Public Document Pack

Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872453
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

29 October 2018

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE** will be held in the HMS Brave Room at these Offices on Tuesday 6 November 2018 at 6.00 pm when the following business will be transacted.

Members of the public who require further information are asked to contact Rebecca Brough on (01304) 872304 or by e-mail at democraticservices@dover.gov.uk.

Yours sincerely

Chief Executive

Scrutiny (Policy and Performance) Committee Membership:

K Mills (Chairman)
M I Cosin (Vice-Chairman)
T A Bond
P I Carter
R J Frost
J M Heron
S C Manion
M J Ovenden
M Rose
D A Sargent

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3 **DECLARATIONS OF INTEREST** (Page 5)

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

4 **MINUTES**

To confirm the Minutes of the meeting of the Committee held on 3 July 2018, 11 September 2018 and 2 October 2018 (to follow).

5 **PUBLIC SPEAKING**

Please note that in accordance with the agreed Protocol for Public Speaking at Overview and Scrutiny, the right to speak only applies to agenda items 13 - 15.

The right of the public to speak does not apply to the following agenda items: Apologies, Appointment of Substitute Members, Declarations of Interest, Minutes, the Forward Plan, the Scrutiny Work Programme, any agenda item that is not accompanied by a written report and items that are exempt business.

Members of the public wishing to speak must register to do so by no later than 2.00 pm on the second working day before the meeting.

6 **DECISIONS OF THE CABINET RELATING TO RECOMMENDATIONS FROM THE SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE**

The following decisions were taken by the Cabinet at its meeting held on 5 November 2018 in respect of recommendations from the Scrutiny (Policy and Performance) Committee:

- Launch of a Local Authority Lottery

7 **ISSUES REFERRED TO THE COMMITTEE BY COUNCIL, CABINET, SCRUTINY (COMMUNITY AND REGENERATION) COMMITTEE OR ANOTHER COMMITTEE**

There are no items for consideration.

8 **ITEMS CALLED-IN FOR SCRUTINY OR PLACED ON THE AGENDA BY A MEMBER OF THE COMMITTEE, ANY INDIVIDUAL NON-EXECUTIVE MEMBERS OR PUBLIC PETITION**

(a) Items placed on the agenda by a Member of the Committee or any individual Non-Executive Member

Any individual Councillor may request that a matter is placed on the agenda of one of the Council's Overview and Scrutiny Committees by providing Democratic Support with notice of the matter prior to the agenda being published.

There are no items for consideration.

(b) Items the subject of Call-In

Executive Decisions may be called-in by the Chairman or Spokesperson of the Scrutiny (Policy and Performance) Committee or any three non-executive members.

There are no items for consideration.

(c) Public Petition

There are no items for consideration.

9 **NOTICE OF FORTHCOMING KEY DECISIONS** (Pages 6 - 9)

It is intended that Members should use the Notice of Forthcoming Key Decisions to identify topics within the remit of the Committee for future scrutiny.

10 **SCRUTINY WORK PROGRAMME** (Pages 10 - 13)

It is intended that the Committee monitor and prioritise its rolling work programme.

11 **DOVER TOWN CENTRE UPDATE**

To receive an update from the Head of Inward Investment.

12 **ACCOMMODATION CHARTER UPDATE**

To receive an update from the Head of Museums and Tourism.

13 **PERFORMANCE REPORT – QUARTER 2, 2018/19** (Pages 14 - 34)

To consider the attached report of the Chief Executive.

14 **ESTABLISHMENT OF A PROPERTY COMPANY** (Pages 35 - 57)

To consider the attached report of the Director of Finance, Housing and Community.

15 **EAST KENT WASTE 2021** (Pages 58 - 69)

To consider the attached report of the Director of Environment and Corporate Assets.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.

- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.

- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting.

- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Rebecca Brough, Democratic Services Manager, telephone: (01304) 872304 or email: democraticservices@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

Notice of Forthcoming Key Decisions

[This updated version of the Notice supersedes all other versions issued in previous months]

Publication Date: 5 October 2018

Agenda Item No 8

Notice of Forthcoming Key Decisions which will be made on behalf of the Council

Key Decisions 2018/19	Item	Date of meeting at which decision will be taken by Cabinet (unless specified otherwise)
1	Neighbourhood Plans	June 2013 and ongoing (see entry)
2	Review of Tenancy Strategy and Tenancy Policy	To be confirmed
3	Review of Local Plan	(i) 1 March 2017; (ii) 1 October 2018; and (iii) June/July 2019
4	Property Acquisitions	Ongoing (decisions to be taken by Portfolio Holder for Corporate Resources and Performance)
5	To consider an options appraisal and feasibility study for Tides Leisure & Indoor Tennis Centre and seek approval to progress to the detailed design phase	2 July 2018
6	Dover Waterfront Masterplan Area Action Plan	This decision will now be incorporated into the Local Plan Review
7	Planning Enforcement Plan	10 September 2018
8	Representations on the Thanet District Council Local Plan	This decision will be taken by the Leader of the Council.
9	To seek approval for public consultation on the draft Sandwich Walled Town Conservation Area Appraisal	Dates to be confirmed
10	Hackney Carriage and Private Hire vehicles - access for wheelchair users	5 November 2018
11	Development of a social lettings agency	To be confirmed
12	Approval of project to develop housing to be occupied on an interim basis by homeless households	14 May 2018
13	To seek Cabinet approval for public consultation on draft Upper Deal Conservation Area Character Appraisal	Dates to be confirmed
14	Letting of the café/restaurant on Deal Pier	Decision to be taken by the Portfolio Holder for Property Management and Environmental Health (September)
15	Aylesham Village Expansion – Acquisition of third-party land	November 2018 - January 2019

Key Decisions 2018/19	Item	Date of meeting at which decision will be taken by Cabinet (unless specified otherwise)
16	Statement of Community Involvement	14 May and 10 September 2018
17	Dover District Council Local Development Scheme	14 May 2018
18	Kent Environment Strategy	14 May 2018
19	Transfer of Freehold of Sandwich Guildhall	2 July 2018
20	Sandwich Historical Boatyard	Decision taken by the Leader of the Council on 15 June 2018
21	To decide on requirements for a new Public Spaces Protection Order following public consultation	2 July 2018
22	To consider the cessation of cash and cheque transactions at Council Offices	This item has been withdrawn
23	Creation of a local property company	This item has been withdrawn
24	Contaminated land strategy	2 July 2018
25	Consideration of pest control provision	Decision to be taken by the Portfolio Holder for Property Management and Environmental Health (September)
26	Award of contract for Kearsney Abbey café building extension	Decision taken by the Portfolio Holder for Property Management and Environmental Health on 1 August 2018
27	Catering provision at Kearsney Abbey and Russell Gardens	November 2018 – January 2019
28	Award of contract for landscape and listed structure repairs at Kearsney Abbey	November 2018 – January 2019
29	To consider the delimitation of Hackney Carriage vehicles	1 October 2018
30	Award of contract for the refurbishment of Norman Tailyour House	3 December 2018
31	Deed of Variation to the Aylesham Development Agreement	November 2018 - January 2019
32	To approve arrangements for the implementation and delivery of infrastructure for a Bus Rapid Transit System connecting Whitfield to Dover town centre	November – December 2018
33	Redevelopment of William Muge and Snelgrove Houses site, Dover	1 October 2018
34	Grant scheme for commercial property renovations	10 September 2018
35	Approval of Kearsney Abbey café ‘Changing Places’ facility and contingency fund for café/landscape improvements	10 September 2018
36	Lease of Historic Boatyard, The Quay, Sandwich	Decision taken by the Leader of the Council in June 2018

Key Decisions 2018/19	Item	Date of meeting at which decision will be taken by Cabinet (unless specified otherwise)
37	Acceptance of grant and allocation of funding for restoration of Maison Dieu (Dover Town Hall)	10 September 2018
38	Purchase of affordable housing in Aylesham	November 2018 - January 2019
39	Demolition of Dover Leisure Centre	3 December 2018
40	Authority Monitoring Report	3 December 2018
41	East Kent Waste Project 2021	5 November 2018

Note: (1) Key Decisions which are shaded have already been taken and do not appear in this updated version of the Notice of Forthcoming Key Decisions.

(2) The Council's Corporate Management Team reserves the right to vary the dates set for consultation deadline(s) and for the submission of reports to Cabinet and Council in respect of Key Decisions included within this version of the notice. Members of the public can find out whether any alterations have been made by looking at the Council's website (www.dover.gov.uk).

OVERVIEW AND SCRUTINY WORK PROGRAMME 2018/19

SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE

Month	Issue	Resource Implications for Scrutiny				Action
		Members	Officers (Corporate Expenditure unless otherwise stated)	Scrutiny Budget Expenditure		
				Projected	Actual	
5 June 2018	Repairs to Parks, Gardens and Churchyards	Single Meeting	Director of Environment & Corporate Assets	£0	£0	To consider the report.
19 June 2018	Dover Leisure Centre Update and site visit (4.30pm)	Single Meeting	Director of Environment & Corporate Assets	£0	£0	To receive an update and conduct a site visit.
3 July 2018	To consider an options appraisal and feasibility study for Tides Leisure & Indoor Tennis Centre and seek approval to progress to the detailed design phase	Single Meeting	Director of Environment & Corporate Assets	£0	£0	To consider the report. [Identified from Forward Plan for scrutiny]
	Short Term Proposal For The Former Co-Op Building, Castle Street, Dover	Single Meeting	Directors of Environment & Corporate Assets & Finance, Housing & Community	£0	£0	To consider the report.
	To decide on requirements for a new Public Spaces Protection Order following public consultation	Single Meeting	Director of Environment & Corporate Assets	£0	£0	To consider the report. [Identified from Forward Plan for scrutiny]
August 2018	No Scheduled Meeting					

Agenda Item No 10

Month	Issue	Resource Implications for Scrutiny				Action
		Members	Officers (Corporate Expenditure unless otherwise stated)	Scrutiny Budget Expenditure		
				Projected	Actual	
11 September 2018	Planning Enforcement Plan	Single Meeting	Director of Environment & Corporate Assets	£0	£0	To consider the report. [Identified from Forward Plan for scrutiny]
	Statement of Community Involvement	Single Meeting	Chief Executive	£0	£0	To consider the report.
	Performance Report Q1	Single Meeting	Chief Executive	£0	£0	To consider the report.
2 October 2018	Launch of a Local Authority Lottery	Single Meeting	Director of Finance, Housing & Community	£0	£0	To consider the report.
	Update on Universal Credit	On-going	East Kent Housing	£0	£0	To receive an update.
6 November 2018	Accommodation Charter Update	Single Meeting	Head of Museums and Tourism	£0		To consider the report.
	East Kent Waste 2021	Single Meeting	Director of Environment and Corporate Assets	£0		To consider the report.
	Establishment of a Property Company	Single Meeting	Director of Finance, Housing & Community	£0		To consider the report.
	Performance Report Q2	Single Meeting	Chief Executive	£0		To consider the report.

Month	Issue	Resource Implications for Scrutiny				Action
		Members	Officers (Corporate Expenditure unless otherwise stated)	Scrutiny Budget Expenditure		
				Projected	Actual	
	Dover Town Centre Update	Single Meeting	Head of Inward Investment	£0		To receive an update.
13 November 2018	BREXIT report on implications for the Dover District	Special Meeting	Chief Executive / Director of Environment & Corporate Assets	£0		To receive an update.
4 December 2018	Update on Universal Credit	On-going	East Kent Housing	£0		To receive an update.
15 January 2019						
12 February 2019	Performance Report Q3	Single Meeting	Chief Executive	£0		To consider the report.
	Scrutiny of the Council's budget	Single Meeting	Corporate Management Team	£0	£0	To scrutinise the Council's budget for 2019/20.
	Fees and Charges	Single Meeting	Corporate Management Team	£0	£0	To be considered as part of the budget scrutiny process.
12 March 2019						
2 April 2019	Performance Report Targets 2018-19	Single Meeting	Chief Executive	£0	£0	To consider the report

Please note items beyond the current month are subject to change depending on Forward Plan, etc.

Municipal Year 2018/19

Agreed for Inclusion?	Subject	Resource Implications				Action
Yes	Dover Leisure Centre	On-going	Director of Environment and Corporate Assets	£0		To consider reports at each relevant stage in the process.
Yes	Lorry Parking in the Dover District	On-going	Various	£0		To consider issues of illegal and anti-social lorry parking in the wider District. [as appropriate]
Yes	Open Golf Championship	On-going	Corporate Management Team	£0		To receive updates at appropriate milestones.

Subject:	**PERFORMANCE REPORT – QUARTER 2, 2018/19**
Meeting and Date:	**Cabinet – 5 November 2018** **Scrutiny (Policy and Performance) Committee – 6 November 2018**
Report of:	**Nadeem Aziz, Chief Executive**
Portfolio Holder:	**Councillor Mike Conolly, Portfolio Holder for Corporate Resources and Performance**
Decision Type:	**Non-Key Decision**
Classification:	**Unrestricted**
Purpose of the report:	To monitor performance against key objectives.
Recommendation:	The Council's Performance Report and Actions for the 2nd Quarter 2018/19 be noted.

1. **Summary**

The Council's Performance Report for the 2nd Quarter 2018/19 reports on performance against key performance targets throughout the Council, East Kent Shared Services and East Kent Housing during the second quarter. It incorporates comments from each Director on performance within their directorate plus any key initiatives and concerns they may have.

2. **Introduction and Background**

2.1 Monitoring of performance against key targets is key to the achievement of the Council's aims and objectives. The Performance Report provides a summary of the Councils key performance figures for the 6 months to 30 September 2018.

2.2 The Performance Report contains information relating to the performance of the Council against key corporate indicators and considers the performance of a range of indicators against previous year's performance.

2.3 The Performance Report identifies areas where performance is on track throughout the second quarter of 2018/19, whilst recognising the need for further improvements in some areas. Each Director provides additional commentary focussing on areas of high or low performance.

2.4 A section is included to show performance within the Shared Services against key indicators. A more comprehensive set of indicators for EK Services, including Civica, and East Kent Housing are monitored through the monitoring structures established by the Agreements under which those services are delivered, with any areas of significant concern being capable of escalation into this quarterly monitoring report, if required.

3. **Identification of Options**

3.1 Not applicable.

4. **Resource Implications**

4.1 None.

5. **Corporate Implications**

5.1 Comment from the Section 151 Officer: The Director of Finance, Housing and Community has been consulted in the preparation of this report and has no additional comments to add. (HL)

5.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

5.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications however in discharging their duties members are reminded to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 http://www.legislation.gov.uk/ukpga/2010/15

6. **Appendices**

Appendix 1 – Q2 Performance Report

7. **Background Papers**

None.

Contact Officer: Michelle Farrow, Head of Leadership Support

Dover District Council Performance Report
For the Quarter Ending – 30 September 2018

Introduction

- Summary of Performance Indicators

KEY

▲	Improved performance
►	Maintained performance
▼	Decline in performance

Status	Quarter 1		Quarter 2		Quarter 3		Quarter 4		Direction of Travel to previous Qtr
	No.	%	No.	%	No.	%	No.	%	
Green	21	64%	20	61%					▼
Amber	8	24%	7	21%					▼
Red	4	12%	6	18%					▼
Total	33	100%	33	100%					

Shared Services Performance

EK Services & DDC Digital

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr where applicable	Direction of Travel to previous Qtr	RAG Status
ACC011	Percentage of on-line payments to cash and cheque	89%	Data for information only	90%	90%			90%		►	***N/A***
EKS01d	Percentage of incidents resolved within agreed target response time - ICT	97.50%	95%	96%	99%			98%		▲	***Green***

EK Services & DDC Digital

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr where applicable	Direction of Travel to previous Qtr	RAG Status
EKS02d.1	Percentage of incidents resolved within 1 working day	76%	60%	69%	90%			80%		▲	***Green***
EKS02d.2	Percentage of incidents resolved within 3 working days	86.75%	80%	83%	96%			89.50%		▲	***Green***
EKS04d	Percentage availability of email service	99.96%	97.50%	100%	100%			100%		▶	***Green***
PLA005	Percentage of electronic planning applications received	82.05%	80%	76.79%	86.33%			81.56%	344	▲	***Green***
WEB001	Percentage availability of the corporate website (DDC responsibility)	99.95%	99.50%	100%	100%			100%		▶	***Green***
WEB002	Number of Keep me Posted subscriptions	74,413	N/A	8,264	8,691			8,691		▲	***N/A***
WEB003	Facebook subscribers	5,908	N/A	6,063	6,224			6,224		▲	***N/A***

EKS Director's Comments

Performance:
All targets met for Quarter 2. Although email for some staff using smart devices was unavailable for a time in mid September this was due to a general power failure rather than the email system not working as it should do.

EK Services & DDC Digital

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr where applicable	Direction of Travel to previous Qtr	RAG Status

Key Initiatives/Outcomes:
Nothing to report for Q2

Concerns/Risks
Nothing to report for Q2

Civica

Benefits

KPI01-D (was EKS13d)	Pay benefit quickly	6.27 days	8.5 days	5.96 days	5.42 days			5.42 days		▲	***Green***
KPI02-D (was EKS14d)	Percentage of correct Housing Benefit and Council Tax Benefit decisions	99.54%	96%	96.95%	99.25%			97.40%		▲	***Green***

Council Tax

KPI03-D (was EKS18d)	The percentage of council taxes due for the financial year which were received in year by the authority.	97.87%	97.80%	29.08%	56.80%			56.80%		N/A	N/A

Business Rates											
KPI04-D (was EKS19d)	Percentage of Business Rates collected	99.02%	98.20%	30.60%	55.20%			55.20%		▲	***Green***
Customer Services											
KPI06-D (was EKS026d)	Average call waiting time in seconds	1 minute 28 seconds	90 seconds	77 seconds	51 seconds			51 seconds		▲	***Green***

Civica Comments

Performance:

- Speed of processing benefit claims is ahead of target.
- Accuracy of processing is above target.
- Council Tax collection is under the profiled target this month, but Civica are confident that the year-end target is achievable. This will be closely monitored.
- Business Rates collection is above target.
- Call wait times remain under target.
- All customer feedback has been responded to within the required timescale and is within expected levels. Each month we request further detail to ensure there are no recurrent themes or issues; this month we will specifically focus on the comparatively high level of Council Tax complaints.

Key Initiatives/Outcomes:
Nothing to report for Q2

Concerns/Risks:
Nothing to report for Q2

EK Housing

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr where applicable	Direction of Travel to previous Qtr	RAG Status
EKHL1	Average time taken to re-let council dwellings	13.71 days	15 days	18.58 days	20.81 days			19.58 days		▼	***Red***
EKHC2	Rent arrears as % of annual debit	2.35%	2.50%	2.89%	3.08%			3.08%		▼	***Red***
EKHC3	Former tenant arrears as % of annual debit	0.73%	0.50%	0.84%	0.99%			0.99%		▼	***Red***
EKHD1	Total current tenant arrears (including court costs)	£466,344	N/A	£ 562,672	£ 599,821			£599,821		▼	***N/A***
EKHD2	Average current tenant arrears per rented unit	£97.17	N/A	£118.96	£139.92			£139.92		▼	***N/A***
EKHD3	Total former tenant arrears (including court costs)	£144,542	N/A	£ 163,813	£ 192,599			£192,599		▼	***N/A***
EKHD4	Amount of former tenant arrears written off	£9,242	N/A	£0.00	£0.00			£0.00		▶	***N/A***
EKHM1	Percentage of total responsive jobs completed on time	99.59%	98%	98.39%	97.33%			97.83%	2043 of 2099	▼	***Amber***
EKHM5	Percentage of properties with a valid gas safety certification	99.90%	100%	99.85%	99.98%			99.98%	4051 of 4052	▲	***Amber***

East Kent Housing Director's Comments:

Performance:

- Re-let times have increased due to the increased scope of work required to clear/repair properties before bringing them back into use. Of the 20.81 calendar days to re-let council dwellings, approximately 16 calendar days relate to the time spend carrying out these necessary works.
- The rollout of Universal Credit (UC) continues and the change from weekly to monthly payments in arrears means that many households do not have the funds to pay their rent during the period whilst their case is being assessed. Additionally, when payment does start their ability to pay off their arrears is limited and we have to recover the arrears over a very long period. On average, those households moving to UC are 4 to 6 weeks in arrears

when it commences, and based upon the experience of other organisations this may then take over 12 months to recover. In Dover, 15% of tenants on UC account for 59% of the overall arrears. The administration of UC also takes three to four times longer than Housing Benefit, due to the additional work required, and this has to be completed within very strict timescales determined by the Department for Work and Pensions (DWP). Of the £599,821 arrears, some £358,169 directly relates to the households who are now in receipt of Universal Credit, and a further £35,074 relates to court costs.

- Response repairs performance has dropped slightly and is just outside target. The contractor advises that this is due to a reduction in the number of available key trade operatives within its workforce and that a recruitment campaign is underway to address this.
- One property did not have a gas certification (LGSR) at the end of quarter 2 resulting in the Gas safety performance not being met. We have been unable to obtain access and are currently working with DDC to obtain an injunction against the tenant, to allow our contractor access.

Key Initiatives/Outcomes:
We are working with DDC to identify additional resources to help mitigate the impact of the roll out of UC. The Government has recently announced further changes to the scheme and additional details are awaited. However from the information available, we do not expect these additional measures to materially improve the UC collection rates.

Weekly void meetings are now being held with all contractors and EKH staff, chaired by the Director of Property Services, to ensure that each individual void is monitored to get performance back on track and understand what is driving the contractor delays.

Concerns/Risks:
The roll-out of Universal Credit will continue to have an increasing impact on rent collection throughout 2018/19, as numbers of tenants moving onto UC increases and the benefit continues to be rolled out. The additional time required for us to manage UC cases also has an indirect impact on our ability to manage the HB arrears cases.

The condition of properties being returned as a void has deteriorated over the past year and this is resulting in the need for an increase in the scope of work to return them to an acceptable standard. The additional time and cost of doing so is impacting performance and is placing pressure on available budgets.

We are closely monitoring our contractor arrangements for responsive repairs and voids, to ensure that service does not dip as the contractor nears its expiry date.

Finance, Housing & Community

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr (where applicable)	Direction of Travel to previous Qtr	RAG Status
ACC004	Percentage of invoices paid on time	96.56%	91.50%	98%	98%			98%	2075	▶	***Green***
CSU001	Percentage of ASB cases resolved within 30 days	100%	98%	100%	91.84%			95.92%	98	▼	***Amber***
HOU010a	Number of households living in Temporary Accommodation including B&B	89	90	96	118			118		▼	***Red***
HOU010b	Number of households in bed & breakfast (The data provided in HOU010a and b shows the number of households on the last day of the quarter.)	24	20	27	37			37		▼	***Red***
HOU011	The number of households presenting as homeless where a duty to re-house is accepted	173	N/A	16	24			40		▼	***N/A***
HOU012	The number of children in B&B and nightly paid	131	N/A	134	175			175		▼	***N/A***
PSH007	Number of DFG applications completed (for information only)	66	N/A	30	14			44		***N/A***	***N/A***
PSH008	Percentage of completed DFG applications approved within 10 working days from receipt of application	91.30%	N/A	87%	70%			78.5		▼	***N/A***

Finance, Housing & Community

Finance, Housing & Community Director's Comments:

Homelessness

In recent months we have seen a general increase in the number of private sector tenancies being brought to an end which has had an impact on the Q2 homelessness acceptances figure. From contact with landlords we believe this is as a result of many of them looking to sell their properties.

The increase in the number of households placed in temporary accommodation partly reflects the increase in acceptances but was also the result of enforcement action taken by the Council's Private Sector Housing Team In August which resulted in the closure of an HMO in Dover. The action was taken in relation to health and safety concerns and to protect families living in the accommodation from serious risk of harm. The families had to be housed in emergency temporary accommodation while their longer term housing options were explored. Since then 6 families have voluntarily chosen to return to their country of origin and have left their temporary accommodation. The remaining 4 families are still in temporary accommodation with the potential option that they may be able to return to their previous accommodation if we are satisfied that the necessary work has been carried out to make the property safe and fit for occupation. The fact that a number of these families comprised significant numbers of children also helps explains the reason why the number of children in B&B and nightly paid accommodation increased significantly in Q2.

While the number of households in all forms of temporary accommodation has increased, the proportionate increase in the use of B&B has been smaller. We have also seen a continued reduction in Q2 in the total number of days that households have been living in B&B. The on-going programme of re-purchasing former Council properties for use as temporary accommodation together with the implementation of a more proactive approach to the management of households in such accommodation has helped achieve this. The number of properties purchased for use as temporary accommodation has increased from 6 in October 2017 to 23 as at the end of Q2.

Disabled Facilities Grants

40 Disabled Facilities Grants were approved in Q2. The increase in the time taken to approve Disabled Facilities Application was due to a temporary staff shortage arising related to a combination of holiday and sickness absences. Analysis of the applications processed during this period shows that in the majority of cases the time taken to process applications only exceeded the target time by a few days and that the maximum time an applicant had to wait for a grant approval was 20 working days. Staffing levels have now returned to normal.

Finance, Housing & Community

Performance: **General Fund Revenue Budget**

- As at 30th September 2018 the General Fund is projecting a surplus of £255k, an improvement of £156k on the original budgeted surplus of £99k, and an improvement of £107k on the surplus of £148k reported last quarter, as shown in the table below:

General Fund Budget Monitoring Summary to 30th September 2018	**£000**	**£000**
Original budget deficit		**(99)**
NNDR Income – additional income from Enterprise Zone Relief grant (prior year element), S31 Grant for other reliefs and reduced levy rate (on 'pooling' basis)	(148)	
Off-Street Parking income	152	
Property Services - Building surveyor (part year) and Technical Support Officer posts – awaiting identification of project funding	47	
Investment income - additional income due to further investments in pooled funds and improved returns from those investments, less additional cost of treasury advice	(84)	
Grounds Maintenance – additional income from works rechargeable to third parties	(46)	
EKHR & Payroll - Estimated savings from re-working opening budget position	(43)	
Salary Vacancy Provision - over-achievement of vacancy provision	(42)	
Deal Pier - reduced fishing and rental income while café closed	36	
Waste - Recycling - extra garden waste income, less refuse sack reduction in income and minor increase in waste admin costs	(30)	
NNDR payable on corporate properties and car parks – net increase	20	
Other net variances – favourable	(18)	
Total Variances – favourable		**(156)**
Projected budget deficit		**(255)**
Balances Brought Forward		(2,527)
Projected Year End Balances		**(2,782)**

- Homelessness – the figures assume that savings arising from 9 HRA buy-back purchases in the first 6 months and a further 11 buy-back purchases being processed by legal, and a general reduction in B&B / nightly-paid numbers and durations will be sufficient to meet the £200k savings target included in the original budget. A further reduction in temporary accommodation costs of £150K is anticipated, which has been transferred to the Private Sector Housing reserve for the probability of SWEP (severe weather emergency protocol) being implemented during the winter months. However, please also see the "Concerns/Risks" section below.
- The use of the Housing Initiatives Reserve and the 1:4:1 monies (retained right-to-buy receipts) continues to increase the stock of properties within the HRA, particularly of properties that could be used to provide interim accommodation to homeless people.
- The Treasury Management returns are exceeding budget due to improved returns and further investments in pooled funds.

Finance, Housing & Community

- Income from green/garden waste is currently expected to exceed budget due to increased subscription levels (£53k favourable).
- In addition to the NNDR Income variance in the table above, we are estimating £810k extra income from the '100% retention pilot scheme' ('financial stability' element), which has been transferred to the special projects reserve to fund the 'property renovation grants scheme' (£500k) and other projects to be agreed. There is also a separate share of 'Growth Fund' retention monies to be determined for inclusion.
- Management Fees from EKS have exceeded their target saving by £65k. However, this has been transferred to the Joint Working reserve for potential additional costs of reducing allowable recharges into the EKS service from individual partners.
- Please see the main Budget Monitoring report for Q2 for full details of all major variances.

Housing Revenue Account

- The HRA balance at 30 September 2018 is estimated to be £1,011k, reflecting a movement from an expected surplus for the year of £5k reported at the beginning of the year to a deficit of £1k.

HRA Budget Monitoring Summary to 30th September 2018	**£000**	**£000**
Original budget surplus		**(5)**
Reduction of external decoration budget due to termination of contract.	(220)	
Reduction of paths and paving budget	(50)	
Increased transfer to Housing Initiatives Reserve	2,205	
Adjustment on Major Repairs Reserve	(260)	
Direct revenue financing - reduction in capital spend on council properties	(1,692)	
Tenants incentive scheme increased	16	
Other net variances- adverse	6	
Total Variances – adverse		**5**
Projected budget deficit		**0**
Balances Brought Forward		(1,012)
Projected Year End Balances		**(1,012)**

Finance, Housing & Community

Medium Term Capital Programme

- Within the capital programme, most projects approved to proceed are fully financed; there is however one project with a significant overspend of £95k. This is for the fit-out of the Aylesham retail units; the overspend is due to rectifying works carried out by the developer and splitting a double unit into two single units. A contribution towards the additional costs is expected from the developer.
- The main changes in the Medium Term Capital Programme are shown below:

Capital Budgets (30th September 2018)	Current year £000	Total Cost of Programme £000
Position as at 30th June 2018	**82,178**	**252,421**
Phasing changes to reflect the 2018/19 expected outturn.	(552)	-
Additional funding for DFGs (£92k) KCC BCF (original estimate £950k; actual grant received was 1,042k); also use of £200k DDC reserves approved as contingency for Kearsney Parks for People project (included in MTFP)	52	292
New funding added to programme including £427.4k HLF development grant for Maison Dieu restoration (Dover Town Hall); and £16k HLF grant for Our Finest Dour project	43	469
Reductions to the programme including removal of £212k capital receipt funding for DFGs as all costs are now covered by grant monies and grant repayments.	(227)	(247)
Total Capital Programme – position as at 30th September 2018	**81,494**	**252,935**

Concerns/Risks:

- The implementation of the new Homeless Reduction Act in April 2018 has resulted in an initial increase in homeless applications to the council and the new process has various stages of responsibilities that may result in changes to the figures moving forward. The position is being continuously monitored and will be reported further in future reports.
- Appeals and public inquiries against planning decisions are occurring more regularly and can be expensive and time-consuming to resolve. While money is set aside in reserves for the ongoing costs of prior year appeals, these may not be sufficient to fund new appeals arising or unexpected additional costs. It is currently proposed to use contingency to fund specialist planning and legal advice in relation to the resubmitted planning application for Western Heights, as well as a public inquiry re Abbey Homes, totalling £150k (est.). However, it is anticipated that there will be a possible further appeal in 2019/20 against any decision on the resubmitted Western Heights application, which could cost circa £160k and for which no provision has currently been made. .
- Additional planning resource has been engaged, currently funded from reserves (including from excess planning income), which is likely to create a

future pressure, as the specific earmarked reserves are now being depleted.

- Investment income remains under pressure from low interest rates and uncertainty following the Brexit vote. In 2017/18 the Council made investments in Diversified Income Funds (pooled funds) to offset the impact of reducing interest rates on bank deposits, money market funds and loans to other local authorities. Further investments have been made in Diversified Income funds during the year so far, which continue to enable us to increase returns for current and future years.
- Business Rates (BR) income remains volatile and complex to calculate, and is subject to changes arising from: the 2017 revaluation; the level of successful appeals; the profiling of Enterprise Zone relief given; the levels of claims for Small Business Rates Relief and other reliefs; and fluctuations in estimates of ‘business rates growth’ due to the scale or timing of regeneration projects.
- BR income is subject to on-going pressure from unresolved appeals and, from 2017/18, the impact of the 2017 revaluation by VOA. There are £27.3m approx. in rateable value of appeals outstanding at 31st August 2018 against 2010 valuations, including the addition of Dover Harbour Board (DHB) for the first time (RV £5.24m). The top 10 appeals account for 93.7% of this value (£25.6m). Early indications suggest the DHB appeal is against a £10k alteration only, but further clarification is being sought. There will also be further appeals against the 2017 valuation list.
- Business Rates growth may be slower than forecast and impacted by lower RVs than originally estimated by VOA, affecting our retained income. Progress at St. James is positive and ongoing, but some units remain unlet and, alongside fit-out times, attract empty rates exemptions for 3 months. The budget allowed for a full year’s income from all units, but reduced to 90% to be cautious. However, final RVs of 3 occupied units have come in lower from VOA than expected, leading us to revise the total RV of St. James downwards from £2,438k to £1,901k, equating to a reduction in full year income of £1/4m (£100k DDC share @ 40%). This will be reviewed again for Q3 as most units have now been valued and the impact may be less adverse.
- There are also upside risks in respect of business rates, such as the favourable impact of being in the pilot scheme (est. £810k additional ‘Financial Stability Fund’ share, plus further ‘Growth Fund’ monies to be determined), and the positive impact of changes to occupancy at Discovery Park, improving the levels of Enterprise Zone relief and its compensatory grant from Central Government (est. £331k favourable, but recognition deferred to 2019/20 under statutory rules). However, the final retained income from the pilot scheme is now interdependent on the results of the other Kent authorities.
- Separately a ‘Business Rates & Council Tax’ reserve has been established to help smooth out the impact of changes in BR income and the timing of its recognition under statute.
- Please see the main Budget Monitoring report for further details of current issues and their mitigation.

<u>Key Initiatives/Outcomes:</u>

Work is underway to tackle the costs associated with homelessness, short term accommodation placements and the shortage of housing stock (see General Fund section above), and to identify additional funding for the potential costs of any appeal/inquiry against the eventual decision on the resubmitted Western Heights planning decision (see Concerns/Risks above). Otherwise, the projected outturns for General Fund, HRA and Capital Programme do not indicate the need for corrective action in 2018/19. Where appropriate the variances identified will be taken into account in the 2019/20 – 2022/23 MTFP and will continue to be monitored during subsequent years.

Governance

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr (where applicable)	Direction of Travel to previous Qtr	RAG Status
GOV001	Number of working days/shifts lost due to sickness absence per FTE	6.35 days	N/A	1.78 days	2.24 days			4.02 days		▼	***compare to Q2 2017/18***
GOV002	Number of working days/shifts lost due to long term sickness absence over 10 days per FTE	3.16 days	N/A	1.11 days	1.72 days			2.83 days		▼	***compare to Q2 2017/18***
LIC005	The percentage of licensed premises inspections completed by target date	49.50%	80%	100 %	97%			98.50%	33	▼	***Green***
LIC006	The percentage of unopposed licensing and permit applications processed within 5 working days	97.50%	75%	99%	99%			99%	278	▶	***Green***
ENH005	Percentage of complaints regarding nuisance responded to within 5 working days	98.50%	95%	99%	100%			99%	298	▲	***Green***
ENH012	Number of Fixed Penalty Notices issued for litter	1781	N/A	296	72			368		***N/A***	***N/A***
ENH013	Percentage of stray dog enquiries responded to within target time.	99.75%	95%	100 %	100%			100%	77	▶	***Green***
ENH015	Number of Fixed Penalty Notices issued for dog fouling	11	N/A	5	1			6		***N/A***	***N/A***
ENH016	Number of Envirocrime prosecutions completed	113	N/A	85	50			135		***N/A***	***N/A***

Governance Director's comments

Performance:
Regulatory Services are continuing to perform well although the number of Fixed Penalty Notices issued for littering offences is lower this quarter. This is as a direct result of DDC's contractors terminating their agreement with DDC during this quarter with their last day of service being the 22nd of August 2018.
The team is currently liaising with a number of other potential contractors in order for an informed decision to be taken with regards to future service provision.

Governance

The number of days lost to both short term and long term sickness is slightly higher than this time last year, however they both remain relatively low. Longer term absence is limited to a few particular cases.

Key Initiatives/Outcomes:
During Q2, the GDPR requirements have continued to be rolled out across the Council with a further seven service specific privacy notices introduced, with accompanying strap lines. Updated retention schedules are now in place for all services.

The new Solicitor Apprentice started work with the Council on 17 September 2019 and a work placement in Legal Services also commenced working with us during the quarter.

Regulatory Services quarterly report will be available shortly outlining all of the activities undertaken by the department during quarter 2.

The Local Government Boundary Commission for England has finalised its recommendations for the electoral arrangements for this Council. It has proposed that the District should be represented by 32 councillors; there should be 17 wards, with the boundaries of 15 wards changing and two remaining the same. These recommendations must now be approved by Parliament. Subject to parliamentary scrutiny, the new electoral arrangements will come into force at our local elections in 2019. Following the approval of the Electoral Matters Committee, a Polling District Review has commenced, the results of which will be reported to Council in January 2019.

Concerns/Risks:
Nothing to report for Q2

Division	FTE @ 1 April 2018	(Leavers)/ Joiners/ Transfers	FTE @ 30 September 2018
Chief Executive	37.13	-2.05	35.08
Governance	46.3	+.3.39	49.69
Finance, Housing and Community	45.10	-2.09	43.01
Environment and Corporate Assets	93.03	+2.47	95.50
HR & Audit	26.59	+1.85	28.44
Total Staff FTE	**248.15**	**+3.57**	**251.72**

Environment & Corporate Assets

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr (where applicable)	Direction of Travel to previous Qtr	RAG Status
PKG003	Number of PCNS issued	17,433	N/A	3794	2688			6482		N/A	***N/A***
MUS002	The number of visits to the museum in person per 1,000 population	229.11	200	69.48	76.18			145.66		▲	***Green***
WAS003	Number of collections missed per 100,000 collections of household waste.	3.75	15	5	25.68			15.34		▼	***Amber***
WAS010	Residual household waste per household	339kg	350kgs	365kgs	361kgs			363kgs		▲	***Amber***
WAS011	Household waste sent for reuse, recycling or composting	49.50%	50%	48%	48%			48%		▶	***Amber***
WAS012	Environmental cleanliness: Percentage of streets containing litter	6.75%	5%	6%	6%			6%		N/A	***N/A***
WAS013	Environmental cleanliness: Percentage of street containing detritus	14.25%	10%	23%	20%			21.5%		N/A	***N/A***

Environment & Corporate Assets Director's comments

Performance:

WAS013 – This is an average figure for qtr 2, but broken down by month the levels of detritus have seen a significant improvement with 35% in July, 18% in August and 11% in September. Qtr 3 should reflect a full three months of improved standards.

WAS003 – This figure is based on July data only, due to changes in the collection methodology throughout August and September the current data is still to be agreed between DDC and Veolia. Giving the current figures before this work has been undertaken will not give a true reflection of the current missed bin rate. This will be updated ahead of qtr 3 data being reported.

Environment & Corporate Assets

WAS010 and WAS011 – these calculations are based on July and August data only and will be updated ahead of qtr3 data being reported. All data is checked and reported by Kent County Council to ensure the correct apportionment of tonnage for both residual waste and recycling, the data for September is not yet available and therefore an estimate has been made based on July and August data only.

Key Initiatives/Outcomes:

Parks & Open Spaces
Following a challenging season with regards to the weather the district on the whole has been maintained in good order with grass cutting being suspended during the drought and the teams deployed to carry out other works, (such as hedge cutting) demonstrates the flexibility of the in house GM team.

The winter works programme has been set out for the district with assistance again for the Kearsney Parks project by works being carried out by the in house team. Works in the cemeteries and closed churchyards will start this winter to remove self-sown trees and ivy covering graves. Works will continue in changes to shrub beds, hedges and flower beds.

The Kearsney Parks Project Buildings contract has started following all the delays due to the bat population and mitigation required to satisfy Natural England. The project is still on course for completion by June 2020 and a temporary café is now in place to serve customers during the building phase.

WCCP and UOTD continues to embed a new way of working and new funding is being sourced and being received. This area is starting to become more commercially focused with opportunities to expand in the coming months and years.

There is a significant list of projects small and large within this service area which continues to grow year on year with no major increase to the overall budget.

Transport & Parking Services:
This area continues to perform effectively and will now be managed by both a Head of Service and new Service Manager, who joins the Council in November, with a light touch from the Director.

Museum & Tourism
The plans to strengthen the Council's role in supporting the local tourism economy continue to progress. A new post, Strategic Tourism Manager, has been appointed and is due to join the Council in early October. The District continues to be regularly featured in newspaper and magazine articles and three local businesses have been included on the shortlist for the Kent Tourism Awards. A very successful evening event was held in the Museum on 14 September to promote the launch of the new Channel Swimming website.
(See: http://www.channelswimmingdover.org.uk/)

Environment & Corporate Assets

Cabinet has now confirmed support for the project to revamp Dover Museum and to work with KCC on their own plans for the Discovery Centre which provides a potential opportunity to deliver significant improvements to facilities within the Museum and supports the wider regeneration agenda for the Town.

Waste Services
The review of future service provision being undertaken in partnership with the other East Kent authorities working with KCC ahead of the ending of the contract with Veolia in January 2021, is progressing well. The study carried out by the consultants Ricardo is complete and the individual Councils are reviewing next steps with some taking reports through their respective decision processes during the autumn. As regards Dover DC the aim is to take a report to the November Cabinet.

At a national level, issues concerning the management of waste and especially plastic waste continue to attract headlines. We are awaiting the publication by Government of their draft Recycling & Waste Strategy later this year for consultation, linking in with the EU Circular Economy Package, which it is understood the UK intends to adopt. This will hopefully provide clear guidance regarding future recycling targets, which are currently covered by EU Directives.

Assets, Corporate Property & Building Control
The team is engaged on a wide range of corporate projects and continues to adjust work plans to respond to competing priorities. Activities over the past few months include:

- Refurbishment of Norman Tailyour House, Deal: Tenders returned on 14th September.
- William Muge & Snelgrove Site, Dover: Cabinet agreement for the project confirmed and planning application submitted.
- Tides Leisure Centre: Refurbishment work to M&E plant commenced on 17th September.
- Aylesham Shops: Fit out work complete, two let and remainder being marketed.
- Deal Pier: Work to replace the gas main is complete and has been tested up to the point where it enters the cafe. The contract for replacing the benches has been awarded to Hippersons of Deal, timber has been pre-purchased and work starts on site on October 22nd. The holding tank in the sewage transfer facility has been lined with fibre-glass and the pumps serviced. Proposed concrete repairs to the beams on the lower deck are currently being designed. Repairs to the lower deck are due to start on site on 15th October although further damage occurred during the storms on October 7th, which is still being assessed. The lease for the café was signed on September 27th and the new tenant is arranging fit out works ahead of opening after this autumn.
- Dover District Leisure Centre: Work remains on track and on budget for an opening in early February 2019.
- Former Dover Leisure Centre Site: Plans are being finalised for the closure of the existing centre and subsequent demolition.

Concerns/Risks:
Health & Safety.
The majority of the districts grass banks and slopes are now being cut by a newly purchased remote controlled banks mower. The small number of sites not able to be cut and are being reviewed to find alternative maintenance regimes and ground cover options. A report is being prepared for these proposed changes. Public injury claims are a concern with discussion being had with Zurich on the best way to provided evidence on how to defend claims against the authority.

Chief Executive

PI	Description	Outturn 2017/18	DDC Target 2018/19	Q1	Q2	Q3	Q4	Current Cumulative figure	Absolute Number of Cases this Qtr	Direction of Travel to previous Qtr	RAG Status
GOV003	The number of second stage complaints referred to the Council's Complaints Officer	40	N/A	2	3			5		***N/A***	***N/A***
GOV004	The number of FOI requests received	899	N/A	272	272			544		***N/A***	***N/A***
PLA001	Percentage of **major** planning applications determined in 13 weeks (exc. section 106 agreements) or within an agreed extension of time or Planning Performance Agreement	89.52%	65%	83.33%	75%			76.9%	20	▼	***Green***
PLA002	Percentage of **non-major** planning applications determined in 8 weeks (exc. Section 106 agreements)	87.50%	75%	88.83%	83.1%			85.91%	225	▼	***Green***
PLA003	The percentage of decisions for major applications overturned at appeal (+)	2.70%	<10%	16%	5%			7.6%	20	▲	***Green***
PLA004	The percentage of decisions for non-major applications overturned at appeal (+)	3.15%	<10%	0.87%	0.4%			0.6%	225	▲	***Green***
PLA007	Number of new houses completed.	106 (Base at 31.03.18 = 52526)	N/A	70	200			270		N/A	***N/A***
PLA008	Growth in Business Rates base (number of registered businesses)	25 (Base at 31.03.18 = 4012)	N/A	18	8			26		N/A	***N/A***

Chief Executive

PLA009	% of appeals upheld by the Planning Inspectorate as a % of those submitted	N/A	N/A	23%	10.5%			15.6%		N/A	***N/A***

Regeneration & Development Director's comments:

Performance:

Performance continues to exceed targets, but is showing a slight downward trend, partly from a three-fold increase in decisions on Major applications this quarter. Appeals performance continues to improve and previous concerns that planning decisions have been at odds with the Planning Inspectorate are fading, helped by increased scrutiny of decisions recommending refusal.

Key initiatives/Outcomes:

Work on the local plan review is progressing with a number of public engagement events held. Continuing Inward Investment interest expected to result in more pre-application enquiries and full applications

Concerns/Risks:

Number of applications going to planning committee continues to be a strain on resources

Subject:	**ESTABLISHMENT OF A PROPERTY COMPANY**
Meeting and Date:	**Cabinet – 5 November 2018**
Report of:	**Mike Davis, Director of Finance, Housing and Community**
Portfolio Holder:	**Councillor Michael Conolly, Portfolio Holder for Corporate Resources and Performance**
Decision Type:	**Key**
Classification:	**Unrestricted**
Purpose of the report:	To establish a local property company to provide the Council with a vehicle to invest in both private residential and commercial properties.
Recommendation:	(a) To approve the creation of a property company to develop, acquire and manage property investments at arm's length from the Council to provide a vehicle to invest in both private residential and commercial properties and deliver investment returns. (b) To approve the business case as attached at Appendix 1. (c) To approve the recommended company name 'Honeywood Property Services Ltd.'

1. **Summary**

1.1 The Property Investment Strategy, which was approved by Council in November 2016, identified the need for the creation of one or more residential and commercial property companies to manage property investment at arm's length from the Council in order to compete with other trading companies and deliver investment returns.

1.2 Further advice has been received to the effect that both residential and commercial activities could be undertaken by one arm's length company which will be solely owned by the Council. Additional subsidiaries can be created if specialist boards are required for elements of the Company's operations or if joint venture options are to be explored.

1.3 The attached business case explains how the company will be established including the financial forecast and business arrangements required to operate the company on a daily basis. For the purposes of this report this company will be referred to as the Dover Local Property Company (DLPC).

1.4 There is a statutory requirement for the Council to approve the business case, Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009/2393. This report fulfils that requirement. The business case has been developed in accordance with the Secretary of State's guidance.

2. **Introduction and Background**

2.1 The Council's property investment work has been active since the approval of the strategy, mainly focusing on commercial opportunities, there is now a need to establish an arm's length company to manage the construction or purchase of residential properties which will be sold or rented in the private market. This activity cannot be performed by the Council as where it is doing something for a commercial purpose; the Localism Act 2011 requires that this is done through a company. Once established the company may also be used for commercial investments within or outside the district if appropriate.

2.2 The establishment of the company will enable the Council to investigate and implement opportunities for developments within the district that it is currently unable to undertake due to restrictions on the Council's powers.

2.3 Members will be aware that the Government is in the process of setting higher housing targets for Local Planning Authorities with a greater emphasis on delivery. This has important implications for the Council as housing delivery rates are not at a level that was envisaged in the Adopted Core Strategy. It is considered that this proposal will see the Council proactively involved in delivery of market housing within the district, complimenting existing plans to provide new affordable housing funded through the Housing Revenue Account

2.4 It is important that the Company has enough flexibility to buy considered opportunities and work on a commercial basis. This may include joint ventures, special purpose vehicles and possibly development management agreements. The company could enter into and have subsidiary companies to be able to trade effectively in the property market place e.g. special purpose vehicles for particular projects.

2.5 The DLPC will be set up and incorporated as soon as practically possible as a private company limited by shares. Any profits made by the Company will either be reinvested into the operation or paid to the Council by way of dividend as sole shareholder.

3. Identification of Options

3.1 Full details of the operating procedures between the company and the Council are contained in the business case. The key points are as follows:

(a) The Council will be the sole shareholder and will initially invest £100 in share capital in the company;

(b) The Council will grant an initial loan at a commercial rate to the company of £100k to provide a level of working capital to undertake set up and other work as required;

(c) The Council will grant further loans to the company at a commercial rate of interest. These loans will be used to finance the purchase and construction of private residential properties or commercial investments;

(d) To avoid any conflict of interest, it is advisable for members and statutory officers not to be officials of the property company and therefore the directors and company secretary are proposed as:

(i) Directors:
Head of Finance – Helen Lamb
Head of Assets & Building Control – Martin Leggatt
Corporate Projects Manager – Jayne Miles

(ii) Company Secretary:
Commercial Solicitor – Beverley Dempster

(e) Unless the Leader directs otherwise the Council's powers and duties as member and shareholder of the company can be discharged by the Council's chief executive under the existing scheme of officer delegation by virtue of section 323 (1) &(2) Companies Act 2006.

(f) Support services will be provided by DDC officers and will be charged to the property company at the prevailing market rate;

(g) Taxation is a key issue where the implications of Corporation Tax, Stamp Duty Land Tax and VAT will need careful consideration;

(h) A separate website, email address, stationery and financial system will need to be established as part of the initial set up phase; and

(i) The recommended name for the property company is Honeywood Property Services Ltd.

3.2 It is anticipated that the tasks required to establish the company will be completed by 31 December 2018

4. **Evaluation of Options**

4.1 Option A - Create the Company: The Council will be able to invest in the construction or purchase of residential properties for sale or rent, plus commercial properties outside the district.

4.2 Option B - Don't create the company: The Council will not be able to invest in the construction or purchase of residential properties for a commercial purpose and may not be able to invest in commercial properties outside the district.

5. **Resource Implications**

5.1 The company will be established with an initial share capital value of £100. This will be supported, at an appropriate time, with a loan of £100k to provide a level of working capital for the company. Future loans will be made available to the company based on individual business cases for investment opportunities.

5.2 Loans made to the company will be charged at market rates, above the level at which the Council can borrow from PWLB or other sources, resulting in an income stream for the General Fund. The General Fund will also benefit from any profits generated by the company.

5.3 The forecasts included in the business case are estimates based on investing £2m per year for the first five years of the company's operation. As is common with new companies the financial forecast shows a loss for the first couple of years due to initial set up costs and the timescales between initiating a project and when it is completed and generating a revenue stream. This modelling has been undertaken to illustrate a potential scenario, however, in practice, each proposal will be assessed in its own right and therefore the business case forecasts are expected to change significantly as projects are approved.

5.4 Creation and operation of the property company will be undertaken using existing in-house staff resources and external legal advice. The Legal advice will be funded from the Property Investment Strategy revenue budget approved by Council on 30th November 2016.

5.5 Minimal staff time will be required for creation of the company, and it can remain inactive/dormant, with virtually no costs, until there are opportunities to engage / invest.

5.6 By having the company established now, we are ensuring that we are in a position to act promptly should an opportunity arise, and should such investment be best undertaken by a property company. This will reduce the risk of delays in potential investments while we set up the company.

6. Legal Implications

6.1 Legal advice on the set up of the company has been provided and will continue to be provided by Blake Morgan solicitors. Legal advice has been sought on the type of company that is required, the Council's powers to form the company, the governance arrangements and the contracting status of the company.

Powers

6.2 The council is able to use its general power of competence set out in section 1 of the Localism Act 2011 (the 2011 Act). In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duties it owes to its rate and local tax payers) and to the public law requirements to exercise the general power of competence for a proper purpose.

6.3 Section 4 of the Localism Act 2011 in particular extends the existing trading scheme under the Local Government Act 2003 so that in so far as the general power permits the Council to carry out a particular activity, then s.4 empowers it to do so for a commercial purpose. As the Council is not seeking to charge an individual for something it is required to provide by statute and is proposing to trade through a company limited by shares, then subject to proper exercise in accordance with the Wednesbury principles of reasonableness, the Council is permitted to undertake this activity.

Ministerial Statement

6.4 The Council is not currently at risk of contravening a Ministerial Statement, issued on 20 March 2015, which reviewed the progress made by Councils in increasing house-building and provided a warning that house-building by Councils should not be pursued in a way such as to undermine the Government's commitment to right-to-buy. The purpose of establishing the proposed company is to undertake commercial activity in the private and commercial housing sector and not to provide social housing outside the Housing Revenue Account.

Governance Arrangements

6.5 The company will be set up and governed as a wholly owned company of the Council. The company's day to day governance will be managed by a board of directors and the initial board consists of council officers.

Controlled Regulated Companies

6.6 The Local Government and Housing Act 1989 deals with companies: (a) under the control of local authorities; and (b) subject to local authority influence. The LAPC is likely to fall within one of these categories and will, therefore, be required to comply with the relevant provisions of the Local Authority (Companies) Order 1995.

Contracting Status and Procurement

6.7 The impact of the procurement regime needs to be considered from two angles:

(a) the Council's relationship with the company; and

(b) whether the company is itself subject to the procurement rules.

The Council's relationship with the company

6.8 There is an exception under the procurement rules which allows "parent" bodies (such as the Council) to trade with their "controlled" bodies (bodies over which they exercise a similar degree of control as they would over an in-house department), without having to go out to tender. This is known as the "Teckal" exception after the case which first established it.

6.9 To be a "Teckal" company, the requisite degree of control has to be shown (which is satisfied in this case) but the company must also fulfil a "function test"; i.e. the main part of its activity (80% or more assessed on annual turnover) must be carried out for the parent body; i.e. the Council.

6.10 The company is not considered to be a Teckal company as the main function for it, and the majority of its turnover, will be through trading on the commercial market with third parties, and not to provide services for the Council.

6.11 Therefore any contracts that the Council wants to enter into with the company for the supply/receipt of services, and which are above the relevant thresholds (currently £181,302 for goods and services, and £4,551,413 for works), will have to be tendered if over EU thresholds (unless any other exceptions apply). Contracts which are below threshold or in respect of which specific exceptions may apply, do not have to be tendered but the Council may still need to demonstrate value for money.

Whether the company is subject to procurement rules

6.12 As the company is likely to have an "industrial or commercial character", it is likely that it would not be regarded as a body subject to public law, and therefore not a contracting authority for purposes of the EU procurement regime. Therefore, it is likely that the company would not have to follow the procurement rules and could contract for goods, services and works in the same way as a private entity.

6.13 However, due to the ownership/control that the Council will have in the company, it is likely that it will need to appear in the Council's accounts and therefore there will be a need to demonstrate to the Council and its auditors that the company is receiving value for money. This could be done by some form of fair and open tendering appropriate to the value of the contract, but need not comply with the more stringent public procurement rules.

Contracting Services from the Council

6.14 Any arrangement between the DLPC and the Council will need to be on commercial terms, so as not to contravene the rules on state aid, and to ensure that, in its interests, the company is not paying more for such services than it would have to pay on the open market.

Shareholder Agreement

6.15 A shareholder agreement usually regulates the relationship of shareholders with each other. In the case of the DLPC the shareholder agreement will be between the Council and the DLPC and will, amongst other things, identify those matters in respect of which the Council wishes to reserve decision-making and right of action to itself. The shareholder agreement is yet to be drafted.

Articles

6.16 A company's Articles of Association will be drafted, which will comprise the company's constitution. The DLPC's articles will be based on the model set of Articles, for companies limited by shares, tailored to suit the DLPC. They will set out, amongst other things, the internal management structure of the DLPC, the procedures for appointing and removing directors and the conduct of meetings.

7. Corporate Implications

7.1 Comment from the Section 151 Officer: Finance have led on the production of the report and have no further comments to add. (HL)

7.2 Comment from the Solicitor to the Council: The Council's Commercial Solicitor has been consulted throughout the report and has no further comment to make. (BD)

7.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 http://www.legislation.gov.uk/ukpga/2010/15.

8. Appendices

Appendix 1 – Business Case

9. Background Papers

Property Investment Strategy – Council November 2016

Contact Officer: Helen Lamb

Appendix 1

Dover District Council Local Property

Business Case

April 2018

Company Name Proposal:
Honeywood Properties Ltd

Contents

1. Executive Summary

This document sets out the business case and initial business plan to establish a separate local property company to provide the Council with a vehicle to invest in both residential and commercial properties. For the purposes of this report this company will be referred to as the Dover Local Property Company (DLPC).

In order to comply with the statutory requirement for the Council to approve the business case of new local authority companies (Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009/2393) this business case will be submitted to Cabinet for approval. This business case has been developed in accordance with the Secretary of State's guidance.

Once Cabinet approval is in place the DLPC will be set up and incorporated as soon as practically possible as a private company limited by shares. Any profits made by the Company will either be re-invested into the operation or paid to the Council by way of dividend as sole shareholder.

The purchase of properties will be carried out in accordance with the business plan and will be approved by the Council on a project by project basis.

2. Business Proposal

Background

In view of the reduction in central government support the Council has a responsibility to consider smarter ways of working and providing additional income. It is therefore undertaking a review of how it manages property investment to generate income to continue to maintain services and to live within its means.

The Property Investment Strategy which was approved by Council in November 2016 identified the need for the creation of one or more residential and commercial property companies to engage in property investment at arm's length from the Council for a commercial purpose. Further advice has been received which enables both residential and commercial activities to be undertaken by one arm's length company which will be solely owned by the Council. Additional subsidiaries can be created if specialist boards are required for elements of the Company's operations.

The Council's corporate plan shows that improving infrastructure and housing growth is a priority and the establishment of a separate property company will provide the means to proactively explore new methods of commercial property investment and housing delivery across the district.

The Council has considered the powers it is using in order to establish the Local Property Company and the legal justification for the establishment of the Company. The Council is authorised to undertake this course of action by virtue of its powers under s1 (General Power of Competence) and s4 (the commercial purpose power) of the Localism Act 2011 which in particular extends the existing trading scheme under the Local Government Act 2003 so that in so far as the general power permits the Council to carry out a particular activity, then s. 4 empowers it to do so for a commercial purpose. As the Council is not seeking to charge an individual for something it is required to provide by statute and is proposing to trade through a company limited by shares, then subject to proper exercise in accordance with the Wednesbury principles of reasonableness, the Council is permitted to undertake this activity.

Dover Local Property Company Objectives

It is important that the Company has enough flexibility to buy considered opportunities and work on a commercial basis. This may include joint ventures, special purpose vehicles and possibly development management agreements. The DLPC could enter into and have subsidiary companies to be able to trade effectively in the property market place e.g. special purpose vehicles for particular projects.

The DLPC objectives will be:

(a) Maximise the return to the shareholder from its asset portfolio and exploit opportunities for acquisitions, development and commercial return from assets;

(b) Create a delivery model that puts elements of the Council activities at arm's length, where the Company can be focused on the delivery of their service that operates with a degree of commerciality in line with aspirations that mirror the Council's Corporate Plan;

(c) Deliver approved property developments and to acquire and sell private market property;

(d) Stimulate and accelerate property and development delivery;

(e) Hold, manage and operate high quality private lettings;

(f) Act as a responsible and equitable landlord;

(g) Provide a range of high quality housing for the people of the Dover District;

(h) Deliver housing within the District of the appropriate quality, type and affordability to meet the needs and aspirations of residents;

(i) Provide or procure landlord services to the tenants of any rented housing;

(j) Carry out any other activities specifically or generally designed to promote regeneration, including economic, environmental or social benefit to the Dover District;

(k) Deliver long term capital appreciation;

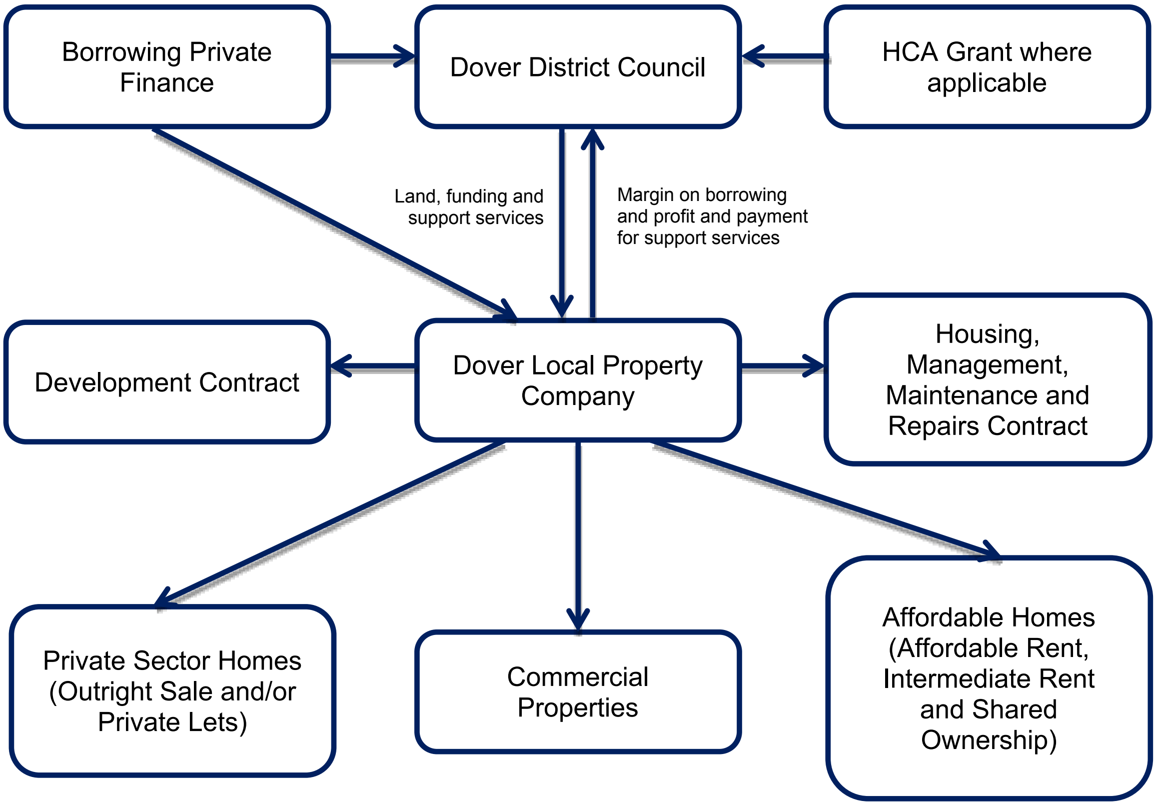
(l) Encourage and promote house building activity within the District;

(m) Generate income from commercial investments;

(n) Always seek to obtain best value for purchases and sales.

3. Business Arrangements

The proposed cash flows and operating relationships are illustrated in the diagram below.



Support and Operational Services

One of the key considerations will be to negotiate with the Council's support services the level of service and to pay the costs associated with these activities. Services extended to DLPC via SLAs by the Council will be charged for at the prevailing market rate.

- <u>Legal Services</u>

  Initially legal services and the role of Company secretary will be procured from the Council's legal department.

- <u>Finance Services</u>

  Financial services will be provided by the Council's finance department but there will be a need to purchase some specialist company accounting advice and audit/examination services.

- <u>Property/Housing Management Services</u>

  Private residential properties will initially be let on assured shorthold or non-secure tenancies to provide the Company with the greatest flexibility with the long term management arrangement of the properties. Affordable housing developments may also include shared ownership arrangements.

It is proposed that these services will be acquired from either East Kent Housing, DDC, through the DLPC or an external provider depending on the volume and nature of the tenancies.

- Human Resources

  The new Company should not have any implications for staff currently employed by the Council as it is not proposed to transfer any staff to the Company.

- Support Arrangements

  The requirements for office accommodation to support the Company is likely to be minimal but if required, it is intended to license office space from the Council at the market rate.

  The DLPC will be responsible for ensuring that arrangements are in place for insuring all property owned by the Company.

- Performance Management

  In its strategic role, the Council will be able to set and monitor various performance measures for the DLPC to ensure that it is getting good value for money and performance in return for its investment.

  Example performance indicators for the Local Property Company could include:

  (a) Number of new homes completed
  (b) Commercial properties acquired
  (c) Tenant satisfaction rates
  (d) Void levels
  (e) Rent arrears
  (f) Asset Value
  (g) Company Liquidity (Working Capital)
  (h) Investment rate of return
  (i) Investment income levels

  The Council will need to have regard to performance when making decisions to invest further in the Company.

4. Governance

Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the 'general power of competence'. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others i.e. this includes the setting up of a property company as described in this report. In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duties it owes to its rate and local tax payers) and to the public law requirements to exercise the general power of competence for a proper purpose.

Section 4 of the Localism Act 2011 in particular extends the existing trading scheme under the Local Government Act 2003 so that in so far as the general power permits the Council to carry out a particular activity, then s. 4 empowers it to do so for a commercial purpose. As the Council is not seeking to charge an individual for something it is required to provide by statute and is proposing to trade through a company limited by shares, then subject to proper exercise in accordance with the Wednesbury principles of reasonableness, the Council is permitted to undertake this activity.

It is recommended that the Company should be formed as a Company Limited by Shares, with 100% of the share capital retained by the Council. As sole shareholder, the Council would retain control of the Company, including the flexibility to change aspects of its purpose and operation or even cease, transfer or dispose of the Company in the future. The Council in its corporate capacity would be the sole shareholder of the Company.

A Board of directors will be put in place to oversee and manage the Company in accordance with the objectives set by the Council. The proposed board structure is set out below.

Directors and Company Secretary

It is proposed that the Company will be registered at Companies House as a Limited Liability Company, with a share capital. The sole owner and shareholder of the Company will be Dover District Council and the Company will run by a Board of Directors supported by a Company Secretary. The Company will be subject to Company Law and Controlled Company legislation. Due to a potential conflict of interests which could arise if a DDC Member or Director was appointed as a director of the Local Property Company these appointments will be Council Officers as follows:

<u>Directors</u>:
Head of Finance
Head of Assets & Building Control
Corporate Projects Manager

<u>Company Secretary</u>:
Commercial Solicitor

Shareholder Agreement

A Shareholder Agreement will operate in addition to the Articles of Association. The Articles of Association are a requirement of Company Law. A Shareholder Agreement is not.

A Shareholder Agreement can cover anything that the Company and Dover District Council want it to cover. Unlike the Articles of Association, it is a private contract between the Company and Dover District Council and will therefore not be registered at Companies House.

Among other things, this means that a Shareholder Agreement can cover internal matters that both parties might consider confidential.

It could therefore be used to represent a finer level of detail and control and could include:

- The setting of investment targets each year and the associated budget
- Agreement of any borrowing arrangement and giving security in respect of borrowing
- Considerations before making a planning application or lodging an appeal
- Ensuring certain aims and values

- Management of risk
- Investment decisions in respect of particular projects
- Any other significant transactions of a size and type that the Company and the Council might agree, for instance:
    - Substantial expenditure (whether on properties or otherwise);
    - Substantial disposals
    - Hiring of senior employees
- Any matter that the Council shall advise the Company of in writing

Consideration has been given to ensuring that key expertise (such as financial and legal advice) is available to advise both the Council as shareholder and the company. From time to time it may be necessary to buy in specialist corporate, property, marketing, legal and financial advice on a normal commercial basis to supplement the experience on the Board.

5. Financial Analysis

The Property Investment Group has carried out supporting financial modelling to assess the potential viability of the DLPC to deliver new housing in the District. The following points should be considered when assessing the viability of the Company.

a) Will the proposed Company be a going concern? i.e. will it be able to discharge its liabilities in the normal course of business.

   The Company's Directors will have a number of fiduciary responsibilities under the Companies Act 2006, among them to promote the success of the Company and consider its long term prospects. One to be particularly aware of is that the Directors are responsible to ensure that the Company does not undertake "wrongful trading", which is allowing a business to carry on, and incur debts, when it is known that there is no reasonable prospect of the Company repaying them.

b) Will the Company be able to generate a return on the Council's investment?

   The latter point is important as the Council is wishing to establish a corporate entity which will be self-sustaining. In this context, the Council should treat transactions with the Company at arm's length, considering whether they are sound investments which third parties would be willing to make.

The modelling work presented below represents an option for the first phase of the investment in the Company.

Initial Proposal

The Financial Modelling has been conducted on a basis where the DLPC purchases between 10 and 15 properties, spending approximately £2m per annum on investment properties in the Dover District for the first 5 years of operation. The proposed portfolio of properties is based on purchasing mainly 2-3 bedroom properties with an average price of £150k including Stamp Duty Land Tax, fees and an allowance for refurbishment.

The properties may be acquired through purchase of existing properties or development of new builds. When selecting the properties the key criteria applied will be to achieve a 6% or higher ratio of capital cost to annual rent. When modelling the first phase the key aim has been to select properties that offer the greatest return.

Additionally, where appropriate, some properties will be consider for sale where a surplus can be achieved from the sale and additional objectives can be achieved, for example providing a mix of tenure on a new development. It is intended that these sales proceeds will be utilised by the DLPC to reinvest in future purchases or to reduce the level of long term borrowing required for schemes.

Base Financial Assumptions

In calculating the viability model the following assumptions have been included:

- Inflation 3% per annum;
- Borrowing costs 5% per annum on a 50 year annuity basis;
- Management costs per unit £500 per annum;
- Responsive maintenance costs per unit £400 per annum;
- Major repairs provision 0.5% per annum from year 5;
- Occupancy level 96%.

Set Up and Running Costs

The Company will have operational overhead costs from its inception (i.e. financial management and reporting, governance and audit) along with direct delivery costs of procurement and contract management. It has been assumed in the early years the Council will provide these services on a contractual basis to the Company and that no permanent staff will be employed by the Company. If and when the Company reaches a critical mass of operations then permanent staff might be employed directly.

It is the Council's view, however, that the Company will not require any permanent members of staff at this stage of the development of the business plan to manage the procurement and on-going delivery of the constructions contracts. The modelling has assumed company costs in the region of £20,000 per annum.

On the basis of the initial development programme, it has been assumed that the DLPC will contract services from the Council at the prevailing market rate.

It is assumed that the Council will meet all set up costs directly and these have not been included within the business plan of the DLPC. External set up costs anticipated to be incurred will be predominantly legal costs and financial advice.

Financial Forecast

A 50 year cash flow has been used for the business plan of the DLPC. On the basis that assets are well-designed, planned and maintained and suitable provision is made for capital repairs during the lives of the assets housing asset lives typically extend up to 100 years. On this basis, assets should remain in a good condition at the end of the 50 year cash flow and, therefore, have a residual value. The business plan has excluded increases in house prices however it is anticipated that this is an area where additional returns on investments can be made.

The assumption in preparing the profit and loss account and balance sheet for the DLPC is that the housing stock developed would be held as investment property, as determined under IAS40 (property held for capital appreciation or to earn rentals). There would therefore be no depreciation charge on the assets. However, falls in the asset valuations would be charged to the profit & loss account.

The financial forecast, detailed at Appendix 2, shows the DLPC forecasting a loss for the first three years of operation. This is to be expected in the establishment of a new company and does not create cause for concern as the forecast moves this into a surplus from year four and into the future.

6. Financing

Potential Funding Sources

In considering the funding of the Company the Council must consider from where funds will be sourced from to meet the investment needs of the DLPC and how these funds will be repaid. Primarily these funds will be in the form commercial rate loans from the Council to the Company and the sale of share capital to the Council. It is proposed that an initial investment of £100 share capital will be made by the Council.

It is anticipated that initial project setup costs (e.g. financial assessments, design advice, agent's fees, etc.) and cash flow will be funded from a working capital loan estimated at £100,000.

The potential investment sources for the Local Property Company in the short term are:

(a) Equity investment by the Council at market rate;
(b) Debt investment by the Council at market rate;
(c) Land transfer by the Council for best value;
(d) Grant from the Homes and Community Agency;
(e) External affordable housing contributions.

In addition, it has been assumed that the Council will make loan finance available to the DLPC through the use of prudential borrowing. The modelling is therefore based on a secured annuity at market rates including a margin which will provide DDC a return on the funds invested.

The Council will be the sole shareholder in the DLPC and will own 100% of the share capital. The traditional approach to investment of resources into a company is through share capital and the Council could therefore make an investment of the total value of the investment through this route into the DLPC in addition to, or as an alternative to, loan finance.

Fiduciary Responsibilities

The Council is establishing a company for residential and commercial development which will be a separate corporate entity with profit making abilities. As such it will need to discharge its liabilities in the normal course of business and be able to generate a return on the Council's investment.

The Company's Directors will have a number of fiduciary responsibilities under the Companies Act 2006, among them to promote the success of the Company and consider its long term prospects. One to be particularly aware of is that the Directors are responsible to ensure that the Company does not undertake "wrongful trading", which is allowing a business to carry on, and incur debts, when it is known that there is no reasonable prospect of the Company repaying them.

The Council should therefore treat transactions with the Company at arm's length, considering whether they are sound investments which third parties would be willing to make. The position of an arm's length investor is a useful benchmark when considering investment of Council resources.

Funding initial schemes

Depending on purchase costs, it is likely that the Council will need to loan the Company sufficient sums to fund the initial schemes / purchase the first properties including all acquisition expenses. The Company may wish to optimise its loan portfolio requesting a number of loans rather than a single annuity to allow it to benefit from low short term interest rates on offer.

Taxation

In the preparation of this business case tax advice has been sought from PS Tax the Council's tax advisors on the key tax issues to be considered. They are raised below.

VAT

The Company will incur VAT on the cost of any services procured from third parties (including the Council), which it will not be able to recover as the provision of rental housing is an exempt supply. This will include any management, maintenance, repairs services or supplies procured.

It may be possible to reclaim some VAT on overhead costs, and this will be dependent on the Company's partial exemption calculation. Accordingly the preparation of the business case has assumed no recovery of VAT.

It is presumed that construction costs will be exclusive of VAT on the basis that the DLPC is buying new housing and that contractors will treat this as a zero-rated supply.

VAT cannot be reclaimed on any white goods within the construction contract however and cannot be reclaimed on any professional services outside of the construction contract. It would therefore be more tax efficient from a VAT perspective for the Council to procure a 'design and build' contract.

Corporation Tax

As a Company limited by shares, the DLPC will be liable to tax on any profit made. The base assumptions used for consideration of the taxable profits of the DLPC are:

(a) Income for the DLPC comprises
   (i) Rental / lease income;
   (ii) Property sales;
   (iii) Shared ownership sales income.
(b) Interest payable on borrowings will be an allowable expense;
(c) There will be no capital allowances on the initial cost of properties;
(d) There will be no capital allowances on the cyclical works as these are capital in nature and not a revenue expense although a 10% allowance could be claimed if the properties were let as furnished;
(e) Management, maintenance and running costs will be an allowable expense;
(f) Corporation tax is payable on net profit at 19%, reducing to 17% for the year beginning 1 April 2020;

(g) Consideration will be given to potential deferred tax assets arising from losses made by the DLPC.

Stamp Duty Land Tax (SDLT)

SDLT is a charge on property transactions. The sale of land and / or property from a third party to the DLPC has the potential to incur an SDLT charge. This will be allowed for in the calculation of the initial purchase cost of land / properties.

It is possible to obtain group relief from SDLT when transferring properties between companies within a group. The transfer of land and property from the Council to a wholly owned subsidiary in the form of the DLPC should therefore be entitled to group relief.

Vision

The Council's Corporate Plan states that “We will concentrate on growing a thriving economy, a clean and green environment, healthier people and communities and developing our own organisation to achieve our vision”. This includes seeking to encourage and support reasonable levels of housing growth and business development as well as revenue creation. The Company will be an integral part of the delivery of these aims, supporting the provision of housing across the district, working in partnership with the Council to support regeneration and to create a financial return for its shareholder.

The DLPC has the ability to generate a viable business plan. In order to justify the investment by the Council in establishing the DLPC, however, and to enable the DLPC to sustain its overheads as an on-going business, there must be a growth plan in place.

Further Options

The Council has a number of sites that have the potential for to be future development sites for the DLPC to develop.

The Council is supporting the establishment of the DLPC through equity investment and potentially the transfer of land parcels suitable for housing at an appropriate value. On larger sites, however, the Council will have to consider the value of sites being disposed of, particularly where they are likely to contain significant levels or private units (either for sale or rent). In these cases the Council may look to dispose of the sites to the DLPC in return for an equity investment equivalent to the residual land value of the sites. By adopting this approach the Council would receive a return on its investment in the long term, but would ease the cash requirements of the DLPC in the short term.

The DLPC may look to expand business through partnership working. This could either be in the form of site specific partnerships with Registered Providers or developers, through a joint venture approach or an equity investment approach. This latter approach could be taken through a subsidiary of the DLPC.

7. Staffing

Council officer time may be allocated to the trading company as and when required to carry out individual projects or tasks, this will be charged at full cost. The Company is not intending to directly employ, but this may expand as activity develops.

Should direct employment be required this may be based upon the same terms and conditions of employment and will mirror those of the Council for Company employees, depending on skill sets required and market conditions. Pension arrangements can be through the Council scheme, or the Company can source its own equivalent scheme. Analysis of this to be carried out before employment commences any permanent staff.

Consideration will need to be given to any capacity issues that arise due to additional workloads however an allowance will be made for these costs in the financial model and project appraisals.

8. Risk Management

The key delivery risks and their likely impact are summarised below along with mitigating actions. A robust risk management plan has been developed as part of the implementation plan.

In undertaking future developments sites and or acquisitions, the Council will need to consider the capacity of the DLPC to deliver this development on its own, or adopting a partnership or joint venture approach.

The Council might wish to limit the level of its financial exposure, however, and might not be willing to lend further resources beyond the initial development programme.

For future development, once the DLPC has established itself as a standalone business, it could therefore look to source finance from private sector sources. For construction finance this is likely to be in the form of senior debt from a commercial bank. In order to obtain bank finance on acceptable terms, without guarantees being required from the Council, the DLPC will need to have proven that it is a successful standalone business. In practice this will require it being able to evidence that it has:

- Assets it can use as security;
- Delivered a construction programme to time and budget;
- Managed operational properties effectively, with good void and bad debt performance;
- Met debt servicing requirements of loans from the Council; and
- Managed the business of the DLPC effectively from corporate governance and reporting perspective.

Appendix 1 – Risk Assessment

	Risk Type Council Risks	Risk	Probability	Impact	Risk Management
1	Legal	Failure to set up the Company in compliance with the relevant legislation and guidance issued by MHCLG	Low	Medium	Legal advice to be taken to ensure that the Company is created correctly and the guidance is followed. Guidance to be circulated to project team. Appropriate governance arrangements to be put in place.
2	Legal	Possibility of trading ultra vires and the failure to follow governance arrangements	Low	Low	Guidance to be followed and clear governance arrangements to be put in place in accordance with the guidance. Company Law has now removed the concept of vires and so, unless the Company chooses to restrict its own powers, it will have sufficient powers to enable it to trade.
3	Legal / Finance	Breach of EU state aid rules	Low	Medium	The Council must ensure that any services provided to the Company are done on a full cost recovery basis or at a market rate – this will include the use of staff, finance & systems. Any loans given to the company must be at an appropriate rate. If Council land is going to be put into the Company then consideration has to be given as to the use of that land and whether the Council obtains best value for it.
4	Finance	Failure to arrange adequate insurance cover for the Company's liabilities and assets	Low	Low	Ensure insurance broker is kept up to date with the set up and operation of the Company. Regularly review insurance cover and before accepting any order/contract.

	Risk Type	Risk	Probability	Impact	Risk Management
	Council Risks				
5	Finance	Consequences of proposed investment decisions – impact on Prudential borrowing	Low	Low	The Council is required to have regard to CIPFA's Prudential Code for Capital Finance and regard to borrowing decisions. Therefore any decision from the Council to borrow to invest in the Company will need to be included within the Council's prudential indicators reporting the revenue consequences on the decision.
6	Finance	Consequences of adverse financial impact on General Fund and hence taxpayer	Low	Medium	Robust contract and governance arrangements, i.e. contract monitoring, budget monitoring, contract administration procedures.
7	Finance	Challenge from Council's auditors re: financial model and group accounts.	Low	Low	The accounting structure will ensure that all transactions applicable to the Company can be identified using unique transaction records and coding structures.
8	Finance	Failure to comply with taxation laws – corporation tax and VAT	Low	Low	Advice sought and will follow tax advice.
9	Operational	Conflict of interest over workload priorities of Council projects / initiatives / programmes and Company projects	Low	Low	Effective resource planning meetings, continued liaison with key Council programmes and compliance at all times with Corporate themes / objectives strategies at this stage.
10	Operational	Lack of capacity to manage additional work	Low	Low	Careful programming of staff resources, ensuring core responsibilities and services are maintained to Council and constant review of balance of staffing needs, at this stage.
11	Other	Failure to manage reputational impact of the Company on the Council	Low	Medium	A full marketing and communications plan will be developed and maintained to ensure that the branding and image of the Company is in keeping with the Council's wishes and contributes to a positive view of the Council's services.

	Risk Type Council Risks	Risk	Probability	Impact	Risk Management
12	Other	Risks relating to Council's reputation and public perception of its efficiency and effectiveness in the event of the Company's failure	Low	Medium	Risk assessment regularly reviewed.
13	Legal	Contractual Disputes	Low	Medium	The Company to take appropriate legal advice before entering into contracts and the proper governance procedures are to be followed to ensure that contracts which need to Council to approve them are approved correctly. All staff doing work for the Company are to be made aware of the procedures.
14	Finance	Failure of housing to be competitive and/or attractive to tenants	Low	Low	The Company will have to consider this as part of the process for deciding whether to proceed with a development scheme or a street purchase. Consider subsidiary companies with specialist boards and ability to ring fence risk.
15	Finance	Failure to comply with government guidance on investments	Low	Medium	Treasury management advice to be sought on proposed transactions.
16	Other	Inaccuracy/inadequacy of stock condition information on the properties acquired	Low	Low	Robust stock condition survey information obtained prior to purchase.
17	Other	Welfare Reform and implications – Rent payments not being met	High	Medium	Effective housing management to identify and manage arrears
18	Other	Damage to Property – not covered by deposit. Time delay results in further rental loss.	Medium	Medium	Experience indicates there will be some damage. Limit by way of good pro-active management.
19	Other	Property Market – Sales / Rentals – may not command required income	Medium	Medium	Be flexible on tenancies. Keep up to date with market activity.
20	Other	Right-to-buy extended to council owned subsidiaries	Low	Medium	Keep up to date with any proposed legislative changes and assess any resultant impact.

Appendix 2 – Financial Modelling

	Year 1 £000	Year 2 £000	Year 3 £000	Year 4 £000	Year 5 £000	Year 6 £000	Year 7 £000	Year 8 £000	Year 9 £000	Year 10 £000	Year 20 £000	Year 30 £000	Year 40 £000	Year 50 £000
Income														
Private Rental Income	116	235	358	484	615	633	652	672	692	713	958	1,287	1,730	2,324
Total Income	**116**	**235**	**358**	**484**	**615**	**633**	**652**	**672**	**692**	**713**	**958**	**1,287**	**1,730**	**2,324**
Costs														
Management Costs	(5)	(11)	(16)	(22)	(28)	(28)	(29)	(30)	(31)	(32)	(43)	(58)	(78)	(104)
Repairs and Maintenance	(7)	(13)	(20)	(27)	(35)	(36)	(37)	(38)	(39)	(40)	(54)	(72)	(97)	(131)
Allowance for Major Repairs and Maintenance	0	0	0	0	0	(8)	(17)	(26)	(35)	(46)	(85)	(153)	(312)	(419)
Company running costs	(20)	(21)	(21)	(22)	(23)	(23)	(24)	(25)	(25)	(26)	(35)	(47)	(63)	(85)
Total Costs	**(32)**	**(44)**	**(57)**	**(71)**	**(85)**	**(95)**	**(106)**	**(118)**	**(130)**	**(144)**	**(217)**	**(330)**	**(550)**	**(739)**
Financing Costs														
Interest	(100)	(200)	(299)	(397)	(495)	(492)	(490)	(487)	(484)	(480)	(438)	(369)	(257)	(73)
Total Financing	**(100)**	**(200)**	**(299)**	**(397)**	**(495)**	**(492)**	**(490)**	**(487)**	**(484)**	**(480)**	**(438)**	**(369)**	**(257)**	**(73)**
Grand Total Costs	**(132)**	**(244)**	**(356)**	**(468)**	**(580)**	**(587)**	**(596)**	**(605)**	**(614)**	**(624)**	**(655)**	**(699)**	**(806)**	**(812)**
Profit / (Loss)	(16)	(9)	2	17	35	46	56	67	78	88	303	588	923	1,512
Corporation Tax	0	0	0	3	7	9	11	13	16	18	61	118	185	302
Profit / (Loss) after tax	**(16)**	**(9)**	**2**	**14**	**28**	**37**	**45**	**54**	**63**	**71**	**242**	**470**	**739**	**1,210**

Subject:	**EAST KENT WASTE 2021**
Meeting and Date:	**Cabinet – 5 November 2018**
Report of:	**Roger Walton, Director of Environment and Corporate Assets**
Portfolio Holder:	**Councillor Nicholas Kenton, Portfolio Holder for Environment, Waste and Health**
Decision Type:	**Key Decision**
Classification:	**Unrestricted**

Purpose of the report: To provide an update on the East Kent Waste 2021 project, recap on the decisions taken to date and seek confirmation for the next steps.

Recommendation: To confirm agreement:

a) To continue with the same recycling & waste collection methodology as presently implemented across the District when the new service arrangements start in 2021. Food will be collected in a separate dedicated vehicle for the recycling round.

b) To proceed with the procurement of the next recycling and waste collection contract with an outsourced service provider in partnership with FHDC to be operational from the end of the current joint contract on 15 January 2021.

c) To work with FHDC to complete an options appraisal exercise to consider the operational costs, risks and benefits of insourcing the street cleansing service.

d) To authorise the Director of Environment & Corporate Assets in consultation with the Portfolio Holder for Environment, Waste and Health to negotiate and conclude with KCC a new performance payment mechanism to operate from 2021 that takes into account the current level of payments and the need to incentivise improving recycling rates.

e) To agree to establish a project budget of £100K to cover additional consultancy support notably preparation of the new contract specification, new contact and new partnership agreements.

1. Summary

1.1 This report seeks to firstly update Cabinet on the collaborative work undertaken in partnership with the East Kent Districts and Kent County Council (KCC), over the past few months reviewing the current recycling & waste collection service arrangements across East Kent and considering options for their future development.

1.2 The detailed review, which has now been completed, focused in particular on service methodology, infrastructure investment and future governance structures. The work has now progressed to a point where decisions need to be taken as to the future collection methodology and procurement arrangements as set out in the report.

1.3 **Introduction**

Background

1.4 To recap, it is now more than 10 years since the East Kent Districts formed a partnership with Kent County Council with the aim of delivering a consistent collection scheme across the East Kent district which not only delivered savings, but streamlined the four diverse recycling and waste collection methods that existed at that time.

1.5 The project sought to essentially take a 'unitary' approach to the provision of recycling and waste services across East Kent and set aside the previous arrangements which tended to focus on the individual budget imperatives of each Council and instead to implement the solution which offered the greatest savings to the taxpayer, whilst maximising recycling performance.

1.6 This work led to the preparation of a Memorandum of Understanding that sought to bind the Council's together, which was subsequently developed into a detailed legal agreement, the '5-way inter-authority agreement', between the five Councils, signed in October 2010.

1.7 The 5-way agreement commits the four District Councils to make changes to their recycling & waste collection services with KCC committing in return to provide both enabling and capital funding to facilitate these service changes. The agreement extends until 15 January 2021, and contains no provisions for any extension. This date ties in with the end of the joint Dover and Folkestone & Hythe District Council (FHDC) collection contract with Veolia, which includes the KCC responsibilities for reprocessing of the recyclate collected across all four East Kent District authorities.

1.8 Whilst the East Kent Districts continue to work together and share a common service methodology, there are separate contractual arrangements. Canterbury's contract for waste collection and street cleansing was awarded to Serco in April 2013 and has an end date of 31st March 2021, which was intended to closely align with the DDC/ FHDC contract, whilst Thanet District Council continue to run an in house direct service delivery for both waste collections and street cleansing.

Consultancy Review

1.9 As the end date for the inter-authority agreement and current contractual arrangements is approaching, officers have been working with the partner authorities in East Kent reviewing the future development of the recycling & waste collection services in East Kent focusing in particular on service methodology, infrastructure investment and future governance structures.

1.10 It was recognised at the outset that given the complexity of the service and issues to be considered that specialist advice would be required and the Council's therefore agreed to share the cost of procuring consultancy support to prepare a business case covering issues such as service methodology, infrastructure investment and future governance structures as set out in the report, focusing on the benefits of creating a joint waste company.

1.11 They also agreed to seek funding to support the consultancy work from the Kent Resource Partnership (KRP) and the KRP Members Board agreed on 21 February 2018 to allocate £12k from the KRP's Project Budget for 2017/18 towards the consultancy work with the remaining consultancy costs to be split equally between the four East Kent Districts and Kent CC.

1.12 Tenders for the study were duly invited and the consultants Ricardo Energy & Environment appointed in October 2017 to undertake the review, which has been split into two distinct phases:

(a) Phase 1

a. Review of Current Services & Options Appraisal

b. Business case for capital investment

c. Two-tier authority funding arrangements

(b) Phase 2

a. Service Delivery Options Appraisal

b. Assessment of Procurement Market

c. Reporting

1.13 The consultancy work is now virtually complete and Ricardo have now shared with lead officers a first draft of their 'Collections Modelling and Options Appraisal Report', detailing the outcome of the study.

Collection Methodology

1.14 With regards to service methodology, the study reviewed a range of alternative service delivery options and considered the merits of changing the current collection methodology looking at the implications for residents as service users, the financial benefits in terms of reducing servicing costs and the potential to increase recycling volumes and incomes in the process. The consultants were tasked with modelling a range of different schemes including three-weekly collections, fortnightly co-mingled and multi-stream/kerbside sort.

1.15 The financial cost of each scheme was considered from the perspective of the districts as the Waste Collection Authorities, KCC as the Waste Disposal Authority and the 'whole system' combined cost. The outcomes of this modelling are detailed in the 'East Kent Collection Modelling Report' prepared by Ricardo.[1]

1.16 The financials outcomes for the Districts for each collection option are summarised in table below.[2] Please note that the costs represented here are the base operational costs (i.e. without Council overheads)based on a set of assumptions for the purposes of comparison.

[1] Ricardo report available on request.

[2] EK Collections Modelling Report – Table ES1 page iv

Description		Net Collection cost (including Garden Waste Income) - S1			
		Canterbury	Dover	FHDC	Thanet
Opt 0	Current service	£4,115,000	£2,599,000	£2,276,000	£3,295,000
Opt 1a	Current service & no food	£3,281,000	£2,021,000	£1,674,000	£3,069,000
Opt 1b	Twin stream: wk 1 - DMR+food; wk2 - P&C+food	£4,483,000	£2,629,000	£2,448,000	£3,856,000
Opt 1c	Twin stream: fortnightly paper & card + dedicated food	£3,938,000	£2,474,000	£1,992,000	£3,695,000
Opt 2a	3 weekly residual; fortnightly twin stream & dedicated food	£3,944,000	£2,865,000	£2,505,000	£4,056,000
Opt 2b	3 weekly twin stream on separate weeks & dedicated food	£4,298,000	£3,171,000	£2,854,000	£4,065,000
Opt 2c	3 weekly twin stream with food in twin pack	£4,047,000	£2,533,000	£2,486,000	£3,430,000
Opt 3	Glass separate as current	£3,860,000	£2,605,000	£2,238,000	£3,280,000
Opt 4a	Commingled + food in pod	£3,721,000	£2,851,000	£2,333,000	£2,943,000
Opt 4b	Commingled + food in dedicated vehicle	£3,796,000	£2,957,000	£2,528,000	£3,914,000
Opt 5a	Weekly multi-stream	£5,626,000	£3,614,000	£3,810,000	£4,750,000
Opt 5b	Weekly multi-stream with no food	£5,861,000	£3,829,000	£3,230,000	£4,856,000

1.17 The report concludes that, Option 1a, which maintained the current fortnightly collection scheme but without a separate weekly food collection, would be the most cost effective system. However this option was discounted as the reduction in service involved by removing the food recycling option was likely to create hygiene concerns about food only being collected fortnightly, the expected increase in residual waste makes it marginally less cost effective in terms of whole system costs.

1.18 The recommended option is therefore Option 1c, the next most cost effective option, which is the existing collection scheme with a small variation involving the food being collected by a separate dedicated vehicle on the recycling week. This is supported for the following reasons: -

- Operationally it is the next most cost effective option. The flexibility offered by a separate food collection vehicle means that the recycling rounds can be carried out by twin pack vehicles rather than a twin pack with a pod with reduced capacity and removes the current inefficiencies of single pass recycling vehicles needing to tip at separate sites. This system has indeed already been partly implemented by the current contractor.
- From the customer perspective, the proposed collection scheme essentially remains the same. Scheme consistency and familiarity is important to maintaining recycling levels and resident participation. There is no need for a transition period to a new scheme or the cost of new containerisation.

1.19 The recommendation is therefore that the Council continues with the same recycling and refuse collection methodology/scheme as presently implemented across the district with the new service arrangements in 2021. Food will be collected in a separate vehicle for the recycling round.

Service Delivery Arrangements

1.20 The Council's waste, recycling and street cleansing contract with Veolia Ltd currently costs £3.65m per annum. This is broadly split £1.5m for the street cleansing service and £2.15m for the refuse and recycling collection service. The options appraisal exercise conducted by Ricardo focused solely on the future recycling & waste collections service delivery arrangements. Street cleansing is covered later in this report.

1.21 From a customer perspective the contracted service provided by Veolia on behalf of the Council appears to have operated effectively. Key performance indicators for missed bins and load contamination have been met. However, whilst there has been a constructive working relationship with Veolia Ltd it is understood that from, their perspective, the contract is loss-making.

1.22 There is therefore a risk that the costs of the service will increase at the conclusion of the current contract and this has been reflected in the Medium Term Financial Plan which includes provision for a £800k per annum increase in the waste collection and street cleansing budget from April 2021 onwards, a further £200k has been reflected in the Medium Term Financial Plan for the period January 2021 to March 2021. The cost analysis now carried out by Ricardo as part of the options appraisal exercise supports the view that future service delivery costs will almost certainly see an increase.

1.23 In reviewing options for service delivery three options were considered; in-house, outsourced and a local authority owned waste company also described as a 'Teckal' company.[3] The options were firstly considered in terms of cost and then in terms of the risk and benefits.

1.24 The Ricardo final report on this stage of the options appraisal exercise is still being prepared. They have however presented their conclusions to the project group. The key slide is included as Appendix 1. For this Council the estimated cost with profit, pensions and central support assumptions for each option are as follows: -

- Outsourced - £2,860,100 (pension 3%/profit 6%/central support 2%)
- 'Teckal' Company - £3,113,100 (pension 3%/central support 10%)
- Insourced/In-house - £3,222,700 (pension 23%/central support 7%)

1.25 The above costs are assessed on the baseline option (i.e. the current collection scheme, excluding DDC's direct costs for officers and accommodation) which is on an operational level comparable to option 1c as discussed previously. As expected the assessment is based on a number of assumptions and includes caveats as to future costs, market conditions, inflationary pressures and regulatory changes. The best way of looking at the figures is how they rank the options rather than necessarily a guide to future costs. It is however noted that all options exceed the current contract cost.

1.26 In terms of the risks and benefits of each service delivery options these can be summarised as followed: -

- **Outsourced**
  The Council's waste collection services have been provided through outsourced contractual arrangements for more than 20 years and so this is the option that we have most experience of managing. It would allow us to access private sector expertise for what is a complex service as well as the economies of scale of a large supplier. Service performance risk is often dependent on the quality of the

[3] 'Teckal' company or sometimes known as the 'Teckal exemption' after the 1999 ECJ case *Teckal Srl v Comune di Viano and Azienda Gas-Acqua Consorziale (AGAC) di Reggio Emilia*. The judgement allowed an exemption to procurement regulations that allows public authorities to directly award contracts to a separate legal entity provided certain conditions are met in terms of the authority's direction and control over the legal entity and the 'essential' services provided. The 'Teckal' exemption has subsequently been incorporated in UK law in the Public Contract Regulations (Reg. 12).

contractor, the contractual remedies that can be actioned and the financial viability of the bid/operating model if it can be sustained over the length of the contract.

- **Insourced**
  The principal benefit of operating the service in-house is having direct control over the operations. In-house costs are generally expected to be higher mainly due to pension on-costs and central support costs. For the Council the main risk would be in building the new service from the ground up including the major capital outlay and procurement of new vehicles and plants, attracting experienced management staff and the steep learning curve of operating the new service.

  Whilst we have recent experience of this, having insourced the grounds maintenance team in 2017, taking on responsibility for the provision of recycling and waste collections would be a much higher risk and would involve significant capital investment in vehicles, depot facilities etc.

- **Teckal or Local Authority Owned Waste Company**
  A number of Councils have over recent years taken advantage of the Teckal exemption to deliver a range of services including recycling and waste collections. The Teckal exemption allows the contracting authority or indeed authorities to establish a separate vehicle (ordinarily a company) to provide services back to it (or them) and provided the requirements of that exemption are met, a procurement exercise will not be required. It is most commonly used to deliver shared service.

  The exemption was formerly based on case law and whilst case law will continue to be important it has recently been codified in the new Public Contracts Regulations 2015. In round terms exemption requires that:

    - The authority(s) must control the vehicle as if it were an internal department
    - More than 80% of the Teckal company's activities must be with its controlling authority
    - There can be no direct private share or ownership participation in the company

  Compared with an insourced service, the Teckal option would enable the service to be run in a more commercial setting and offers the opportunity to avoid incurring the considerable cost pressures which could arise from Standardisation of Terms and Conditions and the Local Government Pension Scheme implications.

  Equally, when compared with the outsourcing approach, the Teckal option will clearly mitigate the cost of a procurement process, avoid the need to meet a contractor's profit margin, and would potentially provide greater control and flexibility over services.

  Building on the work undertaken by Ricardo, officers have held discussions with Norse, a Teckal company wholly owned by Norfolk CC and visited Suffolk Coastal DC (SCDC) and East Cambridgeshire DC (ECDC) who both operate waste services through a Teckal company although each are taking a very different approach.

  <u>Suffolk Coastal DC</u>

Norse Commercial Services (part of the Norse Group, which is wholly owned by Norfolk County Council) has now entered into joint ventures with over 20 other Councils.

The partnership arrangement dates back to April 2009, when SCDC entered into a service contract with Suffolk Coastal Services Limited (now Suffolk Coastal Norse Limited) for the provision of a range of services including waste management and grounds and buildings maintenance. At the same time SCDC acquired 20% of the shares of Suffolk Coastal Norse (SCN) which is a subsidiary of the Norse Group of companies which is itself a wholly owned subsidiary of Norfolk County Council. Profits and losses are shared 50%/50% with SCN.

The service model involves a governance arrangement which has Norse owning 51% of the company, with the business managed through a Board of Directors and includes a Partnership Board, which includes member representation.

Whilst this potentially provides a stronger level of control over service provision it does appear that this relies to a significant extent on the establishment and maintenance of strong inter-personal relationships between individual managers within SCN and SCDC. Whilst this can be made to work it appeared that there were be risks that the relationship with SCN could evolve into them being treated as an external provider so negating some of the benefits.

East Cambridgeshire DC

East Cambridgeshire DC (ECDC) has taken a very different approach by establishing a bespoke Teckal exempt company which took over responsibility for waste collection services from Veolia earlier this year.

Whilst the service is still bedding it was clear from the discussions that the approach they had taken was providing a greater degree of control both in terms of service provision and budgetary control. Savings had accrued from merging the client operation with service delivery.

In contrast to the experience at SCDC the Teckal company was fully embedded within ECDC and appeared to offer the potential to be more closely aligned with Council objectives.

1.27 In conclusion, whilst the Teckal approach does offer some benefits there are equally significant risks involved in seeking to establish a Teckal company either alone or in partnership with one or more of the East Kent Districts. The recycling and waste collection service is a front line high profile service and operating this either in-house or as a Teckal company, would require significant capital investment and in order to succeed the Council would need to successfully recruit experienced staff to lead the service.

1.28 It is also recognised that the joint contract arrangements with FHDC have enabled savings to be derived from both the sharing of client management costs as well as the contractor's senior management and administration staff.

1.29 On balance therefore, it is proposed to proceed with the procurement of the next waste, recycling and refuse collection contract through a tendering process leading to the appointment of an outsourced service provider. This would appear to be the most cost effective option and the service delivery option with which we have the most understanding and experience of managing and the successful operation of the current contract.

1.30 FHDC are keen to continue to work jointly with DDC in procuring and operating a joint contract including the continuation of the joint contract management arrangements, which see the service being led by DDC with FHDC staff seconded to work with the Waste Services Team based at Whitfield. This proposal was agreed by Cabinet on the 16th October, subject to DDC agreement.

1.31 If Cabinet support the recommendation the project timetable for the procurement process is as follows:

Jan – Jun 2019	Approval of tender/service specification
Jun – Mar 2020	Procurement processes.
July 2020	Approval of tender award for contract appointment
Jan 2021	Start of new services

1.32 As regards collaboration in service provision with the other East Kent Districts, whilst discussions with Canterbury and Thanet continue, there are limited benefits to be derived through the creation of a single service arrangement. Canterbury continue to consider their options and it appears unlikely that Thanet will wish to change from the current in-house arrangement. Given the reasonably tight timeframe DDC needs to determine how it intends to proceed.

Street Cleansing

1.33 The current joint contract with Veolia UK does of course cover street cleansing across the two Districts as well as recycling & waste collections. Whilst the work undertaken by Ricardo was focused solely on the provision of recycling and waste collection services, decisions do also need to be taken about how the Council operates the street cleansing service when the contract ends in January 2021.

1.34 The alternative arrangements available for provision of the service are broadly similar to those outlined above. Street cleansing operations offer some clear synergies with the grounds maintenance service and the level of capital investment required is much less than is involved in say procuring refuse freighters. FHDC's Cabinet considered and agreed a report on October 17th, which proposed undertaking an options appraisal exercise looking into the operational costs, risks and benefits of insourcing the street cleansing service.

1.35 The FHDC report indicated that this exercise will seek to consider issues such as:
- Would an in-house option provide improved direction and control?
- What would the new service arrangements cost?
- How would the depot arrangements work and/or is there a need for investment in a new site?
- Are there benefits of operating street cleansing as a shared service between DDC & FHDC?

1.36 As the services are currently operated jointly, it is proposed to work with FHDC on this review and to provide a further report to Cabinet in early 2019 to tie in with the procurement plan outlined above, as this would still allow the street cleansing service to be incorporated in the specification for the waste collection service if this was considered the best approach or would allow a good lead in time for the procurement of plant and vehicles if the service was insourced.

Joint Working

1.37 Officers from Kent County Council (KCC) have been fully involved within the options appraisal exercise, which also considered the future working relationship between the East Kent districts, acting as Waste Collection Authorities and KCC, as the Waste Disposal Authority. This included looking at the future processing arrangements for recyclate and the form of any future performance payment mechanism.

1.38 Currently, the recycling processing arrangements are included within the 5-Way Inter Authority Agreement between the East Kent Districts and KCC and this KCC element of the service is included within the contract with Veolia. KCC have advised that when this contract ends in 2021 they will directly procure and contract the future recyclate processing agreements and so this will not need to be included within any contractual arrangements procured by the District Councils.

1.39 The 5-Way Inter Authority Agreement includes the arrangements for the payment by KCC to each of the East Kent districts of an annual 'Enabling Payment' to support the provision of services based on the current recycling methodology. This agreement also ends in 2021. The enabling payment as agreed sought to compensate the Districts for the notional additional costs of operating the services over and above simpler collection arrangements and also represents a payment for materials diverted, income generated from recyclate and lower waste disposal costs. The current enabling payment for DDC is fixed at £612,090 and is paid annually.

1.40 KCC have indicated that they are keen to see future payments be more closely related to performance payment, which is similar to the approach taken within West Kent and as reported to KCC's Environment & Transport Cabinet Committee on 15 May 2018. This has been partly driven by KCC's concern that the expected levels of diversion and revenue generated from recyclate sales anticipated under the current agreement have not been achieved and that any future payments made by KCC will only be paid to recognise actual cost savings realised.

1.41 As part of the recent review, Ricardo modelled the new proposed performance payment mechanism based on current recycling performance. For DDC this resulted in a similar annual payment this approach illustrates how reliant the new scheme would be on consistent data accuracy and the potential level of variance between financial years.

1.42 The present position is that KCC have offered to fix the performance payment subject to conditions calculated on recycling performance in 2019/20. This would help smooth the financial impact to annual budgets of price and performance variations. Discussions on the form of such a reward mechanism are ongoing and will ultimately need to be shaped into a formal legal agreement.

1.43 The Districts will be seeking that this agreement should also place obligations on KCC to invest in the provision of infrastructure to avoid the need to tip at separate sites and to make facilities available for the processing of recyclate at convenient locations.

1.44 Cabinet are asked to note the position with these discussions and authorise the Director of Environment & Corporate Assets in consultation with the Portfolio Holder to continue to negotiate and conclude with KCC a new performance payment mechanism to operate from 2021 that takes into account the current level of payments and the need to incentivise improving recycling rates.

Project Support

1.45 Now that the options appraisal exercise has been completed, work now needs to commence on the procurement and delivery stages as outlined above. If cabinet agree the recommendations to continue to work in partnership with FHDC, then further consultancy support is expected to be required for the following: -

- Project support for the procurement programme from planning stage through to service transition.
- Preparation of the tender specification and supporting documents.
- Legal support for the preparation of contract documentation and inter-authority agreements (if required).
- Market expertise and advice for the tender evaluation process.
- Any additional consultancy required for the Street Cleansing options appraisal.

1.46 Estimating the level of support necessary is difficult at this stage but based on the previous project in 2010, it is suggested that a total budget of £100,000 be allocated to support this work.

2. Identification and Evaluation of Options

2.1 There are two Options available to Cabinet:

Option 1: To accept the recommendations regarding the future service methodology for the recycling & waste collection service, the proposal to continue the joint arrangement with FHDC and the associated procedural arrangements and to note the proposals regarding the preparation of a business case for the street cleansing service.

Option 2: To take any other actions as Cabinet may advise.

2.2 Option 1 is the preferred option as the current contract arrangements end in a little over two years and work now needs to be undertaken to ensure continuity of service. The proposals outlined have been shown to provide the most cost effective solution and from the customer perspective, as the proposed collection scheme essentially remains the same, the scheme consistency and familiarity will hopefully ensure in maintaining recycling levels.

3. Resource Implications

3.1 To progress the project through the procurement phase, will require further consultancy support. It is proposed to allocate the sum of £100k for this purpose, £25k from the current year's contingency (Special Projects Reserve),with £75k Special Project reserve funding being proposed for inclusion in the Medium Term Financial Plan to cover costs in 19/20 (subject to approval of the 19/20 budget by Cabinet and Council).

4. Corporate Implications

4.1 Comment from the Section 151 Officer: Accountancy have been consulted and have nothing further to add (VB)

4.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

4.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications however in discharging their duties members are reminded to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 http://www.legislation.gov.uk/ukpga/2010/15

5. Appendices

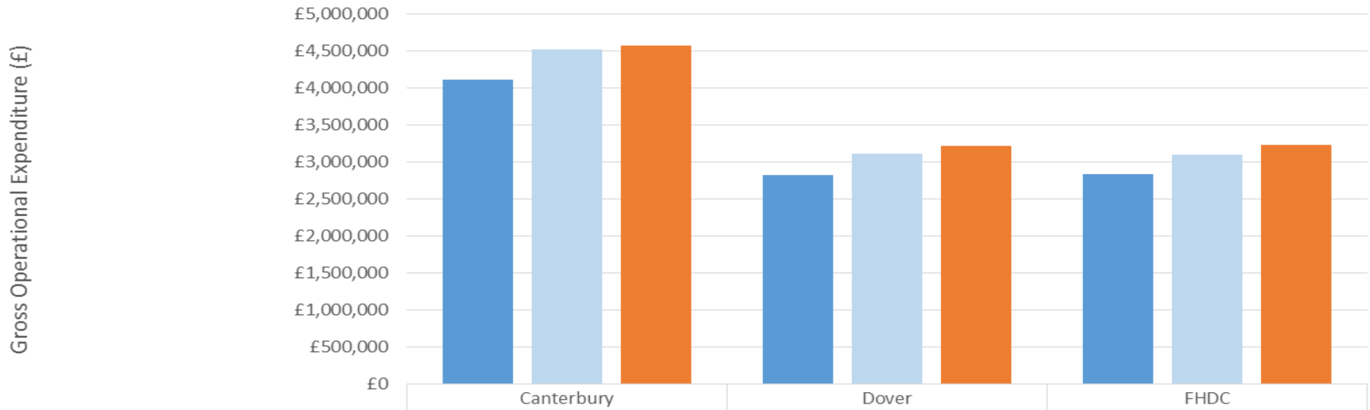
Appendix 1 – Gross Operational Costs: Out-source to In-source

6. Background Papers

None.

Contact Officer: Roger Walton Ext: 42420

Appendix 1 – Gross Operational Costs: Out-source to In-house



	Canterbury	Dover	FHDC
Outsourcing (pension 3%; profit 6%; central support 2%)	£4,114,500	£2,830,100	£2,835,200
Tekal (pension 3%; central support charge 10%)	£4,526,000	£3,113,100	£3,096,700
Insourcing (pension 23%; central support (7%)	£4,569,700	£3,222,700	£3,230,900

For Canterbury, Dover and FHDC modelled current private sector pensions of 3% and profit margins (6%); in-sourced pension of 23% and central recharge costs (7%);
Teckal private sector 3% pension and higher overheads (central support) 10% reflecting less opportunity for economies of scale.

- In-sourcing is likely to be more expensive due to pension impacts
- Teckal likely to be cheaper than in-sourcing as private sector pensions can be paid
- Extent to which out-sourcing delivers a saving depends on overheads and profit margin built into private sector cost model vs degree of additional resource required by the Council to bring services in-house

Ricardo PLC 2018