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Date: 10 July 2018

## Notice of meeting

### Cabinet

**Date:** Wednesday, 18 July 2018

**Time:** 7.00 pm

**Place:** Goddard Room, Council Offices, Knowle Green, Staines-upon-Thames

<b>The members of the Cabinet</b>	<b>Cabinet member areas of responsibility</b>
I.T.E. Harvey (Leader)	Leader and Council Policy co-ordination
A.C. Harman (Deputy Leader)	Deputy Leader and Communications
M.M. Attewell	Community Wellbeing
C. Barnard	Planning and Economic Development
J.R. Boughtflower	Corporate Management
M.P.C. Francis	Housing
O. Rybinski	Customer Service, Estates and Transport
H.R.D. Williams	Finance

**Spelthorne Borough Council, Council Offices, Knowle Green**

**Staines-upon-Thames TW18 1XB**

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## AGENDA

Page nos.

- 1. Apologies for absence**  
To receive any apologies for non-attendance.
- 2. Minutes** **7 - 14**  
To confirm the minutes of the meeting held on 20 June 2018 as a correct record.
- 3. Disclosures of Interest**  
To receive any disclosures of interest from councillors in accordance with the Council's Code of Conduct for members.
- 4. Mandatory Licensing of Houses in Multiple Occupation – Fee setting - Key Decision** **15 - 26**  
**Councillor Francis**  
  
To consider changes to the mandatory licensing of Houses in Multiple Occupation (HMOs) and the proposed fee setting policy for 2018–2019.
- 5. Supplementary Capital Programme Provision for Asset Acquisitions** **27 - 36**  
**Councillor Williams**  
  
To consider a proposal to increase the Capital Programme provision for asset acquisitions and housing delivery projects and make a recommendation to Council.
- 6. Treasury Management Annual report 2017-18** **37 - 48**  
**Councillor Williams**  
  
To receive an annual report on the treasury outturn position for 2017-18.
- 7. Proposal for future arrangements for terms and conditions for Spelthorne employees** **49 - 66**  
**Councillor Boughtflower**  
  
To consider a proposal to move away from national arrangements for pay awards, terms and conditions and to move to local Spelthorne pay and conditions with effect from 1 April 2019 and to make a recommendation to Council.

**8. Members' Allowances Scheme 2018-2019** **67 - 88**  
**Councillor Harvey**

To consider the report and recommendations of the Independent Remuneration Panel on the Members' Allowances Scheme for 2018-2019 and make a recommendation to Council.

**9. Use of compulsory powers to enable development - 15 London Road and an unregistered site next to it, Staines-upon-Thames** **89 - 106**  
**Councillor Barnard**

To consider a report seeking confirmation of the Council's willingness, in principle, to use compulsory purchase and / or appropriation powers in order to enable development of 15 London Road and an unregistered site next to it, Staines-upon-Thames.

It may be necessary to exclude the press and public during consideration of this item due to the fact that Appendix 2 to the report contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006:

Category 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

And in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because revealing information on property values at an early stage would prejudice the ability of the Council to negotiate a voluntary agreement with the landowners(s) at the appropriate value.

**10. Use of compulsory powers to enable development - 116, 118 and 120 High Street, Staines-upon-Thames** **107 - 126**  
**Councillor Barnard**

To consider a report seeking confirmation of the Council's willingness, in principle, to use compulsory purchase and / or appropriation powers in order to enable development of 116, 118 and 120 High Street, Staines-upon-Thames.

It may be necessary to exclude the press and public during consideration of this item due to the fact that Appendix 2 to the report contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006:

Category 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

And in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because revealing information on property values at an early stage would prejudice the ability of the Council to negotiate a voluntary agreement with the landowners(s) at the appropriate value.

**11. Annual Report** **127 - 138**  
**Councillor Harvey**

To note Spelthorne Borough Council's Annual Report for 2017-18.

**12. Leader's announcements**

To receive any announcements from the Leader.

**13. Urgent items** **139 - 140**  
**Councillor Attewell**

To consider an urgent report on the Meals on Wheels vehicles contract.

**14. Exempt Business**

To move the exclusion of the Press/Public for the following item, in view of the likely disclosure of exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006.

**15. Exempt report - Tender for Staines Market - Key Decision** **141 - 144**  
**Councillor Harvey**

To consider a report seeking authority to progress with a tender exercise for a contract to operate Staines-upon-Thames market on behalf of the Council.

**Reason for exemption**

This report contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006:

Category 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

And in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because, disclosure to the public would prejudice the

financial position of the authority in the tender process as it will allow tenders to be aware of the current contract value but the contract terms might change, and the position regarding the Transfer of Undertaking (Protection from Employment) Regulations 2006 prior to the tender process. This in turn prejudices the Council by distorting the tender process.

**16. Exempt report - White House construction advisors and design team - Key Decision** **145 - 152**

**Councillor Harvey**

To consider a report on the appointment of the White House construction advisors and design team and make a recommendation to Council.

**Reason for exemption**

This report contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006:

Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

And in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because, disclosure to the public would prejudice the financial position of the authority in the bidding procurement of contracts by allowing other parties to know the position of the Council. This in turn prejudices the Council by (i) distorting the procurement process and (ii) prejudicing the opportunity for the Council to place contracts for the prudent management of its financial affairs.

**17. Exempt report - Investment Acquisition (N) - Key Decision** **153 - 160**

**Councillor Harvey**

To consider the acquisition of the investment assets identified in the report.

**Reason for exemption**

This report contains exempt information within the meaning of paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006): Information relating to the financial or business affairs of any particular person (including the authority holding that information).

And in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the

information because, disclosure to the public would prejudice the financial position of the authority in the bidding process for the site by allowing other bidders to know the position of the Council. This in turn prejudices the Council by (i) distorting the bids process and (ii) prejudicing the opportunity for the Council to acquire a site through the Council for the prudent management of its financial affairs.

**18. Exempt report - Investment Acquisition (O) - Key Decision  
Councillor Harvey**

**161 - 190**

To consider the acquisition of the development and investment asset identified in the report and make a recommendation to Council.

**Reason for exemption**

This report contains exempt information within the meaning of paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006): Information relating to the financial or business affairs of any particular person (including the authority holding that information).

And in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because, disclosure to the public would prejudice the financial position of the authority in the bidding process for the site by allowing other bidders to know the position of the Council. This in turn prejudices the Council by (i) distorting the bids process and (ii) prejudicing the opportunity for the Council to acquire a site through the Council for the prudent management of its financial affairs.

**Minutes of Cabinet**

**20 June 2018**

**Present:**

Councillor I.T.E. Harvey, Leader and Council Policy co-ordination  
Councillor A.C. Harman, Deputy Leader and Communications  
Councillor M.M. Attewell, Community Wellbeing  
Councillor C. Barnard, Planning and Economic Development  
Councillor J.R. Boughtflower, Corporate Management  
Councillor M.P.C. Francis, Housing  
Councillor N.J. Gething, Environment and Compliance  
Councillor O. Rybinski, Customer Service, Estates and Transport  
Councillor H.R.D. Williams, Finance

**2488 Minutes**

The minutes of the Cabinet meeting held on 25 April 2018 were agreed as a correct record.

**2489 Disclosures of Interest**

There were none.

**2490 2017/18 Provisional Capital Outturn Report**

Cabinet considered a report on the provisional capital outturn spend for 2017/18.

**Resolved** that Cabinet notes the contents of the report and approves the capital carry forward as stated in the report.

**2491 2017/18 Provisional Revenue Outturn Report**

Cabinet considered a report on the provisional revenue outturn for 2017/18.

**Resolved** that Cabinet notes the contents of the report and approves the revenue carry forward as stated.

**2492 Replacement of Spelthorne Leisure Centre - Consultation 1**

Cabinet considered a report on proposals to consult with the borough's residents, businesses and other stakeholders regarding the proposed site and suggested facilities for the new Spelthorne Leisure Centre.

An amended report was tabled at the meeting (as attached); the main changes being:

- A recommendation that the Leader, Councillor I.T.E. Harvey, as Chair of the Council's Leisure Centre Development Working Group, be authorised to consider the results of the consultation exercise and decide on the business case for any amendments to the proposals as a result of that.

- Inclusion of paragraph 4.4 regarding the preparation of an Equality Impact Assessment.

An amended map showing the proposed location and layout of the replacement leisure centre (Appendix 1) had been issued in a supplementary agenda in advance of the meeting.

**Alternative options considered and rejected by Cabinet:**

- To do nothing
- To propose an alternative approach

**Resolved to:**

1. Approve the proposals to consult with the borough's residents, businesses and other stakeholders on:
  - The proposed site, and
  - The draft facilities mix and additional options for consideration, for the new Spelthorne Leisure Centre.
2. Authorise the Leader, Councillor I.T.E. Harvey, as Chair of the Council's Leisure Centre Development Working Group, to consider the results of the consultation exercise and decide on the business case for any amendments to the proposals based on the consultation responses.

**Reasons for decision:** to ensure that stakeholders' views are taken into consideration before any detailed design work is undertaken on a new leisure centre.

**2493 \*Spelthorne Pay Supplement**

Cabinet considered a report for a pay supplement of 0.5% to all posts on National Joint Council terms and conditions. The supplement was in addition to the 2% national pay award. There was also a recommendation that a total pay award of 2.5% be awarded to posts on Chief Officer (JNC) and Chief Executive (CX) terms and conditions, inclusive of any national pay award still to be agreed.

**Alternative options considered and rejected by Cabinet:**

- Not to award the pay supplement

**Resolved** to recommend to Council that the Spelthorne Pay Supplement is approved as follows:

1. The Spelthorne Pay Supplement is awarded at 0.5% to all posts on National Joint Council (NJC) terms and conditions, including Apprentice posts.
2. A total pay award of 2.5% is awarded to posts on Chief Officer (JNC) and Chief Executive (CX) terms and conditions. The award is inclusive of any National Pay Award yet to be agreed.



**Reasons for recommendation:** Cabinet recommended this proposal to Council to help attract and retain staff. It is comparative to other pay awards in the County.

**2494 Consultation response on unauthorised development and encampments**

Cabinet considered the letter sent to the Minister of State for Housing in response to HM Government's consultation on powers for dealing with unauthorised development and encampments.

Portfolio Holders had been consulted on the response before the draft was sent in time for the 15 June 2018 deadline.

**Resolved** to note the response sent to the Secretary of State in time for the 15 June 2018 deadline.

**2495 Appointments to Outside Bodies and Working Groups**

Cabinet considered a report on the proposed appointments of representatives to Outside Bodies and Working Groups for 2018/19.

**Resolved** that Cabinet appoints representatives to Outside Bodies and Working Groups for 2018/19 as shown in Appendix A to the report.

**2496 Leader's announcements**

The following are the latest service updates from various Council departments:

Graham Tattersall and Ann Trewren who ran a 'private members club' in Stanwell Moor in breach of planning laws were fined £2800 and £3500 respectively at a hearing at Kingston Crown Court on 15 June having pleaded guilty to planning offences. They were previously ordered to pay a confiscation figure of £45,000 at a sentencing hearing on 1 June, the judge having ruled that money made by the spa whilst committing a criminal offence amounted to proceeds of crime. They were also ordered to pay the Council's costs of £7747.87.

The Council has announced support for the introduction of a light railway scheme linking Staines to Heathrow. Light railways schemes have been successfully introduced in many countries around the world offering seamless and frequent connectivity. If given the go-ahead, the light railway scheme would run alongside the M25, using 'brownfield' land without encroaching on Staines Moor.

Shepperton Studios is seeking pre-application discussions with the Council's planning officers regarding proposals to develop and extend their site. The Studios will be undertaking public consultations.

Events to publicise the Issues and Options consultation on the new Local Plan have nearly concluded, with just two visits to residents' association meetings still to go (consultation ends on 25 June). The information events have been well attended, with many local people coming to talk to the team. The most frequently raised issues have been about how well the new Local Plan will address the provision of infrastructure, particularly congestion on the borough's roads and the lack of GPs.

Plans to build a new leisure centre in Staines-upon-Thames have been announced. Staines Park has been identified as a possible location for the new leisure centre and the first public consultation is planned to start in the next few weeks. The current centre will remain open while the new one is being built to ensure continuity of service.

The Council is calling on Heathrow to broaden the compensation scheme which will be applied if expansion at Heathrow goes ahead to include the whole of Stanwell Moor and large parts of Stanwell. Spelthorne has also issued a press release asking Heathrow and the Government to ensure Staines Moor is protected from the potential impacts of expansion at the airport.

An 87-year-old man who suffered a cardiac arrest while swimming at Sunbury Leisure Centre has paid tribute to the staff who saved his life. Jake Mole, the on-duty lifeguard, noticed Mr Pleece was in difficulty and performed CPR until the emergency services arrived. Mr Pleece returned to the Leisure Centre in May to thank Jake and the team for their swift actions.

A representative from the Housing team is visiting Staines Police station in July to give some advice and assistance to officers regarding housing and homeless queries.

The Spelthorne Business Plan Competition final was held on 24 May at BP's headquarters in Sunbury-on-Thames. Six finalists pitched in a Dragons' Den style final for a chance to win £3,500 and a year's package of business support. First place went to Louise and Levi Yearwood for their proposal to create 'The Rustic Bar Company', making unique furniture from recycled wood.

A survey is being undertaken to assess the parking in Ashford Town Centre and the surrounding roads. Set to take place in the next few weeks, the survey will look at the current pressure on car parking spaces and take into account commuter parking, needs arising from development in and around the town centre and the retail environment.

Recycling roadshows are being held outside Waterstones in Staines every Wednesday and Friday during June and July (10am to 2pm) to promote the weekly food waste, textiles and small electricals collection service.

The Communications team has started a project to refresh the Council's website, introducing a new design and improved navigation.

The Mayor hosted an event at the Lammas Park in Staines on Friday 25 May to celebrate the opening of a new refreshment kiosk and reopening of the spray ground.

**2497 Urgent items**

There were none.

**2498 Exempt Business**

**Resolved** to move the exclusion of the Press and Public for the following items in view of the likely disclosure of exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006.

**2499 Exempt report - Decision on award of contract for the provision of Emergency Planning, Business Continuity and Counter Terrorism - Key Decision**

*Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)*

Cabinet considered an exempt report on the joint tender procurement process with Runnymede Borough Council for Emergency Planning, Business Continuity and Counter-Terrorism.

**Alternative options considered and rejected:**

- To allow the existing contract to roll over without tendering

**Resolved** to approve delegation of authority for the award of the Emergency Planning, Business Continuity and Counter-Terrorism contract to the Deputy Chief Executive (Lee O'Neil) in consultation with the appropriate portfolio holder.

**Reasons for decision:** The tender process closes late July 2018, after the next Cabinet meeting. The existing contract is expiring at the end of August 2018 and the new contract is expected to commence on 1 September 2018, therefore a decision is required before the following Cabinet meeting on 26 September 2018.

**2500 Exempt report - Thameside House Construction Advisors and Design Team- Key Decision**

*Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)*

Cabinet considered an exempt report seeking their recommendation to Council for an expenditure budget for 2018/19 to 2019/20 for the provision of a design team for the redevelopment of Thameside House, and delegated

authority to be given to the Group Head of Regeneration and Growth in consultation with the portfolio holder to appoint the advisors and design team.

**Alternative options considered and rejected:**

To withhold approval resulting in the property remaining empty

**Resolved:**

1. To recommend to Council that the capital expenditure budget for 2018/19 to 2019/20, as set out in the report, be approved.
2. To authorise the Head of Corporate Governance to enter into any legal documentation necessary to implement the redevelopment project and
3. To delegate the appointment of the advisors and design team to the Group Head of Regeneration and Growth in consultation with the Portfolio Holder.

**Reasons for recommendation:**

- Redevelopment of existing offices on site to residential would regenerate a site which was becoming an eyesore for the town.
- The ongoing revenue stream (once the works have been completed) will assist in the future long financial stability of the Council.

**2501 Exempt report - Heathrow Consultation - Potential Resourcing Requirements**

*Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)*

Cabinet considered a report on potential resourcing requirements for the Council as a result of the Heathrow expansion process.

**Alternative options considered and rejected:**

- Use existing resources
- Do nothing

**Resolved to:**

1. note and agree the level of resource required over the next six years in order to fully engage in the Heathrow expansion process; and
2. secure an agreement from Heathrow Airport Limited that they will pay for all these costs.

**Reasons for recommendation:** The expansion of Heathrow will fundamentally change the borough. The Council needs to protect the quality of life of its residents and requires resources to do this. The work is only required as a result of the expansion plans of Heathrow Airport Limited and costs should be met by them.

**NOTES:-**

- (1) ***Members of the Overview and Scrutiny Committee are reminded that under Overview and Scrutiny Procedure Rule 16, the “call-in” procedure shall not apply to recommendations the Cabinet makes***

**to the Council. The matters on which recommendations have been made to the Council, if any, are identified with an asterisk [\*] in the above Minutes.**

- (2) Members of the Overview and Scrutiny Committee are entitled to call in decisions taken by the Cabinet for scrutiny before they are implemented, other than any recommendations covered under (1) above.**
- (3) Within five working days of the date on which a decision of the Cabinet or a Cabinet Member is published, not less than three members [one of whom must be the Chairman] of the Overview and Scrutiny Committee are able to "call in" a decision;**
- (4) To avoid delay in considering an item "called in", an extraordinary meeting of the Overview and Scrutiny Committee will be convened within seven days of a "call in" being received if an ordinary meeting is not scheduled in that period;**
- (5) When calling in a Cabinet decision for review the members doing so should in their notice of "call in":-**
  - Outline their reasons for requiring a review;**
  - Indicate any further information they consider the Overview and Scrutiny Committee needs to have before it in order to conduct a review in addition to the written report made by officers to the Cabinet;**
  - Indicate whether, where the decision was taken collectively by the Cabinet, they wish the Leader or his nominee (who should normally be the Cabinet Member) or where the decision was taken by a Cabinet Member, the member of the Cabinet making the decision, to attend the committee meeting; and**
  - Indicate whether the officer making the report to the Cabinet or the Cabinet Member taking the decision or his/her representative should attend the meeting.**
- (6) The deadline of five working days for "call in" by Members of the Overview and Scrutiny Committee in relation to the above decisions by the Cabinet is the close of business on 28 June 2018.**

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**Cabinet****18 July 2018**

<b>Title</b>	Mandatory Licensing of Houses in Multiple Occupation – Fee Setting		
<b>Purpose of the report</b>	To make a decision		
<b>Report Author</b>	Tracey Willmott-French, Senior Environmental Health Manager		
<b>Cabinet Member</b>	Councillor Mark Francis	<b>Confidential</b>	No
<b>Corporate Priority</b>	Housing		
<b>Recommendations</b>	<p><b>Cabinet is asked to:</b></p> <ol style="list-style-type: none"> <li><b>1. adopt the proposed fee setting policy for the licensing of houses in multiple occupation, and</b></li> <li><b>2. agree to delegate authority to determine the fees under this policy for 2018/19, to the Leader in consultation with the Portfolio Holder.</b></li> </ol>		
<b>Reason for Recommendation</b>	<ul style="list-style-type: none"> <li>• <b>Cabinet is required to approve fees and charges.</b></li> <li>• <b>The proposed fee setting policy is designed to reward landlords who comply with their legal requirements, while ensuring non-compliant landlords pay for the additional Council resources used towards achieving their compliance.</b></li> <li>• <b>The fee setting policy directs the cost of the Council's statutory duties for licensing houses in multiple occupation to those who benefit financially from them, rather than council tax payers.</b></li> </ul>		

**1. Key issues****Changing definition of a licensable House in Multiple Occupation**

- 1.1 The current definition of a licensable House in Multiple Occupation (HMO) is a dwelling comprising of three or more storeys, that is occupied by five or more people, living as two or more separate households, and where the occupiers share some basic amenities such as washing and/or cooking facilities.
- 1.2 On the 01 October 2018, the definition will change and the scope of mandatory licensing for HMOs will be extended to bring smaller HMOs within the scheme. Mandatory licensing for HMOs will include:
  - All HMOs with five or more people, living as two or more separate households, regardless of the number of storeys, and where the occupiers share some basic amenities. Effectively this means the storey requirement will be removed from the current definition.

- Purpose built flats where there are up to two flats in the block, and one or both of the flats are occupied by five or more people, living as two or more separate households, and where the occupiers share some basic amenities. This will apply to dwellings above or below commercial premises, bringing some flats above shops on high streets within mandatory HMO licensing as well as small blocks of flats which are not connected to commercial premises.
- 1.3 Currently there are 28 licensed HMOs in Spelthorne. The extended scope of the HMO definition will bring a significant increase in the number of HMOs that will require a licence to operate. Overall this will bring about improvements to the management and safety standards in a high proportion of residential properties in the private rental sector within Spelthorne.
  - 1.4 A provisional licensable HMO database has been developed which holds some 450 property addresses. At this time the actual properties that will be captured by the new 'licensable HMO' definition is unknown, but it is estimated that some 200 or more dwellings may require an HMO licence to operate.
  - 1.5 Spelthorne will actively promote its revised HMO licensing scheme. It will also pursue landlords who do not come forward to licence applicable properties. Where necessary we will take enforcement action to ensure that there is no incentive for failing to apply for a licence.

#### **New HMO Licence Applications**

- 1.6 There are two licensing processes, one for new HMO licence applications, and another for HMO licence renewals.
- 1.7 All successful new licence applications will be granted an initial two year licence. During this time the property will be inspected to assess compliance with licence conditions, confidence in management and other risk factors to determine a risk rating for the property.
- 1.8 The risk rating will be used to determine the term of the licence subsequently granted on renewal, with properties presenting a low risk being granted a longer licence; the terms of licence will be 5, 3, or a 1 year licence.
- 1.9 Properties with a longer term licence will be inspected less frequently, and those with a shorter term licence and therefore having a higher risk rating, will correspondingly be inspected more frequently.
- 1.10 The cost of processing an HMO renewal application is the same regardless of the time period the licence is issued for. As such, the cost of the additional Environmental Health resources directed towards higher risk HMOs will be funded by their landlords, due to their having to pay the same licence cost again after only one year.

#### **Transitional Arrangements**

- 1.11 Holders of an HMO licence granted under the current HMO licence scheme will be transferred to the new scheme on expiry of their current licence, with their licence being renewed according to the new renewal process and be subjected to the risk rating process.

## **2. Options analysis and proposal**

- 2.1 Option one - to adopt the HMO fees and fee setting policy (**this is the preferred option**)
- 2.2 Option two – not to adopt the HMO fees and fee setting policy



2.3 Option three – to adopt the HMO fees and fee setting policy with amendments.

### **3. Financial implications**

3.1 Spelthorne's fees policy for 'Mandatory Licensing of Houses in Multiple Occupation' is attached as **Appendix 1**, which includes Schedule 1 detailing the HMO Licensing fees for 2018/19.

3.2 The High Court has indicated that local authorities have a duty to administer funds so as to protect the interests of council tax payers in accordance with the accepted principal that licensed activities should be funded by those benefitting from them, rather than council tax payers.

3.3 The Housing Act 2004 makes provision for local authorities to recover their costs associated with operating HMO licensing schemes. There is no upper limit on the maximum fee that can be charged but local authorities are not allowed to make a profit, and the fees charged must be reasonable and proportionate.

3.4 Recoverable costs include set-up costs, processing applications, third party costs, overheads, local democracy costs, provision of advice/guidance, web materials, management costs, setting and reviewing fees, policies and procedures, monitoring licence holders, service development and improvement, and identifying unlicensed landlords (this is regarded as being of benefit to HMO licence holders as it helps avoid unlicensed operators undercutting those with HMO licences).

3.5 Costs recovered from licensing fees will be used to cover the costs incurred by the Council in performing the HMO licensing activities outlined in paragraph 3.4 above. Hence, there are no financial implications to the Council, as additional costs have been reflected in the new fees for the new HMO licensing scheme in Appendix 1.

3.6 To ensure that all properties that require a licence in the Borough are licensed, and in a timely and efficient manner, we have streamlined our HMO licensing processes. We have also gained a clear understanding of the costs involved so that the fees we charge reflect our new processes.

3.7 Spelthorne's current fee structure for its existing HMO licensing scheme (attached as **Appendix 2**) will cease to have effect once this new fee structure has been approved and published.

### **4. Other considerations**

4.1 Due to the high cost of housing (purchasing and renting) HMOs offer a cost-effective solution to the housing needs of people from all walks of life and personal situations.

4.2 This extension to HMO licensing will ensure safer accommodation within previously unlicensable HMOs, bridging the gap between previously unlicensed and licensed HMOs and improving equity.

### **5. Timetable for implementation**

5.1 The new mandatory HMO scheme will come into force from 01 October 2018.

5.2 Landlords of HMOs which come under the new HMO scheme are now able to submit applications for their HMO licence. The new policy, fees and charges will be implemented on approval by Cabinet.

**Background papers:** None

**Appendices:**

- Appendix 1 – Proposed mandatory fees policy for licensing of HMOs (this includes Schedule 1 detailing the proposed HMO fees under the new HMO licensing scheme)
- Appendix 2 – Current HMO fees under the existing HMO licensing scheme

**SPELTHORNE BOROUGH COUNCIL**  
**HOUSES IN MULTIPLE OCCUPATION**  
**MANDATORY LICENSING FEE POLICY**

**1. Scope/Purpose**

- 1.1 This policy sets out the fee structure in relation to the operating costs of Spelthorne's mandatory houses in multiple occupation (HMO) licensing scheme.
- 1.2 It includes the processing of applications, the issuing of new and renewed HMO licences, and the monitoring of HMOs for compliance with HMO licence conditions.

**2. Relevant Legislation**

- 2.1 The provision for charging fees was introduced by the Housing Act 2004.
- 2.2 Section 63 of the Act provides that the local authority may require the application for an HMO licence to be accompanied by a fee fixed by the authority. The authority may take into account all costs incurred by them in carrying out their functions under Part 2 of the Act (which deals with HMO licensing) when considering what fees to charge.
- 2.3 Section 23 of the Act makes provision for the national authority to make regulations specifying the maximum fees to be charged (whether by specifying amounts or methods for calculating fee amounts), and cases in which no fees are to be charged or fees are to be refunded. Such regulations have not yet been made.
- 2.4 In the absence of section 23 regulations, local authorities must determine their own fee structure. There is no upper limit on the maximum fee that may be charged but fees must be reasonable and proportionate, and fees must not exceed the costs incurred by the local authority in setting-up and administering the licensing scheme, that is, the local authority cannot make a profit. The cost of monitoring licence holders can also be included in the fee.
- 2.5 The High Court has indicated that local authorities have a duty to administer funds so as to protect the interest of council tax payers in accordance with the accepted principal that licensed activities should be funded by those benefitting from them, rather than council tax payers. It means therefore that the cost of Spelthorne regulating the HMO sector should be through HMO licensing fees and not subsidised by the Borough's council tax payers.

**3. Existing Scheme and Recent Change in the Law**

- 3.1 Spelthorne Borough Council currently operates a mandatory HMO licensing scheme based on the definition that a licensable HMO is a property occupied by five or more persons, forming two or more households, in a property of 3 or more storeys.
- 3.2 The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 will come into force on 1<sup>st</sup> October 2018 and will extend the scope of mandatory licensing to include HMOs of less than 3 storeys, and also flats in multiple occupation within purpose built blocks comprising one or two flats, including maisonettes.

- 3.3 For Spelthorne, this means a significant increase in the number of HMOs that will need to be licensed. This will result in improvements to management and safety standards in a high number of residential properties in the Borough.
- 3.4 Spelthorne currently issue licenses for the maximum period as set by the legislation of five years. There is scope to reduce this licence period, and it would be appropriate to do so for those properties where the landlords are less compliant and consequently there is a greater risk to the occupants.
- 3.5 There is a duty on the local authority to inspect licensed HMOs within the term of their licence period. This is to check compliance with licence conditions, and to ensure that the information given in the HMO licence application is correct. While there is no reason why a property couldn't be inspected more than once, or even multiple times during the licence period, however, unless there is a genuine need to do so, this would be burdensome on the landlord's business, and would have resource implications for the Council.

#### **4. Spelthorne's New Mandatory Licensing Scheme**

- 4.1 To ensure that all properties that require a licence in the Borough are licensed, and within a timely and efficient manner, we have streamlined our HMO licensing processes. We have also gained a clear understanding of the costs involved so that the fees we charge reflect our new processes, thereby allowing us to recoup these costs. This will also enable considerable improvements to be made to the way we deliver the service.
- 4.2 Spelthorne will be actively promoting the changes to the scheme and ensuring that those landlords that do not come forward to licence their properties will be pursued, and subjected to enforcement action if necessary to ensure that there is no incentive to fail to apply for a licence.
- 4.3 There are two HMO licensing processes:-
- New licence applications
  - Licence renewal applications

##### **New Licence Applications**

- 4.4 To ensure a level playing field (as we have in the current mandatory scheme), all new licences will be granted for the same length of time; two years. This will enable the service reasonable time to inspect all licensed HMOs, and give a time frame in which to assess compliance with licence conditions, confidence in management and other risk factors.
- 4.5 It has been determined that a risk rating system would enable HMO monitoring checks to be prioritised according to risk, meaning that we will target the worst first.
- 4.6 In practice, information provided on the application, along with any relevant complaint history we have on the property or the manager of the property will inform the risk score, which will in turn inform when the property will be inspected.

##### **Licence Renewal Applications**

- 4.7 In order to incentivise landlords to ensure that HMOs in Spelthorne are competently managed and provide a safe and good standard of accommodation, the licence period for a renewal of a licence will vary according to compliance and risk.
- 4.8 A risk rating system has been set-up to inform what period the licence should be issued for:-

- Landlords that provide well managed, safe accommodation, to a good standard, will be granted a 5 year licence.
  - For properties where the risk has been calculated as being 'medium', a 3 year licence will be granted.
  - For properties where the risk is calculated as 'high', a one year licence will be granted.
- 4.9 This will enable Environmental Health to target its resources to working with those properties that present a higher risk to the occupants.
- 4.10 The cost of processing HMO renewal applications is the same regardless of the time the licence is issued for. As such, the cost of the additional Environmental Health resources directed towards the higher risk HMOs will be funded by their landlords, as they will have to pay the same licence cost again after only one year.
- 4.11 Should improvements in an HMO's standard be evident through the year, the one year licence would be reviewed with the possibility of a three or five year licence being granted for the next licensing period. Conversely, a property with a five year licence can be reduced to a three or one year licence should conditions decline during the licence period.
- 4.12 At the application stage for a new and renewal of a licence, landlords will be made fully aware of what is expected of them and what criteria we will be assessing when determining the licence period for licence renewals.
- 4.13 When assessing confidence in management, the following factors would be considered:
- justified complaints about the property conditions
  - landlord harassment of occupants
  - attempted or actual illegal eviction
  - poor application paperwork
  - where several reminders for documents or works have had to be given
  - persistent non-compliance
  - where enforcement action has been taken by the service or by other services or authorities

Poor confidence in management would result in a higher risk score and so depending on degree, a one or three year licence period would be given where this is the case.

### **Transitional arrangements**

- 4.14 Spelthorne's current fee structure for the existing HMO licensing scheme will cease to have effect once this new fee structure has been approved and published.
- 4.15 Holders of an HMO licence granted under the current HMO licence scheme will be transferred to the new scheme on expiry of their current licence, with their licence being renewed according to the new renewal process and be subjected to the risk rating process.

## **5. The Licence Fee Structure**

- 5.1 The application fee for a new licence and licence renewal includes:-
- Administrative costs involved in the processing of the licence

- Costs associated with maintaining and managing the HMO database and other registers including national ones
  - Cost (averaged) of inspections including travel time, administration, management costs, and various on costs (as suggested below) for visits to premises required as part of the authorisation and monitoring process to check the details of the application and compliance with licence conditions
  - Writing of reports, letters and schedules of work where necessary
  - Third party costs including consultations/visits with other departments and authorities (e.g. Planning, Surrey Fire and Rescue, Building Control)
  - Management costs
  - Local democracy costs
  - Overheads
  - Meetings
  - Provision of informal advice and guidance including the development, publishing and mail of material regarding mandatory licensing and associated information including the new fee structure
  - Development, determination and production of licensing policies
  - Setting and reviewing fees
  - Cost of identifying landlords/owners of unlicensed HMOs. This does not include the cost of taking enforcement action.
- 5.2 A financial incentive is built in to encourage and reward good practice under landlord accreditation and other similar initiatives.
- 5.3 A penalty will usually be charged for late applications where:
- There has been a failure to apply within 14 days after first reminder letter has been sent (two months after licence pack has been sent). This applies to new licenses and licence renewals.
- or
- An unlicensed HMO is found through complaint or other means and no application has been made or application form requested.

Where it is considered legally appropriate, the Council will take enforcement action against landlords who fail to apply for a licence for a licensable HMO.

## **6. Calculation of licence fees**

- 6.1 In setting its fee policy and the fees to be charged, the Council has had regard to the LGA guidance on locally set licence fees and fees set in other local authority areas.
- 6.2 The new fees for the remainder of 2018/19 are set out in Schedule 1

## **7. Review**

- 7.1 The HMO licensing fees will be reviewed every year to ensure that they accurately reflect the actual costs incurred, along with any surpluses or deficits incurred against the predicted level of expenditure in the previous year. The cost calculator and fees will be altered accordingly if necessary.

**Schedule 1**

**HMO Licensing Fees and Charges for New Scheme 2018/19**

**Application for a new licence (for a two year licence period)**

- £850 (of which £465 comprises the maintenance cost per licence which will be refunded for failed applications)

**Application for a licence renewal (regardless of whether a one, three or five year licence is granted)**

- £615 (of which £300 comprises the maintenance cost per licence which will be refunded for failed renewals)

**Discount awarded for:-**

- membership of professional landlord's association (5% discount)
- landlord accreditation with a recognised accreditation scheme (10% discount)

**Penalty for late application/renewal – additional £130 to set fee**

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## Appendix 2

### Fees and charges for current HMO Licensing Scheme 2018/19

#### New licences

• Up to 6 Occupants	671.50
• 7 to 9 occupants	831.50
• 10 to 14 occupants	913.23
• 15 or more occupants	1022.53
• Penalty for late or incomplete applications	127.43
• Extra charge for processing separate licence holder and manager applications	32.63
• Discount for members of an approved landlords association	32.63

#### Licence Renewals

• Up to 6 Occupants	503.50
• 7 to 9 occupants	623.67
• 10 to 14 occupants	684.28
• 15 or more occupants	766.64
• Penalty for late or incomplete applications.	127.43
• Extra charge for processing separate licence holder and manager applications	33.15
• Discount for members of an approved landlords association	33.15

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**Cabinet****18 July 2018**

<b>Title</b>	Supplementary Capital Programme Provision for Asset Acquisitions		
<b>Purpose of the report</b>	To make a recommendation to Council		
<b>Report Author</b>	Chief Finance Officer		
<b>Cabinet Member</b>	Councillor Howard Williams	<b>Confidential</b>	No
<b>Corporate Priority</b>	Financial Sustainability		
<b>Recommendations</b>	<p><b>Council is asked:</b></p> <p><b>To approve supplementary capital estimate for property acquisitions within the Borough of £594.859m for 2018/19 to facilitate generating sufficient income to enable the Council to progress its housing and regeneration projects across the Borough.</b></p> <p><b>To agree the revised set of prudential indicators which include increasing the operational boundary by £588m and authorised limit for external debt by £586m (Appendix 1) to £1,500m for Operational Boundary and £1,520m for Authorised Limit for 2018/19</b></p> <p><b>To agree the interim policy on Borrowing in Advance of Need described in paragraphs 4.7 to 4.12 of this report for all investments undertaken from 19 July 2018 until Council agrees its new Investment Strategy</b></p> <p><b>To reconfirm the Council's Minimum Revenue Provision policy to ensure prudent provision is made to cover repayment of loans (Appendix 2)</b></p>		
<b>Reason for Recommendation</b>	In order for the Council to deliver its ambitious housing and regeneration programme across the Borough and to help meet the needs of its residents identified in the Corporate Plan, the Council needs to generate additional income to offset the adverse revenue impacts which arise on these development projects before they reach income producing stage.		

## 1. Key issues

- 1.1 Housing and Economic Development are two of the Council's four key priorities in the Corporate Plan 2016 – 19. They will continue to grow in importance, forming the backbone of the Council's strategy to 'stand on its own two feet' financially. Delivering on these priorities will not just simply shape the future of the borough, and provide much needed housing, jobs and inward investment. At the same time, the rental income streams will help ensure the Council can be financially secure in the future, and enable us to continue to provide services to our residents.
- 1.2 The Council keeps under regular review its ability to prudently and sustainably deliver its housing, economic regeneration and strategic place shaping Capital projects. Taking into account the potential future pipeline of Capital projects coming through, it is timely and appropriate to revise the Council's relevant approvals. The Council needs to both authorise sufficient Capital Programme provision to enable expenditure to be undertaken once specific projects are identified and approved by Cabinet and secondly that there is a sustainable way of financing that expenditure. The first requirement will be addressed by increasing the Capital Programme Provision for acquisitions and housing delivery projects by £594.859m. The second requirement will be addressed by increasing the Council's borrowing limits to enable the Council to borrow fixed rate funds from the Public Works Loans Board. There are two borrowing approvals which the Regulations require Councils to approve
- a) **Authorised Limit for External Debt:** The authorised limit is the affordable borrowing limit determined in compliance with the Local Government Act 2003. It is the maximum amount of debt that the Council can legally owe. It is proposed to increase this by £588m to a total of £1,500m
  - b) **Operational Boundary for External Debt:** The operational boundary is based on the Council's estimate of most likely (i.e. prudent but not worst case) scenario for external debt. It links directly to the Council's estimates of capital expenditure, the capital financing requirement and cash flow requirements, and is a key management tool for in-year monitoring. As a worse case assumption this is always higher than the authorised limit. It is proposed to increase by £586m to a total of £1,520m.
- The above levels will be underpinned by maintaining a prudent Minimum Revenue Provision policy which ensures maintains a sensible approach to paying off debt on an annual basis.
- 1.3 The Council currently has a small scale housing delivery programme (Bugle Returns and Churchill Hall), and is beginning to make good headway on a journey to deliver a programme with significantly greater ambition. The aim is to deliver a wide ranging housing and regeneration programme across the whole Borough, and a number of larger scale projects are or will be coming on stream shortly. These include the redevelopment Ceaser Court in Sunbury (formerly Benwell House), the redevelopment of Thameside House in Staines-upon-Thames (known as the BUPA building), new affordable housing

at the White House site in Ashford and the conversion of the West Wing of the Council Offices here at Knowle Green to residential.

- 1.4 There are a number of further projects in the pipeline, which are designed to deliver a range of different housing tenures. The aim is to use these to help address housing pressures by enabling the Housing Team to place people from the housing register in these units. This has a two-fold benefit. Firstly, it will help ease pressures on the Council's revenue housing budget (potentially less required for B&B). Secondly, the rental income from these units will be recycled back to the Council (whether directly or via the Council's wholly owned housing delivery company, Knowle Green Estates Ltd). A firm decision has yet to be made on the management of these units which will either fall to the Council or Knowle Green Estates Ltd.
- 1.5 Undertaking housing development creates a short to medium term financial pressure for the Council as the development expenditure has to be financed through borrowing with interest and Minimum Revenue Provision charged to the Revenue Budget. This would result in the Revenue Budget increasing significantly over the Outline Budget period. Consequently, unless additional income is generated from other sources it may not be possible to undertake and complete these schemes (with all the knock on ramifications that this entails). Each scheme will eventually produce rental income, but each will also have a significant period in the planning and construction phases where cash flow is negative before the incoming generating stage is reached.
- 1.6 The reductions in Revenue Support Grant have been on-going for a number of years, and this means it is imperative that the Council focuses on the most effective ways of increasing on-going income streams in order to be able to maintain existing services and deliver much needed additional housing within the Borough. One of the identified ways of doing this is through property investment and since summer 2016 the Council has made several significant acquisitions including the BP International Campus at Sunbury which together have delivered an additional £7.5m per annum in ongoing long term income available to support the provision of services for our residents. These income streams are net after taking account of interest, debt repayments, supervision costs for managing the assets and set aside sums to build up prudent sinking funds to cover future potential refurbishment requirements and to cover future rent free and void risk.
- 1.7 The Council with all its acquisitions undertakes thorough due diligence using an appropriate range of professional advisers to address legal, property, treasury management, taxation, environmental risks and issues. We minimise future risk with respect to commercial acquisitions by focusing on assets with strong covenant tenants, long term leases, and ensuring we understand the risks associated with the assets.
- 1.8 In order to deliver the full range of housing projects, place shaping projects within our main towns in the Borough and be able to finance the net cost of a new Leisure Centre, we estimate that we need to generate approximately a further £6m per annum of net revenue income, which requires approximately £800m worth of income generating assets to be acquired, taking our net borrowing up to roughly £1,500m which is approximately £600m more than our current borrowing approval limits allow.

## **2. Options analysis and proposal**

- 2.1 In order to enable the Council to be able to bid for high quality investment opportunities which may arise over the coming months it is recommended that Council:
- (a) Agree a £594.859m supplementary capital estimate to enable the Council to pursue further significant opportunities to generate income streams to offset the revenue impacts of financing its housing and regeneration programme.
  - (b) Agree a revised set of prudential indicators which include increasing both the operational boundary and authorised limit for external debt by £588m and £586m respectively
  - (c) Confirm the Council's Minimum Revenue Provision policy to ensure prudent provision is made to cover repayment of loans
- 2.2 The proposal to increase the borrowing limits is on the basis that the additional borrowing would be prudentially affordable as any borrowing would be fixed long term and would be used to fund high quality assets which will generate net revenue surpluses which will more than cover the financing costs. When evaluating acquisitions we will ensure that we are able to generate sufficient sinking funds to cover risk of future refurbishments and rent free/void periods to ensure that we minimise financing costs and risk of future forced sale of assets.
- 2.3 When the Council approved the Capital Programme in February 2018 it approved an Operational Boundary limit of £912m and an Authorised Limit of £934 for 2018-19. It is proposed to increase the Operational Boundary limit by £588m to £1,500m and increase the Authorised Limit by £586m to £1,520m for 2018/19

## **3. Financial implications**

- 3.1 Councils are in a strong financial position to acquire property due to their ability to access capital, coupled with the low cost of borrowing (for example Spelthorne can borrow at 2.25 to 2.75% long term at fixed rates from the Public Works Loans Board (effectively the Bank of England) depending on the amount and length of a loan, whereas a developer would be likely to pay 5 - 6%). The Council is also able to borrow at cheaper rates from other councils. Whilst the Bank of England base rate has recently increased by 0.25% we are still able to access relatively cheap borrowing. However, the potential that rates may rise further and eat into margins is one reason for looking to progress opportunities quickly. The Council is also currently exploring with alternative funders to see if it is possible to borrow some fixed rate funds at below PWLB rates.
- 3.2 It makes financial sense to borrow money at these rates rather than using the Council's own capital, which in the most recent financial year achieved an average of more than 5% return when re-invested in property funds. Whilst there may be some short term fluctuations associated with the UK Brexit properties acquired are likely to appreciate in capital value over the longer term.
- 3.3 Councils are able to set whatever borrowing limit they judge to be appropriate. However, it clearly needs to be prudent and affordable. Importantly, we need

to consider carefully the impact of increasing levels of debt, our ability to repay, minimise liquidity risk and the risk of increasing interest rates for those repayments.

- 3.4 Officers liaise with Arlingclose our Treasury Management advisers. They have confirmed they are comfortable with the level of borrowing required to sustain a supplementary capital estimate of £595m to acquire income generating assets (see Appendix 2). It has also been recommended that the funds are not borrowed until any acquisitions are completed and the cash is physically needed.
- 3.5 As part of the annual budget setting process, officers are required to produce a set of prudential indicators which include the operational boundary and authorised limit for external debt. These therefore need to be revised, and an updated set are included as **Appendix 1** for approval.
- 3.6 If the additional estimate is agreed, the Capital Programme will increase in 2018-19 for acquisitions from £203m to £819m. As a result, operational boundary for external debt has increased by £888m to £1,500m. In order to cover unexpected eventualities outside the remit of this specific report and 'just in case' scenarios on cash flow, it is deemed prudent to increase the authorised limit for external debt from £934m to £1,520m.
- 3.7 The Council will make appropriate Minimum Revenue Provision (MRP) deductions from the Revenue Budget on an annual basis to ensure sufficient sums are set aside to enable the Council to repay loans incurred on their maturity. The Council's Treasury Management advisers Arlingclose have provided advice on the most effective way to structure these MRP deductions and are comfortable that our approach is a prudent one. **Appendix 2** sets out the MRP policy the Council will be applying

#### **4. Legal considerations**

- 4.1 Council should be aware that the statutory regime for investments by local authorities changed on 2 February 2018 with effect for investments from 1 April 2018.
- 4.2 The specific power of investment is contained in section 12 of the Local Government Act 2003. Under section 15 of the same Act, a local authority must have regard to such guidance as the Secretary of State may issue and to such other guidance as the Secretary of State may by regulations specify.
- 4.3 The Secretary of State has made the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (the regulations). By virtue of these regulations the Council must have regard to guidance published by the Secretary of State (the New Guidance) and also have regard to additional guidance published by CIPFA (the Codes of Practice).
- 4.4 Not only does the Council have to have the power to invest legally, it must consider the regulations and the Codes of Practice in doing so. In addition to that there is also the Council's general duty at public law to exercise its powers reasonably, properly and in accordance with best value, fiduciary duty and the general administrative law principles with regard to mitigation of risk and all due diligence.
- 4.5 The New Guidance contains a number of provisions with regards to the preparation of an Investment Strategy and how that should be presented to

Council before the start of the financial year. Officers are working on this strategy and it will provide further details for Council on the type of investments which the Council will consider, how they are linked to the Council's corporate plan and service delivery, the links to the Council's medium term financial strategy, the Council's approach to risk & reward, repayment of borrowing, performance management and governance of its investments etc. This will be a significant document for the Council and there will be engagement with councillors during the autumn as regards the detail of the strategy and the implications for the Council overall.

- 4.6 One significant change in the New Guidance, which differed from the consultation document (circulated in November 2017) was that there is an additional section headed, "Borrowing in advance of need". This concept has been taken from explanatory comments in previous versions of the Codes of Practice. Unfortunately neither the New Guidance nor the Codes of Practice define what is meant by Borrowing in advance of Need. There was a definition in the draft Guidance for consultation which stated, "Borrowing to invest in a yield bearing opportunity is borrowing in advance of need". This is not stated in the New Guidance, instead the context now included is as follows (at paragraphs 46 and 47):

*Authorities must not borrow more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed.*

*Where a local authority chooses to disregard the Prudential Code and this Guidance and borrows or has borrowed purely to profit from the investment of the extra sums borrowed the Strategy should explain:*

- *Why the local authority has decided not to have regard to this Guidance or to the Prudential Code in this instance; and*
  - *The local authority's policies in investing the money borrowed, including management of the risks, for example, of not achieving the desired profit or borrowing costs increasing*
- 4.7 The Council will fully articulate its policy on Borrowing in advance of need in its Investment Strategy (referred to earlier which is in the course of preparation). However as an issue arises no about investments which will be made after effective date of 1 April 2018, then the Council needs to be mindful of this New Guidance and to show it has actively considered it and taken it into account. In the interim it is suggested that the policy of the Council (which will be developed further in the Investment Strategy to be presented later) is as follows:
- 4.8 The Council does not borrow in advance of need purely to in order to profit from the investment of the extra sums borrowed. The Council does however borrow to invest in order to fulfil its statutory functions. In doing so the Council will always take into account the New Guidance and the Codes of Practice.
- 4.9 The policy of the Council is to borrow only where there is an identified need which relates to its core purposes as a local authority. At this present time, the need arises from development activities centred on the provision of housing and town centre regeneration in the Borough. The Council has a number of schemes which will not be developed without the identification of suitable revenue generating opportunities to cover the planning, development



and construction of works. Whilst these schemes will eventually be income producing investments in their own right (as an incidental benefit to the primary objectives of housing and regeneration) there is a funding gap during the early stages of the projects which needs to be met.

- 4.10 The Council's clear policy in investment is to avoid risks of investing money in assets which will not (a) cover their own costs, including the most prudent approach to MRP and foreseeable risks of voids, repairs, maintenance and refurbishment and (b) provide a surplus which will provide for the identified needs on other projects. The Council will seek rent guarantees and carry out due diligence to ensure that the risks of not achieving the desired returns are, as far as possible, eliminated or mitigated.
- 4.11 The Council will invest inside and outside its Borough boundary. Its preference is to invest inside the Borough where possible and where suitable opportunities exist. The Council's strategic parameters for investment have already been agreed and will be confirmed again as the Investment Strategy develops.
- 4.12 The Council will fully articulate its Investment Strategy (this is a new document as required by the revised Guidance to be put in place by councils by end of 2018-19 and builds upon the existing strategies and policies we already have in place), in order to allow all stakeholders, residents, council taxpayers, business rates payers, partners and external auditors to understand how and why the Council invests and how it meets the requirements of the New Guidance and the Codes of Practice. This will enable all such stakeholders to hold the Council to account if they do not agree with the approach which is taken.

## **5. Other considerations**

- 5.1 Council should note that should the additional capital estimate be agreed, Cabinet will then have the ability to consider additional investment opportunities above the current limits but that in each case Cabinet will receive a detailed evaluation of the business case and risks in order to decide whether to agree to individual investment proposals.

## **6. Timetable for implementation**

- 6.1 As appropriate opportunities arise they will be brought to Cabinet for consideration.

### **Background papers:**

None

**Appendices: 1) Prudential Indicators 2) Minimum Revenue Provision Policy**

## Appendix 1: Updated Prudential Indicators Statement 2018/19

The Local Government Act 2003 requires the Council to have regard to the Chartered Institute of Public Finance and Accountancy's Prudential Code for Capital Finance in Local Authorities (the Prudential Code) when determining how much money it can afford to borrow. The objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable, and that treasury management decisions are taken in accordance with good professional practice. To demonstrate that the Council has fulfilled these objectives, the Prudential Code sets out the following indicators that must be set and monitored each year.

Estimates of Capital Expenditure: The Council's planned capital expenditure and financing, reflecting the requested revisions may be summarised as follows.

<b>Capital Expenditure and Financing</b>	<b>2017/18 Revised £'000</b>	<b>2018/19 Estimate £'000</b>	<b>2019/20 Estimate £'000</b>	<b>2020/21 Estimate £'000</b>
Opening CFR	416,250	681,984	1,487,736	1,486,009
Capital Investment	273,360	814,083	6,016	5,166
Capital Grants / Receipts	(2,271)	(770)	0	0
Revenue Contributions	(838)	(216)	(216)	(216)
Repayment of debt	(4,517)	(7,345)	(7,527)	(7,714)
<b>Capital Financing Requirement financial year end 31 March</b>	<b>681,984</b>	<b>1,487,736</b>	<b>1,486,009</b>	<b>1,483,245</b>

The Council had previously been debt free for a number of years, and therefore the CFR had been nil. However, recent acquisitions have led to the CFR increasing significantly and it is forecast to rise again in 2018/19 to reflect the further funding being made available for strategic acquisitions. It will then slowly reduce over time in line with the annuity based funding model used the Council to support each of the strategic acquisitions made.

**Gross Debt and the Capital Financing Requirement:** In order to ensure that over the medium term debt will only be for a capital purpose, the Council should ensure that debt does not, except in the short term, exceed the total of capital financing requirement in the preceding year plus the estimates of any additional capital financing requirement for the current and next two financial years.

<b>Debt</b>	<b>31Mar18 Revised £'000</b>	<b>31Mar19 Estimate £'000</b>	<b>31Mar20 Estimate £'000</b>	<b>31Mar21 Estimate £'000</b>
Total Debt	664,566	1,470,318	1,468,591	1,465,827

Total debt is expected to remain below the CFR requirement during the forecast period.

**Operational Boundary for External Debt:** The operational boundary is based on the Council's estimate of most likely (i.e. prudent but not worst case) scenario for external debt. It links directly to the Council's estimates of capital expenditure, the capital financing requirement and cash flow requirements, and is a key management tool for in-year monitoring. Other long-term liabilities comprise finance lease, Private Finance Initiative and other liabilities that are not borrowing but form part of the Council's debt.

<b>Operational Boundary</b>	<b>31Mar18 Revised £'000</b>	<b>31Mar19 Estimate £'000</b>	<b>31Mar20 Estimate £'000</b>	<b>31Mar21 Estimate £'000</b>
Total Debt	920,000	1,500,000	1,500,000	1,500,000

**Authorised Limit for External Debt:** The authorised limit is the affordable borrowing limit determined in compliance with the Local Government Act 2003. It is the maximum amount of debt that the Council can legally owe. The authorised limit provides headroom over and above the operational boundary for unusual cash movements, including the short term VAT related costs incurred with any acquisitions.

<b>Authorised Limit</b>	<b>31Mar18 Revised £'000</b>	<b>31Mar19 Estimate £'000</b>	<b>31Mar20 Estimate £'000</b>	<b>31Mar21 Estimate £'000</b>
Borrowing	942,000	1,520,000	1,520,000	1,520,000
<b>Total Debt</b>	<b>942,000</b>	<b>1,520,000</b>	<b>1,520,000</b>	<b>1,520,000</b>

## Appendix 2: Minimum Revenue Provision Policy

Where the Council finances capital expenditure by debt, it must put aside resources to repay that debt in later years. The amount charged to the revenue budget for the repayment of debt is known as Minimum Revenue Provision (MRP), although there has been no statutory minimum since 2008.

The Local Government Act 2003 requires the Council to have regard to the Ministry for Housing, Communities and Local Government's Guidance on Minimum Revenue Provision (the MHCLG Guidance). The MHCLG has recently reissued guidance on this topic which has been considered in reviewing this policy.

The broad aim of the MHCLG Guidance is to ensure that debt is repaid over a period that is either reasonably commensurate with that over which the capital expenditure provides benefits, or, in the case of borrowing supported by Government Revenue Support Grant, reasonably commensurate with the period implicit in the determination of that grant.

The Council's current policy of fully repaying borrowing and associated liability by using annual MRP set asides to payment annual amortising debt is a fully prudent approach.

The MHCLG Guidance requires the Council to approve an Annual MRP Statement each year, and recommends a number of options for calculating a prudent amount of MRP. The following statement incorporates options recommended in the Guidance.

Capital expenditure incurred during the financial year on asset acquisitions will not be subject to a MRP charge until the following complete financial year. For capital expenditure incurred that is funded from borrowing, MRP will be determined by charging the expenditure over the expected useful life of the relevant asset as the principal repayment on an annuity with an annual interest rate equal to the relevant PWLB rate at the point the expenditure is incurred. MRP on purchases of freehold land will be charged over 50 years. MRP on expenditure not related to fixed assets but which has been capitalised by regulation or direction will be charged over 20 years.

The annuity method makes provision for an annual charge to the General Fund which takes account of the time value of money (whereby paying £100 in 10 years' time is less of a burden than paying £100 now). The schedule of charges produced by the annuity method thus results in a consistent charge over an asset's life, taking into account the real value of the annual charges when they fall due.

The annuity method also matches the repayment profile to how the benefits of the asset financed by borrowing are consumed over its useful life (i.e. the method reflects the fact that asset deterioration is slower in the early years of an asset and accelerates towards the latter years). This re-profiling of MRP therefore conforms to the MHCLG "Meaning of Prudent Provision" which provides that "debt [should be] repaid over a period that is reasonably commensurate with that which the capital expenditure provides benefits".

Capital expenditure incurred during 2018/19 will not be subject to a MRP charge until 2019/20.

**Cabinet****18 July 2018**

<b>Title</b>	Treasury Management Annual Report 2017-18		
<b>Purpose of the report</b>	To note		
<b>Report Author</b>	Anna Russell, Deputy Chief Accountant		
<b>Cabinet Member</b>	Councillor Howard Williams	<b>Confidential</b>	No
<b>Corporate Priority</b>	Financial Sustainability		
<b>Recommendations</b>	<b>Cabinet is asked to note the treasury outturn position for 2017-18 and the financial environment in global markets.</b>		
<b>Reason for Recommendation</b>	<b>Not applicable</b>		

**1. Key issues****Background**

- 1.1 The Chartered Institute of Public Finance and Accountancy's Treasury Management Code (the CIPFA TM Code) requires that authorities report on the performance of the treasury management function at least twice a year (mid-year and at year end). This report fulfils the Council's legal obligation to have regard to the CIPFA Code.
- 1.2 The Council's Treasury Management Strategy for 2017-18 was approved by Cabinet on 25 January 2017 and then by full Council in February 2017.
- 1.3 This report is an outturn statement of treasury management activities for the financial year 2017-18. The Council has invested and borrowed substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk are therefore central to the Council's treasury management strategy.

**External Context – Economic commentary**

- 1.4 The financial year 2017-18 was characterised by the push-pull from expectations of tapering of Quantitative Easing (QE) and the potential for increased policy rates in the US and Europe and from geopolitical tensions.
- 1.5 The UK economy showed signs of slowing with latest estimates showing Gross Domestic Product (GDP), helped by an improving global economy, grew by 1.8% in calendar 2017, the same level as in 2016. This was a far better outcome than the majority of forecasts following the EU Referendum in June 2016, but it also reflected the international growth momentum generated by the increasingly buoyant US economy and the re-emergence of the Eurozone economies.

- 1.6 The inflationary impact of rising import prices, a consequence of the fall in sterling associated with the EU referendum result, resulted in year-on-year CPI rising to 3.1% in November before falling back to 2.7% in February 2018. Consumers felt the squeeze as real average earnings growth (i.e. after inflation) turned negative before slowly recovering. The labour market showed resilience as the unemployment rate fell back to 4.3% in January 2018. The inherent weakness in UK business investment was exacerbated by political uncertainty following the surprise General Election in June 2017 and by the lack of clarity on Brexit, the UK and the EU only reaching an agreement in March 2018 on a transition which will now span Q2 2019 to Q4 2020. The Withdrawal Treaty is yet to be ratified by the UK parliament and those of the other 27 EU member states, and new international trading arrangements are yet to be negotiated and agreed.
- 1.7 The Bank of England's Monetary Policy Committee (MPC) increased Bank Rate by 0.25% to 0.50% in November 2017. It was significant in that it was the first rate hike in ten years, although in essence the MPC reversed its August 2016 cut following the referendum result. The February Inflation Report indicated the MPC was keen to return inflation to the 2% target over a more conventional (18-24 month) horizon with 'gradual' and 'limited' policy tightening.
- 1.8 In contrast, economic activity in the Eurozone gained momentum. In June, the European Central Bank (ECB) confirmed end of Quantitative Easing at the end of December 2018 with interest rates to remain on hold through summer 2019. The US economy grew steadily and, with its policy objectives of price stability and maximising employment remaining on track, the Federal Reserve Open Market Committee (FOMC) increased interest rates in December 2017 by 0.25% and again in March, raising the policy rate target range to 1.50% - 1.75%. The Fed is expected to deliver two more increases in 2018 and a further two in 2019. However, the imposition of tariffs on a broadening range of goods initiated by the US, which has led to retaliation by China, could escalate into a deep-rooted trade war having broader economic consequences including inflation rising rapidly, warranting more interest rate hikes.

#### **External Context – Financial markets**

- 1.9 The increase in Bank Rate resulted in higher money markets rates: 1-month, 3-month and 12-month LIBID rates averaged 0.32%, 0.39% and 0.69% and at 31st March 2018 were 0.43%, 0.72% and 1.12% respectively.
- 1.10 Gilt yields displayed significant volatility over the twelve-month period with the change in sentiment in the Bank of England's outlook for interest rates. The yield on the 5-year gilts which had fallen to 0.35% in mid-June rose to 1.65% by the end of March. 10-year gilt yields also rose from their lows of 0.93% in June to 1.65% by mid-February before falling back to 1.35% at year-end. Twenty-year gilt yields followed an even more erratic path with lows of 1.62% in June, and highs of 2.03% in February, only to plummet back down to 1.70% by the end of the financial year.
- 1.11 The FTSE 100 had a strong finish to calendar year 2017, reaching yet another record high of 7688, before plummeting below 7000 at the beginning of 2018 in the global equity correction and sell-off.

## External Context – Credit background

- 1.12 In the first quarter of the financial year, UK bank credit default swaps (CDS) reached three-year lows on the announcement that the Funding for Lending Scheme, which gave banks access to cheaper funding, was being extended to 2018. For the rest of the year, CDS prices remained broadly flat.
- 1.13 The rules for ring-fencing UK banks were finalised by the Prudential Regulation Authority and banks began the complex implementation process ahead of the statutory deadline of 1st January 2019. As there was some uncertainty surrounding which banking entities the Council would be dealing with once ring-fencing was implemented and what the balance sheets of the ring-fenced and non-ring-fenced entities would look like, in May 2017 Arlingclose advised adjusting downwards the maturity limit for unsecured investments to a maximum of 6 months. The rating agencies had slightly varying views on the creditworthiness of the restructured entities.
- 1.14 Barclays was the first to complete its ring-fenced restructure over the 2018 Easter weekend; wholesale deposits including local authority deposits will henceforth be accepted by Barclays Bank plc (branded Barclays International), which is the non-ring-fenced bank.
- 1.15 **Money Market Fund regulation:** The new EU regulations for Money Market Funds (MMFs) were finally approved and published in July and existing funds will have to be compliant by no later than 21st January 2019. The key features include Low Volatility Net Asset Value (LVNAV) Money Market Funds which will be permitted to maintain a constant dealing NAV, providing they meet strict new criteria and minimum liquidity requirements. MMFs will not be prohibited from having an external fund rating (as had been suggested in draft regulations). Arlingclose expects most of the short-term MMFs it recommends to convert to the LVNAV structure and awaits confirmation from each fund.

## External Context – Credit Rating developments

- 1.16 The most significant change was the downgrade by Moody's to the UK sovereign rating in September from Aa1 to Aa2 which resulted in subsequent downgrades to sub-sovereign entities including local authorities.
- 1.17 Changes to credit ratings included Moody's downgrade of Standard Chartered Bank's long-term rating to A1 from Aa3 and the placing of UK banks' long-term ratings on review to reflect the impending ring-fencing of retail activity from investment banking (Barclays, HSBC and RBS were on review for downgrade; Lloyds Bank, Bank of Scotland and National Westminster Bank were placed on review for upgrade).
- 1.18 Standard & Poor's (S&P) revised upwards the outlook of various UK banks and building societies to positive or stable and simultaneously affirmed their long and short-term ratings, reflecting the institutions' resilience, progress in meeting regulatory capital requirements and being better positioned to deal with uncertainties and potential turbulence in the run-up to the UK's exit from the EU in March 2019. The agency upgraded Barclays Bank's long-term rating to A from A- after the bank announced its plans for its entities post ring-fencing.
- 1.19 Fitch revised the outlook on Nationwide Building Society to negative and later downgraded the institution's long-term ratings due to its reducing buffer of junior debt. S&P revised the society's outlook from positive to stable.

- 1.20 S&P downgraded Transport for London to AA- from AA following a deterioration in its financial position.

### **External Context – Other developments**

- 1.21 In February, Arlingclose advised against lending to Northamptonshire County Council (NCC). NCC issued a section 114 notice in the light of severe financial challenge and the risk that it would not be in a position to deliver a balanced budget.
- 1.22 In March, following advice from Arlingclose, the Council removed RBS plc and National Westminster Bank from its counterparty list. This did not reflect any change to the creditworthiness of either bank, but a tightening in Arlingclose's recommended minimum credit rating criteria to A- from BBB+ for FY 2018-19. The current long-term ratings of RBS and NatWest do not meet this minimum criterion, although if following ring-fencing NatWest is upgraded, the bank would be reinstated on the Council's lending list.

### **Local Authority Regulatory Changes**

- 1.23 Revised CIPFA Codes: CIPFA published revised editions of the Treasury Management and Prudential Codes in December 2017. The required changes from the 2011 Code have and are being incorporated into Treasury Management Strategies and monitoring reports.
- 1.24 The 2017 Prudential Code introduces the requirement for a Capital Strategy which provides a high-level overview of the long-term context of capital expenditure and investment decisions and their associated risks and rewards along with an overview of how risk is managed for future financial sustainability. Where this strategy is produced and approved by full Council, the determination of the Treasury Management Strategy can be delegated to a committee. The Code also expands on the process and governance issues of capital expenditure and investment decisions.
- 1.25 The Council aim to produce a Capital Strategy to be reported to Council by October 2018.
- 1.26 In the 2017 Treasury Management Code, the definition of 'investments' has been widened to include financial assets as well as non-financial assets held primarily for financial returns such as investment property. These, along with other investments made for non-treasury management purposes such as loans supporting service outcomes and investments in subsidiaries, must be discussed in the Capital Strategy or Investment Strategy. In accordance with the new Guidance, the officers will produce a Capital Strategy for approval by Council. Additional risks of such investments are to be set out clearly and the impact on financial sustainability is to be identified and reported.
- 1.27 MHCLG Investment Guidance and Minimum Revenue Provision (MRP): In February 2018 the MHCLG (Ministry of Housing, Communities and Local Government) published revised Guidance on Local Government and Investments and Statutory Guidance on Minimum Revenue Provision (MRP).
- 1.28 Changes to the Investment Guidance include a wider definition of investments to include non-financial assets held primarily for generating income return and a new category called "loans" (e.g. temporary transfer of cash to a third party, joint venture, subsidiary or associate). The Guidance introduces the concept of proportionality, proposes additional disclosure for borrowing solely to invest and also specifies additional indicators. Investment strategies must detail the



extent to which service delivery objectives are reliant on investment income and a contingency plan should yields on investments fall.

- 1.29 The definition of prudent MRP has been changed to “put aside revenue over time to cover the CFR”. MRP cannot be a negative charge and can only be zero if the CFR is nil or negative. Guidance on asset lives has been updated, applying to any calculation using asset lives. Any change in MRP policy cannot create an overpayment. The new policy must be applied to the outstanding CFR going forward only.

#### **MiFID II**

- 1.30 As a result of the second Markets in Financial Instruments Directive (MiFID II), from 3rd January 2018 local authorities were automatically treated as retail clients but could “opt up” to professional client status, providing certain criteria were met which include having an investment balance of at least £10 million and the person(s) authorised to make investment decisions on behalf of the authority having at least a year’s relevant professional experience. In addition, the regulated financial services firms to whom this directive applies have had to assess that the person(s) have the expertise, experience and knowledge to make investment decisions and understand the risks involved.
- 1.31 The Council has met the conditions to opt up to professional status and has done so in order to maintain its status prior to January 2018. The Council will continue to have access to products including money market funds, pooled funds, treasury bills, bonds, shares and to financial advice.

#### **Local Context**

- 1.32 With the purchase of commercial properties generating sustainable income streams starting with the BP international campus site in Sunbury during 2016/17, the Council now has significant levels of long-term fixed-rate borrowing, secured to fund property acquisitions.
- 1.33 The Council’s current strategy when making strategic asset acquisitions is to take advantage of the cheap borrowing rates available and fix at those rates to provide long-term funding certainty, whilst maintaining and supplementing when possible the investment portfolio that has been built up.
- 1.34 On 31 March 2018, the Council had net borrowing of £682m arising from its revenue and capital income and expenditure, an increase on 2017 of £266m. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. The CFR and resources applied are summarised in Table 1 below.

**Table 1: Balance Sheet Summary as at 31 March 2018**

	Actual 31/03/2017 £m	Movement 2017/18 £m	Actual 31/03/2018 £m
Opening Capital Financing Requirement	0	416	416
Capital investment	422	(149)	273
<i>Less:</i>			
Capital Receipts, Grants & Contributions	(3)	1	(2)
Revenue Contributions	(3)	2	(1)
Repayment of debt (MRP)	0	(5)	(5)
<b>Closing Capital Financing Requirement</b>	<b>416</b>	<b>265</b>	<b>681</b>

- 1.35 Net borrowing has increased due to a rise in the CFR as new capital expenditure was higher than the financing applied including minimum revenue provision (MRP).
- 1.36 The Council's current strategy is to maintain borrowing and investments below their underlying levels, sometimes known as internal borrowing, in order to reduce risk and keep interest costs low. The Council also undertook an alternative funding exercise to assess availability of alternative funders at rates cheaper than the PWLB. The treasury management position as at 31 March 2018 and the change over the period is show in Table 2 below.

**Table 2: Treasury Management Summary**

	Balance 31/03/2017 £m	Movement £m	Balance 31/03/2018 £m	Rate 31/03/2018 %
Long-term borrowing	(406)	(245)	(651)	2.45%
Short-term borrowing	(8)	(6)	(14)	0.98%
<b>Total borrowing</b>	<b>(414)</b>	<b>(251)</b>	<b>(665)</b>	
Long-term investments	22	(1)	21	4.90%
Short-term investments	0	1	1	
Cash and cash equivalents	7	(2)	5	0.15%-0.45%
<b>Total investments</b>	<b>29</b>	<b>(2)</b>	<b>27</b>	
<b>Net borrowing</b>	<b>(385)</b>	<b>(253)</b>	<b>(638)</b>	

Note: these figures are from the balance sheet in the Council's draft statement of accounts

- 1.37 Increased borrowing is due to property acquisitions made during 2017-18.

## 2. Borrowing Activity

- 2.1 At 31 March 2018, the Council held £665m of loans, an increase of £251m from 31 March 2017, including £648m long-term PWLB borrowing as part of its strategy for funding major acquisitions and developments. The 31 March 2018 borrowing position is show in Table 3 below.

**Table 3: Borrowing Position**

	Balance 31/03/2017 £m	Movement £m	Balance 31/03/2018 £m	Rate 31/03/2018 %	Maturity (weighted av) 31/03/2018 years
Public Works Loan Board	406	242	648	2.45%	49
Local authorities (long-term)	0	3	3	0.74%	4
Local authorities (short-term)	8	6	14	1.12%	<1
<b>Total Borrowing</b>	<b>414</b>	<b>251</b>	<b>665</b>		

- 2.2 At 31 March 2018, the Council had short-term borrowing totalling £14m. This reflected the impact of the Council's cashflow, including costs associated with acquisitions such as VAT which is reimbursed by Government. Short-term funding relating to acquisitions were borrowed from other local authorities due to the short-term nature of the requirement and the affordable rates on offer.

- 2.3 The Council will need to borrow additional funds on both long- and short-term bases for any further acquisition purchases that occur in the future. Work is ongoing with Arlingclose and the portfolio holder to ensure that the cheapest and most appropriate duration and source are secured.
- 2.4 The Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required. Flexibility to renegotiate loans should the Council's long-term plans change is a secondary objective.
- 2.5 Affordability and the "cost of carrying" remained important influences on the Council's borrowing strategy alongside the consideration that, for any borrowing undertaken ahead of need, the proceeds would have to be invested in the money markets at rates of interest significantly lower than the cost of borrowing.

### **Investment Activity to 31 March 2018**

- 2.6 The Guidance on Local Government Investments in England gives priority to security and liquidity and the Council's aim is to achieve a yield consistent with these principles. However, the ability to maximise interest returns within these guidelines is paramount to generating sufficient funds to support the Council's revenue budget.
- 2.7 As at 31 March 2018, the Council's investment portfolio was a total of £43.29m, with £2.2m of this in short-term cashflow funds. A breakdown of the investments is given in **Appendix A**.
- 2.8 Given the increasing risk and continued low returns from short-term unsecured bank investments, it is the Council's aim to further diversify into more secure or higher yielding asset classes. The availability of funds for investment is dependent upon the timing of precept payments, receipt of grants and progress on the capital programme.
- 2.9 The pooled fund investments form a key part of the portfolio and a full list of these and their current performance is detailed in **Appendix B**.

### **Investment Performance Monitoring**

- 2.10 Security of capital has remained the Council's main investment objective. This has been maintained by following the Council's counterparty policy as set out in its Treasury Management Strategy Statement for 2017-18.
- 2.11 Table 4 shows the performance of the Council's investments compared to budget.

**Table 4: Performance of investments**

<b>Investment Income 2017/18</b>	<b>Budget</b>	<b>Actual</b>	<b>Variance from budget</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Pooled Fund - Dividends	(800)	(869)	(69)
Fixed Term Deposits - Interest	(50)	(72)	(22)
Money Market Funds - Dividends	(50)	(74)	(24)
<b>Total Investment Income</b>	<b>(900)</b>	<b>(1,015)</b>	<b>(115)</b>

- 2.12 The Council seeks professional advice from Arlingclose and closely adheres to the advice set out in the Department for Communities and Local

Government (DCLG) guidance. Given Spelthorne's dependency on investment returns to balance the budget, the Council's investment strategy is also kept under constant review and regular quarterly review meetings are held with Arlingclose, the Council's treasury advisors. All investment and borrowing decisions are made in consultation with our advisors.

- 2.13 Counterparty credit quality was assessed and monitored with reference to credit ratings (the Council's minimum long-term counterparty rating for institutions defined as having "high credit quality" is A- across rating agencies Fitch, S&P and Moody's); credit default swap prices, financial statements, information on potential government support and reports in the quality financial press.

### **3. Financial implications**

- 3.1 The financial implications are as set out in this report. The ability to maximise interest returns is paramount to generate sufficient funds to support the General Fund and even a small decline in interest rates can mean a significant reduction in cash returns. Therefore, our aim is to continue to maintain flexibility commensurate with the high level of security and liquidity and minimal risk when making investment decisions.

### **4. Other considerations**

- 4.1 The Council fully complies with best practice as set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) Prudential Code for Capital Finance in Local Authorities, the Department for Communities and Local Government (DCLG) Guidance on Investments issued in March 2004 and the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Treasury Management in the Public Sector 2009 and Cross Sectional Guidance Notes.
- 4.2 Nothing in the Council's current strategy is intended to preclude or inhibit capital investment in local projects deemed beneficial to the local community and which have been approved by the Council.

### **5. Timetable for implementation**

- 5.1 Treasury management is an ongoing activity and normally there is no specific timetable for implementation.

**Background papers:** There are none

**Appendices:** Appendices A – B are attached

## Appendix A

### Details of Investments Held as at 31 March 2018

Investment Type	Initial Investment Amount £m	Yield %	Start Date	Maturity Date
<u>Pooled Investment Funds</u>				
<u>(see Appendix B for details)</u>				
Charteris Elite Equity Income	0.8	4.62	11 May 2012	N/A
Schroders UK Corporate Bond	1.5	4.68	11 May 2012	N/A
Schroders Income Maximiser	1.0	8.77	06 Jul 2012	N/A
Schroders Income Maximiser	1.0	7.13	24 Jul 2015	N/A
Schroders Income Maximiser	1.0	7.57	26 Aug 2016	N/A
M&G Global Dividend	1.0	4.68	27 Jun 2012	N/A
M&G Optimal Income Sterling	1.7	2.85	13 Apr 2015	N/A
M&G Extra Income Fund	2.0	4.49	15 Aug 2016	N/A
Investec Diversified Income	3.0	3.81	25 Aug 2016	N/A
Threadneedle UK Equity Fund	2.0	4.20	08 Sept 2016	N/A
CCLA Property Fund (LAMIT)	1.5	6.12	31 Mar 2013	N/A
CCLA Property Fund (LAMIT)	1.0	5.25	30 Apr 2014	N/A
<b>Total</b>	<b>17.5</b>	<b>4.97</b>		
<u>Fixed Rate Deposits</u>				
Network Housing Group	2.0	3.60	28 Apr 2016	27 Apr 2021
<b>Total</b>	<b>2.00</b>	<b>3.60</b>		
<b>Total - Core Inv. Portfolio</b>	<b>19.5</b>	<b>4.83</b>	<b>Average</b>	
<u>Cash Flow Investments</u>				
BNP Paribas	2.2	0.45		Instant Access
<b>Total</b>	<b>2.2</b>	<b>0.45</b>		
<u>Funding Circle</u>				
Loans to small businesses	0.3	4.81	16 Apr 2015	31 Mar 2019
<b>Total Investments at 31/3/18</b>	<b>22.0</b>	<b>4.70</b>	<b>Overall average</b>	

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## Pooled Funds as at 31 March 2018

Fund	Date of Purchase	Initial Investment £	Dividends Received to 31/3/18 £	Dividend Yield %	Capital Gain at 31/3/18 £	Total Return at 31/3/18 £	Total Return (Yield) %
Charteris Elite Income Fund	11/05/12	800,120	36,995	4.62%	-16,995	20,000	2.50%
Schroders UK Corporate Bond	11/05/12	1,500,000	70,251	4.68%	202,817	273,068	18.20%
Schroders Income Maximiser Fund	06/07/12	1,000,000	87,683	8.77%	186,709	274,392	27.44%
Schroders Income Maximiser Fund	24/07/15	1,000,000	71,281	7.13%	-35,281	36,000	3.60%
Schroders Income Maximiser Fund	26/08/16	1,000,000	75,734	7.57%	24,990	100,724	10.07%
M&G Global Dividend	27/06/12	1,000,000	46,788	4.68%	573,613	620,401	62.04%
M&G Optimal Income	13/04/15	1,690,636	48,261	2.85%	69,944	118,205	6.99%
M&G Extra Income Fund Sterling	15/08/16	2,000,000	89,763	4.49%	-52,824	36,939	1.85%
Investec Diversified Income	25/08/16	3,000,000	114,228	3.81%	-91,737	22,491	0.75%
Threadneedle Inv Services - UK Equity	08/09/16	2,000,000	83,951	4.20%	-35,619	48,332	2.42%
CCLA - The LAs Property Fund	31/03/13	1,500,000	91,867	6.12%	495,682	587,549	39.17%
CCLA - The LAs Property Fund	30/04/14	Hy is 1,000,000	52,454	5.25%	139,502	191,956	19.20%
<b>Value at 31/3/2018</b>		<b>17,490,756</b>	<b>869,256</b>	<b>4.97%</b>	<b>1,460,801</b>	<b>2,330,057</b>	<b>13.32%</b>

## Pooled Fund Performance to 31 March 2018

The net capital appreciation of these investments as at 31/3/18 is 8.35%. However, capital gains and losses may fluctuate throughout the period the investments are held. In 2017/18, any gains would only have been realised had the funds been sold. Dividends are received at various times during the year, with some paid quarterly and others half yearly. The income yield for 2017-18 as at 31/3/18 is 4.97% for the year.

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# Cabinet

18 July 2018



<b>Title</b>	Proposal for future arrangements for terms and conditions for Spelthorne employees		
<b>Purpose of the report</b>	To make a recommendation to Council		
<b>Report Author</b>	Sandy Muirhead, Group Head, Commissioning and Transformation		
<b>Cabinet Member</b>	Councillor John Boughtflower	<b>Confidential</b>	No
<b>Corporate Priority</b>	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
<b>Recommendations</b>	<p><b>Cabinet recommends to Council:</b></p> <ul style="list-style-type: none"> <li>(a) To agree that the Council takes steps to move to local arrangements for agreeing future pay awards for all employees</li> <li>(b) To agree that the Council takes steps to move to local terms and conditions for all employees</li> <li>(c) To agree formal proposals for consultation with UNISON and employees</li> <li>(d) To agree a timetable and process for implementing the move to local pay and conditions from April 2019</li> <li>(e) To delegate to the Chief Executive (in consultation with the Leader) authorisation to formally conclude a Collective Agreement with UNISON on local pay awards and local terms and conditions</li> <li>(f) To delegate to the Chief Executive authorisation to consult directly with staff on local pay awards and local terms and conditions if a Collective Agreement with UNISON cannot be reached by 31 August 2018. This may run in parallel with any continuing consultation with UNISON to finalise the terms of any Collective Agreement.</li> </ul>		
<b>Reason for Recommendation</b>	In line with the need to be more self-sufficient as national funding has been withdrawn, the Council wishes to move to deciding local pay awards and operating local pay, terms and		

	<b>conditions for all employees moving away from the national arrangements for these matters. This will mean that in future the Council can fully take account of local circumstances and affordability with maximum flexibility.</b>
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## **1. Arrangements for pay awards and conditions of service**

- 1.1 The Council currently applies national pay awards agreed by the national local government negotiating bodies. National pay awards set out the percentage pay award to be applied and other changes to the national pay spine. The emphasis is on pay award levels and changes to pay structures which address national issues and pay considerations rather than local circumstances, flexibility or affordability. The Council has little influence on the pay award and implementation arrangements agreed nationally, which must be applied.
- 1.2 Over the years the Council has made several pay decisions over and above national arrangements in order to retain a competitive edge in the local recruitment market and to take account of local circumstances. This has included an additional Spelthorne Allowance (currently called Spelthorne Pay Supplement) on top of national pay rates which is now incorporated into base pay and enhanced pay awards in some years (this incorporated the national inner fringe allowance added to spine points for councils just outside of London). These actions have ensured that Spelthorne pay rates have kept ahead of the national pay spine and the bottom point of the Council's pay spine has continued to be above the statutory national minimum wage (NMW) pay rate.
- 1.3 In contrast the bottom points of the national pay spine had fallen behind in relation to statutory national minimum pay rates and anticipated future movements in national minimum pay. Consequently the national pay award for 2018/19 has required considerable bottom loading to lift pay rates above the NMW rate. The Council has to implement some of this bottom loading even though our own pay rates are already comfortably above NMW rates and such bottom loading distorts local relativities in the first few pay grades.
- 1.4 The 2018/9 pay award is the first year of a two-year pay award agreement nationally. The second year pay award for 2019/20 is due to restructure the national pay spine from April 2019 to future proof national pay rates in relation to anticipated changes in the NMW. Due to previous local actions Spelthorne does not need to restructure the Spelthorne pay spine in this way and implementing the changes agreed nationally will cause significant difficulties with relativities at the bottom end of the pay scales, particularly in the direct services area of the Council.
- 1.5 Many councils in the South East have moved away from national pay awards to local arrangements and Spelthorne is now the only council in Surrey which is still subject to national pay awards. The Chief Executive and Management Team have concluded that continuing to be bound by national pay awards is no longer in the Council's best interests and believes that the Council should seek to move to local arrangements for pay awards, so that full regard can be taken of local circumstances and affordability. This is consistent with the need

for council budgets to use local solutions to balance the books in view of the loss of national funding.

- 1.6 As well as applying national pay awards the Council also applies national terms and conditions for all employees, as amended by Spelthorne. The national terms and conditions that apply are the Joint National Committee (JNC) for Chief Executives for Chief Executives, the Joint National Committee (JNC) for Chief Officers for the Deputy Chief Executives, Group Heads and specified professional posts and the National Joint Council (NJC) for Local Government Services for other posts.
- 1.7 It would be consistent with a move to local arrangements for agreeing pay awards to also move to local terms and conditions by incorporating the current national conditions of service that apply to Council employees into local Spelthorne terms and conditions of employment. This would transfer control for any future changes to the Council, enabling it to retain flexibility and take account of local circumstances if necessary. These wider terms and conditions of employment continue to be appropriate for the Council's needs and there is no requirement to change them.
- 1.8 The Pay Policy Statement agreed by Council for 2018/19 states that Spelthorne BC is considering a move from national pay to local pay and will commence consultation accordingly, with affordability and local flexibility to be taken into consideration. The Pay Policy states that should Council agree to proceed to local pay it would be effective for the 2019/20 Pay Policy effective from April 2019 and any national pay award for 2019/20 as part of a two year deal will not apply to the Council as a local arrangement may be in place.

### **Changing terms and conditions**

- 1.9 Changing the terms and conditions of employment that apply to employees, including arrangements for agreeing pay awards, cannot simply be done unilaterally by employers. Formal consultation on the changes proposed is required. Following consultation, changes can be agreed with individual employees or, where the proposed changes are to apply to the whole workforce, a collective agreement can be reached with a recognised Trade Union which would mean that the changes would be applied to all employees (whether members of the Union or not). The Council recognises UNISON for the purposes of consultation and alerts employees in their contracts of employment that UNISON will be consulted in relation to proposed changes to terms and conditions which are then binding on all employees.
- 1.10 If it is not possible to reach agreement with employees (either through consultation with the Union or after direct negotiation with employees), employers may decide that they still need to proceed to change terms and conditions of employment for key operational or financial reasons. In that event, the mechanism is to give notice to bring current contracts of employment to an end and to offer new, changed conditions in their place. This is known as termination and reengagement. Although the mechanism is to achieve change by termination and reengagement the intention from the outset is that employment continues uninterrupted under new conditions.

## **2. Options analysis and proposal**

- 2.1 **Option 1** is to continue to apply national pay awards and national terms and conditions. This option ties the Council to national decisions and to implementing the second year of the national 2 year pay award including restructuring of the pay spine. It does not provide local control or increase future flexibility to take account of local circumstances or affordability.
- 2.2 **Option 2** and **Option 3** are to formally consult with UNISON and employees on the proposal to move away from national arrangements for pay awards, terms and conditions and to move to local Spelthorne pay and conditions with effect from 1 April 2019. The proposals for change are set out in **Appendix 1**.
- 2.3 **Option 2** is to enter into consultation with UNISON with a view to agreeing a Collective Agreement to move to local Spelthorne arrangements for pay awards and local Spelthorne terms and conditions of employment from 1 April 2019, the agreement to apply to the whole workforce. If UNISON's agreement to the proposals is secured, it is proposed that the Chief Executive (in consultation with the Leader) is authorised to formally conclude a Collective Agreement with UNISON. In parallel with the formal consultation with UNISON, there would be informal consultation and engagement with the workforce about the proposals and information about the consultation with UNISON including via Spelnet and staff meetings.
- 2.4 Reaching a Collective Agreement with UNISON would enable the Council to move to local pay, terms and conditions without the need to formally consult with the whole workforce or give notice to all employees to change employee contracts. It is expected that the local branch of UNISON and Regional Officers from UNISON will be involved in the consultation. It is not known whether UNISON will agree a Collective Agreement to move away from national pay and conditions. It may become apparent that it is not possible to conclude a collective agreement in time to implement a Spelthorne pay award for 1st April 2019.
- 2.5 **Option 3** applies in the event that it is not possible to conclude a Collective Agreement with UNISON to agree a change to local Spelthorne pay awards and local Spelthorne terms and conditions. Under this option the Council would formally consult directly with all employees on the proposal to move to local pay, terms and conditions and would consider all the responses to the consultation with all employees and UNISON. There would be a report back to Cabinet and Council for a decision on whether to proceed to implement local pay awards, terms and conditions by giving notice to terminate current contracts and offering new contracts on local Spelthorne terms and conditions in their place. It is proposed that the Council proceed to Option 3 if it has not been possible to achieve a Collective Agreement (Option 2) by the end of August 2018.
- 2.6 **Risks**
- There is a risk that consultation on proposals to change pay, terms and conditions will be unsettling to staff with a negative impact on staff morale. There is a risk of industrial action. Proceeding to change terms and conditions by dismissal and reengagement has the risk of claims for unfair dismissal or breach of contract. If the employer fails to consult properly as required by regulations, employees may be able to claim a protective award of up to 90

days' pay for each employee. Proper consultation and engagement with staff, ensuring that there is adequate time for consultation and adhering to statutory and contractual notice requirements mitigates these risks. Any compensation would be likely to be limited as the Council would be offering reengagement on new terms which would be broadly comparable to existing terms.

- 2.7 There is a risk that some staff decide not to accept new terms and conditions and leave the organisation at the end of March 2019, potentially causing difficulties in covering jobs and functions. This is minimised by engagement and extensive consultation with the workforce and by confirming that staff are valued and it is not intended that anyone should lose their jobs as a result of the proposed change to local pay and conditions.
- 2.8 **The proposal** is to take action to move to local arrangements for pay awards, terms and conditions by consulting with UNISON and the workforce, using **Option 2** initially, moving to **Option 3** if required to ensure that changes can be implemented by 1 April 2019.

### **3. Financial implications**

- 3.1 Employee salaries and wages represent the substantial majority of the Council's net budget with the impact of pay awards considered as part of budget setting each year (or later if the national pay awards are delayed). Decisions on national pay may be taken by the national bargaining groups at times which do not fit with the Council's budget cycle and national pay awards may be higher than budgeted locally, in which case balancing financial savings must be achieved. If local Spelthorne arrangements for pay awards are in place they can be linked to the budget setting process and be in place for pay awards to be implemented at the beginning of each April.

### **4. Other considerations**

- 4.1 Pay arrangements and terms and conditions of employment must comply with UK legislation including the Equality Act and national minimum wage rates. Spelthorne ensures that employment policies, procedures and arrangements comply with the relevant legislation and statutory guidance.
- 4.2 Each council is a separate employer and it is open to councils to decide to move away from national terms and conditions to local ones. Such a move must be done in a way which complies with employment law and guidance. It is possible to reach a Collective Agreement with the recognised trades union, UNISON in Spelthorne's case, for a change to terms and conditions that applies to the whole workforce (option 2).
- 4.3 If it is not possible to reach a collective agreement Spelthorne could decide to consult with the whole workforce on proposals for a change to terms and conditions (option 3). A period of at least 45 days is required for consultation in that event. Responses to that consultation from employees and from the trades union must be carefully considered to decide whether to go ahead with the proposed change, to remain with the status quo or to modify arrangements in the light of consultation responses.
- 4.4 After consultation, if the decision is taken to proceed to implement a change to terms and conditions it may be achieved by a process known as 'dismissal and reengagement', writing to each employee to bring their current contract of

employment to an end and offering a new contract of employment with changed terms and conditions of employment in its place. A notice period of 3 months is required. This approach is a mechanism to achieve a change to terms and conditions which is supported by a strong business case. The workforce remains the same size at the end of the process with employees remaining in the same posts. It does not lead to any redundancies or other changes to the size or shape of the organisation.

- 4.5 Complying with employment law requirements and statutory guidance from ACAS will help to minimise the risk of employment tribunal or other claims from employees. Failure to do so will mean that any claims from employees may be successful with the risk of financial awards against the Council.
- 4.6 Staffing is not an Executive matter and therefore changes to staff terms and conditions have to be agreed by Council or a delegation given specifically by Council to the Chief Executive as Head of Paid Service.

## **5. Timetable for implementation**

- 5.1 The timetable for implementation of a change to terms and conditions is attached at **Appendix 2**. The full period from now until the end of March 2019 is required in order to effect a change to terms and conditions of employment if the Council had to proceed by way of termination and reengagement (option 3) to start in April 2019.
- 5.2 A Collective Agreement with UNISON could be achieved in a shorter period (option 2). However if a Collective Agreement has not been achieved by the end of August 2018, the Council would need to commence formal direct consultation with all employees on the proposals by the middle of September 2018 in order to achieve a change to terms and conditions for a 1st April 2019 effective date by termination and reengagement (option 3). This formal direct consultation with all employees may run in parallel with any continuing consultation with UNISON to finalise terms of any Collective Agreement.
- 5.3 Starting formal consultation with all employees later than mid-September 2018 would mean that a move to local Spelthorne pay, terms and conditions could not be achieved by 1 April 2019.

**Background papers: There are none**

**Appendices:**

**Appendix 1 Proposals for consultation: a proposal to move to local Spelthorne arrangements for pay awards and Spelthorne terms and conditions.**

**Appendix 2 Timetable for implementation**

## Appendix 1 Proposal to move from national pay and conditions to local Spelthorne pay and conditions with effect from 1 April 2019

**Proposal:** Spelthorne proposes to move to local Spelthorne arrangements for pay awards, terms and conditions with effect from 1 April 2019 with decisions made locally by the Council.

In the first instance Spelthorne will consult with UNISON with a view to reaching a collective agreement to move to local pay, terms and conditions. Consultation with all employees will follow. The details of the proposal are given in the table below.

**Overview:** Spelthorne pay awards, terms and conditions must be appropriate to recruit, retain and develop a skilled and flexible workforce to deliver services to the community and fulfil the Council's business objectives. The Council has the responsibility of balancing relevant factors in the light of the unique circumstances locally and retaining flexibility to deal with circumstances that might apply. Spelthorne considers that the best way to achieve this is to be able to apply local pay, terms and conditions to take full account of Spelthorne's local circumstances, including recognising the action taken in past years to improve Spelthorne pay rates compared to the national pay spine. The current position where national pay awards apply does not offer sufficient flexibility to take full account of local circumstances.

	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
Arrangements for pay awards	Spelthorne applies the national pay awards agreed by the national local government negotiating bodies (the JNC for Chief Executives, the JNC for Chief Officers and the NJC for Local Authorities Services as appropriate).	To agree local Spelthorne pay awards in the light of local circumstances and affordability.  Agreed % pay awards to be applied to all employees.	To move to pay award arrangements that take account of local circumstances rather than be bound by national arrangements which are decided on the basis of circumstances arising elsewhere in the country which may not apply to Spelthorne.  To provide maximum flexibility to meet local needs and to ensure that Spelthorne is able to recruit and retain staff in the local recruitment market.  To apply the same pay percentage award to all employees in recognition that all employees contribute to 'one Spelthorne'.

	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
Effective date of pay awards	<p>National pay awards are effective from 1 April.</p> <p>National pay awards are implemented as soon as practicable after agreement is reached and backdated to 1 April when agreed later.</p>	<p>Spelthorne pay awards will be effective from 1 April.</p> <p>Spelthorne pay awards will be decided in advance of 1 April and will be payable in April salaries.</p>	<p>To ensure that, as far as possible, pay awards are agreed in advance of 1 April so that salary increases are paid from April.</p>
Pay award process	<p>National pay awards are agreed after a lengthy period of national negotiation which may include additional time required for the trades unions to ballot their memberships.</p> <p>Spelthorne has little influence on the national negotiations and local circumstances are not taken into account.</p>	<p>The Spelthorne pay award effective from 1 April will be decided by the Council at the same time as the Council's budget and council tax for the following financial year, by the end of February each year.</p> <p>Spelthorne Pay to be a standing item at consultation meetings with UNISON throughout the year. UNISON will be able to input information and views to be taken account when Cabinet/Council decide on the Spelthorne Pay Award.</p> <p>The Council will take into account a range of factors including local circumstances, affordability and relevant comparative information such as the likely national pay award, pay awards in other councils with local pay within Spelthorne's recruitment market and any changes in national minimum pay rates.</p>	<p>To ensure that local circumstances and affordability are taken into account fully.</p>



	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
Pay spine	A national pay spine is set out with Spelthorne pay rates.	<p>The Spelthorne pay spine will continue unchanged.</p> <p>Spelthorne pay grades will continue to be made up of a number of points from the Spelthorne pay spine.</p>	No change required to Spelthorne pay spine. Spelthorne pay rates against each pay point are in excess of national rates.
Pay award for 2019	The national pay award for 2019 includes restructuring the national pay spine to take account of actions required in relation to minimum wage legislation.	<p>The pay award for 2019, effective from 1 April 2019 will be agreed to take account of local circumstances and relevant comparative information. There will be no restructuring of Spelthorne's pay spine.</p> <p>The national pay award for 2019/20 as part of a two year pay deal will not apply to Spelthorne as local pay award arrangements will apply.</p>	<p>Spelthorne pay rates are already above minimum wage rates consequently there is no need to take any further actions in relation to minimum wage legislation.</p> <p>Spelthorne's Pay Policy for 2019 states that where the national pay award includes any increase or deletion of scale points in relation to national pay scales the Council will not apply this to Spelthorne's pay scales as Spelthorne pay scales are already above the minimum wage and do not have significant compression issues due to not needing to make minimum wage adjustments.</p>

	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
Terms and conditions of employment	Terms and conditions of employment are in accordance with the relevant national conditions as amended by Spelthorne. The national terms and conditions that apply are the JNC for Chief Executives (for the Chief Executive), the JNC for Chief Officers (for the Deputy Chief Executives, Group Heads and certain professional posts) and the NJC for Local Authorities Services (for other posts).	To operate local Spelthorne terms and conditions of employment.  National provisions that are in operation will be adopted into local terms and conditions.	The majority of terms and conditions will remain unchanged as set out in individual statements of particulars (contracts of employment), Spelthorne employment policies, procedures, arrangements and Pay Policy Statement.  Moving fully to local terms and conditions will provide maximum flexibility for the future to take account of local circumstances.
	National conditions which have not been amended by Spelthorne and directly affect terms and conditions of employment  Sickness scheme Maternity leave and pay	Spelthorne terms and conditions will mirror national conditions in place at 31 March 2019.	It is not proposed to change the way these terms and conditions operate locally.

	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
Sick pay and sickness scheme	As set out in the schemes of conditions of service, including sick pay and sick leave	<p>National arrangements at 31 March 2019 to be adopted into local Spelthorne terms and conditions from 1 April 2019.</p> <p>Any future statutory changes to be incorporated into Spelthorne terms and conditions.</p> <p>To confirm that it is a condition of employment that employees cooperate with referrals to the council's occupational health advisers if required and Absence Management Policy.</p>	To convert current arrangements into local terms and conditions.
Maternity and paternity leave and pay	As set out in the schemes of conditions of service, including for leave and pay	<p>National arrangements at 31 March 2019 to be adopted into local Spelthorne terms and conditions from 1 April 2019.</p> <p>Any future statutory changes to be adopted into Spelthorne terms and conditions.</p>	To convert current arrangements into local terms and conditions

	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
Trade Union Membership	<p>The national bargaining groups negotiate with recognised trades unions.</p> <p>Confirmation of individual right to join a trade union or decide not to join a union</p>	<p>Spelthorne will continue to recognise UNISON for consultation and to represent the whole workforce, with regular consultation meetings scheduled throughout the year.</p> <p>Individuals may choose to join a trades union or choose not to join a union.</p>	<p>Confirm local arrangements as part of local terms and conditions.</p>
Car allowances for essential/casual users	<p>Essential User lump sum allowance and mileage rates</p> <p>Casual User mileage rates</p>	<p>Current arrangements to be adopted into local Spelthorne terms and conditions from 1 April 2019.</p> <p>To introduce a new allowance for electric vehicles which is currently not covered by national rates.</p>	<p>To convert current arrangements into local terms and conditions.</p> <p>National guidance on car allowance rates does not currently cover electric vehicles.</p> <p><i>Current arrangements for electric cars:</i></p> <p><i>Essential User – minimum rate currently £846 p.a/mileage rate 36.9p first 8500 miles then 13.7p over 8500 miles.</i></p> <p><i>Casual user rate – 46.9p first 8500 miles then 13.7p over 8500 miles – no change</i></p>
	Car allowances for posts on JNC terms and conditions	Spelthorne arrangements apply	No change

	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
All other terms and conditions, employment policies and pay arrangements not listed		<p>There are no proposals to change other employment or pay arrangements which will be confirmed as local Spelthorne terms, conditions and arrangements.</p> <p>Continue as currently set out in statements of particulars (contracts of employment), Spelthorne employment policies, procedures, arrangements and Pay Policy Statement.</p> <p>This is applicable for NJC/JNC and CX terms and conditions</p>	<p>To convert current arrangements into local terms and conditions.</p> <p>Any future requirement to add, amend or change terms, conditions may be agreed by the Council following consultation</p>
Pension	Statutory pension scheme for councils	Pension arrangements remain unchanged with access to the Local Government Pension Scheme.	No change
Staff benefits		Spelthorne arrangements continue to apply.	No change

	<b>Current position</b>	<b>Proposed arrangements</b>	<b>Reason for proposal for change</b>
	Protected entitlement to a car lease or cash alternative for some posts	<p>A protected non-contractual benefit which applies to some individual members of staff where their post previously attracted this benefit.</p> <p>To remove the option of a lease car with a lump sum payment to apply to all protections in future at the same rates as currently.</p> <p>Any existing car leases to continue to run until the end of the current lease contract.</p>	<p>The majority of staff with this personal protection already choose to take a cash alternative instead of a lease car.</p> <p>To avoid the need to maintain car lease arrangements and related administrative time.</p>

	May 2018	June 2018	July 2018	August 2018	September 2018	October 2018	November 2018	December 2018	January 2019	February 2019	March 2019	April 2019
Initial mtg with Unison for informal consultation, informal consultation	11.5.18											
Staff meetings for information and updates	16.5.18											
Unison mtgs (monthly) for ongoing consultation		07/06/28	30/07/18	TBC	04/09/18	04/10/2018 30/10/18	27/11/18	TBC	10/01/19	TBC	TBC	TBC
Report to Cabinet on formal decision regarding proposals for consultation			Briefing 2.7.18 Cabinet 18.7.18 Council 19.7.18									
Letter to UNISON formally proposing a collective agreement to move to local pay and conditions			After Council									
Consultation with UNISON on proposals with a view to agreeing a Collective Agreement			30/07/18	TBC								
Information to staff on proposals, on consultation with UNISON, staff engagement on proposals via Spelnet and staff meetings, informal consultation			After Council									

	May 2018	June 2018	July 2018	August 2018	September 2018	October 2018	November 2018	December 2018	January 2019	February 2019	March 2019	April 2019
<b>If Collective Agreement not concluded</b>												
Information to all staff on proposals and about formal consultation process and ways to respond. If required include update on Collective Agreement discussions and formal consultation going forward					Beginning of September							
Formal consultation with workforce on proposals for change - minimum 45 days												
Deadline for responses to consultation							end Oct/beg Nov					
Collate responses to consultation							early Nov					
MAT consider responses to consultation							mid Nov					
Report to Cabinet/Council on responses to consultation on proposals and for decision on whether/how to proceed							Cabinet Briefing 26.11.18	Cabinet 11.12.18 Council 13.12.18				



	May 2018	June 2018	July 2018	August 2018	September 2018	October 2018	November 2018	December 2018	January 2019	February 2019	March 2019	April 2019
Letters to employees giving information on Cabinet/Council decision, giving notice of termination and reengagement on local terms								By 21.12.18				
Notice period of 3 months Employees respond to letters												
New Spelthorne pay award arrangements, terms and conditions come into effect												1.4.19
Report to MAT on any staff not accepting new terms, any ET claims received												mid April

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**Cabinet****18 July 2018**

<b>Title</b>	Members' Allowances Scheme 2018/19		
<b>Purpose of the report</b>	To make a recommendation to Council		
<b>Report Author</b>	Gillian Scott, Principal Committee Manager		
<b>Cabinet Member</b>	Councillor Ian Harvey	<b>Confidential</b>	No
<b>Corporate Priority</b>	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
<b>Recommendations</b>	<b>Cabinet is asked to consider the recommendations of the Independent Remuneration Panel, set out in full in the attached report, and recommend the amended scheme to Council.</b>		
<b>Reason for Recommendation</b>	<b>The Council is required to make a scheme of allowances and the Independent Remuneration Panel is appointed by the Council to advise on the type of its allowances and the amounts to be paid.</b>		

**1. Key issues**

- 1.1 The Independent Remuneration Panel met on 28 September 2017 and 27 October 2017 to review the Members' Allowances Scheme for 2018/19.
- 1.2 It is a matter for the Council to decide the level of members' allowances under the Spelthorne Members' Allowances Scheme.
- 1.3 The function of the Independent Remuneration Panel (the Panel) is to provide the Council with advice on the type of its allowances and the amounts to be paid.
- 1.4 The statutory position is that Spelthorne Borough Council "shall have regard to" the advice from the Panel and the Council cannot make any changes to its Scheme of Members' Allowances without first considering the Panel's advice on the issues involved. The Panel acknowledges that it is a matter for the Council to decide the level of Members' Allowances. In having regard to the Panel's advice, the Council is to "give proper consideration" to the Panel's report. In this way, the Council can take full account of its particular circumstances and be directly accountable to its electorate.

**2. Options analysis and proposal**

- 2.1 The proposals recommended by the Panel are set out in detail in the attached report. A summary of the Panel's recommendations can be found on pages 13-14 of the report.

2.2 Cabinet is asked to consider the Panel's recommendations and make a recommendation to Council.

**3. Other considerations**

3.1 There are none.

**4. Financial implications**

4.1 The budget for Members' Allowances for 2017/18 was £327,913. Taking into account the proposed increase in the Basic Allowance recommended by the Panel, a budget of £332,515 will be required for 2018/19. However, as explained in the Panel's report, this may vary depending on the final level agreed for the staff pay award.

**5. Timetable for implementation**

5.1 Subject to approval by the Council on 19 July 2018, increases in the levels of basic and special responsibility and other allowances will be backdated to take effect from 1 April 2018.

5.2 In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 the Scheme will be made available on the website and a notice published in a local newspaper giving details of the Scheme and the amounts payable in respect of each allowance mentioned in the Scheme.

**Background papers:** There are none.

**Appendices:**

Report of the Independent Remuneration Panel – November 2017



**REPORT OF THE**

**INDEPENDENT REMUNERATION PANEL**

**ON**

**THE MEMBERS' ALLOWANCES SCHEME 2018-2019**

**FOR**

**SPELTHORNE BOROUGH COUNCIL**

November 2017

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## INTRODUCTION

1. This report has been prepared in accordance with the *Local Authorities (Members' Allowances) (England) Regulations 2003* ("the 2003 Regulations") as amended, which require all local authorities to appoint an Independent Remuneration Panel ('the Panel') to advise on the terms and conditions of their Scheme of Members' Allowances ('the Scheme').
2. The Panel acknowledges that it is a matter for the Council to decide the level of Members' Allowances. The statutory position (Paragraph 19 of the 2003 Regulations) is that Spelthorne Borough Council "**shall have regard to**" the advice from the Panel and the Council cannot make any changes to its Scheme without first considering the Panel's advice on the issues involved. In "having regard" to the Panel's advice, the Council is to "give proper consideration" to the Panel's report. In this way, the Council can take full account of its particular circumstances and be directly accountable to its electorate.
3. The function of the Panel is therefore to provide the Council with advice on the type of its allowances and the amounts to be paid.
4. The 2003 Regulations require the authority to make copies of the Scheme available for inspection by members of the public at all reasonable hours and publish a notice in a local newspaper giving details of the Scheme and the amounts payable in respect of each allowance mentioned in the Scheme.

## INDEPENDENT REMUNERATION PANEL

5. Spelthorne Borough Council appointed the following persons to comprise the Panel at its meeting on 27 April 2017:  
Sir Ivan Lawrence QC (Chairman)  
Mr. George McLaughlin  
Mr. Colin Squire
6. The members of the Panel have between them diverse experience in central Government, the law, local business, local authorities and charity work.
7. The Panel is fully independent of the Council and is not fettered in any way from providing impartial enquiry, scrutiny, advice and recommendation.
8. The Panel does not receive any payment for the time or work that it expends in undertaking the annual review of Members' Allowances.

## TERMS OF REFERENCE

9. Our terms of reference are in accordance with the requirements of the 2003 Regulations, together with "Guidance on Consolidated Regulations for Local Authority Allowances" ("the Guidance") issued in 2003. We are required to make recommendations to the Council about the following:
  - a) The amount of basic allowance payable to all Council members;
  - b) The categories of Council members who should receive a special responsibility allowance (SRA) and the amount of that allowance;

- c) Whether the Scheme should include an allowance for the expenses of arranging for the care of children and dependants, and, if so, the amount of this;
- d) The amount of travel and subsistence allowances and the approved duties in respect of which they can be paid;
- e) Allowances for co-optees (for example the independent members appointed by the Council to serve on the Council's Members' Code of Conduct Committee); and
- f) Whether adjustments to the level of allowances may be determined according to an index and, if so, which index and how long that index should apply, subject to a maximum of four years before its application is reviewed.

## PRINCIPLES UNDERPINNING OUR REVIEW

10. The following principles, which were established at the time of the Panel's review in 2000, continue to underpin this review: -
- (i) The basic allowance is intended to recognise the time devoted by councillors to their work, not just work in formal council meetings, but in the community and in meetings with constituents, officers and their political group, and also to cover incidental costs (such as the use of their homes and private telephones).
  - (ii) Special responsibility allowances (SRAs) are used to recognise the *significant additional responsibilities* which attach to some roles, not just the extra time required.
  - (iii) Members' allowances are not intended to compensate for loss of earnings, nor are they to recompense for the total number of hours councillors spend on their duties, bearing in mind the voluntary element of service in fulfilling the role of a local councillor, as recognised in government guidance. Councillors are not paid employees of the Council and their allowances should not be treated as salary.
  - (iv) The Scheme<sup>1</sup> should be fair, easy to understand and straightforward to administer.
11. Alongside the general principle that the payment of an allowance is not intended to compensate for loss of earnings, the Panel advocates a principle of fair remuneration and subscribes to the view promoted by the Independent Councillors' Commission which says that remuneration should not be an incentive for service as a councillor, nor should lack of remuneration be a barrier. The level of remuneration should be sufficient to allow most people to consider becoming an elected member without suffering unreasonable financial disadvantage and equally applies to existing councillors who may be deterred from fulfilling their role successfully if the remuneration is not sufficient.<sup>2</sup>
12. The Panel has sought to reflect the views of ordinary ratepayers in considering its recommendations. It aspires to a Scheme that is both fair to members and seen to be fair by council taxpayers.

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<sup>1</sup>Proposed Scheme payments for April 2018 is attached at Annex 1

<sup>2</sup>Rodney Brooke and Declan Hall, *Members' Remuneration: Models, Issues, Incentives and Barriers*. London: Communities and Local Government, 2007.



## **CURRENT SCHEME**

13. The Panel's last review of Members' Allowances for the financial year 2017/18 took place in July 2017. Due to the Panel's appointment after Council had already agreed its budget for 2017/18, it confined its review to the following matters only:
  - a) The amount of Basic Allowance payable to all Council members;
  - b) The roles of Council members which should receive a Special Responsibility Allowance (SRA) and the amount of that allowance;
  - c) Whether adjustments to the level of allowances may be determined according to an index and, if so, which index and how long that index should apply, subject to a maximum of four years before its application is reviewed; and
  - d) Whether the rules relating to payments of Special Responsibility Allowances (SRAs) should be varied.
14. The Panel recommended that the Basic Allowance and Special Responsibility Allowances should each be increased by 2% from 1 April 2017. This uplift closely reflected the cost of living increase over the previous 12 months and although not formally linked to staff pay increases reflected the pay award for 2017/18.
15. The Panel chose not to commit to an index at the 2017/18 review but agreed to return to this issue at a future point to consider if the level of staff pay increases would be a useful index for Members' allowances.
16. The Panel recommended the following changes in relation to the rules on claiming Special Responsibility Allowances:
  - a) that the 'one SRA only' rule be waived only in the situation where the Chairman/Vice-Chairman of the Joint Committee is a Borough Councillor already in receipt of an SRA under the Scheme.
  - b) that the 'one third' rule be maintained as a standard by which the Panel will consider if it is happy with the numbers of SRAs designated, rather than a hard and fast rule to which it must abide.

## **SOURCES OF INFORMATION FOR 2018/19**

17. The Panel met with the Leader to discuss his views on the Scheme for 2018/19 and to invite comments; no negotiations or decisions were made. The Panel found the discussion useful and is grateful to the Leader for his contributions. The Panel also contacted the Cabinet members and Chairmen and sought specific information regarding their Special Responsibility Allowances which has assisted its deliberations.
18. All members were also given an opportunity to complete a questionnaire on the Scheme for 2018/19 and 21 responses were received from councillors, which represents almost 54 per cent of the Council. The Panel has worked on the assumption that the 18 councillors who did not respond to the survey are happy with the current arrangements. The information obtained was very helpful to the Panel and was used as a significant element of the evidence upon which it has based this report and recommendations. Reference to the questionnaire results is made throughout this report.

19. A summary of the questionnaire responses is available on request.
20. The Panel was also provided with:
  - The current Members' Allowances Scheme
  - Details of member attendance at meetings from September 2016 to August 2017
  - Data on staff pay awards and Consumer Price Index and Retail Price Index since 2009
  - Data from Boroughs and Districts compared across Surrey and across the Southeast, on Basic Allowance for 2017/18, number of councillors, overall budget for member allowances and percentage of Public Service discount
  - Data from Boroughs and Districts across Surrey comparing Special Responsibility Allowances (SRA) and the amalgamated figures of Basic Allowance and SRA for each authority.
  - Data from Boroughs and Districts across the Southeast comparing Special Responsibility Allowances and Basic Allowance.
  - Data from Boroughs and Districts across the Southeast comparing Travel allowances
  - Data from Boroughs and Districts across the Southeast comparing the methodology for calculating SRAs; details of any formula established for updating allowances annually; and hours worked per week by Leaders and Cabinet members.
  - Information from Boroughs and Districts across Surrey in relation to their list of Approved Duties.
  - Details of members' travel expenses claims for 2016/17.
21. The Panel wishes to record that it was impressed with the work of the officers in Committee Services, Mrs Gill Hobbs and Mr Dan Skerten, in supporting the Panel's review.

## **CONSIDERATIONS AND RECOMMENDATIONS**

### **Public Service element discount**

22. Statutory guidance to Panels requires them to recognise the Public Service Discount (PSD) principle when arriving at the recommended Basic Allowance. This is the principle that an important part of being a councillor is the desire to serve the public and, therefore, not all of what a councillor does should be remunerated; a portion of their time should be given voluntarily.
23. The current estimation is that a councillor spends fifteen hours per week on average in the role. Since 2008 a Public Service Discount of 33% has been applied which means that the councillor gives five hours '*pro bono publico*' and is remunerated for the remaining ten hours through the Basic Allowance.
24. The Panel agrees with the principle of such a discount.
25. Members were asked in the survey whether they thought the current discount of one third for the voluntary element of the role was about right, too high or too low. 86% said that the PSD was about right; 14% said the discount was too high and no-one said it was too low.

26. The Panel concludes that discounting a percentage of the time spent by all councillors on their work for the public service element is still appropriate and on the basis of the survey, agrees that the current discount of 33% should continue to apply. This percentage sits at the low end of the range of PSD applied to basic allowances by councils in the southeast.<sup>3</sup>

### **Attendance**

27. The Panel is pleased to note that attendance at meetings by individual councillors is generally good although is concerned that four members have attended less than 40% of the meetings at which they were expected between September 2016 and August 2017. Under the 2003 Regulations, it is not permissible to pay individual (Attendance) Allowances in recognition of attendance at meetings.<sup>4</sup> The attendance records are published on the Council's web site.

### **Workload**

28. The current Basic Allowance is based on an overall average time spent on undertaking the councillor role of 15 hours per week.
29. Analysis of the survey responses on time spent on ward work and general council business suggests that although some councillors spend more time on their role than a year ago (38% said they had seen a small increase and 38% a large increase), in general the time commitment has remained fairly similar. Backbenchers' responses indicate councillors spend on average between 7 and 18 hours a week (with most respondents answering between 10 and 14 hours per week) on fulfilling their councillor duties.
30. The Panel is satisfied that calculating the Basic Allowance on the current assumption of a 15 hour per week workload is about right.

### **Basic Allowance**

31. The Scheme must include provision for a Basic Allowance, payable at an equal flat rate to all councillors.<sup>4</sup>
32. The Basic Allowance is intended to recognize the time commitment of all councillors including such inevitable calls on their time as attending Council and other formal meetings, training/briefings, civic events and political group meetings and undertaking general constituency work. It is also intended to cover incidental costs such as the use of their homes and telephones.
33. Analysis of the survey responses indicated that all but three of the respondents i.e. 86%, considered that the Basic Allowance needed to be increased.

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<sup>3</sup> Data from South East Employers, Members' Allowances Survey 2017 (October 2017)

<sup>4</sup> The Local Authorities (Members' Allowances) (England) Regulations 2003: Part 2, Regulation 4.

34. Since 2000, the Basic Allowance has been calculated on the basis of the daily average earnings of employees across all occupations in the south east. The Panel believes this is a reasonable multiplier to use and is not minded to use an alternative for this review.

### Comparison to Surrey Boroughs and Districts

35. The Panel compared Spelthorne's current Basic Allowance against the other Surrey Boroughs and Districts and considered that the most relevant comparators are our closest neighbours; namely, Runnymede, Elmbridge and Woking. It notes that Spelthorne ranks third highest in Surrey.

Council	Basic Allowance (£) 2017-18 <sup>5</sup>
Woking Borough Council	7200
Guildford Borough Council	6616
<b>Spelthorne Borough Council</b>	<b>5901</b>
Reigate & Banstead Borough Council	5436
Surrey Heath Borough Council	5040
Elmbridge Borough Council	4942
Waverley Borough Council	4619
Mole Valley District Council	4285
Tandridge District Council	4129
Runnymede Borough Council	3440
Epsom & Ewell Borough Council	3341

36. Comparing the Basic Allowances paid by Boroughs and Districts across the Southeast, Spelthorne ranks 11<sup>th</sup> highest out of 50. The median payment is £5055<sup>5</sup>.
37. The Panel notes the Basic Allowance payments made by other Borough and District councils in 2017/18 both in Surrey and more widely across the Southeast and that as a benchmark Spelthorne is performing very well against them.
38. The Panel considered other factors which may influence the allowance paid by other authorities, such as number of members, total budget and population in the authority area. The Panel could not find any direct correlation between these factors and the differing amounts of Basic Allowance paid, to suggest that any one factor is a contributory element in determining the levels of payment.
39. The Panel is of the opinion that Spelthorne Borough Council is generous in both the amount of the Basic Allowance paid and the number of hours allocated to it and considered whether an increase is appropriate.
40. Responses to the Members' Survey showed that 44% of councillors thought the current Basic Allowance should be increased by reference to the staff pay award and 33% each by reference to CPI and RPI, although 17 councillors (81%) did not consider themselves to be 'out of pocket' as a result of their role.

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<sup>5</sup> Data from South East Employers, Members' Allowances Survey 2017 (October 2017)

41. Across the Southeast, 26 authorities index annual increases in the Basic Allowance to staff pay awards, compared to 4 which index to Consumer Price Index (CPI) and 1 which indexes to Retail Price Index (RPI).
42. The Panel notes that the Leader and councillors responding to the survey are in favour of an increase in allowances by reference to the staff pay award, and this is overwhelmingly the index by which other authorities in the Southeast uplift their allowances annually.
43. The Panel is persuaded that an increase in the Basic Allowance which reflects the staff pay award for 2018/19 would be both fair and reasonable and ensure that most councillors continue to not be financially disadvantaged as a result of undertaking their role.
44. For the purposes of illustration, assuming a staff pay award of 2% would mean the Basic Allowance for 2018/19 will be £6019.
45. The Panel considered whether to index link future year's payments of Basic Allowance. In view of the fact that the previous 'dropping behind' in allowances has been made up and Spelthorne's rates now compare well to others in the Southeast, the Panel prefers to undertake an annual review rather than formally commit to an index for future uplifts in the Basic Allowance. The Panel will return to consideration of this matter at future reviews.
46. In making its recommendation the Panel has sought to maintain a sensible balance between:
  - (a) the financial constraints facing the Council due to the fall in Government Grant during the years 2018-2022 which will continue to be a pressure for Council finances;
  - (b) the need to maintain a Scheme which is fair, easy to understand and straightforward to administer; and
  - (c) the need to ensure the level of remuneration continues to be sufficient to allow existing councillors to fulfil their role successfully.

### **RECOMMENDATION**

**The Panel recommends that the Basic Allowance payable to all members of Spelthorne Borough Council should be increased by reference to the staff pay award for 2018/2019.**

### **Special Responsibility Allowances**

47. An SRA may be paid to recognize the significant additional time and responsibility that certain roles in the Council require of councillors. The payments for SRAs do not have to be the same across different roles. SRAs do not have to be paid but there is a requirement that, if they are paid, at least one Member of a minority group should receive an SRA.

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<sup>6</sup> Office for National Statistics, Consumer Price Index 2017

48. The 2003 Regulations do not limit the number of SRAs which may be paid, nor do they prohibit the payment of more than one SRA allowance to any one Member. The Regulations specify the categories of role which the Council may make provision for paying an SRA. Amongst these is: chairing meetings of a council committee or a sub-committee, or a joint committee of the council and one or more other authorities, or a sub-committee of such a joint committee.
49. Under the current Scheme of allowances for Spelthorne there are 5 categories for Special Responsibility Allowances which are paid to a total of 15 councillors:
- Leader (1)
  - Deputy Leader (1)
  - Cabinet Member (7)
  - Chairman (Planning, Licensing, Audit, Overview and Scrutiny and Joint Committees) (5)
  - Opposition Group Leader (1)
50. The Panel agrees that these roles should continue to be awarded an SRA in recognition of the significant additional responsibilities for the councillors appointed to those roles.
51. The Panel then considered the methodology for calculating SRAs which under the current scheme involves agreeing the allowance for the Leader and then establishing the allowances for the other roles as a percentage of the Leader's allowance.
52. The responses from those in receipt of an SRA suggest that the current methodology of calculating SRAs as a percentage of the Leader's allowance is appropriate. This method also came out as equally popular to using a multiplier of the Basic Allowance in the authorities across the Southeast.
53. The Panel is content to continue to use this same methodology for future years.
54. The Panel compared Spelthorne's payments for SRA with those paid across Surrey and the Southeast. It notes that Spelthorne ranks in the top third for SRA payments when compared to other Surrey authorities, (Annex 2) and in several instances pays the most. The Panel then compared the total amount paid in both Basic and SR allowances and concludes that Spelthorne pays either the highest or second highest total allowance in all but one instance and fares particularly well against its nearest neighbours.
55. Of those councillors in receipt of an SRA who responded to the survey, 8 believed their payments were about right although 2 felt it was too low.
56. The Panel considered whether the current percentages (below) for calculating SRAs are set at the right level (for the numerical amounts being paid see Appendix 1 Page 13):
- Leader – 230% of the Basic Allowance
  - Deputy Leader - 66% of the Leader
  - Cabinet members – 50%
  - Planning Committee Chairman – 40%
  - Licensing Committee Chairman – 35%
  - Overview and Scrutiny Committee Chairman – 35%
  - Audit Committee Chairman – 25%

57. The Panel notes the Leader's estimate of the time he spends in his role and that this is fairly comparable to those of other Leaders across the Southeast, against which the Leader's allowance performed well. So although the Panel is of the opinion that the % multiplier for the Leader's allowance is arguably too high, it has resisted the temptation to reduce the multiplier by 5-10%.
58. The time commitment of Cabinet members varied more and was less well known at other authorities so the Panel is unable to draw any conclusions from this. The Panel agrees that time commitment is only one factor by which to determine the value of the SRAs and that the responsibility of the role is particularly relevant.
59. Compared with the 49 other authorities across the Southeast, all Spelthorne's SRA payments generally sit just above the midway point. The Panel therefore concludes that Spelthorne's SRAs are fair and reasonable.
60. The Panel notes the comments of the Leader that some councillors in receipt of SRAs have experienced increased responsibilities in the last year as the Council was forced to expand its activities to meet funding gaps.
61. The Panel considered these extra responsibilities in more depth as part of this Review and invited comments from all those councillors in receipt of an SRA on both the time spent on their role and the level of their remuneration.
62. The Panel considered the response of the Overview and Scrutiny Committee Chairman who believed the allowance for his role was too low. The Panel concludes that this is not borne out by the comparison with other Southeast authorities nor with our nearest neighbours and is not minded to amend the allowance for this role.
63. The Panel considered at length the clear fact that the Finance Cabinet member had experienced a heavier workload over the past year that brought an additional level of responsibility and whether this should be reflected in a greater SRA for this role. The role also requires the holder to take up a position as an unpaid director of Knowle Green Estates Ltd.
64. The Panel is of the opinion that it is in the nature of the role of a Cabinet member to experience fluctuating levels of work. Whereas any role may have additional responsibility one year, it may not continue in the following year. The Panel is happy to reconsider this matter at the next review if the workload for this role continues to be high.
65. The Panel notes that the other director of KGE Ltd (the Chief Finance Officer) does not receive extra payment for his role in the Company, nor does the Company Secretary, (the Monitoring Officer).
66. In coming to its decision, the Panel has borne in mind that setting apart one Cabinet member role as being worthy of a higher SRA than the others, would distort the current arrangements.
67. Weighing up all the evidence before them, the Panel concludes that it is appropriate to freeze SRA payments at the numerical amounts paid in 2017/18 but retain the current multiplier methodology for use in future years. This conclusion is considered to be both fair and reasonable for the purposes of this review.

68. In making its recommendations, the Panel wishes to emphasise that they should not be interpreted as a reflection of any individual councillor's performance in the role.

#### **RECOMMENDATION**

**The Panel recommends that all Special Responsibility Allowances are frozen at their current amounts for 2018/19.**

#### **OTHER ALLOWANCES**

##### **Co-Optees Allowance**

69. The current Scheme pays an allowance of £1000 and £500 to the Chairman and Vice-Chairman respectively of the Members' Code of Conduct Committee, both of whom are co-opted members.
70. The work of this Committee is mainly ad-hoc in that the main Committee only meets two or three times a year but Assessment and Hearings Panels convened to consider complaints against councillors under the Code of Conduct (and Chaired by one of the co-opted members) meet as and when required.
71. There have been no meetings of the aforementioned Panels in the past year, but in previous years their work has been more onerous.
72. There was no comparable data for the Panel to consider as every authority has different arrangements for considering 'Standards' issues. The Panel therefore does not propose to make any changes to the existing arrangements for allowances paid to co-optees.

#### **RECOMMENDATION**

**The Panel recommends that the co-optees on the Members' Code of Conduct Committee continue to receive an allowance of £1000 and £500 for the Chairman and Vice-Chairman respectively.**

##### **Dependants' Carer's allowance**

73. The Panel notes that the current Scheme for Dependants' Carer's allowance (DCA) provides that members are simply reimbursed the actual costs incurred for expenditure in relation to the care of dependent relatives or children while they are undertaking approved Council duties, subject to submission of receipts/invoices in support of claims. We were advised that no claims had been made for this allowance for at least the last five years.
74. The Panel had regard to the lack of claimants for DCA and does not consider there is any reason for the current Scheme to be revised.

#### **RECOMMENDATION**

**The Panel therefore recommends that no change be made to the current scheme for Dependants' Carer's allowances.**



## Travel and subsistence allowance

75. The Panel considered the current payments for travel allowances which are payable at the same rate as for Council officers on a sliding scale dependent on engine size for car use, and for motorcycles, for journeys undertaken in relation to approved duties.
76. The current payments for cars, per mile, is:

	2017/18
up to 999cc	46.9p
1000cc - 1199cc	52.2p
1200cc and over	65p

77. The current payment for motorcycles is 24p per mile and for bicycles is 20p per mile.
78. In the past year, 6 members submitted travel expense claims, 2 of which were for reimbursement of bus and train fares in relation to approved duties, but the majority of members do not reclaim this expense.
79. The Panel notes that the amount paid by Spelthorne for travel allowance for cars is higher than most other authorities in Surrey and the Southeast; 95% of whom pay the HMRC rate of 45p per mile for car use, regardless of engine size.
80. The Panel also notes that the Scheme provides for reimbursement of subsistence expenses actually incurred in carrying out the Member's approved duties, subject to submission of receipts/invoices in support of claims. Only two such claims had been received during the past year.

### RECOMMENDATION

**The Panel recommends that the current arrangements for payment of travel and subsistence allowances be retained as at present.**

### Approved Duties

81. The Panel undertook a review of the list of Approved Duties as part of this review of Members Allowances.
82. One of the activities which is agreed as an approved duty is "deputations, delegations or other representation at meetings with a government department or another local authority". The Council is obliged to appoint an Armed Forces Champion under the Covenant and the duties undertaken by that Champion on behalf of the Council often oblige him to travel in Surrey to military bases, County Hall and the like. Claims have previously been permitted on the basis it would appear inequitable that the Champion is not reimbursed for out of pocket expenses for undertaking a voluntary role. For clarity the Panel agreed that the Armed Forces Covenant be included specifically in the list of those bodies in respect of which travel expenses can be claimed.
83. The Panel had regard to the responses to the Member Survey in which the majority of members (58%) were in favour of removing claims for meetings within the Borough. The Panel was minded to say that claims for travel to meetings within the Borough should be discouraged but bearing in mind the few claims which have been made for

such travel, the Panel does not wish to change the current arrangements in this regard.

84. Most members (56%) also responded in the survey that they were not in favour of allowing travel claims under the Scheme for visits to Knowle Green to meet with officers. The Panel concludes that it is those members in receipt of an SRA who are most likely to meet with officers at the Council offices and is of the opinion that their additional allowance covers this expense in any case.
85. The Panel considered whether it should recommend the inclusion of informal visits by Planning Committee members to sites for applications that are coming before the Committee. Most members (65%) were in favour of this.
86. The Panel wishes to encourage those Planning Committee members who are not in receipt of an SRA in connection with their membership of this Committee, to visit application sites in order to better fulfil their role on the Committee. The Panel is therefore recommending that such visits are included on the list of Approved Duties (Annex 3). The Panel will review this matter next year in light of any claims received.

#### **RECOMMENDATION**

**The Panel recommends for approval the inclusion of the following to the list of Approved Duties:**

- **Armed Forces Covenant**
- **Site visits by Planning Committee members in relation to applications coming before them at Committee.**

## SUMMARY OF PANEL'S RECOMMENDATIONS

The Panel makes the following recommendations to the Council on the Members' Allowances Scheme for 2018-2019:

Allowance	Current amount	Number	Recommended Allowance for 2018/19
<b>Basic:</b>	<b>£5901</b>	<b>39</b>	<b>£6019<sup>1</sup></b>
<b>Special Responsibility:</b>			
<b>Leader of the Council</b>	<b>£13572</b>	<b>1</b>	<b>£13572</b>
<b>Deputy Leader</b>	<b>£8958</b>	<b>1</b>	<b>£8958</b>
<b>Cabinet Members</b>	<b>£6786</b>	<b>7<sup>2</sup></b>	<b>£6786</b>
<b>Spelthorne Joint Committee Chairman/Vice-Chairman</b>	<b>£4758</b>	<b>1</b>	<b>£4758</b>
<b>Planning Committee Chairman</b>	<b>£5428</b>	<b>1</b>	<b>£5428</b>
<b>Licensing Committee Chairman</b>	<b>£4750</b>	<b>1</b>	<b>£4750</b>
<b>Overview and Scrutiny Committee Chairman</b>	<b>£4750</b>	<b>1</b>	<b>£4750</b>
<b>Audit Committee Chairman</b>	<b>£3394</b>	<b>1</b>	<b>£3394</b>
<b>Opposition Group Leader</b>	<b>£3162</b>	<b>1</b>	<b>£3162</b>
<b>Co-Optees' Allowance</b>	<b>£1000 (Chair) £500 (Vice-Chair)</b>	<b>1 1</b>	<b>£1000 (Chair) £500 (Vice-Chair)</b>
<b>Total Budget</b>	<b>£327,913</b>		<b>£332,515</b>

<sup>1</sup> On an assumption of a 2% staff pay award

<sup>2</sup> Based on the existing Cabinet and excluding the Leader and Deputy Leader

<b>Allowance for expenditure incurred in relation to Approved Duties (Schedule 1 to Scheme)</b>	<b>Unchanged allowances for 2018/19</b>
<b>Dependants' Carer's Allowance</b>	<b>Reimbursement of actual costs incurred</b>

<b>Travelling and Subsistence Allowances</b>	
<b>Motor Mileage Allowance (per mile)</b>	
<b>Cars</b>	<b>Up to 999cc – 46.9p 1000cc – 1199cc – 52.2p 1200cc and over – 65p</b>
<b>Motorcycles</b>	<b>24p</b>
<b>Cycle</b>	<b>Nil</b>
<b>Day Subsistence Allowance</b>	<b>Reimbursement of actual costs incurred</b>

**Sir Ivan Lawrence (Chairman)**  
**George McLaughlin**  
**Colin Squire**

**16 November 2017**

Council Name	Basic Allowance (BA)	Leader	Total BA and Leaders	Deputy Leader	Cabinet Member / Portfolio Holder	Total BA and Cabinet	Chair Audit Committee	Total BA and Audit Chair	Licensing Committee Chair	Total BA and Lic Chair	Deputy Chair Licensing Committee	Planning Committee Chair	Total BA and Planning Chair	Deputy Chair Planning Committee	Members of Planning Committee	Overview and Scrutiny Committee Chair	Total BA and OS Chair	Deputy Chair Overview and Scrutiny Committee	Opposition Group Leader	Deputy Opposition Leader	Total No. of roles receiving SRAs	Overall Budget for Member Allowances
Surrey Heath Borough Council	5,040	13,727.00	18,766.9	8,600.00	4,580.00	9,619.9	3,663	8,703	3,663.00	8,702.90	1,831.00	4,241.00	9,280.9	2,120.00	n/a	3,663.00	8,702.9	1,463.00	4,580.00	n/a	11	278,760
Waverley Borough Council	4,619	13,703.00	18,322.0	9486	3162	7,781.0	2,366.00	6,985	3,162.00	7,781.00	1582	3,162.00	7,781.0	1,582.00	n/a	3,162.00	7,781.0	1,582.00	3,162.00	na	11	373,552
Spelthorne	5,901	13,572.00	19,473.0	8958	6786	12,687.0	3,394.00	9,295.0	4,750	10,651.00	n/a	5,428.00	11,329.0	n/a	n/a	4,750.00	10,651.0	n/a	3,162.00	n/a	8	327,913
Reigate and Banstead	5,436	13,496.00	18,932.0	11022	8998	14,434.0	n/a	n/a	420	5,856.00	420	5,190.00	10,626.0	n/a	767	3,016.00	8,452.0	n/a	n/a	n/a	8	436,000
Elmbridge Borough Council	4,942	12,355	17,297.0	n/a	6,178	11,120.0	3,707	8,649	2,471	7,413.00	618	5,560	10,502.0	1,390	n/a	6,178	11,120.0	3,089	With membership greater than 10% of total members 1,236	n/a	10	341,970
Guildford Borough Council	6,616	7,939.00	14,555.0	1,323.00	5,293.00	11,909.0	3,308.00	9,924	3,308.00	9,924.00	n/a	5,293.00	11,909.0	n/a	n/a	5,293.00	11,909.0	n/a	5,293	n/a	8	435,260
Runnymede Borough Council	3,440	6,880	10,320.0	1,720	n/a	n/a	1,135	4,575	3,440	6,880.00	1,720	6,020	9,460.0	4,013	2,007	3,440	6,880.0	1,720	2,580	n/a	11	230,360
Mole Valley	4,285	6,796.75	11,081.8	n/a	3136.96	7,422.0	2091.31	6,376	261.42	4,546.50	n/a	2,509.57	6,794.7	n/a	n/a	2,091.31	6,376.4	n/a	3,659.79	522.83	8	218,000
Tandridge District Council	4,129	5,857.00	9,986.0	1,465.00	n/a	n/a	n/a	n/a	n/a	n/a	n/a	2,928	7,057.0	1,465	566	2,928	7,057.0	1,465	2,928	n/a	8	228,000
Woking Borough Council	7,200	5,000.00	12,200.0	1,500.00	750.00	7,950.0	n/a	n/a	500.00	7,700.00	n/a	750.00	7,950.0	n/a	n/a	500.00	7,700.0	n/a	1,000.00	n/a	7	249,989
Epsom & Ewell*	3,341	2,338.41	5,679.8	3341.36	n/a	n/a	2338.41	5,680	2338.95	5,680.31	n/a	3341.36	6,682.7	1002.41	334.14	2338.95	5,680.3	n/a	n/a	n/a	8	165,000
Comments											6 of 11 make no payment			5 of 11 make no payment	4 of 11 make a payment			6 of 11 make no payment		1 of 11 makes a payment		

Red font = Highest payment  
 Orange font - second highest payment

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## Members' Allowances Scheme 2018-2019

### List of Approved Duties

When a member uses his or her own home to undertake representative duties on behalf of the Council (e.g. to see constituents), that home becomes their place of work and an allowance can be paid for travel between home and the Council Offices for approved duties, but not for ordinary visits to the Council.

#### Meetings:

The activities that shall be approved duties include:

- meetings of the Council, Cabinet and committees including Task Groups and Panels.
- deputations, delegations or other representation at meetings with a government department or another local authority.
- training seminars organised by the Council, including members' inductions.
- presentations to councillors by government departments, statutory undertakers, utility or private companies, in respect of proposals in or affecting the Borough, as well as meetings of the organisations external to the Council listed below.
- opening of tenders where Standing Orders require one or more members to be present.
- visits to application sites coming before Planning Committee by Committee members

To qualify as an approved duty, such meetings, seminars and presentations need to be authorised by the Council, Cabinet or a Committee and representatives of more than one political group must be invited.

#### Meetings with organisations

Meetings of the following organisations **have been approved** by the Council or Cabinet for travel/expenses claims:

- Armed Forces Covenant
- Ashford and St Peter's Hospitals NHS Foundation Trust
- Heathrow Airport Consultative Committee (HACC)
- Heathrow Local Focus Forum (BAA)
- Heathrow Airport Ltd - Annual Meeting with Spelthorne Borough Council
- Heathrow Community Noise Forum
- Local Authority Aircraft Noise Council (LAANC)
- Management Committee of Mediation North Surrey
- On-street Parking Partnership (OSPP) Joint Task Group
- Surrey Police and Crime Panel
- River Thames Alliance
- South East Employers (SEE)
- South West Middlesex Crematorium Board
- Spelthorne Mental Health Association Management Committee - Trustee
- Spelthorne Safer, Stronger Partnership Board
- Strategic Aviation Special Interest Group (SASIG)
- Surrey Waste Partnership
- Surrey Leaders' Group

- Surrey Museums Consultative Committee
- Surrey Traveller Community Relations Forum
- (NHS) Sustainability and Transformation Plan Stakeholder Reference Group
- The Traffic Penalty Tribunal

**List of authorised conferences:**

The following have been prescribed under Section 175 of the Local Government Act 1972 for the payment of travel and expenses claims:

- Chartered Institute of Housing (CIH)
- Chartered Institute of Public Finance and Accountancy (CIPFA)
- Institute of Building Control
- Institute of Waste Management
- Local Government Association Annual Conference
- Local Government Association Annual Housing Conference
- National Housing and Town Planning Conference
- Royal Town Planning Institute (RTPI)
- South East Employers (SEE)
- Surrey Heritage Strategy Annual Conference

**List of duties not approved:**

The following is a list of those organisations external to the Council to which the Council makes appointments, but which **do not qualify** for any travel or expenses allowances:

- A2 Dominion Customer Insight Panel
- Spelthorne Business Forum

The following duties have **not** been approved by the Council:

Social occasions, receptions, official openings, sporting occasions, visits by members to the Council offices to meet with staff outside of formal meetings; and ward surgeries.



**Cabinet**

**18 July 2018**



<b>Title</b>	<b>Use of compulsory powers to enable development – 15 London Road and an unregistered site next to it, Staines upon Thames</b>		
<b>Purpose of the report</b>	To make a decision		
<b>Report Author</b>	Heather Morgan, Group Head Regeneration and Growth Michael Graham, Head of Corporate Governance		
<b>Cabinet Member</b>	Councillor Colin Barnard	<b>Confidential</b>	No
<b>Corporate Priority</b>	Housing		
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. The Cabinet approves the principle of the Council’s willingness to use compulsory powers to acquire or appropriate third party land and buildings for planning purposes, shown edged red on the plan in Appendix 1 of this report and such other incidental and adjoining interests in land which would facilitate and enable viable and deliverable development in connection with the creation of a housing development at 17-51 London Road in order to improve the Borough’s economic, environmental and social wellbeing.</li> <li>2. The Head of Regeneration Growth in consultation with the Cabinet Members for Finance and Planning and Economic Development be authorised to undertake preparatory work up to an initial budget of £150,000 for the making of a compulsory purchase order.</li> <li>3. Members should note the use of compulsory powers are subject to: <ul style="list-style-type: none"> <li>• The Council using reasonable endeavours to assemble the development site by agreement or private treaty.</li> <li>• Approval by the Planning Committee of a suitable scheme for the comprehensive development of this site and 17-51 London Road</li> <li>• The Council being satisfied that there is a viable business plan and funding strategy, together with a preliminary property cost estimate detailing the costs of making and confirming any CPO and/or appropriation; and</li> </ul> </li> </ol>		

	<ul style="list-style-type: none"> <li>• In the event the Council and its development partners are unable to assemble the development land by agreement or private treaty, that a further report is presented to the Cabinet seeking authority to make a full and unconditional Compulsory Purchase Order for the site and to acquire or appropriate the site for Planning purposes</li> </ul>
<p><b>Reason for Recommendation</b></p>	<p>This report seeks confirmation of the Council’s willingness, in principle, to use compulsory purchase and / or appropriation powers in order to enable development of the 15/17-51 London Road, Staines-upon-Thames.</p> <p>Government guidance in Circular 10/2015 ‘Compulsory purchase and the Crichton Down Rules’ make it clear that compulsory powers should only be exercised where there is a compelling case in the public interest.</p> <p>Knowing the Council is prepared to use compulsory purchase powers may be sufficient to bring parties to the negotiating table. However, the report also seeks specific authority to commence preparatory compulsory purchase procedures in respect of the site so that the Council will be in a position to proceed quickly to make a Compulsory Purchase Order so that it can acquire all necessary interests in the land to enable development.</p> <p>Officers would be required to obtain further Cabinet Authority prior to the making of a Compulsory Purchase Order or appropriating land or rights over land.</p>

**1. Key issues**

- 1.1 The site has been the subject of a number of redevelopment proposals, the first of which was granted planning permission in 2007. A range of different schemes have been approved, all of them have been mixed use. Initially the proposals were office based with elements of retail use and one included a hotel. The most recent proposals have been residential led.
- 1.2 The extent of the site that has been identified by the Council for development of a new residential use is shown coloured green on the attached plans.
- 1.3 The site 17-51 London Road is currently cleared and the planning permission has been granted for redevelopment of the site to provide 5 buildings of varying height comprising 12,787 square metres of office floor space (Use Class B1a) and 253 residential units (Class C3), provision of a new landscaped area, vehicular access, car parking, cycle storage and energy centre.

The site remained undeveloped for a long time; the building was demolished 10 years ago. We have had four major planning applications since 2006 as well as numerous reserved matters proposals and other planning applications.

To date, none of these permissions have been followed through to construction. The site is located in a strategic position on the main entrance to Staines from the M25 and A30 road network and its vacant, boarded up appearance with the prominent former Fireworks' shop (no. 15) has a detrimental impact on the character and appearance of the area and gives a very poor impression of the town from one of the key entrances.

- 1.4 There are a number of office buildings on the opposite side of London Road which are having difficulty letting space due to the poor condition of the site opposite. This holds back inward investment and new businesses relocating into the borough which we need to boost economic regeneration. The fact that the site has not come forward is hindering new residents coming into the town centre to make it a more vibrant and sustainable retail centre; extra housing will help meet the Borough's growing needs. The development would significantly improve this area of town centre and uplift the centre more generally, being located with frontage onto London Road, Staines.

## 2. Options analysis and proposal

- 2.1 There are two options:

- (a) Do nothing and allow market forces alone to determine whether the land is finally developed in accordance with the Council's aspirations. This option is not recommended due to already prolonged delays and further possibility that terms will not be agreed between the parties. If terms are not agreed then it is unlikely that this key site will be developed in the foreseeable future.

- (b) To confirm, in principle, the Council's willingness to use compulsory powers to facilitate development of this site and to further economic development, environmental and social well-being objectives in the Borough principally through the provision of increased housing and a comprehensive development on a key road into Staines Town Centre. This is the **recommended option** as it gives a clear message to all parties of the importance to the Council of redeveloping this site to further the economic, environmental and social well-being of the Borough.

## 3. Statutory powers

- 3.1 The Council has wide ranging powers for the acquisition of sites including Part IX of the Town and Country Planning Act 1990. The 'Guidance on Compulsory purchase process and The Crichel Down Rules' states that the purpose for which an acquiring authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought
- 3.2 Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) gives a local authority the power to compulsorily acquire land in its area if it thinks that the acquisition will facilitate a development, re-development or improvement on or in relation to the land. However, the power must only be exercised if the authority thinks that the development, redevelopment or improvement is likely to contribute towards the economic, social or environmental well-being of the Council's area.

- 3.3 Section 226(1)(b) of the 1990 Act provides for the compulsory acquisition of land where it is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area.
- 3.4 Section 17 of the Housing Act 1985 authorises local housing authorities to compulsorily purchase land, houses or other properties to provide housing accommodation. The Section includes the power to dispose of the land, houses or other buildings to a person who intends to so provide.
- 3.5 Section 121 of the Local Government Act 1972 provides the general power of compulsory purchase (subject to certain constraints) in conjunction with other enabling powers to acquire land compulsorily for the stated purpose. This section can also be used where land is required for more than one function and the differences between uses are not clearly defined.

The statutory guidance states that the acquiring authority should choose the most appropriate power available and only use a general power when a specific power is not available.

#### **4. Legal implications**

- 4.1 The use of the powers in Section 226(1) (a) of the Town and Country Planning Act 1990 looks to be the most relevant power here because the acquisition of all the various interests in the land shown on the plans would facilitate the redevelopment of the site in accordance with the Council's policy framework. The development of this site and the regeneration opportunity it would create would contribute to the economic, environmental, and social well-being of the Borough.
- 4.2 The use of compulsory powers overrides all ownership rights in land, and therefore a local authority has to demonstrate that there is a compelling case in the public interest for compulsory acquisition of land in order to convince the Secretary of State to confirm a CPO. However, in cases where it is thought that it may be necessary to use the power in order to assemble a redevelopment site if negotiations break down, it is usual to commence the preparatory work for making an order in tandem with the conduct of negotiations for acquisition of the land by agreement. Indeed, negotiation will continue throughout the process. The report seeks confirmation in principle of the Council's willingness to use compulsory purchase powers, and authority to commence preparatory work, in order to be in a good position to progress further if so required.
- 4.3 The making and confirmation of a Compulsory Purchase Order means that the acquiring authority can force owners and occupiers of the land to transfer their property interest to the Council and vacate the land. It has the potential therefore to interfere with a person's human rights in respect of the enjoyment of their property, or their home. The extent of the harm must be assessed and weighed against the public interest in achieving the regeneration at the time when a local authority is considering making a CPO. The carrying out of preliminary work as is recommended here is not likely to interfere with the human rights of any person interested in the land.

## **5. Risk Management**

- 4.1 Legal challenge is unlikely at this stage because there is no legal liability attached to an in principle decision that does not bind the Council to use its CPO powers. At this stage this report is a broad description of policy ambitions. This report does not fetter the discretion of the Council to make a different decision when it comes to consider all the factors associated with making a full CPO. The Planning Committee will have full discretion in its assessment of any comprehensive scheme which comes forward for these two sites.

## **6. Financial implications**

- 6.1 Financial advice on the likely costs associated with the CPO are attached as Confidential Appendix 2 to this report.
- 6.2 External consultant appointments would be required if compulsory purchase proceedings were instigated in accordance with the recommendation (2) and the work would be (broadly) as follows:
- (a) Consultants to prepare a Land Referencing report;
  - (b) External valuers to advise on the value of the interests identified in the Land Referencing report and to negotiate an acquisition of these interests, together with appropriate costs for disturbance, ahead of any enquiry;
  - (c) External planning consultants and legal advisors
- 6.3 There would be a requirement for internal officer time from Asset Management and Legal Services departments in managing these external consultants and in preparing a Statement of Reasons.

## **7. Other considerations**

- 7.1 A full Equalities Impact Assessment will be undertaken, as part of the preparatory work, to identify any equalities issues that may be associated with the use and occupation of the site. The Council is aware that the use of CPO can impinge on the rights of individuals under the Human Rights Act. Full regard will be paid to this in the development of any proposals and in negotiations with land owners.

## **8. Timetable for implementation**

- 8.1 If negotiations are not successful and the Council were to proceed with compulsory purchase proceedings, the overall time from the Resolution to use CPO powers and obtaining possession of the relevant interest(s) could be between 6 and 18 months from the making of the CPO. The length of time depends upon whether or not an inquiry is required, the length of that enquiry, and the extent of valid objections to the CPO.
- 8.2 In the event that Council did initiate compulsory purchase proceedings, a specific process has to be followed. Prior to the making of a Compulsory Purchase Order (CPO), there are a number of steps to be followed:

**(a) Formulation**

This is an initial information-gathering exercise to decide that land is required for some particular purpose or scheme, in accordance with the Council's policy framework as set out above, and that the Council is prepared to use compulsory purchase powers to assist in achieving this. This report is effectively the completion of Stage 1, since the site has already been identified and the purpose that the proposed development would fulfil is known.

**(b) Referencing**

This is an exercise to collect and record information on land ownership and occupation so that all legal interests in, or rights to occupy, the land are identified. This is specialist work and external consultants will be appointed to undertake this work and prepare a report.

**(c) Preparation of the CPO and Statement of Reasons**

The CPO is the document that contains details of the Act authorising the acquisition, the purpose for which the CPO is being made, the land involved and the names of the owners and all other persons who have an interest in or enjoy rights over the land. External consultants will be appointed to undertake this work. The Statement of Reasons is a document that sets out the authority's reasons for seeking to acquire the land.

**(d) Resolution**

This is the formal Resolution of the Council to use compulsory purchase powers.

This Resolution can be obtained prior to steps (a) and (b) above. However, since it is not yet known if it will be necessary to use compulsory purchase powers, this report is seeking an in principle decision only until it is known, or expected, that there is no other option available. A further report will be brought to the Cabinet should a resolution be required to make a CPO.

**Background papers: There are none.**

**Appendices:**

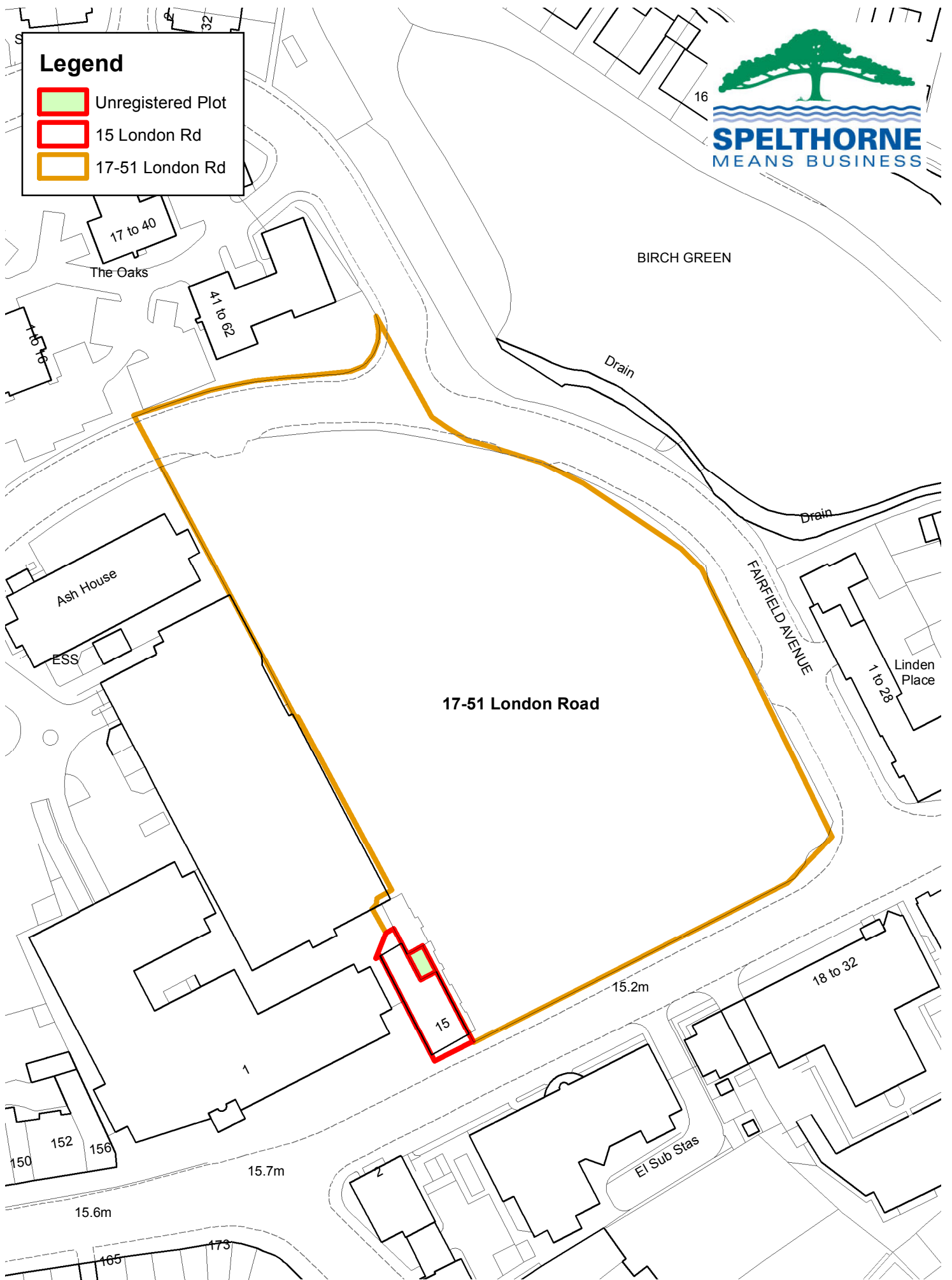
**1 – plan for 15 London Rd**

**2 - financial costs of CPO (confidential)**



**Legend**

- Unregistered Plot
- 15 London Rd
- 17-51 London Rd



17-51 London Road.  
Scale 1:1,000

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

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**Cabinet**

**18 July 2018**



<b>Title</b>	<b>Use of compulsory powers to enable development – 116, 118 and 120 High Street. Staines upon Thames</b>		
<b>Purpose of the report</b>	To make a decision		
<b>Report Author</b>	Heather Morgan, Group Head Regeneration and Growth Michael Graham, Head of Corporate Governance		
<b>Cabinet Member</b>	Councillor Colin Barnard	<b>Confidential</b>	No
<b>Corporate Priority</b>	Housing		
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. The Cabinet approves the principle of the Council’s willingness to use compulsory powers to acquire or appropriate third party land and buildings for planning purposes, shown edged green on the plan in Appendix 2 of this report and such other incidental and adjoining interests in land which would facilitate and enable viable and deliverable development in connection with the creation of a housing development at Charter Square (formerly known as Majestic House), High Street, Staines, in order to improve the Borough’s economic, environmental and social wellbeing.</li> <li>2. The Head of Regeneration Growth in consultation with the Cabinet Members for Finance and Planning and Economic Development be authorised to undertake preparatory work for the use of a compulsory purchase order upto an initial budget of £150,000</li> <li>3. Members should note the use of compulsory powers are subject to: <ul style="list-style-type: none"> <li>• The Council using reasonable endeavours to assemble the development site by agreement or private treaty.</li> <li>• Approval by the Planning Committee of a suitable scheme for the comprehensive development of this site and 116, 118 and 120 High Street</li> <li>• The Council being satisfied that there is a viable business plan and funding strategy, together with a preliminary property cost estimate detailing the costs of making and confirming any CPO and/or appropriation; and</li> </ul> </li> </ol>		

	<ul style="list-style-type: none"> <li>• In the event the Council and its development partners are unable to assemble the development land by agreement or private treaty, that a further report is presented to the Cabinet seeking authority to make a full and unconditional Compulsory Purchase Order for the site and to acquire or appropriate the site for planning purposes</li> </ul>
<p><b>Reason for Recommendation</b></p>	<p>This report seeks confirmation of the Council’s willingness, in principle, to use compulsory purchase and / or appropriation powers in order to enable development of the 116, 118 and 120 High Street, Staines-upon-Thames.</p> <p>Government guidance in Circular 10/2015 ‘Compulsory purchase and the Crichton Down Rules’ make it clear that compulsory powers should only be exercised where there is a compelling case in the public interest.</p> <p>Knowing the Council is prepared to use compulsory powers may be sufficient to bring parties to the negotiating table. However, the report also seeks specific authority to commence preparatory compulsory purchase procedures in respect of the site so that the Council will be in a position to proceed quickly to make a decision so that it can acquire all necessary interests in the land to enable development.</p> <p>Officers would be required to obtain further Cabinet authority prior to the making of a Compulsory Purchase Order or appropriating land or rights over land.</p>

**1. Key issues**

- 1.1 The High Street site has been the subject of a plethora of redevelopment proposals. The first comprehensive scheme was granted planning permission on appeal in 2011 although a number of applications relating to smaller elements of the site were permitted before this time. During this time, the site has changed ownership on several occasions. A range of different schemes have been approved, all of them have been mixed use. Initially the proposals were office based with elements of retail use. The most recent proposals have been residentially led. The extent of the site that has been identified by the Council for development of a new residential use is shown edged red on the attached plan.
- 1.2 The planning application for the site at Charter Square, High Street, Staines-upon-Thames, TW18 4BY, Phase 1B has recently been approved. This planning application seeks planning consent for the redevelopment of Phase 1B of the Charter Square development for a multi-residential development of 104 units above commercial space on the ground floor and a separate 2 storey commercial building fronting London Road. The development would

also provide 27 car parking space below grade in a basement level, 108 secure cycle spaces at grade and a pocket park with children's play space.

- 1.3 The buildings on the site were demolished approximately eight years ago. The site currently is being redeveloped and comprehensive redevelopment will significantly improve this area of the town centre and uplift the town centre more generally. Whilst it is possible to redevelop the site without nos. 116, 118 and 120 High Street, the inclusion of these properties up to the railway bridge, which are key corner buildings, would result in visual improvement in townscape terms at a strategic location within Staines. Moreover, it would result in a comprehensive town scheme when combined with the recently developed Premier Inn site on the opposite side of the railway to the west.
- 1.4 It is also important to note that the current scheme under construction includes a new link road on the northern side of the site to link Fairview Avenue to Millmead. Acquiring this site will enable the closing off of Millmead at its junction with the High Street which is a very substandard and dangerous access. It will also enable Millmead to be pedestrianised with environmental improvements. However, without nos 116- 120 High Street, the completion of the pedestrianisation will not be possible due to the existing use of the first part of Millmead by 116 & 118 High Street. The inclusion of 116, 118 and 120 High Street would result in a comprehensive redevelopment of the site with significant environmental benefits for the town.

### **Options analysis and proposal**

- 1.5 There are two options:
  - (a) Do nothing and allow market forces alone to determine whether the land is finally developed in accordance with the Council's aspirations. This option is not recommended due to already prolonged delays and further possibility that terms will not be agreed between the parties. If terms are not agreed then it is unlikely that this key site will be developed in the foreseeable future.
  - (b) To confirm, in principle, the Council's willingness to use compulsory powers to facilitate development of this site and to further the economic, environmental and social well-being objectives of the Borough principally through the provision of increased housing and a comprehensive development on a key road into Staines Town Centre. This is the **recommended option** as it gives a clear message to all parties of the importance to the Council of redeveloping this site to further the economic, environmental and social well-being of the Borough.

## **2. Legal implications**

- 2.1 The use of the powers in Section 226(1) (a) of the Town and Country Planning Act 1990 looks to be the most relevant power here because the acquisition of all the various interests in the land shown on the plans would facilitate the redevelopment of the site in accordance with the Council's policy framework. The development of this site and the regeneration opportunity it would create would contribute to the economic, environmental, and social well-being of the Borough.

- 2.2 The use of compulsory powers overrides all ownership rights in land, and therefore a local authority has to demonstrate that there is a compelling case in the public interest for compulsory acquisition of land in order to convince the Secretary of State to confirm a CPO. However, in cases where it is thought that it may be necessary to use the power in order to assemble a redevelopment site if negotiations break down, it is usual to commence the preparatory work for making an order in tandem with the conduct of negotiations for acquisition of the land by agreement. Indeed, negotiation will continue throughout the process. The report seeks confirmation in principle of the Council's willingness to use compulsory purchase powers, and authority to commence preparatory work, in order to be in a good position to progress further if so required.
- 2.3 The making and confirmation of a Compulsory Purchase Order means that the acquiring authority can force owners and occupiers of the land to transfer their property interest to the Council and vacate the land. It has the potential therefore to interfere with a person's human rights in respect of the enjoyment of their property, or their home. The extent of the harm must be assessed and weighed against the public interest in achieving the regeneration at the time when a local authority is considering making a CPO. The carrying out of preliminary work as is recommended here is not likely to interfere with the human rights of any person interested in the land.

### **3. Statutory Powers**

- 3.1 The Council has wide ranging powers for the acquisition of sites including Part IX of the Town and Country Planning Act 1990. The 'Guidance on Compulsory purchase process and The Crichel Down Rules' states that the purpose for which an acquiring authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought
- 3.2 Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) gives a local authority the power to compulsorily acquire land in its area if it thinks that the acquisition will facilitate a development, re-development or improvement on or in relation to the land. However, the power must only be exercised if the authority thinks that the development, redevelopment or improvement is likely to contribute towards the economic, social or environmental well-being of the Council's area.
- 3.3 Section 226(1)(b) of the 1990 Act provides for the compulsory acquisition of land where it is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area.
- 3.4 Section 17 of the Housing Act 1985 authorises local housing authorities to compulsorily purchase land, houses or other properties to provide housing accommodation. The Section includes the power to dispose of the land, houses or other buildings to a person who intends to so provide.
- 3.5 Section 121 of the Local Government Act 1972 provides the general power of compulsory purchase (subject to certain constraints) in conjunction with other enabling powers to acquire land compulsorily for the stated purpose. This section can also be used where land is required for more than one function and the differences between uses are not clearly defined.

The statutory guidance states that the acquiring authority should choose the most appropriate power available and only use a general power when a specific power is not available.

#### **4. Risk Management**

- 4.1 Legal challenge is unlikely at this stage because there is no legal liability attached to an in principle decision that does not bind the Council to use its CPO powers. At this stage this report is a broad description of policy ambitions. This report does not fetter the discretion of the Council to make a different decision when it comes to consider all the factors associated with making a full CPO. The Planning Committee will have full discretion in its assessment of any comprehensive scheme which comes forward for these two sites.

#### **5. Financial implications**

- 5.1 Financial advice on the likely costs associated with the CPO are included in the Confidential Appendix 3 attached to this report. This document discusses the financial viability of taking 116, 118 and 120 High Street project to completion.
- 5.2 External consultant appointments would be required if compulsory purchase proceedings were instigated in accordance with the recommendation (2) and the work would be (broadly) as follows:
- (a) Consultants to prepare a Land Referencing report;
  - (b) External valuers to advise on the value of the interests identified in the Land Referencing report and to negotiate an acquisition of these interests, together with appropriate costs for disturbance, ahead of any enquiry;
  - (c) External planning consultants and legal advisors
- 5.3 There would be a requirement for internal officer time from Asset Management and Legal Services departments in managing these external consultants and in preparing a Statement of Reasons.

#### **6. Other considerations**

- 6.1 A full Equalities Impact Assessment will be undertaken, as part of the preparatory work, to identify any equalities issues that may be associated with the use and occupation of the site. The Council is aware that the use of CPO can impinge on the rights of individuals under the Human Rights Act. Full regard will be paid to this in the development of any proposals and in negotiations with land owners.

#### **7. Timetable for implementation**

- 7.1 If negotiations are not successful and the Council were to proceed with compulsory purchase proceedings, the overall time from the Resolution to use CPO powers and obtaining possession of the relevant interest(s) could be between 6 and 18 months from the making of the CPO. The length of time

depends upon whether or not an inquiry is required, the length of that enquiry, and the extent of valid objections to the CPO.

- 7.2 In the event that Council did initiate compulsory purchase proceedings, a specific process has to be followed. Prior to the making of a Compulsory Purchase Order (CPO), there are a number of steps to be followed:

**(a) Formulation**

This is an initial information-gathering exercise to decide that land is required for some particular purpose or scheme, in accordance with the Council's policy framework as set out above, and that the Council is prepared to use compulsory purchase powers to assist in achieving this. This report is effectively the completion of Stage 1, since the site has already been identified and the purpose that the proposed development would fulfil is known.

**(b) Referencing**

This is an exercise to collect and record information on land ownership and occupation so that all legal interests in, or rights to occupy, the land are identified. This is specialist work and external consultants will be appointed to undertake this work and prepare a report.

**(c) Preparation of the CPO and Statement of Reasons**

The CPO is the document that contains details of the Act authorising the acquisition, the purpose for which the CPO is being made, the land involved and the names of the owners and all other persons who have an interest in or enjoy rights over the land. External consultants will be appointed to undertake this work. The Statement of Reasons is a document that sets out the authority's reasons for seeking to acquire the land.

**(d) Resolution**

This is the formal Resolution of the Council to use compulsory purchase powers.

This Resolution can be obtained prior to steps (a) and (b) above. However, since it is not yet known if it will be necessary to use compulsory purchase powers, this report is seeking an in principle decision only until it is known, or expected, that there is no other option available. A further report will be brought to the Cabinet should a resolution be required to make a CPO.

**Background papers: There are none.**

**Appendices:**

**1 – plan for 116, 118 and 120 High Street**

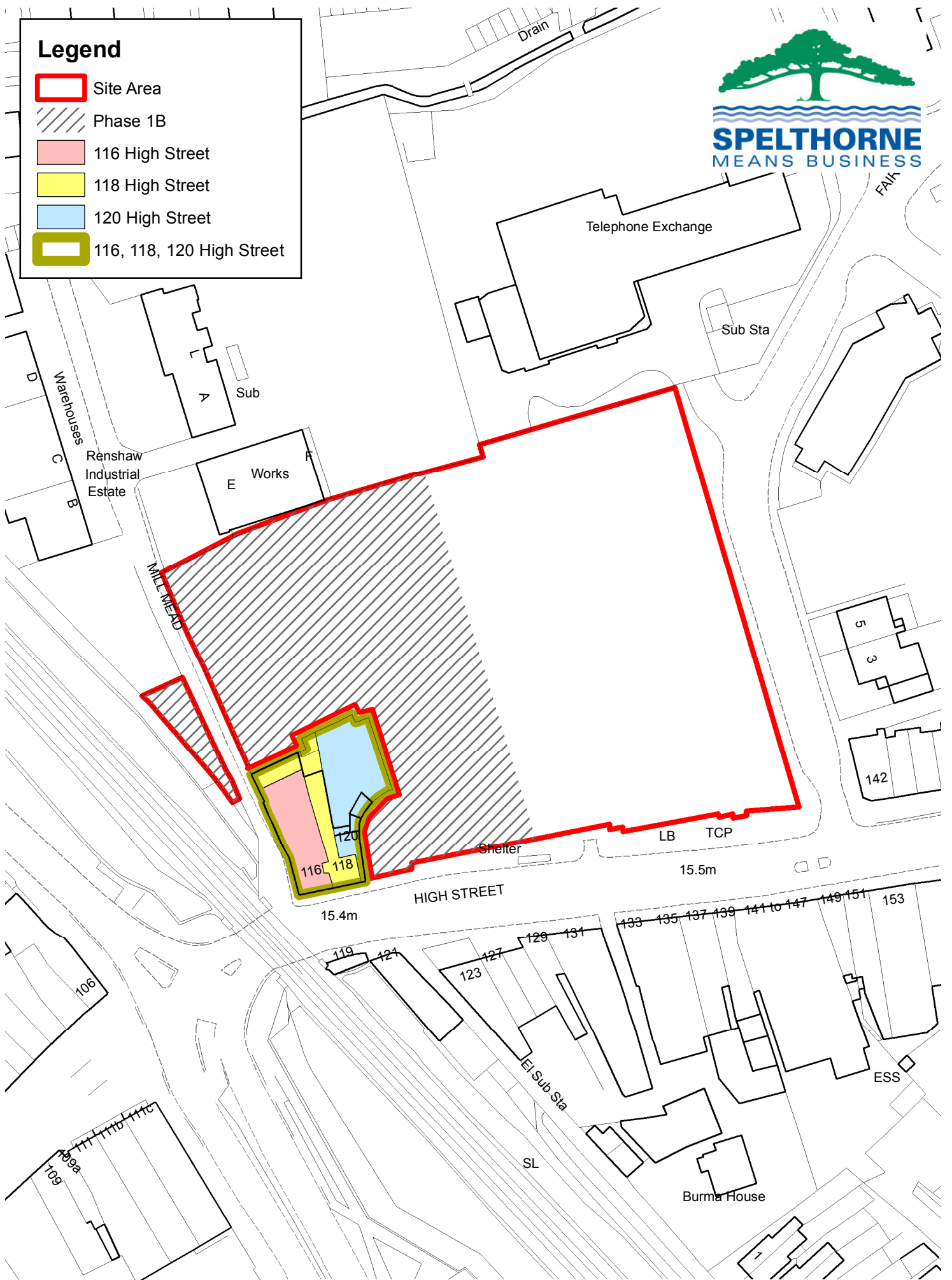
**2 - financial costs of CPO (confidential)**





### Legend

- Site Area
- Phase 1B
- 116 High Street
- 118 High Street
- 120 High Street
- 116, 118, 120 High Street



Phase 1B, High Street.  
Scale 1:1,000

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of the Local Government Act 1972.

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# Annual Report 2017-18





Staines Moor



Sunbury Park



Lower Sunbury



Swan Upping

Spelthorne Borough Council, Council Offices, Knowle Green, Staines-upon-Thames, TW18 1XB


[www.spelthorne.gov.uk](http://www.spelthorne.gov.uk)

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 visit [www.youtube.com](http://www.youtube.com) and search for 'Spelthorne TV'

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## Dear Residents,

I am pleased to present our Annual Report for 2017-18. It summarises some of our key achievements over the past year, how we are measuring those achievements against our corporate priorities and, ultimately, how we are working to provide and improve upon essential services for residents.

We hope this report will also give an insight into the breadth of services we provide for the small amount of Council Tax that we retain – less than 11p in every £1\*. We think that represents value for money but we are not complacent; whilst we continue to feel the squeeze of Government funding cuts we know that it is more important than ever to focus on the right priorities in order to achieve the best outcomes for our residents and businesses.

We have continued to work hard on our four priorities: to strive to meet the housing needs for our residents, to maintain and improve our vibrant local economy, to provide a clean and safe environment and maintain a strong financial footing in which to achieve these aspirations.

Our sound financial strategy means we are able to generate income to help pay for our services and I am delighted that we have managed to balance the budget without the need cut services or make use of reserves, whilst keeping our proportion of Council Tax below the current rate of inflation, and half or less than the percentage increases by Surrey County Council and Surrey Police.

We hope you find this report useful, and that you agree it demonstrates how we are working to ensure Spelthorne continues to be a great place to live, work and do business.

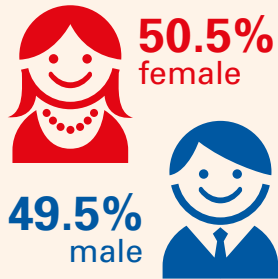
Cllr Ian Harvey  
Leader of Spelthorne Borough Council

\*based on Band D property

# About Spelthorne

Spelthorne has an excellent location immediately to the south of Heathrow and adjacent to the River Thames in the economically buoyant area to the west of London. The Borough has exceptional communication links, supporting a strong economy and many successful international businesses.

## Our communities:



(Source: ONS Census, 2011 - neighbourhood statistics for residents aged 16 to 74)

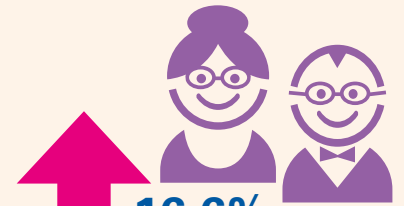


**90,390** in 2001



**95,598** in 2011

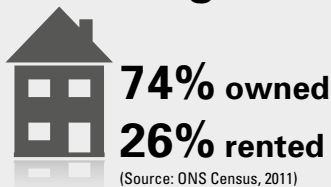
(Source: ONS Census, 2011)



**16.6%**  
expected increase  
in over 65s

The population of those over 65yrs is expected to increase by 16.6% from 2014 to 2024 in Spelthorne. (Source: 2014 based ONS Subnational Population Projections)

## Housing:



(Source: ONS Census, 2011)



(Source: Spelthorne Annual Planning Monitoring Reports)

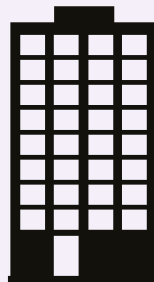


(Source: House Price Index November 2017)

## Local economy:

**5,270 businesses**  
including BP, Pinewood  
(Shepperton Studios), dnata,  
Wood Group Kenny

(Source: NOMIS data 2017)



**Number 1**  
for new Business Start-ups

(Source: Bank Search Information Consultancy Ltd- Spelthorne Business Start-Ups 2015)

## Your Council:



**Gross Budget £85m**

2018-19

**39 councillors**

Conservatives - 30  
Ashford and Staines Residents - 4  
Liberal Democrats - 3  
Independent - 1  
Labour - 1



**389 staff**

June 2018

## Environment:



**18 parks** in the borough

**65%** of Spelthorne is Green Belt

(Source: Spelthorne Planning Monitoring Report 2015)

**12 miles**  
River Thames  
frontage

(Source: Paragraph 4.8, Spelthorne Economic Strategy, 2013)

**17%**  
of the borough  
is water

(Source: Spelthorne Planning Monitoring Report 2015)





## What we do: council services and duties

### Our duties as a Borough Council

- rubbish and recycling collection
- street cleaning
- planning applications, enforcement and planning policy
- local elections and democratic services
- licensing
- land charges
- homelessness
- environmental health and inspection of food premises
- Council Tax collection
- Business Rate and Business Improvement District Levy collection
- cemeteries and allotments
- building control
- abandoned vehicles

### We also provide additional services to improve the quality of life for our residents and communities

- parks and open spaces
- leisure development and museum
- garden waste collection
- community transport (Spelride)
- community halls and day centres
- meals on wheels
- community safety
- community alarms
- support to the Business Improvement District in Staines-upon-Thames
- graffiti removal
- supporting economic development
- support health and wellbeing
- Family Support Service

## Our corporate priorities

Spelthorne's main role is to deliver services and improve our communities. Given the importance of providing those services that are relevant to our communities we have corporate priorities covering four key areas:

- **Housing:** We will strive towards meeting the housing needs of our residents, providing working families and others in housing need within the Borough with suitable accommodation.
- **Economic Development:** To maintain vibrancy in the economy we will look to stimulate more investment, jobs and visitors to Spelthorne to further the overall economic wellbeing and prosperity of the Borough and its residents.
- **Clean and safe environment:** Providing a place where people want to live, work and enjoy their leisure time and where they feel safe to do so will help develop sustainable communities.
- **Financial Sustainability:** We will continue to ensure that the Council can become financially self-sufficient in the near future so as to maintain services for our residents.



Redevelopment of Churchill Hall to provide **affordable housing**. Target completion date is December 2018.



Purchased Benwell house and progressing conversion of office accommodation into private rented flats.

Redeveloping the Bugle Returns Public House site for private rented accommodation to bring in an on-going income stream to be used for affordable housing purposes elsewhere in the Borough. Target completion date is early 2019.

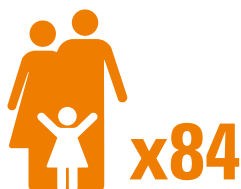


Reviewed Disabled Facilities Grants resulting in considerably improved turnaround times for approval with overall averages less than **1 week and spent £947k**.

**Total value of grants awarded to voluntary sector for 2017/18 is £208,600** for sports/community activities. Includes 6 key partners to help deliver services to residents.




271 people were provided with **meals on wheels** and 1,204 people were helped by the **SPAN alarm system** which provides assistance if needed through issues such as a fall, to help them continue to live independently in their own homes.



The family support programme had a target of supporting **72 families** but exceeded this by helping **84**.




Prevented **150 families** from becoming homeless.



The Borough has continued to support the 3rd runway at Heathrow given its importance to the local economy but has submitted **10 key demands to protect the interests of its residents** in response to the Heathrow Airport Consultation on expansion of the airport. To protect residents in Stanwell Moor and Stanwell we have written to Heathrow setting out why these communities need **property compensation** and we are **lobbying government hard** to ensure our voice is heard.

Successfully secured Business Rate retention pilot scheme to commence in 2018/19 to be used to develop support for businesses through various initiatives such as a **'business incubator' for start-up businesses.**



Supported the **Staines-upon-Thames Business Improvement District**, with a 99% collection rate of the levy which assists with town centre enhancements and improving the vitality of the town centre.




Encouraged businesses through their role in Corporate Social Responsibility to engage with charities and so far **five businesses have supported local charities** working in the community.

**Launched Spelthorne Means Business Awards** with seven categories sponsored by local businesses to support the celebration of the achievements of our business community.



200 copies of a guide to 'Starting a Business in Spelthorne' published and distributed **free to new entrepreneurs** in the Borough.




**17 events organised by the Spelthorne Business Forum** to support local businesses.




Over 500 attendees and 63 stands at the **Spelthorne Skills and Careers Fair at Kempton Park** showcasing employment opportunities to local students and adult job seekers.



**Spelthorne Skills & Careers Fair**



**x8**

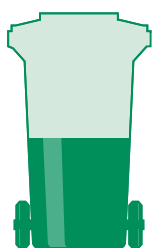
8 Electric Vehicle Charging points installed in Tothill and Elmsligh Centre multi-storey car parks to support low carbon travel. To date used over 300 times, saving 1,500kg of carbon.



Invested in **new street cleaning equipment** to ensure the Borough's streets can be cleaned easily.



**Tackled anti-social behaviour and fly tipping** by stronger enforcement and prosecutions. **Removed 95% of fly tips on Council land within 48 hours.**



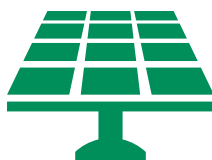
Launched and promoted a new rubbish and recycling service to reduce waste and increase recycling. **Achieved a recycling rate of 48%** and continued to decrease the rubbish element per household.

Continued to support the **development of community resilience plans** in local areas.



Enacted the emergency planning process to deal with a major anti-terrorist incident in the Borough.

Continue to **reduce the Council's carbon emissions** and installed energy efficiency measures and solar PV panels on our properties.



Building Control undertook **3,630 site visits** and determined all applications within statutory timelines.



Achieved **425 food inspections** and 87% of food businesses are rated 5.



Planning Enforcement investigated **331 queries** and served **22 enforcement notices**.



Dealt with 417 preliminary planning enquiries.



Determined **833 planning applications received**, including 22 major applications and exceeded our 80% target re determination timelines.

Continued to **protect green belt and maintain our parks and open spaces**. New equipment installed at Hengrove Park.



Continue to **upgrade play facilities** and provide summer opportunities such as 'The Beach' at Laleham.



Environmental Health dealt with **635 noise complaints** and picked up **45 stray dogs**.



Monitored **air quality at 44 Borough locations**. [www.spelthorne.gov.uk/air-monitoring](http://www.spelthorne.gov.uk/air-monitoring)

Acquired a number of properties with **sustained on-going income streams** to help support the provision of Council services. Includes the acquisition of World Business Centre 4 at Heathrow, 3 Roundwood Stockley Park, and 12 Hammersmith Grove, Hammersmith.



Continued with **effective portfolio management**. Average interest earned on the Council's core pooled investments for 2017-18 was 4.97% and total investment income of £1.015m generated to support the provision of services.



Continued to achieve **good collection returns for Council Tax (98.5%) and Business Rate (98.7%)**.

## Property Investment

Investing in commercial properties which have existing tenants provides Spelthorne Council with an ongoing income stream to pay for vital services for residents and enables the Council to invest in delivery additional housing across the Borough.



Stockley Park



World Business Centre 4



Hammersmith Grove

## Other achievements in 2017-18

**Worked to meet new data protection requirements** under the General Data Protection Regulations implemented from 25 May 2018.



Maintained efficiency of democratic processes to ensure good governance. We had **100% publication of Committee agendas** on time and serviced **51 Committee meetings** involving Councillors.



Get Active 50+ project encouraged **555 residents to take part in sports and active lifestyle** opportunities.



There were **15,071 attendances** at leisure services activities, sessions and events.



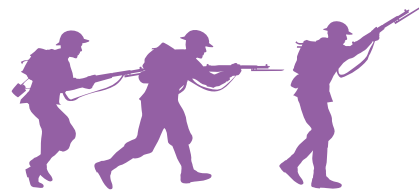
Fit and fed project worked with **40 vulnerable people** at youth centres in the Borough.



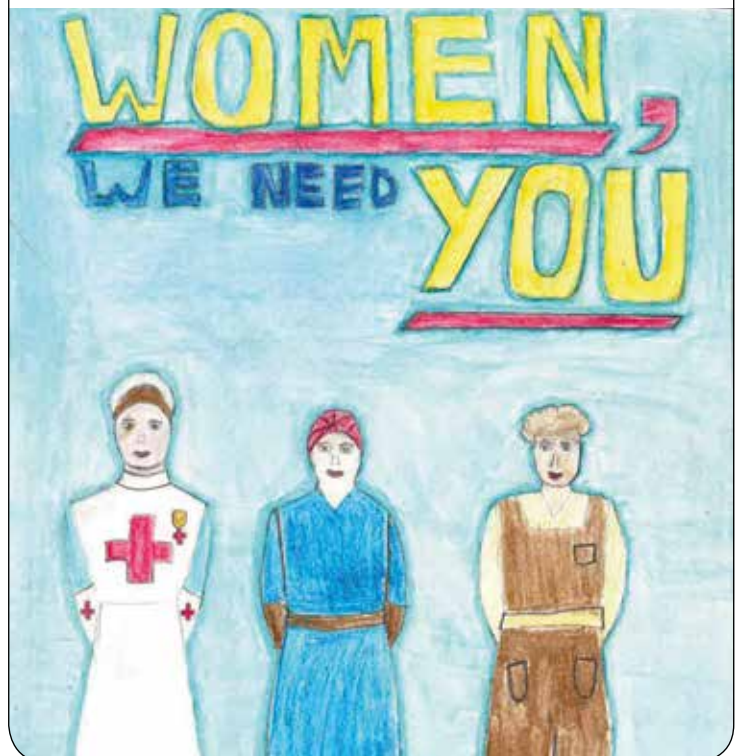
Our leisure team are co-ordinating a **new well-being prescription scheme**.



The leisure centres (Sunbury and Spelthorne) received **917,000 visitors**.



World War 1 arts project engaged with **254 people** in re-enactments and had **121 entries** into WW1 poster competition.



# Surrey County Council Cuts



**SURREY**

Earlier this year, Surrey County Council announced that they need to make savings of £66m to balance their budget for 2018/19.

Full details of how Surrey's cost saving programme will affect Spelthorne residents are not yet known but it is likely to affect the services provided, or funded, by Surrey. Some of Surrey's saving initiatives, such as changes to fire stations, were announced last year but further significant reductions are on the horizon. Here are some of the reductions which have recently been announced:



Service	Surrey County Council's proposed reduction/changes	How is Spelthorne Council responding?
Telecare support for patients being discharged from hospital	In 2017/18 Surrey withdrew Telecare services such as smoke alarms and bed sensors for clients who failed to meet a new threshold meaning an estimated 98% clients will no longer receive free Telecare	Spelthorne stepped in to continue funding part of the service
Support to help vulnerable people stay in their rental property	Surrey has reduced the funding given to Spelthorne Council by £20,000 per year	Spelthorne has funded the deficit to try to prevent vulnerable people becoming homeless
Recycling	This funding given by Surrey to Spelthorne for recycling is being reduced from £387,000 in 2017/18 to £104,000 in 2020/21	Spelthorne will have to absorb this loss of income by making savings whilst continuing to encourage people to recycle more
Highway verges	Spelthorne has been managing highway grass cutting on behalf of Surrey. For 2018/19 Surrey reduced the amount it pays Spelthorne for the service by 36% or £47,000	Spelthorne has had to cover this deficit to maintain standards

At Spelthorne Council we are closely monitoring the situation and doing all we can to minimise the impact on our residents but the scale of the cost savings which Surrey need to achieve mean it is unlikely to be possible for Spelthorne to step-in in every single instance.

Surrey will be making more announcements about their savings programmes in the coming months so sign up to their e-newsletters, and check their website and social media channels to find out more and take part in their consultations.

Look out for Surrey County Council consultations on their website at [www.surreycc.gov.uk](http://www.surreycc.gov.uk)

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**Cabinet****18 July 2018**

<b>Title</b>	Meals-on-Wheels Procurement of New Vehicles		
<b>Purpose of the report</b>	To make a decision		
<b>Report Author</b>	Damola Aladesiun		
<b>Cabinet Member</b>	Councillor Maureen Attewell	<b>Confidential</b>	No
<b>Corporate Priority</b>	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
<b>Recommendations</b>	<b>Cabinet is asked to approve an exemption to the Contract Standing Orders to enable officers to make an order for specialised vehicles for the meals on wheels contract with Apetito.</b>		
<b>Reason for Recommendation</b>	<ul style="list-style-type: none"> <li>The Meals on Wheels vehicle and food contract with the current provider, Apetito is due to end 31<sup>st</sup> July 2018 but it has now been agreed to extend the contract till 14<sup>th</sup> January 2019.</li> </ul>		
<b>Reason for urgency</b>	<ul style="list-style-type: none"> <li>There is a requirement to instruct Apetito to order new vehicles at the latest by 01 September 2018 to cover the lead time required for the delivery of the vehicles by 14 January 2019.</li> <li>Officers were previously working on the basis of a shorter lead time for the order but Apetito only confirmed recently that the lead time is 16 weeks.</li> </ul>		

**1. Key issues**

- 1.1 Spelthorne Borough Council operates a Meal on Wheels service to vulnerable people who have no alternative means of getting a daily hot meal. Meals are delivered every day of the year, with the exception of Christmas Day, Boxing Day and New Year's Day.
- 1.2 The Meals on Wheels service comprises of four rounds with approximately 140 meals delivered on a daily basis Monday – Friday. We also offer a frozen service for those people who can heat their own meals over weekends and bank holiday, on average the amount is 20-30 meals per week. Additionally there are two rounds that operate on weekends and bank holidays providing hot meals to clients in the most need, delivering between 50 to 60 meals per day.

- 1.3 The Meals on Wheels vehicles and food contract was due to terminate 31<sup>st</sup> July 2018 but has now been extended till 14<sup>th</sup> January 2019.
- 1.4 We have had this contract with Apetito since 2009. An OJEU tender was carried out in 2013 that Apetito again won, scoring high on both the pricing and the quality requirements.
- 1.5 It is proposed that the food to be provided will be purchased under a separate Public Contracts Regulations 2015 compliant framework agreement. The value of the vehicle contract is below the OJEU threshold, but under the Council's Contract Standing Orders there is a requirement for the contract to be subject to a tender process inviting at least three tenders. The authority to award the contract sits with the Deputy Chief Executive in consultation with the Portfolio Holder, but any exemptions to the Orders is within the authority of the Cabinet.
- 1.6 The Cabinet are therefore being asked to exercise their authority to exempt the tender provisions.
- 1.7 The specification required for this service is considered quite niche to Apetito as the Council requires meals that can be cooked whilst in transportation due to lack of kitchen facilities.

**2. Options analysis and proposal**

- 2.1 **Option 1** - Exempt the contract standing orders requirement for three tenders and award the contract to Apetito to ensure that the Council is able to provide continuation of services with a fit for purpose fleet of vehicles.
- 2.2 **Option 2** – Undertake a tender exercise to see whether any other providers are able to provide the vehicles required. Having undertaken research officers consider that at present only Apetito have the specific vehicles required for the service the Council provides.
- 2.3 It is therefore proposed that Cabinet approves an exemption to the Contract Standing Orders requirement to undertake a tender process to enable Apetito to be awarded the contract so that Apetito can commence the placing of the orders for the vehicles by 01<sup>st</sup> September 2018.

**3. Financial implications**

- 3.1 The contract recommended for approval is for Apetito which is within existing budget resources of £110,400 for 4 vehicles and £138k for 5 vehicles
- 3.2 Leasing costs for each vehicle is expected to be £460 per month

**4. Other considerations**

- 4.1 The urgent request is necessitated by the recent realisation of the extended lead time required to order the vehicles.

**5. Timetable for implementation**

Last date to place order for vehicles	01/09/2018
Actual Contract Commencement	15/01/2019

**Background papers: None**  
**Appendices: None**

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

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Due to the fact that the Council has signed a Non-Disclosure Agreement on this potential acquisition, the specific details of the property involved are confidential and being provided to the Cabinet and Cllr Mooney, as Chair of Overview and Scrutiny Committee, only. If any councillor wishes to see the confidential information they should speak to the Leader or Cllr Williams, as the Portfolio Holder, explaining their 'need to know'.

<p><b>Cabinet</b></p> <p><b>18 July 2018</b></p>	
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<b>Title</b>	Investment acquisition (N)		
<b>Purpose of the report</b>	To make a Key Decision		
<b>Report Author</b>	Terry Collier, Chief Finance Officer Heather Morgan, Group Head Regeneration and Growth		
<b>Cabinet Member</b>	Councillor Ian Harvey	<b>Confidential</b>	Yes
<b>Corporate Priority</b>	Financial Sustainability		
<b>Recommendations</b>	<p><b>Cabinet to:</b></p> <p><b>Approve the acquisition of the investment assets identified in this report</b></p> <p><b>Formally agree the offer submitted, and authorise the Chief Executive (and delegated Officers) to undertake any necessary subsequent negotiations (including a further bid if required) and complete the acquisition of the asset (in consultation with the Chief Finance Officer, the Leader and the Cabinet Member for Finance)</b></p> <p><b>Authorise the Chief Finance Officer to decide (i) the most financially advantageous funding arrangements for the purchase, (ii) the most tax efficient method of holding the asset, and overall to ensure the acquisition is prudentially affordable</b></p> <p><b>Authorise the Head of Corporate Governance to enter into any legal documentation necessary to acquire the asset</b></p> <p><b>Agree to exempt Contract Standing Orders in respect of our advisors</b></p>		

Reason for Recommendation	<p><b>It will bring in a steady income stream for the term of the multiple leases with different durations.</b></p> <p><b>In order for the Council to deliver its ambitious housing and regeneration programme across the Borough to help meet the needs of its residents, the Council needs to generate additional income to offset the revenue impacts of undertaking these projects across the Borough.</b></p>
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**This report contains exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006 Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because, disclosure to the public would prejudice the financial position of the authority in the bidding process for the site by allowing other bidders to know the position of the Council. This in turn prejudices the Council by (i) distorting the bids process and (ii) prejudicing the opportunity for the Council to acquire a site through the Council for the prudent management of its financial affairs.**

## **1. Key issues**

### **Funding Housing Delivery and Economic Regeneration**

- 1.1 Housing and economic regeneration are two of the Council's four key priorities in the Corporate Plan 2016 – 19. They will continue to grow in importance, forming the backbone of the Councils strategy to 'stand on its own two feet' financially. Delivering on these priorities will not just simply shape the future of the borough, and provide much needed housing, jobs and inward investment. At the same time, the rental income streams will help ensure the Council can be financially secure in the future, and enable us to continue to provide services to our residents.
- 1.2 The Council currently has a small scale housing delivery programme (Bugle Returns and Churchill Hall), and is beginning to make good headway on a journey to deliver a programme with significantly greater ambition. The aim is to deliver a wide ranging housing and regeneration programme across the whole Borough, and a number of larger scale projects are or will be coming on stream shortly. These include the redevelopment of Ceaser Court in Sunbury (formerly Benwell House), the redevelopment of Thameside House (known as the BUPA building), and the conversion of the West Wing of the Council Offices here at Knowle Green to residential.
- 1.3 The reductions in the Council's Revenue Support Grant have been on-going for a number of years, and this means it is imperative that the Council focuses on the most effective ways of increasing on-going income streams in order to be able to maintain existing services and at the same time deliver much needed additional housing within the Borough. One of the identified ways of doing this is through property investment and since summer 2016 the Council has made a number of significant acquisitions including the BP International Campus at Sunbury which together have delivered an additional £7.5m per

annum in ongoing long term income available to support the provision of services for our residents. These income streams are net after taking account of interest, debt repayments, supervision costs for managing the assets and set aside sums to build up prudent sinking funds to cover future potential refurbishment requirements and to cover future rent free and void risk.

- 1.4 The Council with all its acquisitions undertakes thorough due diligence using an appropriate range of professional advisers to address legal, property, treasury management, taxation, environmental risks and issues. We minimise future risk with respect to commercial acquisitions by focusing on assets with strong covenant tenants, long term leases, and ensuring we understand the risks associated with the assets.
- 1.5 It is therefore critical that we look to continue to secure ongoing income streams for both the medium and longer term future.

#### **Current budget position on acquisitions**

- 1.6 In February 2018 the Council approved a Capital Programme for asset acquisitions and development of £203.5m for 2018/19. This will be increased by carrying forward unused allocations of approximately £21.14 million from 2017-18 giving a total budget of approximately £224.64m. On the agenda of this meeting is a paper proposing a sufficient increase in both Capital Programme provision and the Council's borrowing approvals to accommodate this proposed acquisition. This allows the Council to acquire/develop assets to (1) offsetting the financing costs of housing and regeneration schemes within the Borough 2) assist in the economic and social regeneration of Staines upon Thames and our other town centres (3) to assist in service provision and/or (4) to generate an on-going income stream.

#### **Assessment of opportunity**

- 1.7 An opportunity has arisen which would (if acquired) secure three assets capable of generating strong levels of income, and increase our commercial asset base. The acquisitions in question are in Reading, Slough and Uxbridge. The net contribution to the Borough from these investments is anticipated to be £2.8m per annum net.

**Confidential Appendices** for key information. As part of the due diligence process a thorough analysis of the financial robustness of the tenants and associated parent guarantees and sureties is being undertaken. Modelling has been undertaken to identify the scale of sinking fund set aside sufficient to enable the Council to handle potential turnover of tenants and deal with rent free periods, voids and refurbishment costs on expiry of leases etc.

- 1.8 We have agreement, subject to conditions, that a price of £336.07m would secure all 3 assets, and our professional advisors have indicated that this is a sensible price for the acquisition on offer.
- 1.9 As set out in preceding sections, the Council still needs to look at ways of generating income streams to enable it to fund its housing and regeneration programme. Spelthorne is a medium size borough and there are very limited opportunities to transact on large scale acquisitions. It would take a lot of small scale acquisitions to achieve a similar level of income. We are continuing to look within the borough and our immediate surroundings

wherever possible. However our focus is on securing assets where there is a strong tenant covenant (e.g. a solid company(s) or counter party(s) with a long track record) with a substantial length of lease. These give us a high degree of certainty when it comes to a guaranteed income stream over a long period of time. These will almost certainly be in the office sector but we are also mindful of benefits of appropriate diversification of our portfolio in order to spread risk.

- 1.10 The Council is not currently going down the route of buying assets where there is potentially a greater rate of return for a higher level of risk (e.g. where we have to invest in extending or upgrading properties in order to secure tenants for a currently vacant building, or where rental increase can only be secured by very active asset management through a quick turnover of multiple tenants on short leases).
- 1.11 Working on this basis, it is almost inevitable that the Council will have to look outside the borough (a number of other Councils have done this and continue to do so). If opportunities arise closer to home (and they fit the profile) then the Council will consider these where there is a financial and business case to do so. This acquisition is in line with the guidelines set out in the Strategic Parameters for Property Investment approved by Cabinet in December 2017.
- 1.12 Officers are acutely aware of the need to be very clear about the benefits which the Council will reap from such an acquisition in light of the potential glare of adverse publicity. It is for this reason that we are using expert external advisors and have thoroughly investigated the financial dynamics around the acquisition. (**Confidential Appendix 2** is the market report which has been provided by Cushman & Wakefield which sets out the rationale in more detail).
- 1.13 Financially, the case is good (see below). The acquisition would make a significant contribution towards offsetting the revenue impacts of our housing and regeneration projects. It would reduce our dependence on securing other forms of income, or radically reconfiguring services.
- 1.14 It should be noted that until we exchange the Council is not committed to the acquisition, which is subject to formal Cabinet approval (this report), plus legal and other due diligence, and is ultimately subject to contract.

## 2. Options analysis and proposal

### Options

***Option 1 - Formally agree the conditional bid which has already been submitted for £336.07m (with an upper clearance of £345m) and agree that the Chief Executive undertake any necessary subsequent negotiations and complete the acquisition (in consultation with the Chief Finance Officer, the Leader and the Cabinet Member for Finance)***

- 2.1 This will provide the Council with an asset providing an initial full year net annual surplus (after interest, principal repayment, set aside for supervision of asset, and set aside for sinking fund to build up provision for void/rent free/refurbishment) in the range of £2m to £3m at a price of £336.07m and depending on the PWLB rates applicable at time of draw down. This range represents a range from a ten basis points drop in rates applying at time of

writing to a thirty basis points increase in rates. The financial and valuation advice to support the purchase is contained in **confidential Appendices** and is covered in more detail in section 3 below.

- 2.2 Cabinet need to note that there is a chance the Council may need to bid higher than £336.07m (see para 2.3 below). It is recommended that we get clearance to have access to £345m should it be required.
- 2.3 If the Council succeeds with its offer and the opportunity is removed from the market, there is still a slight risk that a number of other competitors may still wish to acquire the portfolio of sites if we fail to complete quickly enough. (The sellers' agent is obliged by law to advise their client of any offers received even if they are proceeding with the transaction with us – which is not to say that their clients automatically have to accept a counter offer, especially as councils are seen to be less risky than other entities).
- 2.4 It is for this reason that delegated authority is being requested to enable those negotiations to take place. Those delegations will be with the Chief Executive in consultation with the Leader of the Council and the Cabinet Member for Finance. It should be noted that ultimately it will be the Chief Finance Officer who will need to be satisfied that any final offer is prudentially affordable.
- 2.5 The main risks to the Council are in purchasing a property which (i) fails to appreciate in value at a sufficient rate, or at all (ii) costs more to deliver than it yields in income (iii) there is a void period if the one of the current tenants does not extend their lease and we need to find an alternative occupier(s) and we are not able to cover that void period fully from sinking fund set asides or rental guarantees agreed with the vendor.

or

*Formally agree **not** to submit a bid*

- 2.6 Failure to acquire will mean the Council will need to continue to look elsewhere, and would potentially mean having to alter the housing delivery programme and possibly seek to sell some of those development sites within the Borough. The state of the property market is such that similar acquisition opportunities are likely to be difficult to come by, although the effect of the EU exit process may generate buying opportunities. It should also be noted that by historical standards the borrowing rates the Council is able to access are still relatively low. If we not do grasp this opportunity we may find future opportunities may deliver a lower net return if borrowing rates rise.

**Proposal -**

- 2.7 ***It is recommended that Cabinet formally agree the conditional bid that has been submitted for £336.7m (with an upper clearance of £345m) and agree that the Chief Executive undertake any necessary subsequent negotiations (including a further bid if required) and complete the acquisition (in consultation with the Chief Finance Officer, the Leader and the Cabinet Member for Finance).***

### **3. Financial implications**

- 3.1 Councils are in a strong financial position to acquire property due to their ability to access capital, coupled with the low cost of borrowing (for example Spelthorne could borrow at 2.25% to 3% long term at fixed rates from the Public Works Loans Board PWLB effectively the Bank of England) depending on the amount and length of a loan, whereas a developer would be likely to pay 5 - 6%. The Council is also able to borrow at cheaper rates from other councils and other financial institutions lending to the public sector (around 1%). The Council is likely to use a blend of loans from other councils for years 1 to 5 inclusive and, for years 6 to 50, loans from PWLB. This blend reduces the overall average rate of interest paid by the Council whilst maintaining certainty of fixed rate payments.
- 3.2 It makes financial sense to borrow money at these rates rather than using the Council's own capital reserves, which in the most recent financial year achieved an average of approximately 5% return when re-invested in property funds. Whilst there may be some short term fluctuations associated with the UK Brexit decision, properties acquired are likely to appreciate in capital value over the longer term.
- 3.3 Historically this Council has been debt free, but in the current fiscal climate we made the bold decision to borrow to fairly significant, but prudentially affordable, levels in order to enlarge our property portfolio with secure quality investments.
- 3.4 Councils are able to set whatever borrowing limit they judge to be appropriate. However it clearly needs to be prudent and affordable. Importantly, we need to consider carefully the impact of increasing levels of debt, our ability to repay and the risk of increasing interest rates for those repayments. We continue to work very closely with our Treasury Management advisors Arlingclose.
- 3.5 It should be noted that PWLB interest rates move on a daily basis and cannot be fixed in advance. There is therefore a risk that the average interest rate assumed will increase above the level shown by the time any acquisition takes place (although this will be mitigated to some extent with intra council lending initially and through sensitivity modelling).
- 3.6 The proposed loan would be on a maturity basis, with annual interest payments being made and a separate set aside of principal repayments under the statutory minimum revenue provision (MRP) rules applicable for councils. This would be in compliance with national treasury management guidance for councils. This will ensure that the loan is steadily paid off on an annual basis.

#### **4. Other considerations**

##### **Legal**

- 4.1 Our appointed advisors at Clyde and Co are undertaking a full due diligence exercise. A number of the reports will need to be obtained on the title and condition of the sites. In addition Clyde and Co will help us assess the risk on the properties and standard of development works. The Council is not fully committed to buying the buildings until exchange of contracts which would only happen once all due diligence had been undertaken. Particular care will need to be taken in assessing the best way of structuring the deal, the lease terms as they apply to the various tenants (which look on the face of it to be

standard) and obtaining appropriate collateral warranties for the completed build and fit. All of these may potentially affect the value of the purchase.

- 4.2 The Council is not as constrained when it acquires land or property as when it wishes to dispose of it. There are no EU procurement requirements which have to be met when buying a leasehold interest. There is the acid test of whether the general public would agree it was a sensible investment to make. The robustness of the valuation advice ensures this test could be met.
- 4.3 Queen's Counsel opinion was previously sought on the Council's powers to purchase investment assets. This advice confirms that the Council has the appropriate legal powers to acquire land, to invest for the purposes of the prudent management of its financial affairs and to borrow. These are the key elements which distinguish this project. In more recent advice the same Queen's Counsel has confirmed that we are able to acquire property outside of our own borough for such investment purposes (and do not have to set up a separate company to do so) in order to generate income to support the provision of services.

#### **Contract standing orders**

- 4.4 In order to consider participation in this bidding process, officers needed to make immediate provision to receive appropriate professional advice. Contract Standing Orders state that contracts over £100k should be authorised by Cabinet. Both contracts for our advisors Cushman & Wakefield (Property) and Clyde & Co (Solicitors) are estimated to be above this level if the Council participates in a meaningful way in this acquisition. The arrangements for both contain provisions for success fees and also early termination payments if we decide not to continue to the final stages.
- 4.5 Cabinet is therefore asked to set aside Contract Standing Orders for the appointment of both advisors.

#### **What we can do as a result**

- 4.6 This acquisition would enable Spelthorne move further forward with its ability to deliver a significant housing delivery and regeneration programme for the Borough.

#### **Risk and mitigation**

##### Acquisition

As per standard practice, we have sought out the necessary professional advice in short order. It is critical that the appropriate advice is brought in at the outset. This will ensure that the Council is protecting taxpayers' money, and is acting in a prudent and rational manner. This professional advice will be relied on in making this transaction, in order to minimise the risks. It is particularly important in this case as there will be a difference between rent top ups paid by vendor and the rental stream following rent free periods.

##### Ongoing

- 4.7 If successful, the Council will be receiving £18.7m per annum **gross** rental (including top ups) over the period of the tenants' leases.
- 4.8 Cabinet need to bear in mind that the net income stream to the Council will be considerably lower than this once borrowing and repayment costs have been taken into account (see section on Financial Implications above).

- 4.9 The tenants will have leases for periods between 5 and 15 years with a proportion with breaks. We understand the terms are fairly standard for this type of lease - five yearly upward only rent reviews but legal will undertake a due diligence process in any event. As stated above we have modelled different scenarios around proportion of breaks exercised and proportion of leases renewed, further details are contained in the confidential appendices.
- 4.10 Should the tenants not renew their leases, the Council will need to bring on board professional marketing expertise to secure another tenant(s). There is a risk that this may not happen immediately (especially in light of the size of the buildings), and there may be a void period when we are not receiving any income. Cabinet should note however that the Council would have advance notice were this to happen which should help minimise any risk. In addition, the Council will set aside a contingency sum (from current income) to help offset any void/rent free periods and cover refurbishment spend, further details are contained in the confidential appendices.

### **Resources and skills**

- 4.11 As a portfolio of three assets with a number of different lengths of lease both the assets and the tenants will need to be managed and a resource will be required. This will be procured in the form of external asset management agents and will be covered by a combination of service charges part funding and from the supervision set asides made from the gross rental income.
- 4.12 It is anticipated that existing staff time and resources will be adequate to complete this acquisition, if we are successful in our bid for the site. (These include internal and external property, legal and financial resource).
- 4.13 There are no specific equality, diversity or sustainability considerations which need to be taken into account.

### **5. Timetable for implementation**

- 5.1 The conditional offer was made on the 15 June 2018 and has been accepted, with Heads of Terms issued. The proposed deadline for exchange of contracts is 31 July 2018, with anticipated completion on 3 August 2018.

**Background papers: There are none.**

### **Confidential Appendices:**

- 1 – Summary of acquisition properties
- 2 – Cushman & Wakefield reports



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of the Local Government Act 1972.

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