be assessment by Council staff.	
<b>Health and Wellbeing</b>	The proposals to reopen the three sports centres will provide opportunities for residents to undertake more activities to	
<b>Equalities</b>	The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users from the plans to reopen the sports centres in line with the Government’s Covid secure workplace guidance at this stage. This will continue to be reviewed.	

## 8. REPORT APPENDICES

- Appendix A: Fusion Lifestyle – Financial Projections
- Exempt Appendix A: Confidentiality Undertaking for Exempt Appendix B
- Exempt Appendix B: Fusion Customer Group Headline Review of Fusion Financial Position by Local Partnerships

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## 9. BACKGROUND PAPERS

- [Title or description]: [hyperlink](#)

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### Putlands Sport & Leisure Centre

	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Total Income	5	7	11	9	10	11	11	13	78
Total Expenditure	20	20	21	21	21	21	21	22	166
Profit/Loss	-15	-13	-10	-12	-10	-10	-10	-8	-88

### The Weald Sports Centre

	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Total Income	25	35	46	46	46	48	46	49	341
Total Expenditure	54	55	57	58	57	60	58	59	457
Profit/Loss	-29	-20	-11	-11	-11	-12	-13	-10	-116

### Tunbridge Wells Sports Centre

	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Total Income	61	85	118	111	104	147	131	134	891
Total Expenditure	116	122	126	127	131	141	136	142	1,042
Profit/Loss	-55	-38	-8	-16	-27	6	-5	-8	-151

### Tunbridge Wells Contract

	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Total Income	91	128	175	168	160	206	197	197	1,309
Total Expenditure	190	197	204	205	208	222	215	223	1,664
Profit/Loss	-99	-70	-28	-39	-48	-16	-28	-26	-355

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<b>Cabinet</b>	<b>10 September 2020</b>
Is the final decision on the recommendations in this report to be made at this meeting?	<b>Yes</b>

## Cemetery Depot Redevelopment, Benhall Mill Road

<b>Final Decision-Maker</b>	Cabinet
<b>Portfolio Holder(s)</b>	Cllr Tom Dawlings, Portfolio Holder Finance & Governance Cllr Jane March, Portfolio Holder Culture, Leisure and Economic Development
<b>Lead Director</b>	Lee Colyer, Director of Finance, Policy and Development
<b>Head of Service</b>	David Candlin, Head of Economic Development & Property
<b>Lead Officer/Author</b>	Paul Doherr, Architectural Surveyor John Antoniades, Estates Manager
<b>Classification</b>	<b>Part Exempt</b> Exempt Appendices A, B and C exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended): Information relating to the financial or business affairs of any particular person including the authority holding that information
<b>Wards affected</b>	Pantiles and St Marks

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

1. That approval be given to proceed with the design and construction of the new Parks contractor depot as described in this report;
2. That the Head of Economic Development & Property in consultation with the Director of Finance, Policy and Development, the Portfolio Holder for Finance and Governance and the Portfolio Holder for Culture, Leisure and Economic Development be authorised to submit a full planning application, invite competitive tenders for the development, accept a tender within the costs given in this report and oversee the development to completion and to enter into such deeds and agreements arising from or ancillary to the legal formalities referred to in this recommendation;
3. To approve the disposal of the remaining part of the Cemetery Depot in Benhall Mill Road as identified in the attached report. The disposal to be dealt with under delegated authority to the Head of Economic Development and Property in consultation with the Director of Finance, Policy and Development and the Portfolio Holder for Finance and Governance;
4. To delegate to the Head of Economic Development and Property in consultation with the Director of Finance, Policy and Development and the Portfolio Holder for Finance and Governance authority to complete all necessary negotiations, legal processes and legal documentation to complete this disposal.

5. That the Head of Mid Kent Legal Services is authorised to negotiate and complete all necessary deeds and agreements arising from or ancillary to the application for planning permission, tenders, development and other legal formalities referred to in these recommendations and the disposal of the property on terms agreed by the Head of Economic Development and property.

**Explain how this report relates to the Corporate Priorities in the Five Year Plan:**

- The recommended action supports the Council strategic and five year plan to improve our processes to deliver more effective services and save money. A new Parks depot would cost less to run and maintain and will be more resistant to vandalism and misuse.
- Provides quality and responsive services - The proposed location of the new Parks depot and purpose built facilities would enable the Parks contractor to work efficiently in a more sustainable building and provide the operatives with a higher level of wellbeing and improve the quality of life in their workplace.
- A Prosperous Borough – by making the best use of land and property assets for the benefit of residents and in encouraging future growth and investment by marketing opportunities that the Borough owns
- A Confident Borough – by empowering communities and residents through the release of Council assets; working with parish and town councils and community groups to enable them to take control of their services; enabling residents to take control of their futures through an active asset programme of change and evolution.

<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Agreed for publication by Head of Service	21 July 2020
Management Board	29 July 2020
Agreed for publication by Portfolio Holder	14 August 2020
Overview & Scrutiny	24 August 2020
Cabinet	10 September 2020

Tunbridge Wells Committee Report, version: March 2019

## Cemetery Depot Redevelopment, Benhall Mill Road

### 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report provides information regarding the future use of the existing Cemetery Depot and includes plans, costs and timescales for providing a new facility for use by the Council's Parks maintenance contractor. Approval is sought to progress with the design and construction of the proposed new Parks contractor depot.
- 1.2 To delegate to the Head of Economic Development & Property in consultation with the Director of Finance, Policy and Development, the Portfolio Holder for Finance and Governance and the Portfolio Holder for Culture, Leisure and Economic Development the authority to progress the project to completion.
- 1.3 To approve the disposal of a Land Asset Strategy (LAS) site in Tunbridge Wells as identified in the report. This land being the remaining land of Cemetery Depot not required for the new depot building. The disposal to be dealt with under delegated authority to the Head of Economic Development and Property in consultation with the Director of Finance, Policy and Development and the Portfolio Holder for Finance and Governance.
- 1.4 To delegate to the Head of Economic Development and Property in consultation with the Director of Finance, Policy and Development, the Portfolio Holder for Finance and Governance the authority to complete all necessary negotiations, legal processes and legal documentation to complete this disposal.
- 1.5 That the Head of Mid Kent Legal Services is authorised to negotiate and complete all necessary deeds and agreements arising from or ancillary to the application for planning permission, tenders, development and other legal formalities referred to in these recommendations and the disposal of the property on terms agreed by the Head of Economic Development and property.

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### 1. INTRODUCTION AND BACKGROUND

- 1.1 The existing Cemetery Depot site used to provide all the facilities required by the Council's Parks maintenance contractor. When the Council Depot in North Farm Lane was built it included a majority of the buildings and storage areas required by the Parks contractor to fulfil its parks maintenance operations. For logistical reasons some of the Parks contractor's facilities needed to be retained at the Cemetery Depot. This included machinery and equipment storage and welfare areas for the contractor to enable them to carry out grave digging and maintenance of the Cemetery and Crematorium grounds.
- 1.2 The Parks contractor only uses a small part of the existing depot buildings and storage areas. These buildings have reached the end of their useful life and over the past few years some of those that were not required by the Parks contractor have been removed from the site. The depot site has been broken

into numerous times over the past few years with buildings being vandalised and there has also been a considerable amount of fly tipping in the unused open areas.

- 1.3 As the Parks maintenance contractor now requires a smaller area to carry out its contractual duties the remaining depot area has been identified as being surplus to Council requirements.
- 1.4 Following Full Council's approval to provide a capital budget for the redevelopment of the existing Cemetery Depot a design team was appointed via the Scape Procure framework. The design team lead by Aecom have produced a proposal that will provide adequate accommodation for the Parks contractor within the budget allocation.
- 1.5 The design proposals are shown in Appendix A and an indicative programme is shown in Appendix B. The timescales shown in the programme may alter as the detailed design progress and further survey information is obtained and analysed. An initial risk assessment has been produced and will be updated as the project proceeds, see Appendix C. Estimated costs are shown in Exempt Appendix A.

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## **2. AVAILABLE OPTIONS**

- 2.1 Do nothing. This is not an option because the existing depot buildings have reached the end of their useful lives and it is not viable to carry out any further repairs or maintenance. The existing buildings are also not suitable for the purposes that they are currently be used for.
- 2.2 Refurbish the existing buildings. As the existing buildings have reached the end of their life repairs would be expensive if not impossible. The layout of the existing buildings would make it very difficult to provide the correct facilities required by the Park contractor.
- 2.3 Provide a new Parks depot on an alternative site. Any new facility needs to be located close to the Cemetery and Crematorium as it would be impractical to facilitate burials using equipment that is stored a long way away from the Cemetery. There are no alternative areas on the Cemetery and Crematorium site that are large enough or are suitable for a new Parks depot.
- 2.4 Provide a new Parks depot on part of the existing depot site as described in Appendix A, B and C and Exempt Appendix A, B and C

## **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.1 The preferred option is item 2.4 above to provide new Parks contractor building and storage areas on part of the existing depot site. This would better suit the needs of the Parks contractor and provide a safer, more secure and energy efficient facility than the existing depot. It will enable the Parks contractor to work more efficiently and effectively in providing high quality, value for money services.
- 3.2 This option supports the Council strategic and five year plan to improve our processes to deliver more effective services and save money. A new Parks

depot will be an invest to save opportunity as a new modern building will cost less to run and maintain and will be more resistant to vandalism and misuse.

- 3.3 The proposed location of the new Parks depot would enable the Parks contractor to work efficiently as facilities and equipment would be close to the areas where they work.

## 4. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 4.1 The design proposals have been discussed and agreed with the Council's Parks department and the Development Programme Officers Group. The Development Advisory Panel will be consulted on the proposals. Public consultation will take place as part of the planning approval process.

## 5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The recommendations from Overview & Scrutiny will be included in the agenda for Cabinet on the 10 September 2020 for final approval to proceed with the project.

## 6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<p><b>Legal</b> including Human Rights Act</p>	<p>The Local Government Act 1972 (the 1972 Act), section 111(1) empowers a local authority to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to the discharge of any of their functions.</p> <p>The Council has the statutory power under section 1 of the Localism Act 2011 to do anything that individuals generally may do</p> <p>The Local Government Act 1972, section 123(1) enables a Council to dispose of its land in any manner subject to the Council achieving the best consideration that can reasonably be obtained. Disposals at an undervalue should meet a statutory criteria unless the Secretary of State's consent is obtained.</p> <p>Expert valuation from an independent valuer</p>	<p>Claudette Valmond Principal Solicitor – Commercial 23 July 2020</p>

# Agenda Item 6

	<p>must be obtained to ensure that the Council complies with its statutory obligation under section 123 referred to above.</p> <p>Any tender exercise must be in accordance with the Public Contracts Regulations 2015 (if applicable) and in compliance with the Standing Orders on Procurement and Contracts outlined in the Council's Constitution.</p> <p>Acting on the recommendations is within the Council's powers as set out in the above statutory provisions.</p> <p>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.</p>	
<b>Finance and other resources</b>	<p>Full Council has already approved the scheme for inclusion within the capital programme. The council needs to make financial resources available to manage the potential impact of the Covid-19 Pandemic which will require the capital funding element of this scheme to be deferred to April 2021. This situation will be kept under review and delegation is being sought to the s151 Officer to bring forward the capital funding, if the financial circumstances allow.</p>	<p>Lee Colyer Director of Finance, Policy and Development 14 August 2020</p>
<b>Staffing establishment</b>	<p>The project will be delivered using existing Council staff, no additional staff will be required. The cost of the consultants required for this project are included in Exempt Appendix A.</p>	<p>Anita Lynch HR Manager 5 August 2020</p>
<b>Risk Management</b>	<p>An initial risk register has been included in the report in Appendix C</p>	<p>Paul Doherr Architectural Surveyor 2 July 2020</p>
<b>Data Protection</b>	<p>The construction contract will include the necessary contract terms to ensure that all personal data is processed in line with the data protection principles.</p> <p>Where contractors keep personal details on an electronic system they will be required to</p>	<p>Sarah Lavallie Corporate Governance Officer 16 July 2020</p>

	<p>use systems that are totally secure and process the data in accordance with the General Data Protection Regulations and the Data Protection Act 2018.</p>	
<p><b>Environment and Sustainability</b></p>	<p>In July 2019 Full Council declared a “climate emergency” agreeing an ambition to make the Council’s operations carbon neutral by 2030 (FC29/19). Therefore, to support the Council in meeting its ambitious and target, it is advised that a detailed carbon emission/energy efficiency assessment of the proposed new development is included and appropriate action taken to ensure the new development complies with the Councils ambition to be carbon neutral by 2030. To not do so would result in a long-term legacy of a development that would require retrofitting at future greater cost. Therefore, it is recommended that energy efficiency and carbon reduction are a key priority for this development, including waste reduction and water efficiency.</p> <p>Adopt a hierarchy approach building fabric first and as mentioned by the author of this report incorporate renewables and heat recovery as appropriate.</p> <p>Equally, the south east is at significant risk of water shortages<sup>1</sup>, with Kent one of the driest regions in England and Wales. It is therefore, advised that rain water harvesting is incorporated into this development. A rainwater recycling system comprises additional components, which may result in slightly higher upfront capital costs. However, a whole-life cost analysis should determine whether the future water cost savings can offset the higher capital costs, given that water costs are likely to increase. Retrofitting for water recycling is very difficult, it is technology that is generally best suited to new-build properties.</p> <p>Full ecology surveys are being carried out to ensure that the proposed development does not adversely affect any protected species. The consultants will also carefully consider any implications that the development has on the surrounding environment especially</p>	<p>Karin Grey Sustainability Manager Paul Doherr Report Author 13 July 2020</p>

# Agenda Item 6

	<p>the proximity to the Cemetery.</p> <p>As part of the design process the consultants will consider all viable sustainable and renewable options in the new depot e.g. photovoltaic panels, heat recovery units, rainwater recycling etc.</p> <p>As part of the tender process all contractors will be asked to show how they will improve the sustainability of their company in the future including reducing carbon emissions, improve energy efficiency in their buildings and operations, reduce the impact of transport, reducing consumption of water, reduce the environmental impact of the goods &amp; services they procure and manage waste materials throughout their business and the construction process.</p> <p>Also how they will educate and raise awareness amongst their staff of sustainability practices and monitor &amp; measure their environmental performance against targets.</p>	
<b>Community Safety</b>	<p>A high level of security will be incorporated into the design of the new Parks depot.</p> <p>During construction the contractors will make sure that their method of working does not encourage crime. The construction site will be secure and supervised during working hours and fully secure out of hours.</p>	<p>Terry Hughes Community Safety Manager 17 July 2020</p>
<b>Health and Safety</b>	<p>The existing buildings are beyond economical repair and will continue to become a risk to health and safety.</p> <p>The design team will provide all the necessary information to enable the contractor to safely carry out the construction work and will supervise the works. They will also assist the Council with its obligations under the Construction (Design and Management) Regulations 2015.</p> <p>The building contractor will be required to provide all necessary health and safety information and equipment to ensure the health and safety of their operatives and all visitors to and around the construction site.</p>	<p>Mike Catling Corporate Health and Safety Advisor  Paul Doherr Report Author 10 July 2020</p>



<p><b>Health and Wellbeing</b></p>	<p>The contractor must provide adequate welfare facilities for all operatives when working on the construction site.</p> <p>Contractors are required to carry out all work without posing a threat to the health and wellbeing of the public or colleagues and must use the appropriate equipment or methods to achieve this.</p> <p>A no smoking policy is in place which forbids any operative smoking whilst working on site.</p>	<p>Rebecca Bowers Health Improvement Team Leader 15 July 20</p>
<p><b>Equalities</b></p>	<p>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.</p> <p>The design of the new Parks depot will comply with the current Building Regulations Part M.</p> <p>During the tender process contractors will provide information on their equal opportunities policies that cover their approach to equality in their workplaces, in their recruitment and training.</p> <p>There is little or no apparent impact on the protected characteristics from the decisions recommended in this paper.</p>	<p>Sarah Lavallie Corporate Governance Officer, 16 July 2020</p>

## 7. REPORT APPENDICES

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

- Appendix A: Parks Depot Design Proposal
- Appendix B: Parks Depot Draft Programme
- Appendix C: Parks Depot Risk Register
  
- Exempt Appendix A: Cost Estimate
- Exempt Appendix B: Land Asset Strategy Site, Tunbridge Wells
- Exempt Appendix C: Plan of site

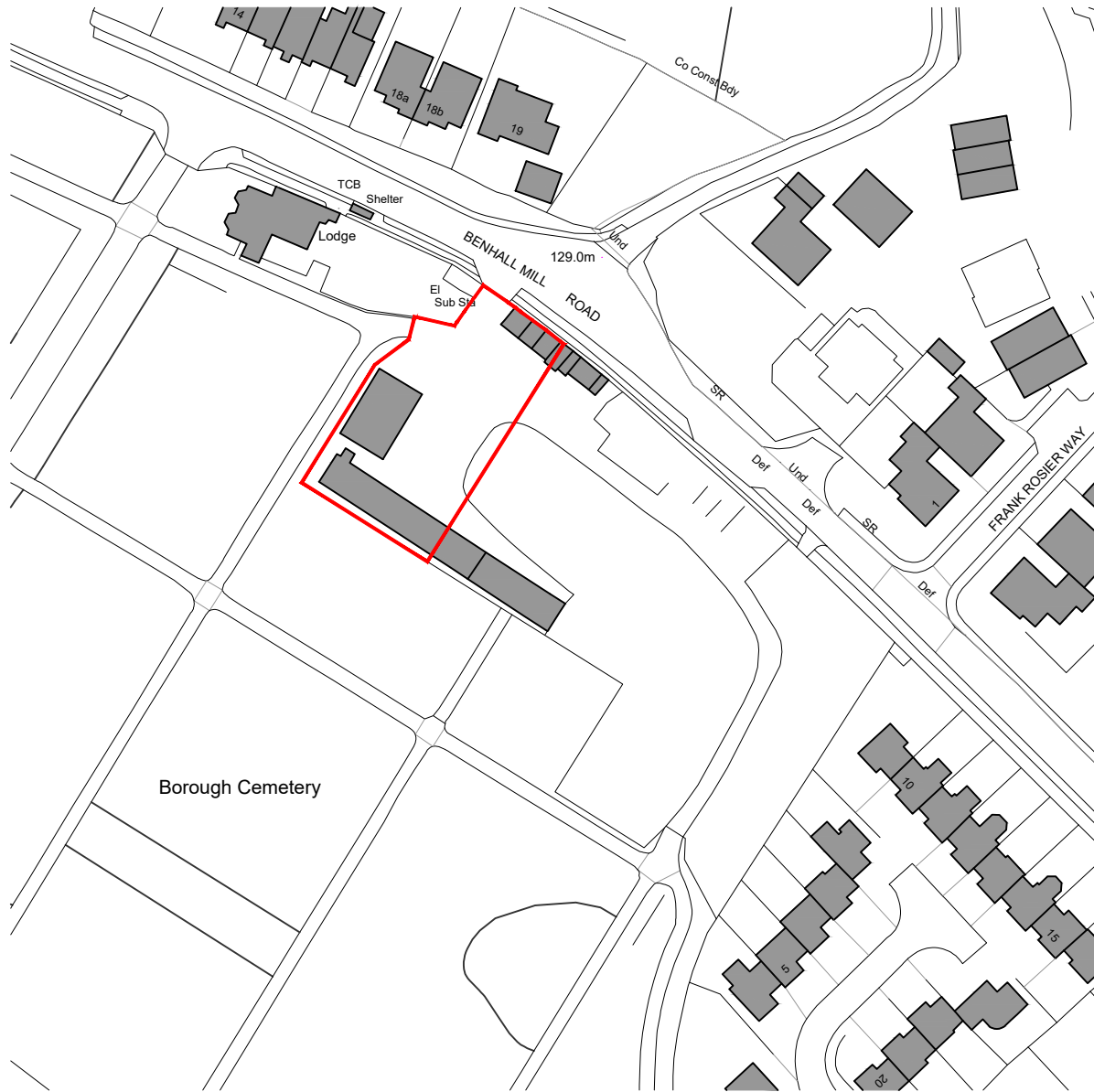
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## 8. BACKGROUND PAPERS

- 1 [https://beta.tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0007/291823/70E0FCC91ADB1A31E0531401A8C02132\\_Water\\_Efficiency\\_Background\\_Paper\\_Dec\\_2017\\_-\\_Final\\_Version.pdf](https://beta.tunbridgewells.gov.uk/_data/assets/pdf_file/0007/291823/70E0FCC91ADB1A31E0531401A8C02132_Water_Efficiency_Background_Paper_Dec_2017_-_Final_Version.pdf)



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SITE LOCATION PLAN

Revision Note & Date			Initial
Rev	Date	Note	
-	-	-	-



Canterbury Studio  
 Logan House, St Andrews Close  
 Canterbury,  
 CT1 2RP  
 info@onarchitecture.co.uk  
 onarchitecture.co.uk  
 01227 634334

London Studio  
 Ink Rooms, 28, Euston Street  
 London, EC1A 3DF  
 info@onarchitecture.co.uk  
 020 7460 0050

Project Title  
**BENHAM MILL DEPOT**

Clients Details  
**AECOMM**

Drawing Title  
**SITE LOCATION PLAN**

BIM Number	Scale	Date	Drawn	Checked
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Drawing Status  
**PLANNING**

Project Number	Drawing Number	Drawing Revision
20.013	001.000	A

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Page 36

- KEY
- SITE BOUNDARY
  - ADJACENT RESIDENTIAL DEVELOPMENT SITE

Rev	Date	Note	Initial

**ON**  
ARCHITECTURE

Canterbury Studio  
Logan House, St Andrews Close  
Canterbury,  
CT1 2BP  
info@onarchitecture.co.uk  
onarchitecture.co.uk  
01227 634334

London Studio  
Ink Rooms, 28, Easton Street  
Clarendon  
WC1X 0DS

Project Title  
**BENHALL MILL CEMETERY DEPOT**

Clients Details  
**TUNBRIDGE WELLS**

Drawing Title  
**PROPOSED CONTEXT PLAN**

Scale  
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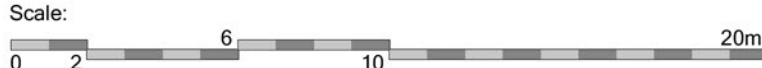
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**DRAFT**

Project Number	Drawing Number	Drawing Revision
20.013	SK002.0	A



Appendix A

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Revision Note & Date			Initial
Rev	Date	Note	

**ON ARCHITECTURE**

Canterbury Studio  
Logan House, 51 Andrews Close  
Canterbury, CT1 2RP  
info@onarchitecture.co.uk  
onarchitecture.co.uk  
01227 634334

London Studio  
Ink Rooms, 28, Easton Street  
Canterbury, Kent  
WC1X 0EJ

Project Title  
**BENHALL MILL CEMETERY DEPOT**

Clients Details  
**TUNBRIDGE WELLS**

Drawing Title  
**PROPOSED LAYOUT**

Scale  
1:200

Drawing Status  
**DRAFT**

Project Number Drawing Number Drawing Revision  
20.013 SK002.1 -

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LEGEND

- 1 Vertical black timber cladding
- 2 Horizontal black timber cladding
- 3 Stone cladding
- 4 Metal roof
- 5 Metal window frames
- 6 Green roof
- 7 PV Panels

Page 38



Revision Note & Date			
Rev	Date	Note	Initial

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Logan House, 51 Andrews Close  
Canterbury,  
CT1 2RP  
info@onarchitecture.co.uk  
onarchitecture.co.uk  
01227 634334

London Studio  
Ink Rooms, 28, Easton Street  
Clerkenwell  
WC1X 0EJ

Project Title  
**BENHALL MILL CEMETERY DEPOT**

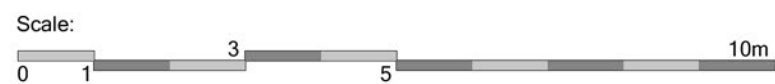
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Drawing Title  
**PROPOSED LAYOUT**

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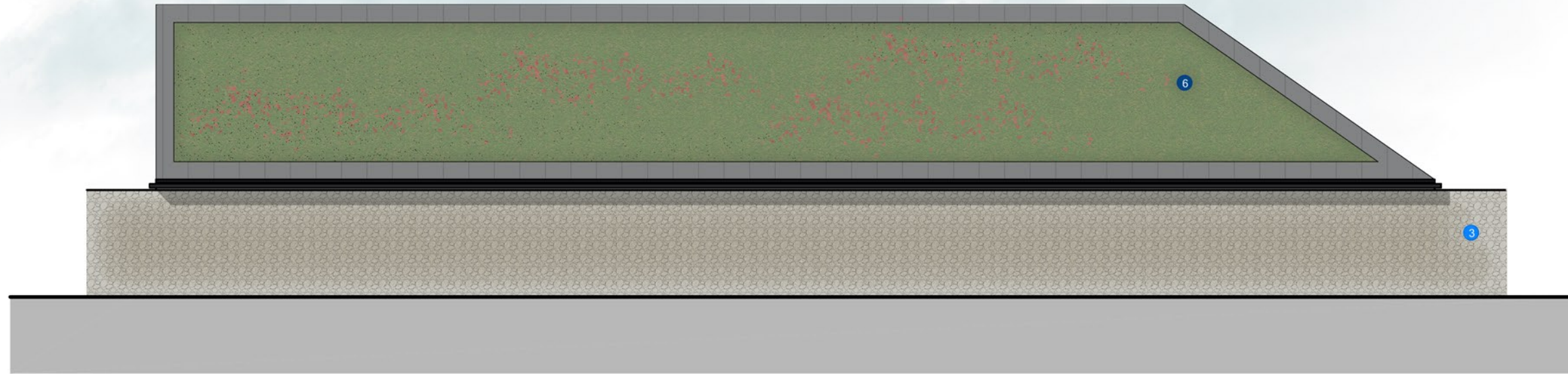
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Appendix A

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LEGEND

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Revision Note & Date				Initial
Rev	Date	Note		

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Canterbury Studio  
Logan House, 51 Andrews Close  
Canterbury,  
CT1 2RP  
info@onarchitecture.co.uk  
onarchitecture.co.uk  
01227 634334

London Studio  
Ink Rooms, 28, Easton Street  
Canterbury  
WC1X 0EJ

Project Title  
**BENHALL MILL CEMETERY DEPOT**

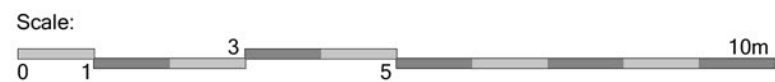
Clients Details  
**TUNBRIDGE WELLS**

Drawing Title  
**PROPOSED LAYOUT**

Scale  
1:200

Drawing Status  
**DRAFT**

Project Number	Drawing Number	Drawing Revision
20.013	SK002.2	A



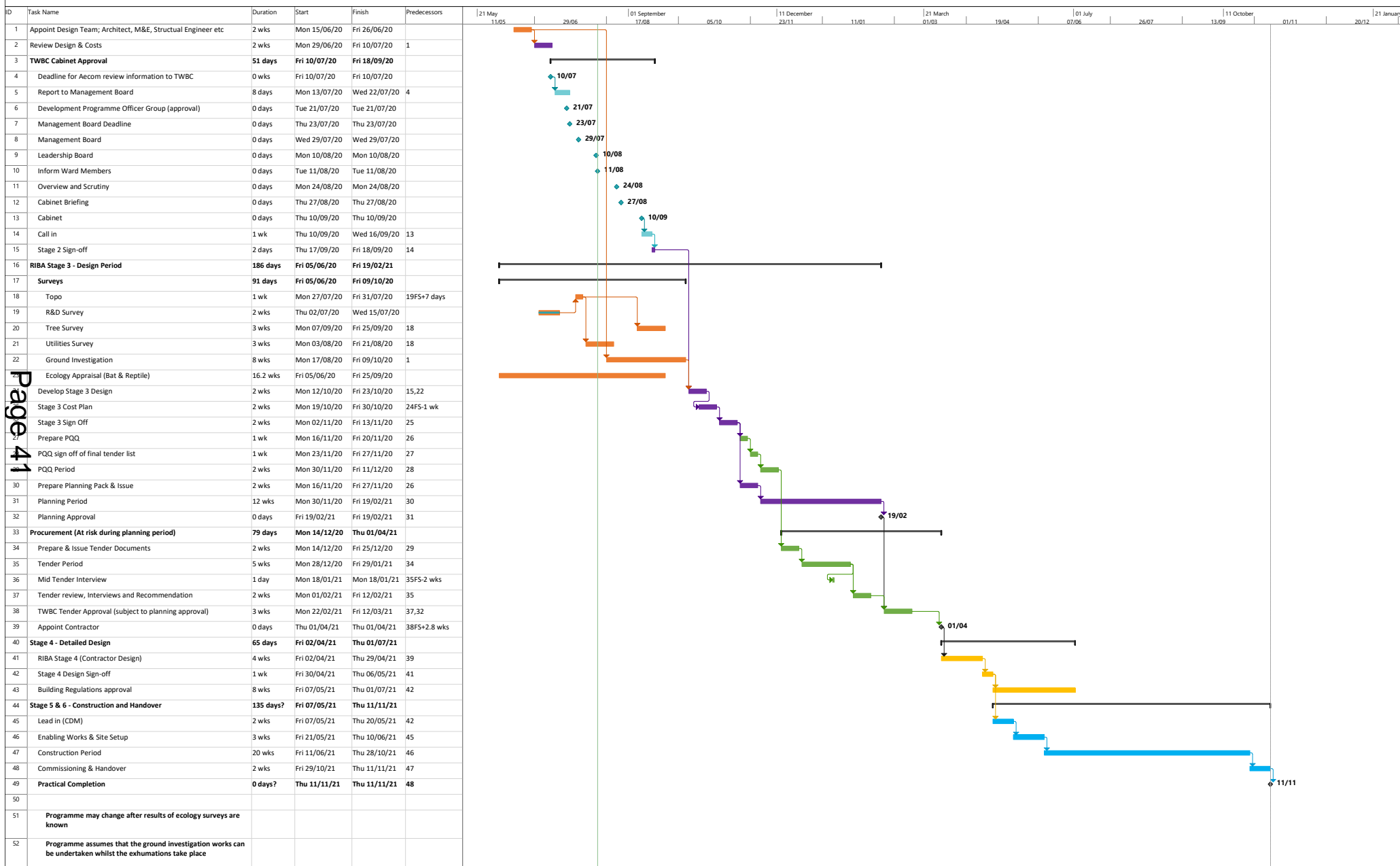
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TWBC

Cemetery Depot Redevelopment Benhall Mill Road Programme 11 August 2020



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Appendix B

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Risk Register

Benhall Mill Road Cemetery Depot Risk Register

Date: 09/07/2020

Effect	
C	Cost
T	Time
Q	Quality
H	Health & Safety

Risk Value		Action
Very High		Eliminate / Minimise
High		Avoid / Transfer
Moderate		Manage / Eliminate
Low		Manage / Eliminate
Very Low		Manage / Eliminate

Item	Risk	Implications		Pre-mitigation Assessment				Action / Mitigation	Owner	Post-mitigation Assessment				Cost £	Status
		Description	Effect	Impact	Probability	Risk (Impact x Probability)				Impact	Probability	Risk (Impact x Probability)			
1	<b>CLIENT / THIRD PARTIES</b>														
1.1	Governance	Members / Officers and Cabinet sign off of key stages / events in an appropriate time frame	C, T	3	2	6	TWBC to actively promote Officer and Cabinet involvement and "buy-in" at an early stage. Anticipated sign off requirements identified early	TWBC/AECOM	3	1	3				Open
1.7	Internal Communication	Managing expectations of the Client.	T, Q, H	3	2	6	Internal Communication strategy to be prepared by AECOM.	AECOM	2	2	4				Open
2	<b>GENERAL / PRE-CONTRACT</b>														
2.1	Poor Weather Conditions	Poor weather could cause delay the ecology surveys and to elements of the construction works.	C, T, Q, H	3	3	9	Regular reviews of the construction programme to ensure any delays are known as early as possible. Identify what, if any, mitigation measures can be taken	AECOM	3	3	9				Open
	Site has been identified as an area with human remains	Risk of uncovering / disturbing previously unknown human remains	C,T,Q,H	5	4	20	Ensure all known remains are relocated and complete a programme of extensive trials holes / surveys on site.	TWBC/AECOM	5	3	15				Open
3	<b>DESIGN</b>														
	Overshadowing and Site division.	Overshadowing of properties on adjacent site and site division method not being aesthetic.	C, T, Q	4	4	16	Robust brief to be put in place and design meeting to be held between architects and TWBC.	AECOM	3	2	6				Open
	Noise	Noise from the machinery on site may be excessive.	C, T, Q, H	3	2	6	Work with acoustician on a sensible proposal which protects neighbouring properties without impacting heavily on the Client's budget	AECOM	3	2	6				Open
3.3	The Brief	Brief content expands.	C, T, Q, H	3	2	6	Strong project content control.	TWBC	3	2	6				Open
3.4	Ecology	Protected species' identified on site	C, T, Q, H	2	2	4	Ecology surveys are being undertaken and if protected species are identified remedial works may be required prior to construction	AECOM	2	2	4				Open

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Appendix C

Item	Risk	Implications		Pre-mitigation Assessment				Action / Mitigation	Owner	Post-mitigation Assessment				Cost £	Status
		Description	Effect	Impact	Probability	Risk				Impact	Probability	Risk			
						(Impact x Probability)						(Impact x Probability)			
3.6	Contaminated ground identified	Geotechnical surveys identify ground contamination	C, T, Q, H	5	5	25	Instruct surveys immediately and consider as much historic data on the site as possible to help direct the GI for early identification, and thus remediation.	AECOM/TWBC	3	5	15		Open		
3.8	Underground services	Underground services may not be suitable for the new design.	C, T, H	4	3	12	Engage the MEP consultant as early as possible who will then contact utility suppliers. Furthermore as PAS128 sub surface utility survey.	AECOM	3	3	9		Open		
4	<b>PLANNING APPLICATION</b>														
4.1	Planning Timescales	Planning timescales to mesh with TWBC programme and local political timescales.	C, T, Q	4	2	8	Close liaison with local planning officer.	TWBC	3	1	3		Open		
4.2	Planning	Refusal or delay.	C, T, Q	4	4	16	Close liaison with local planning officer.	TWBC	3	1	3		Open		
5	<b>PRICING / ESTIMATING</b>														
5.1	Budget	Uncertain budget.	C, T	3	3	9	Obtain early agreement to overall project budget.	TWBC	2	2	4		Closed		
Page 44	Cost	Forecast costs exceeds budget.	C	3	3	9	Regular cost estimates as design progresses.	TWBC/AECOM	5	1	5		Open		
	Cost	Forecast Final Account and other costs could exceed budget.	C	3	2	6	Robust cost control system in place.	TWBC/AECOM	3	3	9		Open		
6	<b>POST CONTRACT</b>														
6.1	Stakeholder Complaints	Complaints from neighbours	C, T	2	3	6	Stakeholder consultations to be maintained	TWBC/AECOM	2	4	8		Open		
7	<b>CONSTRUCTION / PROGRAMME</b>														
7.1	Programme	Programme slippage	C, T	3	3	9	Monitor progress against programme.	AECOM	3	2	6		Open		
7.2	Programme	Tight programme	C, T	2	3	6	Identify options, if any, to improve on individual element timescales.	AECOM	2	2	4		Open		
7.3	Programme	Likelihood that programme may not meet agreed completion date.	C, T	3	2	6	Actively manage procurement routes and ongoing progress of the work - early reporting of potential problems.	AECOM	2	2	4		Open		
7.4	Noise	Noisy works may impact local residents on Benhall Mill Road and use of the cemetery.	T, Q, H	3	2	6	Contractors team to liaise with the neighbours when noisy elements are anticipated.	AECOM	2	2	4		Open		
7.5	Local footpaths and roadways require temporary / permanent stopping up?	Uncertainty of if and how this will be delivered and that it will be completed before the main works need to start	C, T, Q, H	3	3	9	Review extent of any Stopping up required with the Highways Consultant. Potential for works to be undertaken as part of an enabling package	AECOM	3	1	3		Open		

Item	Risk	Implications		Pre-mitigation Assessment				Action / Mitigation	Owner	Post-mitigation Assessment				Cost £	Status	
		Description	Effect	Impact	Probability	Risk (Impact x Probability)				Impact	Probability	Risk (Impact x Probability)				
	Coronavirus (Covid-19)	Site construction is delayed due to decrease in productivity/market resources	C, T, H			4	4	16	Regular review with the contractor and ensure adequate time risk allowance is built into the programme.	AECOM		3		3	9	Open
8	<b>SUPPLY CHAIN</b>															
9	<b>HEALTH &amp; SAFETY</b>															
9.1	Site Safety	Contractor to demonstrate unsafe methods of working	C, T, H			5	3	15	AECOM to monitor RAMS and manage main contractor and CDM requirements.	AECOM		5		1	5	Open
9.2	Site Safety	Segregation between pedestrians and public traffic accessing high street and neighbouring properties	H			3	2	6	Segregation to be maintained	AECOM		3		1	3	Open
	Coronavirus (Covid-19)	Covid-19 may be contracted through interactions for this project.	C, T, Q, H			4	4	16	a strict covid-19 policy will be in place for this project and all associations will follow government guidelines.	AECOM		3		3	9	Open
10	<b>POST COMPLETION</b>															
10.1	Management of Defects	Aftercare to be managed	C, T, Q			3	2	6	Aftercare arrangements to be agreed as early as possible			3		2	6	Open

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**Cabinet**

**10 September 2020**

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

**Yes**

## Corporate Health and Safety Annual Report 2019-2020

<b>Final Decision-Maker</b>	Cabinet
<b>Portfolio Holder(s)</b>	Councillor Matthew Bailey - Portfolio Holder for Sustainability
<b>Lead Director</b>	Paul Taylor – Director of Change and Communities
<b>Head of Service</b>	Gary Stevenson – Head of Housing, Health and Environment
<b>Lead Officer/Author</b>	Mike Catling – Corporate Health and Safety Advisor
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

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

1. To note the contents of the report, along with the work undertaken to secure a safe and healthy working environment.
2. To approve priorities for 2020-2021

**Explain how this report relates to the Corporate Priorities in the Five Year Plan:**

- A Confident Borough – Providing a safe environment for the local community.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Agreed for publication by Portfolio Holder	14/08/20
Agreed for publication by Head of Service	14/08/20
Management Board	29/07/20
Overview and Scrutiny Committee	24/08/20
Cabinet	10/09/20

Tunbridge Wells Committee Report, version: March 2019

## Corporate Health and Safety Annual Report 2019-2020

### 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The work of the Corporate Health and Safety Advisor during 2019-20 has focused on two areas. First, reducing the risk to the organisation through support, training and advising management. Secondly, the investigation of incidents, identifying trends, causes and implementing changes to reduce future cases.
- 1.2 This report reviews the incident and accident data for 2019-20 and compares trends with previous years.
- 1.3 It also considers the 2020-21 health and safety priorities agreed by the Health and Safety Committee chaired by Paul Taylor, Director of Communities and Change which are;
  - Support of Corporate Building Projects and Developments.
  - Support the Council to reduce and manage risk in its services and activities as prior to the pandemic.
  - Maintain health and safety standards during a pandemic to protect staff and the public, along with aiding recovery.

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### 2. INTRODUCTION AND BACKGROUND

- 2.1 The health and safety risk of Tunbridge Wells BC is not only a reflection of the number of employees or the range of people worked with as an enabling organisation. It is also based on the range of property assets held and the volume of public using them. To give an example of this exposure there are usually over 4 million visits to TWBC car parks, approximately 80,000 people visiting the Ice Rink and approximately 125,000 people visiting the Assembly Hall on an annual basis.
- 2.2 2019/20 came with a number of obstacles for TWBC to manage whilst maintaining a good level of Health and safety for staff and the public. With the management of a number of buildings coming to the end of their life, potential no deal Brexit, a range of elections as well as the Coronavirus.
- 2.3 In total there were 108 reported incidents during the last financial year, a slight decrease on the previous year. This decrease could potentially be due to the Covid-19 related lockdown procedures starting prior to the end of the year, reducing normal council activities quite considerably. The figures include 20 injuries to staff members, compared to 18 in 2018/19. Along with 16 injuries to third parties, compared to 27 in 2018/19.



- 2.4 There was one third party incident that required reporting to the Health and Safety Executive (HSE) under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR). No staff incidents required reporting. To date, the reported incident has not attracted investigation from the HSE. This is compared with one staff reportable incident and three third party reportable incidents in 2018/19.
- 2.5 Training courses for a number of health and safety issues such as Health and Safety Induction, Managing Conflict and Fire Warden have been delivered in house, with 196 employees attending. Specialist external training has been provided in security and first aid, all identified to meet the needs of the authority.
- 2.6 In regards to insurance claims the average time between an incident, claim notification and process is often long which make tracking trends difficult within a twelve month period. Due to a drive to improve compliance documentation on a number of TWBC sites, there are encouraging indicators for TWBC insurers to be able to repudiate or get claims withdrawn, decreasing potential pay-outs.
- 2.7 TWBC's Health and Safety Committee is chaired by the Director of Change and Communities, with representatives from staff, managers, Property, HR, Finance and Legal teams. Priorities set in the Corporate Health and Safety Work-plan have been met and issues raised by staff addressed. Quarterly incident data is discussed, with potential issues and trends highlighted and potential corrective actions authorised.
- 2.8 Work related ill-health is reported separately within the authority through the Human Resources (HR) department to Management Board. The Health and Safety Advisor has worked closely with the HR department to put procedures in place to reduce any negative effects of incidents to employees outside work impacting on sickness absence within the authority. The staff Wellbeing group supports staff with wellbeing tips and activities that proactively improve mental and physical health within authority staff.
- 2.9 There were 2 reported fires on TWBC properties in 2019/20 compared to 3 in 2018/19. These included small incidents at the Crematorium as well as a faulty light fitting at Tunbridge Wells Sports Centre. Site Management along with Health and Safety Advisor support have liaised with the Kent Fire Service in regards to adequate fire procedures at the Assembly Halls for larger shows.
- 2.10 There were no formal communications from the Health and Safety Executive (HSE) in 2019/20 or follow up investigations after any reported RIDDOR incidents.
- 2.11 The future work plan is based on analysis of the overall risk to the organisation and the need to continue work to reduce this. The focus on Covid-19 is key for this coming year, ensuring the safety of staff and the public.
- 2.12 TWBC have a range of interventions to ensure that employees who work out in the community, whether for enforcement or advise during visits and inspections to sites and businesses are protected. These include service level risk

assessment, training, use of technology for communication and emergency systems. Implementation of lone working and conflict management processes have ensured employees wellbeing and safety over the last year, but this continues to be an area to focus on.

- 2.13 The Council continued to be committed to a number of development schemes during the year, with work on the Amelia Centre starting and the Public Realm. These developments involve a risk to the Council which need input from the Health and Safety Advisor as well as the Property Service Team to ensure any risk is controlled and managed.

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### **3. AVAILABLE OPTIONS**

- 3.1 Note the information contained in the report and approve priorities for 2020-21.
- 3.2 Note information and not approve priorities for 2020-21
- 3.3 Refuse to note the information and not approve priorities for 2020-21

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The recommended option is that the Corporate Health and Safety Annual Report for 2019/20 and the work undertaken to secure a safe and healthy working environment is noted with any proposed health and safety actions approved.
- 4.2 This should ensure that TWBC continue to comply with the Health and Safety at Work Act 1974 and ensure that there is effective monitoring and review of health and safety management throughout the Council.

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### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The content of this report has been discussed with the TWBC Health and Safety Committee with prospective priorities set for 2020-21.
- 5.2 To ensure that all levels within the authority are made aware of the findings within the document, the Accident and Incident Data Analysis document including an overview of performance will be communicated through internal staff communications. Including the Corporate Brief and 'On the Write Lines' along with the Member's newsletter.

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### **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 The reports findings will be communicated internally to TWBC staff.

6.2 Priorities will be added to the Corporate Health and Safety Work Plan, with progress monitored quarterly by the TWBC Health and Safety Committee.

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Legal</b> including Human Rights Act	The Health and Safety at Work etc Act 1974 imposes upon the Council statutory duties to ensure the health, safety and welfare of it's employees and others. Failure to comply with the statutory duties and to adequately manage health and safety could lead to prosecution, under the Act, of the Council, Officers and /or individual employees. Annual reports to Cabinet that include an appraisal of the last 12 months' achievements and setting out the plans for the next 12 months assist in demonstrating compliance with the statutory duties and minimising the risk of prosecution.	Gary Rowland (Senior Lawyer – Corporate Governance)
<b>Finance</b> and other resources	Improvements in safety will reduce the likelihood of fines and insurance claims.	Mike Catling, (Corporate Health and Safety Advisor)
<b>Staffing establishment</b>	No direct implications.	Mike Catling, (Corporate Health and Safety Advisor)
<b>Risk Management</b>	Corporate health and safety risks should feature on the Risk Register. As there are risks to sites and service provision if safety is not managed effectively within the authority. Failure to adequately manage health and safety could have a financial impact and also affect the Council's reputation. Making the Council liable to compensation payments with this resulting in the potential for future increases in insurance premiums.	Mike Catling, (Corporate Health and Safety Advisor)
<b>Data Protection</b>	No direct implications.	Mike Catling, (Corporate Health and Safety Advisor)
<b>Environment and Sustainability</b>	No direct implications.	Mike Catling, (Corporate Health and Safety Advisor)

<b>Community Safety</b>	No direct implications.	Mike Catling, (Corporate Health and Safety Advisor)
<b>Health and Safety</b>	The work completed and the set priorities provide for the effective management of health and safety. Minimising the risk of injury, financial loss or criminal legal liability under the Health and Safety at Work Act 1974.	Mike Catling, (Corporate Health and Safety Advisor)
<b>Health and Wellbeing</b>	The priorities contained within the report should contribute to increased wellbeing of staff as well as a positive impact on the health of those affected by council activities. As a large number of TWBC staff also live in the borough it should have a positive impact on the area as a whole.	Mike Catling, (Corporate Health and Safety Advisor)
<b>Equalities</b>	The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users.	Mike Catling, (Corporate Health and Safety Advisor)

## 8. REPORT APPENDICES

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

- Appendix A: Accident and Incident Data Analysis

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## 9. BACKGROUND PAPERS

- None.

## Accident and Incident Data Analysis 2019/20

### 1. Summary Data

TWBC have 307 directly employed staff. A number of contractors working on TWBC behalf on a regular basis. There are a range of operational properties accessed by the public, along with a number of properties which Tunbridge Wells have liability for but do not operate from.

In total there were 108 reported incidents during the last financial year, a slight decrease on the previous year. This decrease could potentially be due to the Covid-19 related lockdown procedures starting prior to the end of the year, reducing normal council activities quite considerably. The figures include 20 injuries to staff members, compared to 18 in 2018/19. Along with 16 injuries to third parties, compared to 27 in 2018/19. N.B. Data for slips injuries at the Ice Rink has been excluded from these figures.

The most common type of recorded incident is 'Conflict / threats of violence/actual violence' with a similar number of incidents to last year. There has been another decrease in 'Slips, trips and falls' incidents which has been due to consistent improvement in management of the causes by the Site Managers and the Facilities Team on TWBC controlled sites. Other accident and incident data figures remained similar to previous annual data over the last couple of years. 'Impact' incidents (the collision of a body with a moving or stationary object) have decreased this year compared to a large increase in incidents last year.

There was one third party incident that required reporting to the Health and Safety Executive (HSE) under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR). No staff incidents required reporting. To date, the reported incident has not attracted investigation from the HSE. This is compared with one staff reportable incident and three third party reportable incidents in 2018/19.

2019/20 came with a number of obstacles for TWBC to manage whilst maintaining a good level of Health and safety for staff and the public. With the management of a number of buildings coming to the end of their life, potential no deal Brexit, a range of elections as well as the Coronavirus. This also included the planning for the Calverley Square project, along with having to change direction in the planned futures of a number of buildings when this was cancelled.

## 1.1. Total Incidents

There were 108 recorded incidents during this time period compared to 113 last year. This is a 4% decrease.

N.B- Excluding members of the public slipping on the ice at the Ice Rink.

	Number of incidents 2016/17	Number of incidents 2017/18	Number of incidents 2018/19	Number of incidents 2019/20	% Increase / decrease on last year
<b>Total (not including slips on the ice at the Ice Rink)</b>	109	104	113	<b>108</b>	<b>-4% (decrease)</b>

## 2. Incidents trends and comparisons

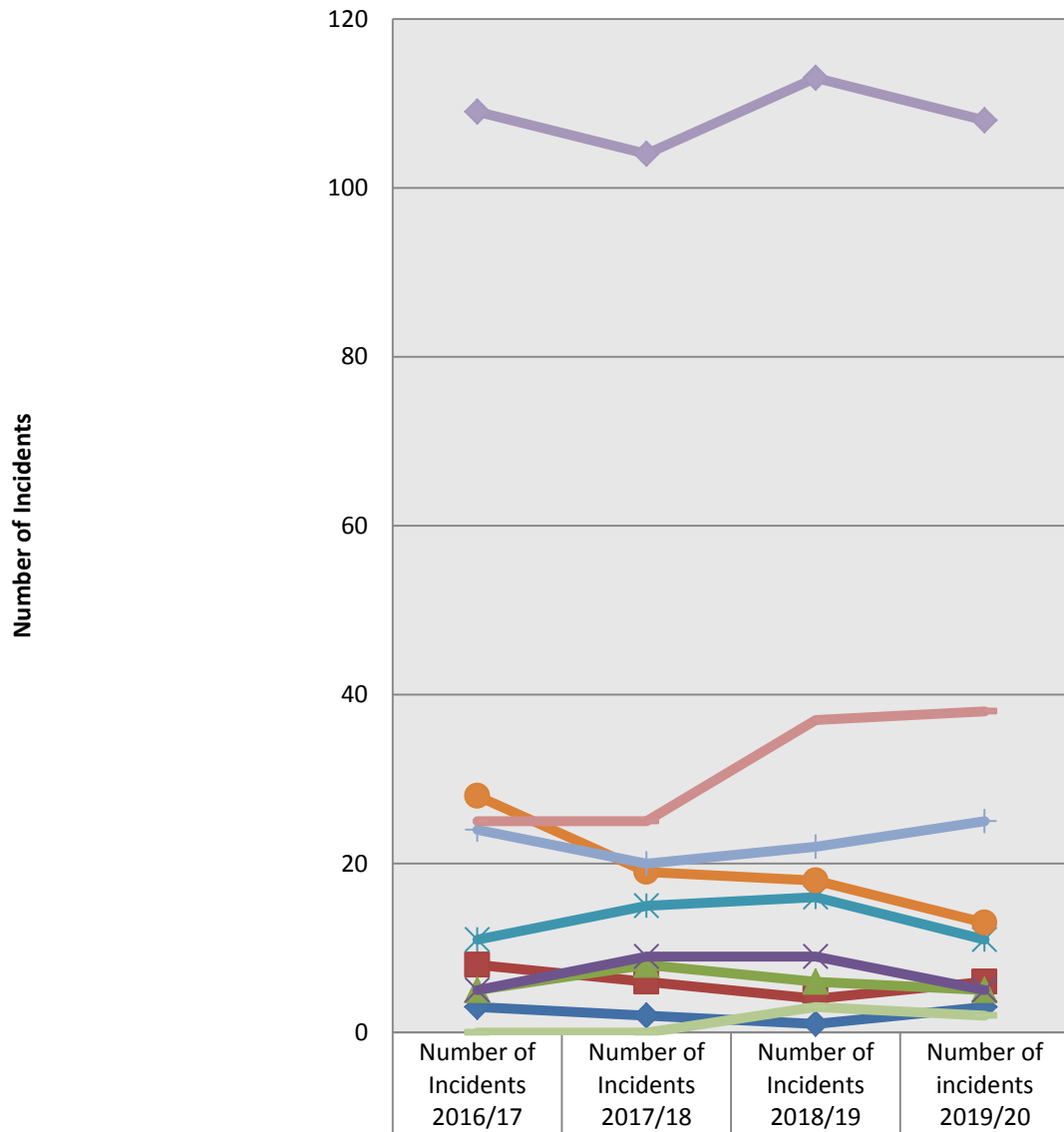
The two most common types of incidents recorded are 'Conflict / threats of violence / actual violence' and 'Slips, trips and falls', with data continuing to indicate that prior to 2016/17 there was an under reporting of incidents across the council. From 16/17 there was an increase in training for officers and a more accessible, better designed on-line reporting system and form, which has improved reporting with the authority.

There has been a concentration of effort, by all (Health & Safety Advisor, Site Management, Facilities Team and employees) to reduce the cause of incidents in Tunbridge Wells BC sites which shows in a continuing reduction in Slips, trips and falls incidents.

With the outbreak of Coronavirus over the last few weeks of this financial year the figures were expected to have been slightly higher overall.

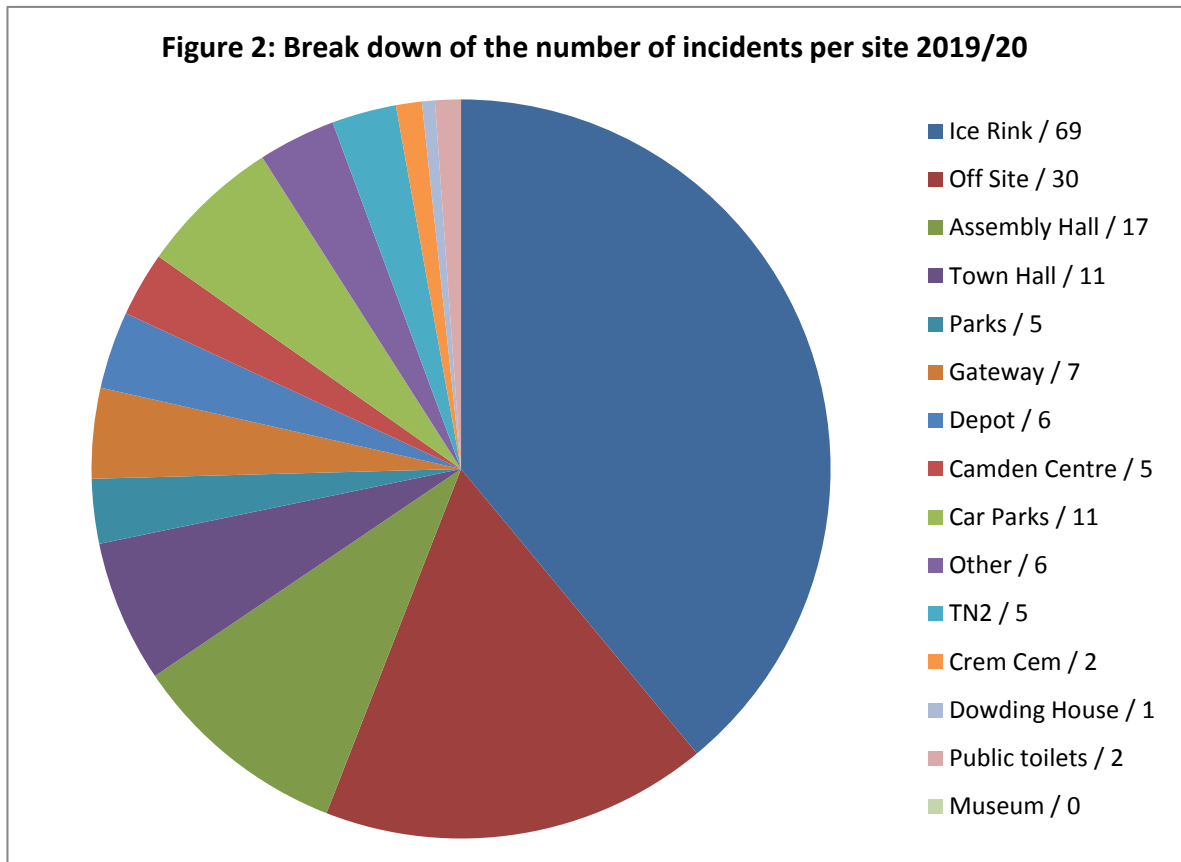
Incidents of conflict are 38 out of 108 incidents, making up 35% of the total number. Over the last few years there has been an upward trend, although not at the same rate, due to work put into this area over the last couple of years. These may also have been under reported previously, with the possibility of some departments still not reporting the less severe incidents.

**Figure 1: Break down of Incident data by type over the last four years.**



◆ Musculoskeletal	3	2	1	3
■ Property Damage	8	6	4	6
▲ Collapsed/Panic attack/ Allergic reaction	5	8	6	5
✕ Other	5	9	9	5
✱ Impact Injury	11	15	16	11
● Trips/Slips/Falls (not including the Ice Rink)	28	19	18	13
+ Dangerous Occurrence, Near Miss	24	20	22	25
— Conflict /Threats of Violence and Actual Violence	25	25	37	38
— Fire			3	2
◆ Grand Total	109	104	113	108

### 3. Location of Incidents



There is a continued decrease in recorded incidents at the Assembly Hall and reduction at the Town Hall, this could be attributed to the concentrated effort by site management to reduce staff injuries and reduce hazards to members of the public.

There is an increase in recorded incidents from 'Other sites' (smaller, less visited TWBC operated sites) as well as 'Off Site' incidents being reported in high numbers, (public and private places not owned or operated by TWBC e.g. inspection of building sites, restaurants). This could be attributable to better training and knowledge of on line reporting systems.

In general this year's incident data follows a similar pattern to previous data, with the majority of incidents occurring at the Ice Rink due to slips on the ice.

As expected higher levels of reported incidents occurred at locations where large numbers of the public visit, such as the Assembly Hall Theatre.

There maybe an under reporting from Dowding House due to the management and reporting on site being arranged by Paramount management company and not directly by TWBC staff.

There has been an improvement in safety processes at the Crematorium this year after potential under reporting last year.

There are consistent figures this year for a number of sites where traditionally numbers of incidents are low, although a number of incidents happen when council staff are working away from TWBC sites where the environment cannot be managed.

Car Parks incidents have increased this year which could in part be attributed to the condition of these buildings along with increased reporting of incidents of conflict to parking staff.



## Appendix A

Although incident figures at the Ice Rink were higher than last year so were the attendance figures and incident ratios show an increase in safety standards on site (please see 3.1 below).

Site	Number of incidents 2016/17	Number of incidents 2017/18	Number of incidents 2018/19	Number of incidents 2019/20	% Increase / decrease on last year
Car Parks	8	5	5	11	+120% (increase)
Assembly Hall	19	26	20	17	-15% (decrease)
Gateway	7	5	7	7	0%
Town Hall	9	8	16	11	-31% (decrease)
Other TWBC sites	0	4	3	6	+100% (increase)
Ice Rink	65	99	55	69	+25% (increase)
Depot	7	4	6	6	0%
Parks	10	5	9	5	-44% (decrease)
TN2	2	2	2	5	+150% (increase)
Camden Centre	5	3	5	5	0%
Public Toilets	1	0	0	2	+200% (increase)
Cemetery / Crematorium	4	9	2	2	0%
Museum	4	1	1	0	-100% (decrease)
Off site	27	25	31	30	-3% (decrease)
Dowding House	-	-	2	1	-50% (decrease)
<b>Total</b>	168	196	162	177	+9% (increase)

### 3.1. Ice Rink

Figure 3: Ice Rink incident data

	2015	2016	2017	2018	2019
Numbers of paying customers	34,199	39,214	39,827	38070	<b>46,400</b>
Slips injuries on the ice	57	59	92	51	<b>69</b>
Number of Ice skaters per incident	561	585	402	692	<b>672</b>
Number of Ice skaters per injury (where advised to seek further medical attention)	Not known	1188	632	1088	<b>2109</b>

There were 69 reported slip injuries on the ice with no other incidents on site at the Ice rink complex, which is a decrease in incidents off the ice, showing improved management procedures. Total number of incidents increased since last year but visitor numbers increased as well. The Incident ratio is similar to last year but injury ratio is considerably better due to there being fewer injuries per skater this year. This was the first year of having two Ice rinks which may have had a contributing factor in the reduction of injuries.

There was the least number of 'Advised to seek further medical attention' incidents compared to the last few years, with these being 32% of incidents. No reported Ambulance visits to site were required, along with a reduction in incidents to under 18s, although these are still three quarters of the incidents. Poor weather conditions during the 2017/18 season may have been a cause of the higher figures for that year. The increase in recorded accidents between 2016/17 and 2017/18 may also be due to better reporting system technology, data compilation and tracking of trends. This enabled better management of the rink in the following years, focusing on specific areas and managing 'at risk' sectors of public. There was a drive on improvement in the public awareness of the Ice Rink rules and managing behaviours on the ice, especially towards the end of the season which is when it is most busy.

## 4. Incident by Type and Service

### 4.1. Total cases of Conflict / Threats of Violence / Actual Violence

Figure 4: Breakdown of Conflict / Threats of and Actual Violence per department in 2019/20, compared to previous years.

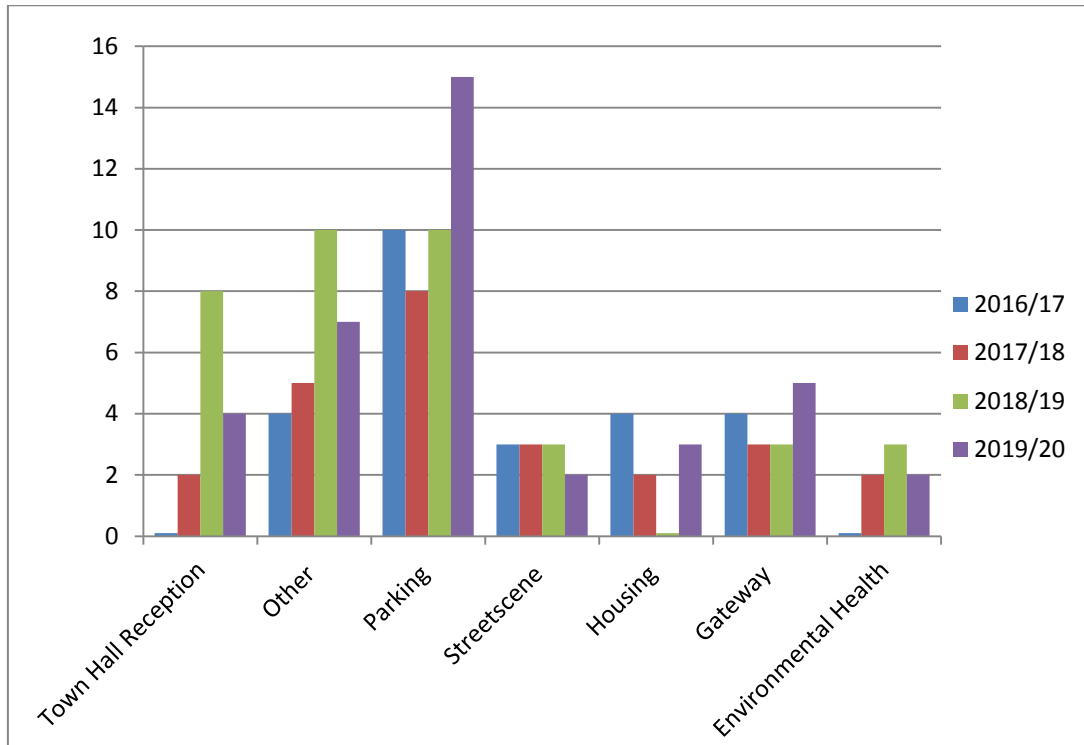
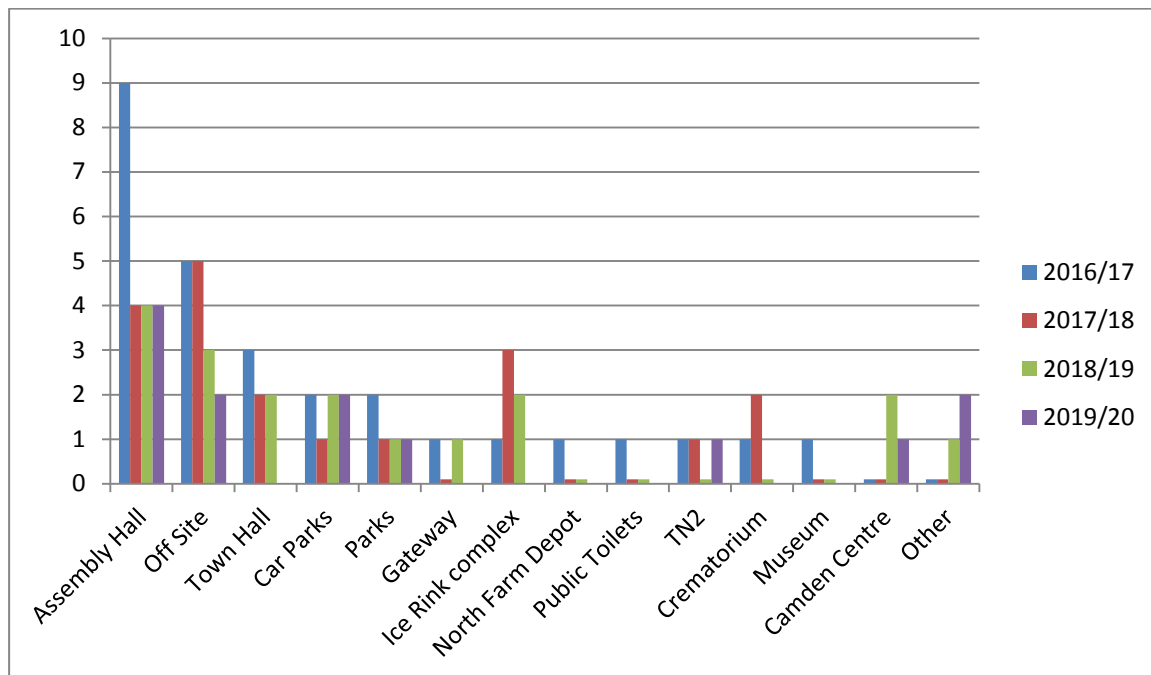


Figure 4 shows the sites and service areas most at risk, along with those who report the most incidents. Departments such as Streetscene Enforcement continues to be an area where conflict can be expected due to the nature of the work, fortunately reported incidents remain low. Incidents recorded as 'Other' are sites or departments such as North Farm Depot and the Tourist Information Centre which have experienced recorded incidents in small numbers.

There is concern that for some service areas these figures are indicative as staff are quite likely to underestimate the levels of conflict that they encounter. As aggressive behaviour is becoming more commonplace, staff can think it is part of their job, leading to not reporting lower level incidents.

There is a decrease in some areas such as the Town Hall reception, although an increase in areas such as Housing, Gateway and the Parking Team. These figures would have been higher or effects would have been more severe if time and effort were not put into this area this year. Extra training, risk assessments, lone working devices and better links with the Police have helped in this area this year and this will continue to be an area to concentrate on going forward. The spike in incidents may partially be due to an under reporting in this area in the past, along with making this area more high profile leading to an increase in reporting.

## 4.2. Slips, Trips and Falls Incidents



**Figure 5: Breakdown of Slips, Trips and Falls per site over 2019/20 compared to previous years.**

The Assembly Hall would be expected to have a high number of incidents due to the high numbers of members of the public who attend the theatre. There has been a continuing emphasis on reducing these incidents this year which has seen a decrease in numbers of slips and trips in most TWBC sites. Ensuring the promotion of correct footwear for the task to staff has helped. The only area where there has been an increase is in 'Other' TWBC sites, this maybe where site management may be less consistent. This should be monitored going forward so there is not an increase in this area.

## 4.3. Other Trends

- There were 8 reported incidents to persons under 18 years old compared to 14 last year, along with three quarters of the incidents at the Ice Rink.
- 32 lone working incidents involving staff occurred in 2019/20 compared with 28 in 2018/19 and 33 in 2017/18. This is 30% of incidents this year compared to 25% of incidents last year. This could be due to a concentration in this area this year leading to better reporting.
- The average reporting time for incidents on the reporting system was 1.68 days in 2019/20 compared to 1.99 days in 2018/19 and 3.72 days in 2017/18. The expected standard within TWBC is 3 days and this was achieved in most cases. This shows a continuing increase in staff knowing the importance of reporting incidents to reduce the chance of reoccurrence.

Incident data is monitored with trends fed back to the Health and Safety Committee quarterly by the Health and Safety Advisor, issues can then be actioned prior to them increasing in severity or frequency.

## 5. Staff Incidents

During 2019/20 out of 108 incidents 20 involved staff injury, with 8 out of the overall 20 incidents being away from TWBC property.

### 5.1. What types of incidents have occurred?

TWBC employee injuries	TWBC staff injuries 2016/17 (Total staff 304)	TWBC staff injuries 2017/18 (Total staff 314)	TWBC staff injuries 2018/19 (Total staff 296)	TWBC staff injuries 2019/20 (Total staff 307)
Slips trips and falls	11	6	5	4
Physical assault	2	5	2	4
Manual Handling	2	2	1	3
Impact	3	10	6	7
Other	4	4	4	2
Collapse	-	2	0	0
<b>Total number of injuries</b>	22	29	18	20

Similar to the last two years, Impact injuries have been the highest single cause of injury to staff. Often either the person was not aware of the hazards around them and/or hazard spotting or site inspections have not been completed to the required standards to reduce risks.

We continue to see a reduction in slips, trips and falls injuries this year, following the priority it was given after the 2016/17 report, with staff injuries now being almost a third of what they were then.

Physical assault increased with a large increase in incidents to Parking staff away from TWBC properties.

No staff related incident was required to be RIDDOR reported to the Health and Safety Executive this year.

## 6. Third Party Incidents

There were 16 injuries to third parties on TWBC property or effected by Council activities out of the 108 reported incidents over 2019/20. This added to 69 injuries from slips on the ice at the Ice Rink gives a total of 85 incidents that resulted in injury, relating to visitors, contractors and members of the public occurring during 2019/20.

## 6.1. Types of incidents occurred

	Injuries to Members of the Public on TWBC property 2016/17	Injuries to Members of the Public on TWBC property 2017/18	Injuries to Members of the Public on TWBC property 2018/19	Injuries to Members of the Public on TWBC property 2019/20
Slips Trips and Falls (minus Ice Rink)	15	12	11	8
Physical Assault	1	1	1	0
Impact	4	5	9	4
Other	4	2	2	1
Collapse	2	4	4	3
Slips on the ice at the Ice Rink	59	92	51	69
<b>Total number of injuries</b>	85	116	78	85

The majority of third party incidents were slips, trips and falls, both at the Ice Rink and at other TWBC sites. Numbers of injuries from slips, trips and falls incidents on TWBC sites continues to drop, due to a continued improvement of management standards on site. Not including slips on the ice at the Ice Rink there were 27 injuries to members of the public in 2018/19, 24 in 2017/18 and 26 in 2016/17. So with 16 this year this shows a considerable reduction in injuries away from the Ice Rink on TWBC sites. Other than at the Ice Rink all types of incidents reduced compared to the previous year.

## 6.2. Injuries sustained

Mainly minor injuries with the more severe cases potentially reported as RIDDOR incidents to the Health and Safety Executive.

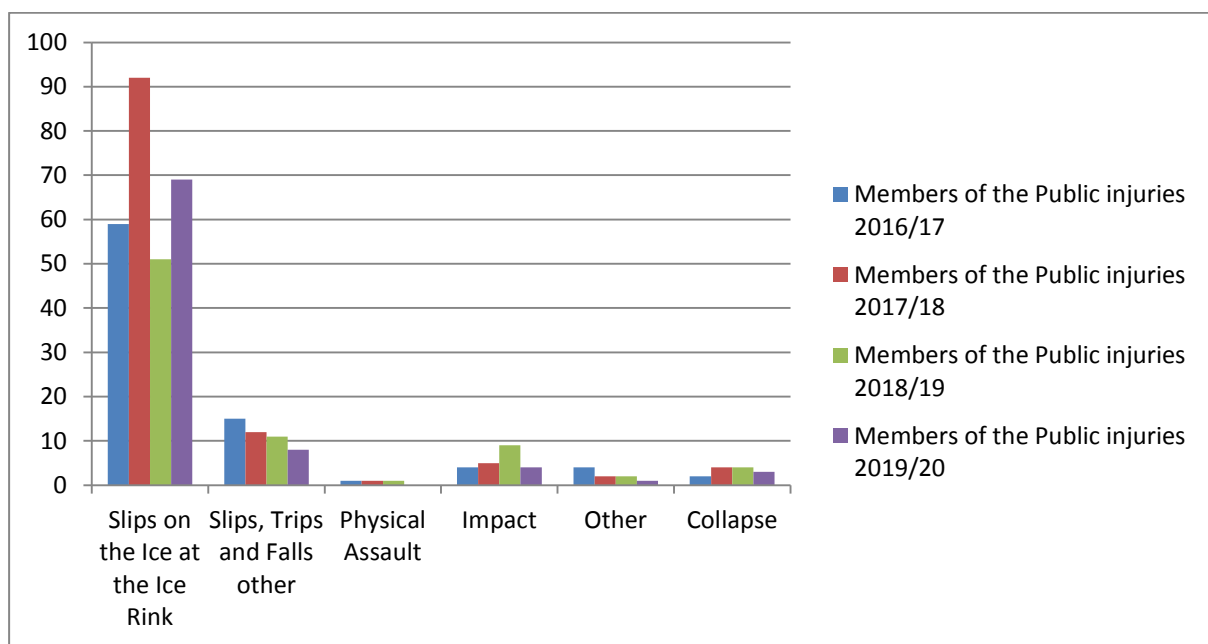


Figure 6: Injuries to third parties by type compared to previous years.

### **6.3. Third parties**

Almost all of the third party incidents during 2019/20 involved members of the public rather than contractors. TWBC contract managers are aware that any accidents reported by contractors should be reported to the Health and Safety Advisor to record centrally.

### **6.4. Accidents requiring RIDDOR notification**

One incident was RIDDOR reported to the Health and Safety Executive over this time period.

- (i) A member of the public tripped when entering the Assembly Hall Theatre. This may not class as work related but a RIDDOR report was made due to the injured party being taken directly to hospital from site by an ambulance.

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## **Overview and Scrutiny Committee**

**1 September 2020**

## **Urgent Business**

### **Procedural Item:**

To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.

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## **Overview and Scrutiny Committee**

**1 September 2020**

## **Date of Next Meeting**

### **Procedural Item:**

To note that the next scheduled meeting is Monday 21 September 2020.

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## Overview and Scrutiny Committee

1 September 2020

## Exempt Items

### Procedural Item:

It is proposed that, pursuant to section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following items of business on the grounds that they may involve the disclosure of exempt information as defined in Schedule 12A of the Act, by virtue of the particular paragraphs shown on the agenda and on the attached reports.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972 (as amended).

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