



**Lewes District Council**

### **To all Members of the Scrutiny Committee**

A meeting of the **Scrutiny Committee** will be held in the **Warren Room, Lewes House, High Street, Lewes, BN7 2LX** on **Tuesday, 08 November 2016 at 10:00** which you are requested to attend.

Please note the venue for this meeting which is wheelchair accessible and has an induction loop to help people who are hearing impaired.

This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

26/10/2016

Catherine Knight  
Assistant Director of Legal and Democratic Services

### **Agenda**

- 1 Minutes**  
To confirm and sign the Minutes of the Meeting of the Scrutiny Committee dated 8 September 2016 (copy previously circulated).
- 2 Apologies for Absence/Declaration of Substitute Members**
- 3 Declarations of Interest**  
Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Written Questions**  
To deal with written questions from councillors pursuant to Council Procedure Rule 11.3 (page D8 of the Constitution).

- 5 Urgent Items**  
Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.
  
- 6 Options for the Establishment of a Housing Investment Company (Page 3)**  
To consider the Report of the Director of Service Delivery (Report No 143/16 herewith)
  
- 7 Portfolio Progress and Performance Report 2016/17 - Quarter 2 (July to Sept 2016) (Page 22)**  
To consider the Report of the Chief Executive (Report No 144/16 herewith)
  
- 8 Response to Petition to Full Council Regarding Children's Play Facilities in Lewes (Page 39)**  
To consider the Report of the Head of Regeneration and Investment (Report No 145/16 herewith)
  
- 9 Scoping Reports for proposed Scrutiny Review of Transport (Page 42)**  
To consider the Report of the Director of Regeneration and Planning (Report No 146/16 herewith)
  
- 10 Forward Plan of Decisions – 1 November 2016 to 28 February 2017 (Page 47)**  
To receive the Forward Plan for the Council (copy herewith)
  
- 11 Scrutiny Committee Work Programme 2016/17 (Page 56)**  
To consider the Scrutiny Committee Work Programme 2016/17 (copy herewith)
  
- 12 Date of Next Meeting**  
To note that the next meeting of the Scrutiny Committee is scheduled to be held on Thursday, 12 January 2017 in the Ditchling Room, Southover House, Southover Road, Lewes commencing at 10:00am.

For further information about items appearing on this Agenda, please contact Jen Norman at Southover House, Southover Road, Lewes, East Sussex, BN7 1AB. Telephone 01273 471600

**Distribution:**

Councillors: P Gardiner (Chair), S Adeniji, J Carter, N Enever, J Harrison-Hicks, V Ient, I Linington, R O'Keeffe, S Osborne, J Peterson and C Sugarman

**Agenda Item No:** 6 **Report No:** 143/16  
**Report Title:** Options for the Establishment of a Housing Investment Company  
**Report To:** Scrutiny Committee **Date:** 8 November 2016  
**Cabinet Member:** Cllr. Ron Maskell, Cabinet Member for Housing  
**Ward(s) Affected:** All  
**Report By:** Ian Fitzpatrick, Director of Service Delivery  
**Contact Officer(s)-**

**Name(s):** Leighton Rowe  
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#### **Purpose of Report:**

To seek approval for the development of a new housing and regeneration investment company.

#### **Officers Recommendations:**

- 1 To delegate authority to the Director of Service Delivery and the Assistant Director of Legal and Democratic Services, in consultation with the Lead Member for Housing and their counterpart at Eastbourne Borough Council, the Cabinet Portfolio Holder for Community, to undertake work to set up a joint Lewes District Council/Eastbourne Borough Council wholly owned housing investment company.
- 2 In the event that the establishment of a joint company on the basis set out in (1) above is not considered appropriate or agreed by Eastbourne Borough Council, to delegate authority to the Director of Service Delivery and the Assistant Director of Legal and Democratic Services in consultation with the Lead Member for Housing, to set up a Lewes District Council wholly owned company.
- 3 To authorise the Director of Service Delivery in consultation with the Leader and Lead Member for Housing to procure specialist advice as necessary up to a value of £30k, this being the estimated cost of advice on setting up the company together with costs of developing the business case and investment proposals.
- 4 Any investment proposals to be reported back to Cabinet for approval.

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#### **Reasons for Recommendations**

- 1 The role of local authorities in shaping housing markets and meeting housing needs and aspirations has changed significantly in recent years.
- 2 In addition, the ability of the council to invest in new council-owned homes in the traditional way is constrained by the caps on borrowing that apply to the Housing Revenue Account (HRA).
- 3 Although the HRA borrowing is currently £7.2m under the cap, the Government has recently introduced a series of measures which will reduce income, and restrict the HRA's ability to afford the interest and principal repayments associated with additional borrowing to fund new homes for rent.
- 4 This means that LDC will need to consider how to invest in ways that do not impact adversely on the HRA and find new ways to bring forward housing.
- 5 A council-owned investment company enables the development of a wide range of housing products across rented and owner-occupied tenures that can be tailored to meet specific housing needs and priorities and so reduce demand for high cost services, such as supported housing for older people.
- 6 The Council also recognises that there is a role to play in taking up opportunities for commercial development where this might have a regenerative effect and/or assist the council in meeting strategic housing priorities.
- 7 Establishing a joint LDC/EBC company would simplify the sharing of necessary officer skills in managing future projects, allow the councils to choose to share risk on larger ventures and provide a stronger financial platform for activities in new commercial areas.
- 8 The company will be wholly-owned by the councils and any investment decisions would require LDC lending approval before development or purchase began, subject to appraisal, therefore the Council would only approve schemes it is willing to support.

## Information

1. The Housing and Planning Act 2016 and the Welfare Reform Act 2016 have brought about a number of implications for the ways that affordable housing is developed and managed in the future:
  - a. The extension of the Right to Buy to all tenants of affordable housing requires Councils holding housing stock to pay an annual levy in order to finance this change in policy. The value of each Council's levy will be based on the amount which it could generate from the sale of its higher value HRA homes. Although there will be no compulsion on councils to sell homes, it may not be possible to fund the levy in any other way. The Government is expected to release details of the levy in the autumn, ahead of implementation in 2016/17. The establishment of an investment company could provide a vehicle for the Council to maintain control of these homes as part of a portfolio of housing and regeneration assets..
  - b. All affordable housing providers are required to reduce the rent of current tenants by 1% annually for the 4 years 2016/17 to 2019/20. This has a

significant impact upon the HRA business plan, and makes it more difficult to finance new Council housing solely through HRA borrowing.

- c. From 1 April 2017, higher income council tenants will be required to pay a higher level of rent, paying 15p extra each week for each £1 of income earned above a £31,000 threshold, until market rent level is reached. The additional rent income generated will be paid to the Government. It is possible that this change will encourage higher income tenants to exercise their Right to Buy.

2 Officers have been examining delivery mechanisms used by other Local Authorities, many of which have set up their own housing companies as a means of:

- directly delivering market sale homes in order to cross subsidise housing delivery
- delivering low cost home ownership homes products, either directly themselves or through housing provider partners
- investing in existing housing, including dilapidated market housing, as a regeneration tool

Appendix B sets out details of a number of councils with details of the housing companies established by them and the housing outcomes achieved through the use of those companies.

3 Eastbourne Borough Council has already created a housing investment company: Eastbourne Housing Investment Company Limited (EHICL). This is a private company limited by shares where the Borough Council is the sole owner and shareholder. The company has been established in order to invest in both housing and business opportunities, with an initial focus upon regenerating the Devonshire ward of the Borough.

*EHICL Key Priorities are:*

- a) To improve the built environment in key identified areas, encourage greater tenure diversity, the highest quality of supply and provide some much needed new housing.
- b) To establish different and innovative approaches to delivery, partnerships and funding so as to minimise reliance on external funding and support wider strategic objectives/projects.
- c) To place local communities at the heart of the regeneration process and to ensure that maximum benefits are derived which support sustainable communities.

The company is supported by a “Housing & Economic Development Partnership” (HEDP) officer team, which is a joint initiative between Eastbourne Borough Council and Eastbourne Homes Limited, and which provides development expertise that has already delivered over 100 affordable homes in Eastbourne. A programme of

potential new housing is being planned through EHICL that will seek to combine commercial opportunities with strategic corporate objectives for sustainable communities and income generation.

## Financial Appraisal

- 4 The initial cost of setting up the proposed company, developing the business case and investment proposals is estimated to be £30,000. This can be funded from the General Fund budget for service priorities.
- 5 Operating with a Council owned company to develop and own housing as part of a programme of wider regeneration initiatives would have implications for both the HRA and General Fund. Under this route, the Council could dispose of land to the company and provide the company with financial assistance to develop a mixed portfolio of housing.
  - (a) Housing Revenue Account – if sites transferred to the company were in use by the HRA and generating income, for example garage sites or commercial premises, that income would be lost to the HRA. This loss of income would, however, be offset in whole or part by a reduction in annual and cyclical maintenance costs, and management costs could also reduce. In the event that HRA sites were sold to the company, the capital receipts could be used to support any capital expenditure on HRA housing (or General Fund projects).
  - (b) General Fund – the principal benefits to the General Fund would be:
    - Interest earned on loan to the company – the company would need to borrow to fund its investment in new affordable homes. The General Fund is able to make a loan to the company, subject to there being sufficient assurance that the company will be able to repay the loan from income generated from its property portfolio. The loan would be at a commercial rate of interest, exceeding the return which the Council can make from ‘treasury’ investments with banks and other counterparties. This investment income would provide an additional source of income to the Council, reducing the savings target needed in response to reductions in Government grant.
    - Any surplus generated by the company (after any corporation tax due) and not required for reinvestment could be distributed to the council by virtue of their status as shareholders
    - New Homes Bonus – assuming that this Government scheme remains in place, the Council would receive additional revenue grant of £1,500 annually for 6 years for each new home which the company delivered.
- 6 The company will be responsible for the repayment of any loans made to it by the Council(s). The Council would bear the risk of the company defaulting on repayment, in the event that the company does not perform as expected and sustains losses rather than generating surpluses. This situation could arise if, for example, there is a downturn in the property market.

## **Legal Implications**

- 7 The Legal Services Department has made comments which can be found within Appendix A

## **Risk Management Implications**

- 8 The risks and issues of a council-owned investment company will be considered within the company business case.

Strategic oversight and direction of the company and its activities would remain firmly with the council, making sure that the company's activities are in line with corporate priorities, policies and strategies.

Further work to ensure due diligence will be undertaken and reported back to Cabinet at the point that the company becomes active with future schemes.

## **Equality Screening**

- 9 An Equality Analysis Report (Appendix C) has been undertaken. No significant negative or positive outcomes have been identified.

## **Appendices**

### **10**

Appendix A : Legal Implications

Appendix B: A list of housing companies established by Council

Appendix C: Equalities Impact Report

## **Legal Memorandum**

### **Subject: Establishment of a Housing and Regeneration Investment Company**

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*Cabinet is advised that the establishment of either a Lewes company or a joint Lewes/Eastbourne company does not of itself commit the District Council to any particular project or to the development of any particular sites. The creation of a company simply provides the Council with access to a readymade housing and regeneration delivery vehicle which it can make use of quickly in the event that an appropriate opportunity presents itself.*

*ANY proposal that the council should commit expenditure or resources to any particular project will first have to be the subject of a Cabinet report containing a fully costed business case and viability assessment.*

*Further, the establishment of a company will be just one tool available to the Council to use for housing and regeneration delivery; its establishment does not preclude the use of other public sector or joint private/public sector partnerships.*

#### **1. Information**

The Council has adopted a Council Plan for the period 2016 – 2020 and this Plan identifies the delivery of sustainable new housing and infrastructure as a key priority for the Council:

The Council Plan gives examples of current projects which are progressing this key priority. These include the joint venture with commercial partner Santon to develop over 400 new homes (40% affordable) as part of the North Street Quarter regeneration scheme in Lewes, and the Council's Local Growth Fund project.

##### **1.1. National Context**

The government encourages the establishment of local housing companies, providing this is done with the objective of providing new homes and not as a means of circumventing established right to buy provisions.

A written ministerial statement (originally dated 20 March 2015 and reaffirmed in March 2016) states:

“It is important that new council tenants should have access to the Right To Buy, and that new homes should not be built by councils which are excluded from the right to buy”

The Government recognise the benefits that public private partnerships can bring in supporting new forms of housing. The Government welcome approaches where local housing companies are developing new homes for market sale or purchasing private



rented homes for the accommodation of homeless households, through an appropriate legal entity structure and/or the borrowing does not count as public sector borrowing.

However, it is not acceptable for local authorities to establish new wholly owned or controlled housing companies deliberately to avoid the Government's reinvigorated right to buy policy and the limits on indebtedness put in place to help address the inherited deficit. Specifically, the Government will not support the establishment of such companies where they are developing or acquiring and retaining new social or affordable units for rental purposes. The Government believe that local authorities should support people to achieve their aspiration for home ownership through the right to buy."

## **1.2. Ownership Options**

There are two primary options available to Lewes District Council in moving forward:

1.2.1. Establish a new joint housing investment company with Eastbourne Borough Council. There is scope for Lewes and Eastbourne to set up a joint housing investment company that create more formalised framework for sharing the skills, expertise and cost of existing officer support. An advantage of a joint company, as opposed to each council establishing its own company is that the larger entity would be expected to have greater market impact and to gain the benefit of economies of scale in procurement. The joint company would have the benefit of "in-house" support from officers at Eastbourne who already have experience of setting up and operating a housing company in a commercial environment.

In this scenario there are a number of options as to how a company is constructed to ensure that each Council's investments are equitable and that the money and assets of each Council are protected against future decisions made by either one.

1.2.2. Establish a Lewes District wholly-owned housing company. This option would not require specialist officers to be employed but could still make use of HEDP expertise, through the existing mutual co-operation agreement which exists between EBC, LDC and Eastbourne Homes Ltd.

In this scenario the two councils would each retain their own separate companies to take forward each authority's projects and to hold its own assets. Possible disadvantage of this option is that officers could have to duplicate work across the two Councils and have to service different companies with very similar objectives.

## **1.3. Housing Company Advantages**

Subject to resource capacity there would be the opportunity to trade and export best practice beyond district and borough boundaries and generate income to the company which might then be invested in new housing and regeneration projects.

Such a company would have the ability to borrow money either from the councils or from the market and would be able to develop new housing and hold ownership of the housing to use or dispose of it as it saw fit.

A council-owned development company (joint or otherwise) would be able to:

- borrow for housing investment without being constrained by HRA borrowing restrictions, although the rules and principles around Prudential Borrowing would be applicable.
- develop a wide range of housing products across rented and owner occupied tenures that could be tailored to meet specific housing needs and priorities and so reduce demand for higher cost services, such as supported housing for older people at local and county level.
- choose to sell properties to residents at a discount if it so wishes, even though housing units built by the company would not carry a statutory right to buy
- choose its own rent levels for those units owned by the company for rent
- use any surplus earned from the sale of homes developed by the company for expenditure on any area of public service it chooses
- A joint approach would serve to share and dilute risks that may come with many potential investments

#### **1.4. Housing Company Risks**

However whilst the council (or the two councils in the case of a joint company) remain sole shareholder(s) it/they will carry the full risk of any investments that don't perform as expected or which generate losses rather than surpluses if, for example, the market dips. The company may also be left owning assets that it cannot sell or let. The company will be responsible for the repayment of any loans made to it by the council(s)

A joint approach may also create additional issues around control and governance that would need to be agreed by the District Council and the Borough Council in creating a joint company. Key issues to be agreed would be the precise objects of the new company, the content of the Shareholders' agreement and deadlock arrangements.

#### **1.5. Other Legal Considerations**

The interests of the company and each individual council would remain distinct. Internal arrangements would need to be put in place to ensure that both the councils and the company would have their own officer support for legal and financial advice. The company will be a separate legal entity. Decisions about the level of financial and in-kind support to give to the joint company (eg loans made to the company or guarantees given on behalf of the company) would remain as decisions for each individual council's Cabinet to make and there is no expectation that such support would be forthcoming without a rigorous viability assessment of any proposed project. The use to be made of the company's operating budget would be a matter for the company's Board of Directors to make. Directors would need to act in the best interests of the company when making Board decisions even if they are also

council members. Provisions about how to deal with conflicts of interests will need to be put in place.

It would be possible for the joint company to set up one or more individual subsidiary companies either as separate Lewes and Eastbourne asset holding companies or to deal with specific projects. This might be a suitable way forward in the case of major projects which involve an area specific to one of the two councils. This would allow assets and liabilities to be ring-fenced within the subsidiary company. The ability to do this is important to Lewes as it holds more land assets than Eastbourne. Any joint company structure will need to ensure there are mechanisms for agreeing apportionment of risk and profit between the councils. Lewes Council will want to ensure that Lewes District benefits from any profit made from District assets and at the same time does not take on undue Eastbourne risk.

One issue to be sorted in using subsidiary companies will be the extent, if any, to which the joint parent company might/might not be prepared to give any sort of guarantee on a project. This may differ according to the nature of the project. Subject to the content of any Business case it is anticipated that any company would be:

- a company limited by shares
- a wholly owned subsidiary of Lewes District Council and Eastbourne Borough Council
- set up with widely drawn objects but these are to include holding property assets, acting as landlord, selling property assets, providing specialist advice to third party bodies
- constituted so that all board directors to be Lewes and Eastbourne council appointees
- part of each Council's group accounts

In the event that any company is to be established, further thought will need to be given to the various options available to safeguard the interest of both councils. Matters to be considered include:

- objects of the company
- company structure and governance
- branding
- operating budget and funding
- possible secondment of staff to the joint company
- insurances
- directorships
- delegations
- control and minority protection
- shareholder's agreement, deadlock, conflict resolution
- ownership and management of properties developed by the company.
- Exit and termination provisions

In addition, formal agreements between the council(s) and the company will need to be entered into on those occasions when the council(s) provides the company with

financial assistance in cash or in kind eg. grants, loans, guarantees. Internal auditor should be provided with access to information held by the company and its subsidiaries. Procurement and state aid rules will still be relevant.

### **1.6. Pre-requisites to trading as a company**

It is a statutory requirement that any local authority must prepare a detailed business case, including a risk analysis before embarking on trading through a company. That business plan must be approved by the Council (ie by its Cabinet in an executive model) before trading starts.

If the two councils wish to set up a joint company then each council will need to independently consider and approve that business case before trading can start. Government Guidance exists as to the way in which a Business Case and Business Plan should be produced.

## **2. Legal Implications**

- 2.1.** There are a number of powers (including powers under Part II of the Housing Act 1985) that relate to the Council's ability to establish and participate in a housing delivery vehicle, as well as the power to provide financial assistance (eg loans and share capital) and land disposal powers. It will be important to fully address the conditions for the exercise of these powers as the arrangements are finalised as some of the powers (eg power to provide financial assistance for privately let housing and sale of housing land) legislate that any transaction undertaken will be void unless the detailed requirements of the specific provisions are followed. Where this sort of provision applies it will override the use of other more general powers such as the general power of competence referred to below. It is considered that these issues are all capable of satisfactory resolution within the current consent regime.
- 2.2.** Under Part II the Housing Act 1985 the Council has a duty to consider housing conditions in its district and the needs of the district with respect to the provision of further housing accommodation.
- 2.3.** The Council may provide housing accommodation directly but the Housing Act 1985 specifically provides that the Council does not have an obligation itself to acquire or hold any houses or other land for the purposes of its duties as a local housing authority under Part II of the Housing Act 1985.
- 2.4.** Alongside any other powers required for particular elements of this proposal, the Council can rely on its general power of competence under Section 1 Localism Act 2011 as its main power to facilitate the formation of the proposed housing delivery vehicle. This is a very broad power.
- 2.5.** The Council's strategy in setting up a new company and thereby holding some of its housing portfolio in a separate vehicle is, and needs to be, to seek to differentiate between its general needs housing stock and the housing that it develops for affordable rent and sale for the purpose of achieving *wider* community and regeneration objectives. The access routes to the affordable housing provided by the

two legal entities (ie. district council and the company) will be different. Affordable rental properties available through the company cannot be restricted to those eligible for access to the council's general HRA stock. These company properties will be available to economically active individuals with certain minimum income levels.

**2.6.** The business case needed to support the company's trading plans will need to show that it is capable of achieving wider reaching objectives, such as economic development, creating employment and training opportunities and attracting tourism to a specific geographic area in addition to providing housing.

## **2.7. Land Transfer Consents**

**2.7.1.** Statutory land transfer provisions exist to protect land held by local authorities. Any proposed transfer of land from the Council to the company will need to be looked at on a case by case basis as different procedures need to be used depending on whether the land is HRA land or General Fund land and whether it is land which it is proposed to transfer at an undervalue.

**2.7.2.** Depending on the particular circumstances of the proposed transfer it may be necessary to obtain prior Secretary of Consent.

## **2.8. State Aid and Procurement**

**2.8.1.** If the Council provides aid eg. makes a loan or provides a guarantee to the company, or transfers land to it at an undervalue and thereby favours the new company over other undertakings/organisations then this can amount to state aid. The award of such state aid may be made lawful providing such aid is given in compliance with the "Market Economy Operator Principle" (MEOP) which requires the council to act in a way that a private lender/investor might act in the same circumstances eg provide a loan on commercial terms and at a commercial interest rate having proper regard to commercial risk.

**2.8.2.** It is suggested this test might be satisfied by ensuring that external expert advice is taken by the council on those occasions it is considering making available a loan or similar benefit to the company to ensure it satisfies the MEOP and by ensuring that legal documentation is always drawn up between the council and the company setting out the specifics of the loan/benefit and a method for monitoring and potentially recovering aid.

**2.8.3.** It is possible that the Council may properly rely on the "teckal" exemption for services between the company and the Council (the company will need to remain solely in contracting authority ownership with its owners exercising a control which is similar to that which it exercises over its own departments and at least 80% of the company's work must be entrusted to it by the contracting authority owners – regardless of who the beneficiaries might be). This will need to be confirmed once the final structure is determined.

**2.8.4.** The company may also be a contracting authority in its own right and therefore subject to the public procurement regulations when awarding

contracts. This will depend on it being a “body governed by public law”. The company’s status in this regard will be confirmed once its structure is determined.

## **2.9. General Consideration of Council's Fiduciary Duty**

**2.9.1.** In deciding whether and how to exercise its powers in relation to this proposal, Cabinet must consider the council’s fiduciary duty to conduct its administration in a fairly business-like manner with reasonable care, skill and caution along with a due and alert regard to the interest of the Council Tax payers.

## **2.10. Local Government Act 1999**

**2.10.1.** Officers will need to have regard to the need for appropriate consultation during the development of this proposal.

## Appendix B: Local authority housing companies

Council	Company details	Housing outcomes
Ashford	Wholly owned subsidiary being established in 2014	New build mixed tenure homes
Barking & Dagenham	'Barking & Dagenham Reside' - sale & leaseback partnership (2012)	476 new build affordable homes
Birmingham	'Birmingham Municipal Housing Trust' – wholly owned subsidiary (2009)	New build affordable rent and market sale homes. Delivered 1,400 homes since 2009.
Ealing	Wholly owned subsidiary currently being developed	500 new build mixed tenure homes
Enfield	Wholly owned subsidiary being established in 2014	Purchase and repair affordable homes
Greenwich	'Meridian Home Start' - wholly owned subsidiary (2011)	Affordable rent
Newham	'Red Door Ventures' - wholly owned subsidiary (2014)	3,000 new build mixed tenure homes
Shepway	Wholly owned subsidiary being established in 2014	New build mixed tenure homes
South Cambridgeshire	'South Cambs Limited' - wholly owned subsidiary (2013)	Affordable rented property by leasing empty publicly owned homes, and redevelopment of council owned bedsits. New build market rented homes with long term tenancies. Forty homes planned in the first two years.
South Holland	'South Holland Homes' - wholly owned subsidiary (2010)	New build affordable rent and management of affordable homes built by private developers as part of their S.106 planning obligations.
Thurrock	'Gloriana Thurrock Limited' - wholly owned subsidiary (2013)	1000 new homes - predominantly affordable rent supported by open market sale and shared ownership
Wokingham	'Wokingham Housing Limited' - wholly owned subsidiary (2011)	180 new build affordable housing, shared ownership and private sale homes over five years and purchase of affordable homes developed through S.106 policies.

## **Appendix C: Equality Analysis Report Template**

<b>Title:</b>	<b>Options for Creating a Housing Investment Company</b>
<b>EA Lead :</b>	<b>Leighton Rowe</b>
<b>EA Team:</b>	<b>Strategic Policy</b>
<b>Date Commenced:</b>	<b>August 2016</b>
<b>Target Completion Date:</b>	<b>Cabinet Decision on 28<sup>th</sup> September 2016</b>
<b>Reason for assessment:</b>	<b>Cabinet Decision</b>

### **Context and Scope**

1. What are the main purposes and aims of the service/project/decision?

*To report the findings of a report into investment options for the Council to Cabinet and recommend further work is undertaken into establishing a delivery vehicle.*

2. What effect does it have on how other organisations operate and what commitments of resources are involved?

*The initial work may cost up to £30,000 and potential further impact for Eastbourne BC if they decide to create a joint company with LDC.*



3. How does it relate to the demographics and needs of the local community?

*The work is designed to invest in housing which could help to regenerate areas and meet local housing needs.*

4. How does it relate to the local and national political context?

*The recommendation for establishing a delivery vehicle is aimed at delivery of increased numbers of affordable housing, which is a key political target at both local and national levels.*

5. Is there any obvious impact on particular equality groups?

	Race (includes ethnic or national origins, colour, & nationality)			Disability (includes mental & physical)			Gender (includes gender reassignment)			Pregnancy (includes maternity & paternity)			Sexual Orientation (includes heterosexual, homosexual & bisexual)			Religion & Belief (includes all faiths, beliefs & agnostic)			Age (includes all age groups)		
Impact	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None
Tick if relevant			x			x			x			x			x			x			x

6. How does it help to us meet our general duties under the Equality Act 2010?

*There are no obvious impacts on people with protected characteristics; our general duties under the Equality Act 2010 are not compromised.*

7. What is the scope of this analysis?

*To ensure that no unlawful discrimination would result from the Cabinet's recommendation decision.*

### **Information gathering and research**

8. What existing information and data was obtained and considered in the assessment?

*No further information was required.*

9. What gaps in information were identified and what action was undertaken/is planned to address them?

*No gaps in information were identified.*

10. What communities and groups have been involved and what consultation has taken place as part of this assessment?

*None*

## **Analysis and assessment**

11. What were the main findings, trends and themes from the research and consultation undertaken?

*The main finding was that no unlawful discrimination would result from the Cabinet's recommended decision.*

12. What positive outcomes were identified?

*None identified*

13. What negative outcomes were identified?

*None Identified*

### Action planning

14. The following specific actions have been identified: *(see paragraph 25 of the guidance)*

Issue Identified	Action Required	Lead Officer	Required Resources	Target Date	Measure of Success

## Summary Statement

Between 3<sup>rd</sup> November and 4<sup>th</sup> August Equality Analysis was undertaken by Leighton Rowe on the Cabinet Report to consider a housing and regeneration investment company.

Due regard was given to the general equalities duties and to the likely impact of the policy/service/decision/project\* on people with protected characteristics, as set out in the Equality Act 2010.

The assessment identified: *(\*delete as appropriate)*

\*The decision was found to have no impact on any of the protected groups.

## Approval

Director/Head of Service	Ian Fitzpatrick
Signed	
Dated	

**Agenda Item No:** 7 **Report No:** 144/16  
**Report Title:** Portfolio Progress and Performance Report 2016/17 - Quarter 2 (July to Sept 2016)  
**Report To:** Scrutiny **Date:** 8 November 2016  
Cabinet 16 November 2016  
**Cabinet Member:** Councillor Elayne Merry, Portfolio Holder  
**Ward(s) Affected:** All  
**Report By:** Robert Cottrill, Chief Executive

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**Purpose of Report:**

1. To consider the Council's progress and performance in respect of key projects and targets for the second quarter of the year (July to September 2016 (Quarter 2)) as shown in Appendix 1.

**The Scrutiny Committee is recommended to;**

2. Consider progress and performance for Quarter 2 and make any relevant recommendations to Cabinet.

**The Cabinet is recommended to;**

3. Consider progress and performance for Quarter 2 and consider any relevant recommendations made by the Scrutiny Committee.
- 

**Reasons for Recommendations**

4. To enable Scrutiny and Cabinet to consider specific aspects of the Council's progress and performance.







**Background**

5. The Council has an annual cycle for the preparation, implementation and monitoring of its business plans and budgets. This cycle enables us regularly to review the Council's work, and the targets it sets for performance, to ensure these continue to reflect customer needs and Council aspirations.

6. It is important to monitor and assess progress and performance on a regular basis, to ensure the Council continues to deliver priority outcomes and excellent services to its customers and communities. These priorities are set out in the Council Plan that was adopted by the Council in February 2016, supported by associated projects and service performance targets approved by Cabinet in July 2016.
7. The Scrutiny Committee has a key role in terms of oversight of the Council's progress and performance and challenging areas of under-performance. This report sets out the Council's performance against its targets and projects for the second quarter of 2016/17 (the period running from 1<sup>st</sup> July to 30<sup>th</sup> September 2016).

### **Performance in the Second Quarter of 2016/17**

8. Appendix 1 provides a high level summary of progress and performance arranged by Cabinet portfolio. The summary shows where performance and projects are 'on track/on target' and where there are areas of risk, concern or under-performance. Where performance or projects are 'off track/below target', an explanation of the management action being taken to address this is also provided.
9. Detailed project/performance tracking information is recorded in the Council's performance management information system (Covalent). The system uses the following symbols to indicate the current status of projects and performance targets:

-  = Performance that is at or above target;
-  = Project is on track;
-  = Performance that is slightly below target but is within an acceptable tolerance/projects where there are issues causing significant delay or change to planned activities;
-  = Performance that is below target/projects that are not expected to be completed in time or within requirements;
-  = Project has changed or been discontinued;
-  = Data with no performance target.

### **Portfolio Progress and Performance – Quarter 2**

10. An overview of the Council's performance for the year as at the end of the 2<sup>nd</sup> quarter is set out below:
  - 82% of the Council's key projects were either completed or on track at the end of the 2<sup>nd</sup> quarter. There are no project delays which constitute any serious risk to the Council.

- 86% of the Council's performance targets were either met, exceeded or within acceptable levels during the 2<sup>nd</sup> quarter.
- 8 indicators did not meet planned targets during the 2<sup>nd</sup> quarter (see paragraphs 17-19 below).
- Customer feedback: There were 322 complaints and 14 compliments made by customers during the 2<sup>nd</sup> quarter.

**The Good News** –  Notable project milestones or service performance achieved.

11. This section of the report provides specific highlights by portfolio in terms of notable project progress or performance achievements.

#### Regeneration and Business Portfolio

12. All four regeneration projects are on track. Art Wave, which was the main piece of project work within the Tourism Strategy this year, provided again a very successful and well attended series of events across the district.

#### Value for Money Portfolio

13. Council tax collection continues to be on track to achieve the end of year target of 98%. However, it should be noted that business rate collection is below the target for this point in the year. This is partly due to more businesses choosing to pay over 12 monthly instalments. Officers are considering whether the target profile should be amended to reflect this, as it is likely that the annual target will be achieved.

#### Housing Portfolio

14. All three housing projects are on track. Performance across the key measures in housing is also on track with only rent collection being marginally below target.

#### Waste and Recycling Portfolio

15. The strategy is processing as planned, with the exception of the depot (see para 19) with a report on future direction having been considered by Cabinet in September 2016. The Garden Waste service continues to be rolled out with plans in place to move to new areas in the spring.

#### Planning Portfolio

16. Good progress is being made in Neighbourhood Planning, with two plans adopted (Newick and Hamsey) in the second quarter. Wivelsfield's plan was subject to referendum on 27 October 2016 and is subject to decision elsewhere on this agenda.




17. Performance across all the key measures in planning is on track for the second quarter.

#### People and Performance Portfolio

15. Staff sickness has fallen to an average of 2 days per full time equivalent in the second quarter, taking performance in this area to within target.

#### Customers and Partners Portfolio

16. Calls to the customer hub continue to be answered within the target time with an average of 12 seconds being achieved this quarter. Sign-up for the council's email alert system continues to grow, exceeding the target (1,500) for the second quarter, with 2,271 new sign ups.

**Areas for Improvement** –  Project/performance is slightly off track (but within acceptable/5% tolerance).

17. The 'amber' warning flags up performance that has fallen very slightly below target or projects that are slipping behind schedule or going slightly off-track. There were 4 performance areas which fell into this category during the second quarter:


- Payment of Invoices
- Collection of rent
- Complaints responded to within target time
- Wave leisure: visits to leisure centres

Action being taken to tackle performance issues in these areas are set out in appendix 1.

18. Only 2 projects are being reported as amber at the end of the second quarter;

The Local Plan (Part 2): Work is progressing. It is still expected that the public consultation will take place in April/May 2017, however the current judicial review may have further impact.

Devolution: Work has recommenced with Newhaven Town Council to transfer a number of sites which have been agreed by Cabinet. During Q3, both Peacehaven and Telscombe Town Councils will be contacted with a view to commencing the devolution process.

**Areas for Improvement** –  Performance well below target and/or project significantly off-schedule or revised.

19. Where service performance falls well below target levels, or a project is significantly off track or has been significantly revised or cancelled, priority is

given to addressing these issues. There were 2 areas where this was the case in the second quarter;

Collection of Business Rates: Although this area shows 'red' on the performance report, this is due to the way the target is profiled through the year where more businesses are choosing to pay 12 monthly instalments rather than lump sums, or 10 monthly. Officers are confident that the end of year target will still be achieved and are considering a change of target profile to better reflect customer payment preferences.

Waste Strategy – New Depot Site: As a result of particularly poor ground conditions, which came to light as part of the pre-construction tests, the build costs for the new depot have risen sharply. The depot at Avis Way is no longer affordable and the waste and recycling operation will continue at Robinson Road for the foreseeable future. The project has been terminated accordingly.

### **Financial Appraisal**

20. Project and performance monitoring and reporting arrangements are contained within existing estimates. Corporate performance information should also be considered alongside the Council's financial update reports (also reported to Cabinet each quarter) as there is a clear link between performance and budgets/resources.

### **Legal Implications**

21. Comment from the Legal Services Team is not necessary for this routine monitoring report.

### **Risk Management Implications**

22. It is important that corporate performance is monitored regularly otherwise there is a risk that reductions in service levels, or projects falling behind schedule, are not addressed in a timely way.

### **Equality Analysis**

23. The equality implications of individual decisions relating to the projects/services covered in this report are addressed within other relevant Council reports or as part of programmed equality analysis. The equality implications of projects that form part of the Joint Transformation Programme are addressed through separate Equality and Fairness assessments.

### **Background Papers**

[Council Plan 2016 to 2020](#)

### **Appendices**

Appendix 1 – Portfolio Progress and Performance Report (Quarter 2)

## PORTFOLIO PROGRESS AND PERFORMANCE QUARTER 2 (July to September 2016)

### Key to Symbols



- Project is complete; Performance is at or above target (please note, in some instances performance data has been rounded to the nearest whole number/percentage);



- Project is on track or yet to commence;



- Project has issues causing significant delay or change to planned activities; Performance is below target but within 5% tolerance;



- Project is not expected to be completed in time or within requirements; Performance is below target;



- Project scope has changed/project has been discontinued;



- No performance target set.

## PLACE - GROWTH AND PROSPERITY

### Portfolio: Councillor Andy Smith (Regeneration and Business)

#### Portfolio Projects and Initiatives

Project / Initiative	Target Project Completion	Current Status	Update
North Street Quarter	September 2017		An Application has been submitted for discharge of the heritage planning conditions. This is a necessary pre-condition before demolition can commence.
Newhaven Flood Alleviation Scheme	April 2017		Planning permission for LDC areas issued and permission for SDNPA areas imminent. Starting site preparation works in early November prior to start on site.
Newhaven Enterprise Zone	December 2018		The Enterprise Zone Programme Manager has been appointed and commenced work on 1 August 2016. The inaugural meeting of the Project Board took place on 3 <sup>rd</sup> October 2016. The brief for the Investment Strategy has been issued and tenders are awaited.
Tourism Strategy	March 2018		The 2016 ArtWave festival has successfully been delivered. The event has become one of the biggest and most vibrant open house events in the East Sussex calendar. Thousands of visitors attended hundreds of venues; meeting artists, seeing how and where they work, and buying art directly from them. The festival featured over 400 artists with over 120 different places to visit.

# VALUE FOR MONEY





## Portfolio: Councillor Bill Giles (Finance)

### Portfolio Projects and Initiatives

Note:

- 1) There are no strategic projects currently within this portfolio.
- 2) There is a separate process for monitoring the Council's financial performance including key targets. This is reported as part of the regular financial update reports to Cabinet.


### Key Performance Indicators

KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
Percentage of invoices paid on time (within 30 days)					
a) Housing	a) 95%	a) 97%	a) 93%		Achieving targets in the processing and payment of invoices continues to be challenging. Although progress has been made, more work is required. However, as has been reported previously, in the longer term, introduction of electronic purchasing, through changes to the financial systems across both Lewes and Eastbourne councils, will save time and speed up the process.
b) All Other	b) 98%	b) 95%	b) 96%		
Percentage of Council Tax collected during the year	98%	29.7%	28.28%		Although a there is a slight dip in performance compared to Quarter 1, overall performance remains strong.
Percentage of Business Rates collected during the year	98%	29.8%	26.5%		The target is based on previous years' best performance. Collection is below the target for this point in the year. This is partly due to more businesses choosing to pay over 12 monthly instalments.
Performance Improvement Plan	Officers are considering whether the monthly target profile should be amended to reflect this, as it is likely that the annual target will be achieved.				




# PLACE - DELIVERING SUSTAINABLE NEW HOUSING AND INFRASTRUCTURE





## Portfolio: Councillor Ron Maskell (Housing)

### Portfolio Projects and Initiatives

Project / Initiative	Target Completion	Current Status	Update
Local Growth Fund (Affordable Housing) Project	June 2017		Construction of all sites is ongoing. Sites at Headland Way, Balcolmbe Road and Hythe Crescent on target to complete by 31st March 2017. Rectory Close and Grassmere Court are programmed to complete April/May 2017, but may finish earlier.
Housing Investment Company	October 2016		The Report was not submitted to September Cabinet due to wider Corporate strategic objectives. The report will now be considered by Cabinet on 16 November 2016.
Extension of temporary accommodation	October 2016		Progressing well. The Member Group met on 19 October 2016.

### Key Performance Indicators




KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
Percentage of rent collected during the year (cumulative)	95%	94%	94%		Although slightly behind target, performance is within acceptable levels for the second quarter of the year. This remains a key area of risk given the impending welfare reform changes so will have a continued management focus.
Total number of days that families need to stay in emergency/B&B accommodation	15 days	0 days	0		No families have needed emergency/B&B accommodation in quarter 1.
Total number of households living in ; a) emergency accommodation	a) 15 or fewer	a) 15	a) 13		<u>Category a)</u> These households are living in bed and breakfast and self-contained accommodation across Lewes District,

KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
b) other temporary accommodation	b) 50 or fewer	b) 47	b) 49		Eastbourne and Hove. <u>Category b)</u> All households are in Lewes District temporary accommodation (including through the Private Sector Leasing Scheme).
Average number of days to re-let Council homes (excluding temporary lets)	25 days	21 days	21 days		Performance on re-lets has improved substantially in recent months and continues to be well within target.
The number of days taken to process new housing benefit/ Council tax benefit claims	20 days	18.9 days	19.8 days		Processing times continue to be within the target of 20 days.
Overall tenants satisfaction	90%	88 %	90 %		This PI is now back on track Officers are analysing reasons for the slight dip in satisfaction in Q 1


## CUSTOMERS - CLEAN AND GREEN DISTRICT

### Portfolio: Councillor Paul Franklin (Waste and Recycling)

#### Portfolio Projects and Initiatives

Project / Initiative	Target Completion	Current Status	Update
Waste Strategy (Relocation and service improvement including associated publicity campaigns)	April 2018	    	<p><b>Waste Strategy</b> – Report 118/16 was agreed at Cabinet on 28 September, authorising the Director of Service Delivery to undertake further due diligence tests against a focused band of four options, with the aim of establishing a service which provides the best fit for residents and improves recycling performance. Of these, 3 options offer a weekly food waste collection service (also in current service offer). An online survey with the dual purpose of understanding the barriers to recycling, while promoting the food waste collection service, closes 12/10/16.</p> <p><b>Garden Waste</b> – LDC has offered the new garden waste service to over half of all households in the district, with the roll out along the coastal strip successfully completed.</p> <p><b>New Depot Site</b> - As a result of particularly poor ground conditions, which came to light as part of the pre-construction tests, the build costs for the new depot have risen sharply. The depot at Avis Way is no longer affordable and the waste and recycling operation will continue at Robinson Road for the foreseeable future. The project has been terminated accordingly.</p>

#### Key Performance Indicators




KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
Percentage of household waste sent for reuse, recycling and composting	To be confirmed	27%	28%		Performance for the second quarter of 16/17 remains at similar levels to Q4 of last year. Targets will be set once decisions on the future of the waste collection/recycling service have been taken later in the year.




# PLACE - DELIVERING SUSTAINABLE NEW HOUSING AND INFRASTRUCTURE







## Portfolio: Councillor Tom Jones (Planning)


### Portfolio Projects and Initiatives

Project / Initiative	Target Completion	Current Status	Update
The Local Plan (Part 2)	March 2018		Work on the Local Plan (Part 2) continues to progress to Pre-submission stage but running slightly behind schedule. The public consultation is not due to start until April/May 2017. However, the judicial review of the Joint Core Strategy (JCS) may affect the timetable. If the JCS were to be quashed at Judicial Review then we would most probably need to prepare a joint replacement JCS and Local Plan Part 2 to minimise cost.
Neighbourhood Plans	February 2020		The Newick Plan was adopted 16 July 2016 and the Hamsey Plan adopted 21 July 2016. The Wivelsfield Plan referendum will be held on 27 <sup>th</sup> October 2016 Plumpton Plan finished Regulation 14 Consultation 28 <sup>th</sup> July 2016 (considering representations and next stages). Seaford Town Council has recently carried out a Neighbourhood Plan 'Call for Sites' which closed on 29 <sup>th</sup> July 2016
Newhaven Port Access Road (ESCC Project)	April 2019 (revised)		ESCC are the lead agency on this project. LDC is simply a partner. In light of delays to this project, new timescales have been agreed. The revised target completion date is now April 2019. Ahead of the main construction there will be a need for pre-construction activities including some significant ground investigation works. This will involve a number of boreholes being excavated and samples of the underlying ground being taken away for analysis. The results of the analysis will inform the detailed design of the scheme. The schemes design is due for completion early 2017 at which time the construction work will then be tendered. ESCC are working with the Department for Transport (DfT) and Coast to Capital LEP (C2C) to secure £10m of funding towards the

Project / Initiative	Target Completion	Current Status	Update
			cost of the scheme. £10m was provisionally approved in C2C's Growth Deal in 2014. The Business Case is being prepared to secure this funding. Final approval will not be given by the DfT until a tendered construction price is available in 2017.
Upper Ouse Flood Protection and Water Prevention Project	March 2019		The Grant of £130k has been paid to OART for first year and a substantial part of the planned Programme is underway. A display about the programme was provided at the Town and Parish Councils conference in October.

### Key Performance Indicators



KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
Percentage of major planning applications determined within 13 weeks (LDC only)	80%	100%	100%		There were 7 major planning applications determined during the second quarter compared to 9 during the same period last year.
Percentage of minor planning applications determined within 8 weeks (LDC/SDNP combined)	75%	66%	88%		Validation times for applications improved in Q2. The determination figures are now on target.
Percentage of <b>all</b> planning appeals allowed (officer/committee decisions)	Less than 33%	40%	0%		There were 5 planning appeals during Q2. All of the appeals were dismissed by the Planning Inspectorate.
Number of <b>major</b> applications for new housing granted planning permission following appeal (LDC Only)	0	1	0		There were no major applications for new housing granted planning permission following appeal in the second quarter.
Percentage of <b>major</b> planning applications allowed on appeal (as a percentage of all major applications made to LDC)	Less than 10%	50%	0%		There were no major planning appeals determined during Q2.
Outcome of planning appeals (Costs awarded (£))	Data Only	0	0		No costs were awarded during the

KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
					second quarter of the year.
Number of appeals where the Inspector has considered that there has been unreasonable behaviour by the Local Planning Authority	0	0	1		This related to an application at High Elms Filling Station which was a delegated decision



## VALUE FOR MONEY

### Portfolio: Councillor Elayne Merry (People and Performance)

#### Portfolio Projects and Initiatives

Project / Initiative	Target Completion	Current Status	Update
Joint Transformation Programme (JTP) (Implementation)	May 2020		On track. Progress of this project is reported separately to Cabinet.
Dementia Friends	March 2018		Further information sessions for staff & councillors will be arranged in the autumn. Opportunities to arrange joint training sessions involving partner organisations are currently being investigated. Meetings of both the Havens Dementia Action Alliance & the Lewes Dementia Action Group were held during July. The Havens Group took part in events & activities for Older Peoples Day in October. The Lewes Group are exploring ways to increase membership & devising their local action plan.


#### Key Performance Indicators

KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
Average working days lost to sickness per FTE equivalent staff	9.0 days	3.0 Days	2.0 days		Performance is on track at the end of quarter 2. This compares favourably with 2.98 days in the same quarter last year.
Number of relevant staff/councillors receiving dementia awareness training	Data Only	7	0		There were no training sessions in the second quarter. However further staff and councillor training will be arranged in Nov & Dec 2016.




## CUSTOMERS – IMPROVED CUSTOMER SERVICE



### Portfolio: Councillor Tony Nicholson (Customers and Partners)

#### Portfolio Projects and Initiatives

Project / Initiative	Target Completion	Current Status	Update
Devolution of Open Spaces	March 2017		Work has recommenced with Newhaven Town Council to transfer a number of sites which have been agreed by Cabinet. During Q3, both Peacehaven and Telscombe Town Councils will be contacted with a view to commencing the devolution process.

#### Key Performance Indicators

KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
Average time taken to answer telephone calls	Less than 30 seconds	13 seconds	12 seconds		Speed of call answering via the Customer Hub continues to improve.
Proportion of complaints (received by Customer Hub) responded to within target (currently 2 working days)	99%	97%	97%		A strong performance this quarter with continuing improvements The target of 99% is currently being reviewed as this figure is higher than neighbouring authorities on the same criteria.
Number of new sign-ups to the Council's social media channels	Data Only	231	246		This is being monitored in 2016/17 to track growth in social media for the purposes of improved communications and responsive customer service.

KPI Description	2016-17 Target	Q1 Apr-June	Q2 July-Sept	Status	Explanatory Note
Number of people registering for our email service	1,500	766	2,271		There has been an excellent take up of the service which has been promoted through District News generally and in relation to specific projects e.g. it is the mechanism for people to sign up for the mailing list for projects such as the Newhaven Flood Alleviation Scheme and local litter pick network. An adjusted annual target is being considered.
Wave Leisure: Visitors to leisure centres	945,000 (Revised)	234,787	204,418		Wave Leisure has indicated that due to seasonal fluctuations they would expect to find performance at this level at the end of the second quarter. Winter is a more active season at the leisure centres and they expect to see more participation in the winter months which will address the shortfall that the current figures show.

**Agenda Item No:** 8 **Report No:** 145/16

**Report Title:** Response to Petition to Full Council Regarding Children's Play Facilities in Lewes

**Report To:** Scrutiny Committee **Date:** 8 November 2016

**Cabinet Member:** Councillor Andy Smith

**Ward(s) Affected:** All Lewes Town wards

**Report By:** Max Woodford, Head of Regeneration & Investment

**Contact Officer(s)-**

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### **Purpose of Report:**

This report sets out a response to a petition received by Council on 11<sup>th</sup> May 2016. The petition requested that:

*"A share of the Section 106 money that was allocated to the community in respect of the Phoenix development, Lewes, to be allocated in order to improve recreational opportunities for young people as they feel there is a lack of such facilities in the local area."*

### **Officers Recommendation(s):**

- 1 To note and agree the response to the petition as set out in this report.
- 

### **Reasons for Recommendations**

- 1 The petition received 750 signatures, meaning it is required to be considered by Scrutiny Committee.

### **Information**

#### **2 Background**

- 2.1 In May 2016 planning consent was issued by the South Downs National Park Authority (SDNPA), as Local Planning Authority, for a major regeneration scheme at North Street, Lewes (Ref: SDNP/15/01146/FUL). The planning consent was for 416 new homes, a mixture of commercial spaces and a new health centre as well as infrastructure necessary to deliver and maximise benefits from the scheme including new flood defences, a river walk and new

footbridge and new car parking. Lewes District Council and Santon North Street Ltd., the two major land owners in the North Street area, were the two applicants.

- 2.2** As with all large planning consents, a section 106 agreement was signed setting out certain obligations required from the developers. Part of the s.106 agreement relates to public open space and recreation and play space. It requires that prior to the Commencement of Phase 1 of the development a design and budget for carrying out works to the Pells recreation ground should be agreed and then the developer should undertake those works before the 200<sup>th</sup> dwelling is occupied. It also requires that prior to the Commencement of Phase 2 and Phase 3 of the development a design and budget for carrying out works to the Malling Fields recreation ground should be agreed and then the developer should undertake those works according to a timetable to be agreed.
- 2.3** The total financial value of the budgets for the works to the Pells recreation ground and the Malling Field recreation ground will be capped at £1,145,000. This will include lump sum payments for maintenance not exceeding 10% of the budget.
- 2.4** The final decision on agreeing the design and the budget of the works to the recreation grounds – and therefore what recreational opportunities are provided by the scheme – lies with the SDNPA as it is the Local Planning Authority. As such they are the body that is best placed to meet the petitioners' demands.
- 2.5** However, the section 106 agreement does set out a process by which community groups can input into the decision making on the recreational provision. It requires that a Landscape and Play Working Group is established and that the developers and the SDNPA meet and consult with that Landscape and Play Working Group on a regular basis whilst applications to discharge the requirements relating to the Malling Field and the Pells recreation works are prepared. The developers are required to take the consultation responses of the Landscape and Play Working Group into account when finalising the design and budget of those works and include an accompanying statement with submissions to the SDNPA describing the consultation, a summary of responses and the owner's response to them.
- 2.6** The Landscape and Play Working Group has already started to meet and has nominated Cllr Susan Murray as its chair in her role as Mayor of Lewes. Its membership includes community and neighbourhood groups, the town council and representatives from the SDNPA and LDC – including the parks team for LDC. This group is aware of the petition and will be working to ensure the correct allocation of resources for recreational facilities.
- 2.7** Beyond the legal requirements of the s.106 agreement, the development partners are also looking at how to accommodate and re-provide some youth and recreational facilities that had been housed in the flood blighted buildings on the existing Phoenix Industrial Estate. This includes the Skatehouse indoor skate park, Starfish children's music charity and the Dance Academy.
- 2.8** The Skatehouse are the most urgently in need of relocating as they were located in phase 1 of the development and have already had to move out to



ensure Santon North Street have vacant possession of their premises to begin demolition. However, Santon have offered storage and office space to the Skatehouse CIC team and the council has now agreed to provide them with a new purpose-built facility at Denton Island in Newhaven, subject to agreeing a business case. The Skatehouse's records show that they draw visitors from a wide area, and so proximity to good public transport is more important than being located in Lewes itself.

- 2.9** The council's Estates Team are working with both the Dance Academy and Starfish on options for their relocation, though these two providers are in less urgent need because they are in located in what will be later phases of the North Street development.

### **Financial Appraisal**

- 3** All legal implications arising from this report have been considered at the relevant decision-making stage

### **Legal Implications**

- 4** All legal implications arising from this report have been considered at the relevant decision-making stage

### **Risk Management Implications**

- 5** All risk management implications arising from this report have been considered at the relevant decision-making stage

### **Equality Screening**

- 6** All equalities implications arising from this report have been considered at the relevant decision-making stage .

### **Background Papers**

- 7** The North Street Quarter Planning Consent Section 106 Agreement.

### **Appendices**

- 8** None

**Agenda Item No:** 9 **Report No:** 146/16  
**Report Title:** Scoping Reports for proposed Scrutiny Review of Transport  
**Report To:** Scrutiny Committee **Date:** 8 November 2016  
**Cabinet Member:** Councillor Tom Jones  
**Ward(s) Affected:** All wards  
**Report By:** Nazeya Hussain, Director of Regeneration and Planning  
**Contact Officer(s)-**  
**Name(s):** Jo Harper  
**Post Title(s):** Head of Business Strategy and Performance  
**E-mail(s):** [jo.harper@lewes.gov.uk](mailto:jo.harper@lewes.gov.uk)  
**Tel No(s):** 01273 661374

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#### **Purpose of Report:**

1. To consider a potential future scrutiny review into the impact of all available transport options within Lewes District and their effect on the local economy.

#### **Officers Recommendations:**

1. To agree the scope for a scrutiny review of transport, as set out in Appendix A, and
2. If the Committee wish to proceed with a scrutiny review, to agree the appointment, including size and make up, of a Scrutiny Panel to oversee the work.

#### **Reasons for Recommendation**

3. To provide a focussed programme of work which will enable the District Council to consider whether any changes to its existing policies, or any other actions, are to be recommended.
- 

#### **Information**

- 1 The topic under consideration within this report was put forward for consideration by this Committee at its meeting on 8 September 2016. Details of the potential scope for the review are listed in Appendix A with a number of options given for Members consideration.
- 2 The Committee is asked to consider whether the scope, set out in Appendix A, adequately covers all the matters members wish to examine in any review, or whether any adjustments are required. Members are then asked to agree

which, if any, of the options suggested they would wish to pursue within a scrutiny review.

- 3 If the Committee wishes to proceed with the review, a Scrutiny Panel will need to be appointed. It is usual for Scrutiny Panels to be made up of an odd number of Members (either 3 or 5) and maintaining political balance.
- 4 Should a review be agreed, a Project Plan for the review would be prepared by officers in conjunction with the Scrutiny Panel.

### **Financial Appraisal**

- 5 An annual budget of £1,000 is available to support the work of the Scrutiny Committee and its Scrutiny Panels. Any costs associated with the review proposed are expected to be minor, given that the research work can be carried out by Council staff.

### **Legal Implications**

- 6 In considering the recommendations of this report, the Committee should adhere to the Scrutiny Procedure Rules set out in part 4 of the Council's constitution.

### **Risk Management Implications**

- 7 There is no requirement for an analysis of risk.

### **Equality Screening**

- 8 An equalities impact assessment is not considered necessary at this stage. If the Committee decides to proceed with the Review, an equality analysis would be undertaken as part of the review and would be reported along with the review findings.

### **Background Papers**

- 9 None

### **Appendices**

- 10 Appendix A – Scoping Report for Transport

**Scoping Proposal: Review into the impact of all available transport options within Lewes District and their effect on the local economy**

**Report Author: Jo Harper, Head of Business Strategy and Performance**

**Reasons for Scrutiny**

The suggestion for scrutiny in this area arose from a request by the Scrutiny Committee on the 8 September 2016. The reasons given for having a review into this issue would be for the Committee;

- To better understand how local transport needs are assessed, planned for and delivered in the district
- To understand the council's role, alongside others, in the development of transport policy
- To consider forthcoming legislative changes which may impact on the planning and delivery of transport infrastructure
- To make relevant recommendations in light of the above

**Background Information**

The council's role in relation to transport falls into three main areas;

1. The council prepares and adopts a Local Plan which contains statements regarding the transport and related infrastructure requirements of the district.
2. The council works with partners such as East Sussex County Council (who are the highways authority) to plan collaboratively to meet the transport requirements of the district. Bodies such as the Local Enterprise Partnerships (LEPs) are key to this partnership approach.
3. The council lobbies relevant bodies to ensure the particular transport needs and issues of the district are highlighted with those who are able to address and tackle those issues, for example through the A27 Working Group.

**Link to Strategic Objectives**

The LDC Council Plan for 2016-2020 states;

“We recognise the need for infrastructure improvements to support new and existing homes and businesses. Our planning policies and the operation of the Community Infrastructure Levy are aimed at securing such improvements.

.... Campaigning for improvements to the A27 and A259, rail infrastructure and rail services.”

The Local Plan 2010 – 2030 states;

“The District Council and National Park Authority will work with the relevant transportation agencies to promote alternative and sustainable modes of transport to the private car, including improving the provision of facilities that enable safe walking and cycling, and the connectivity, capacity, accessibility and frequency of public transport to places in the district and outlying areas, including to continental Europe through Newhaven Port. Successful achievement of this objective will also involve the delivery of high speed broadband across the whole of Lewes District, supporting those who work, or wish to work, from home, and those who wish to have improved access to services, thereby reducing the need for travel. Achieving this objective should assist in tackling some of the areas that are currently subject to poor air quality in the district (predominantly caused by transport) and ensure that further areas do not become apparent.”

### **Objectives of the Review**

The Scrutiny Committee are to consider which of the potential objectives below they would wish to include in the scope of the review;

- A. To scrutinise how the strategic direction set out in both the Council Plan and the Local Plan in relation to all transport provision in the district is being implemented by the Council in practice, with its partners, for the Scrutiny Committee to satisfy itself that this is being progressed robustly.

OR

- B. To limit the scope of the review to public transport services only, considering how the Council works with its partners to ensure effective public transport planning and delivery, and to investigate whether this is being undertaken in a way which supports the local economy.

AND/OR

- C. To consider how transport infrastructure planning is likely to take place in the future, with the establishment of Sub National Transport Bodies (subject to the Devolution Bill being adopted).

### **Not in Scope of Review**

This will be determined once the objectives of the review have been agreed.

### **Timeframe**

This will be determined once the objectives of the review have been agreed.

### **Outlining the stakeholders and evidence required**

This will be finalised once the objectives of the review have been agreed, however, it is likely, dependent on the final scope that the Review Panel may wish to call the following to provide evidence

- Officers involved with the preparation of the Local Plan
- Officers responsible for public transport policy at East Sussex County Council
- Representatives of the Local Enterprise Partnerships

**Resources**

Officer time from the Strategic Policy team. No financial resources are considered likely at this stage.

**Approval of Scope**

(a) Head of Service	
(b) CMT	
(c) Scrutiny Committee	

# Forward Plan of Decisions – 1 November 2016 to 28 February 2017

Published: 18 October 2016

Proposed decision to be considered	Date of Cabinet meeting	Consultation: How, with whom and by what date	Representations: How, by whom and by what date	Background documents	Contact Officer
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**KD = Key Decision**

**NKD = Non-Key Decision**

The 'making' (adoption) of the Wivelsfield Neighbourhood Development Plan as part of the statutory development plan for Lewes District (KD) (Lead Councillor: Councillor Jones)	16 November 2016	Statutory consultation stages on the draft neighbourhood plan (Regulation 14 Consultation Feb/March 2015) and the submission version prior to examination (Regulation 16 Consultation Feb/March 2016). A referendum will be held late Summer 2016 and will be notified in accordance with the relevant statutory requirements	Not applicable	Wivelsfield Neighbourhood Plan, Sustainability Appraisal, Examiner's Report, Wivelsfield Neighbourhood Plan Decision Statement	Natalie Carpenter Neighbourhood Planning Officer 01273 484417 <a href="mailto:Robert.king@lewes.gov.uk">Robert.king@lewes.gov.uk</a> <a href="mailto:Natalie.carpenter@lewes.gov.uk">Natalie.carpenter@lewes.gov.uk</a>
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Proposed decision to be considered	Date of Cabinet meeting	Consultation: How, with whom and by what date	Representations: How, by whom and by what date	Background documents	Contact Officer
To consider the review of the governance principles for the implementation of the Community Infrastructure Levy (CIL) and agree the proposed modifications (KD) (Lead Councillor: Councillor Jones)	16 November 2016	No formal consultation required	None	CIL Governance Cabinet Report 20 November 2014	Tondra Thom Senior Strategic Policy Officer 01273 471600 ext. 6261 <a href="mailto:Tondra.thom@lewes.gov.uk">Tondra.thom@lewes.gov.uk</a>
Financial Update: Revenue Budgets and Capital Programme (KD) (Lead Councillor: Councillor Giles)	16 November 2016	None	Direct to Contact Officer by email, writing or telephone by 26 October 2016	None	Alan Osborne Deputy Chief Executive 01273 661377 finance@lewes.gov.uk



Proposed decision to be considered	Date of Cabinet meeting	Consultation: How, with whom and by what date	Representations: How, by whom and by what date	Background documents	Contact Officer
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<p>To approve the approach proposed for procuring repairs and maintenance contracts covering Lewes District Council's housing stock (This Report is likely to contain Exempt (ie confidential) information as defined by Part 1 of Schedule 12A of the Local Government Act 1972 (as amended), as it will include information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information) (KD) (Lead Councillor: Councillor Maskell)</p>	<p>16 November 2016</p>	<p>To follow after Cabinet decision and following advice and discussions with Legal and Human Resources teams</p>	<p>By email to Michael O'Brien – Head of Housing Repairs and Improvements : <a href="mailto:micheal.obrien@lewes.gov.uk">micheal.obrien@lewes.gov.uk</a> by 9 November 2016</p>	<p>None</p>	<p>Michael O'Brien Head of Housing Repairs and Improvements 07794 085522 <a href="mailto:micheal.obrien@lewes.gov.uk">micheal.obrien@lewes.gov.uk</a></p>
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<b>Proposed decision to be considered</b>	<b>Date of Cabinet meeting</b>	<b>Consultation: How, with whom and by what date</b>	<b>Representations: How, by whom and by what date</b>	<b>Background documents</b>	<b>Contact Officer</b>
Review of housing management services (KD) (Lead Councillor: Councillor Maskell)	16 November 2016	Early consultations with appropriate parties have taken place.	Not applicable	None	Jane Goodall Strategic Project Manager 01273 471600 x6188 <a href="mailto:jane.goodall@lewes.gov.uk">jane.goodall@lewes.gov.uk</a>
Delivery of Building Control services (KD) (Lead Councillor: Councillor Franklin)	16 November 2016	By Consultants	Not applicable	Consultant's Report	Ian Morris Head of Revenues and Planning 01273 484079 <a href="mailto:ian.morris@lewes.gov.uk">ian.morris@lewes.gov.uk</a>
The Joint Transformation Programme – mobilisation, early activity and proposed next steps (KD) (Lead Councillor: Councillor Smith)	16 November 2016	Not applicable	Not applicable	Not applicable	Henry Branson Assistant Director of Business Transformation 01323 415155 <a href="mailto:henry.branson@eastbourne.gov.uk">henry.branson@eastbourne.gov.uk</a>  Becky Cooke Assistant Director for Human Resources and Organisational Development 01273 471600 <a href="mailto:becky.cooke@lewes.gov.uk">becky.cooke@lewes.gov.uk</a>

Proposed decision to be considered	Date of Cabinet meeting	Consultation: How, with whom and by what date	Representations: How, by whom and by what date	Background documents	Contact Officer
To agree the principle of establishing a Council owned housing and regeneration investment company (NKD) (Lead Councillor: Councillor Maskell)	16 November 2016	Not applicable	Not applicable	None	Leighton Rowe Housing Policy & Development Manager 01273 7106177 <a href="mailto:leighton.rowe@lewes.gov.uk">leighton.rowe@lewes.gov.uk</a>
To approve a Regulatory Services Enforcement Policy for Environmental Health and Licensing functions at Lewes District Council (KD) (Lead Councillor: Councillor Franklin)	4 January 2017	Widely with other Government Agencies, Police & Fire Authorities, Local Authorities, local businesses and the Lewes Chamber of Commerce. By 11 November 2016	None	The Regulators' Code can be found on the GOV.UK website at; <a href="https://www.gov.uk/government/publications/regulators-code">https://www.gov.uk/government/publications/regulators-code</a>	Rebecca Wynn Environmental Health Specialist 01273 471600 Rebecca.wynn@lewes.gov.uk
Financial Update: Revenue Budgets and Capital Programme (KD) (Lead Councillor: Councillor Giles)	4 January 2017	None	Direct to Contact Officer by email, writing or telephone by 12 December 2016	None	Alan Osborne Deputy Chief Executive 01273 661377 finance@lewes.gov.uk

Proposed decision to be considered	Date of Cabinet meeting	Consultation: How, with whom and by what date	Representations: How, by whom and by what date	Background documents	Contact Officer
To consider options for the Coastal Management Implementation plan (KD) (Lead Councillor: Councillor Nicholson)	4 January 2017	Key Stakeholders have been consulted	None	Report by external consultants	Ian Morris Head of Customer Service 01273 484079 <a href="mailto:ian.morris@lewes.gov.uk">ian.morris@lewes.gov.uk</a>
Discharge of duty to private rented accommodation policy (KD) (Lead Councillor: Councillor Maskell)	4 January 2017	Not applicable	Not applicable	Private rented accommodation policy document	Jennie Perkins Housing Needs Manager 01273 471600 x6032 <a href="mailto:jennie.perkins@lewes.gov.uk">jennie.perkins@lewes.gov.uk</a>
Q2 Portfolio Progress and Performance Report (NKD) (Lead Councillor: Councillor Merry)	4 January 2017	Not applicable	Not applicable	Council Plan 2016-2020	Sue Harvey Strategic Performance Manager 01273 471600 Ext:6119 <a href="mailto:sue.harvey@lewes.gov.uk">sue.harvey@lewes.gov.uk</a>
Adoption of the Equalities Annual Report and Equalities Action Plan for 2017 (NKD) (Lead Councillor: Councillor Merry)	4 January 2017	Consideration through Equalities Working Group (officer group) and then Scrutiny Committee - 17 November 2016	None	None	Jo Harper Head of Business Strategy and Performance 01273 661374, <a href="mailto:jo.harper@lewes.gov.uk">jo.harper@lewes.gov.uk</a>

<b>Proposed decision to be considered</b>	<b>Date of Cabinet meeting</b>	<b>Consultation: How, with whom and by what date</b>	<b>Representations: How, by whom and by what date</b>	<b>Background documents</b>	<b>Contact Officer</b>
Adoption of an Affordable Housing Technical Note (NKD) (Lead Councillor: Councillor Jones)	4 January 2017	Consultation to be carried out July – September 2016 with housing providers, developers and other key stakeholders	Not applicable	Not applicable	Leighton Rowe Housing Policy and Development Manager 01273 471600 <a href="mailto:Leighton.rowe@lewes.gov.uk">Leighton.rowe@lewes.gov.uk</a>
Fees and Charges (NKD) (Lead Councillor: Councillor Giles)	4 January 2017	None	None	Lewes District Council Guiding principles for setting fees and charges	Stephen Jump Head of Finance 01273 484043 <a href="mailto:steve.jump@lewes.gov.uk">steve.jump@lewes.gov.uk</a>

Proposed decision to be considered	Date of Cabinet meeting	Consultation: How, with whom and by what date	Representations: How, by whom and by what date	Background documents	Contact Officer
<p>Fees and Charges – Commercial Waste and Recycling Collection            (The Report is likely to contain Exempt (ie confidential) information as defined by Part 1 of Schedule 12A of the Local Government Act 1972 (as amended), as it will include information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information (NKD).            (Lead Councillor: Councillor Giles)</p>	<p>4 January 2017</p>	<p>None</p>	<p>None</p>	<p>Lewes District Council            Guiding principles for setting fees and charges</p>	<p>Stephen Jump            Head of Finance            01273 484043  <a href="mailto:steve.jump@lewes.gov.uk">steve.jump@lewes.gov.uk</a></p>

Proposed decision to be considered	Date of Cabinet meeting	Consultation: How, with whom and by what date	Representations: How, by whom and by what date	Background documents	Contact Officer
Revenue Budgets, Capital Programme and Treasury Management Strategy 2016/17 (KD) (Lead Councillor: Councillor Giles)	8 February 2017	None	Direct to Contact Officer by email, writing or telephone in time for the preparation of the final version of the Report	None	Alan Osborne Deputy Chief Executive 01273 661377 <a href="mailto:finance@lewes.gov.uk">finance@lewes.gov.uk</a>
Support for Voluntary Organisations (NKD) (Lead Councillor: Councillor Nicholson)	8 February 2017	Scrutiny Committee - 12 January 2017	None	None	Jo Harper Head of Business Strategy and Performance 01273 661374, <a href="mailto:jo.harper@lewes.gov.uk">jo.harper@lewes.gov.uk</a>

## Scrutiny Committee Work Programme 2016/17

<b>1 July 2016</b>	Chair of the Council's Annual Business Report Work Programme for 2016/17 Performance Monitoring – Quarter 4 / Year end Waste Improvement Project Newhaven Air Quality
<b>8 September 2016</b>	Performance Monitoring – Quarter 1
<b>8 November 2016</b>	Performance Monitoring – Quarter 2 Petition : youth facilities in Lewes Scoping report : rail / public transport services Equalities Annual Report Housing Company (arising from Housing Supply and Demand Scrutiny Review)
<b>12 January 2017</b>	Council Budget proposals for 2016/17 Voluntary Sector Support Equalities Annual Report
<b>17 February 2017</b>	Performance Monitoring – Quarter 3 Annual report of the Community Safety Partnership

To be scheduled:

Recommendations from Housing Supply and Demand Scrutiny Review (part 2)