

# Public Document Pack

29 March 2018

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To: The Chairman and Members of North Hertfordshire District Council

You are invited to attend a

## **MEETING OF THE COUNCIL**

to be held in the

**SPIRELLA BALLROOM, ICKNIELD WAY, LETCHWORTH  
GARDEN CITY**

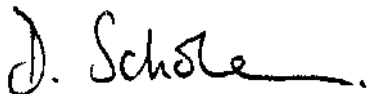
on

**TUESDAY, 10 APRIL 2018**

at

**7.30 PM**

Yours sincerely,



David Scholes  
Chief Executive

## **Agenda** **Part I**

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<b>2. MINUTES - 8 FEBRUARY 2018</b> To take as read and approve as a true record the minutes of the meeting of the Council held on 8 February 2018.	1 - 22
<b>3. NOTIFICATION OF OTHER BUSINESS</b> Members should notify the Chairman of other business which they wish to be discussed by the Council at the end of the business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.  The Chairman will decide whether the item(s) raised will be considered.	
<b>4. CHAIRMAN'S ANNOUNCEMENTS</b> Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which requires they leave the room under Paragraph 7.4 of the Code of Conduct, can speak on the item, but must leave the room before the debate and vote.	
<b>5. PUBLIC PARTICIPATION</b> To receive petitions, comments and questions from members of the public.	
<b>6. COUNCIL CONSTITUTION - ANNUAL REVIEW 2018</b> REPORT OF THE ACTING CORPORATE LEGAL MANAGER AND MONITORING OFFICER	23 - 46
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<b>8. QUESTIONS FROM MEMBERS</b> To consider any questions submitted by Members of the Council, in accordance with Standing Order 4.8.11 (b).	53 - 54
<b>9. NOTICE OF MOTIONS</b> To consider any motions, due notice of which have been given in accordance with Standing Order 4.8.12.	55 - 56

# Public Document Pack Agenda Item 2

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### MINUTES

Meeting of the Council held in the Spirella Ballroom, Icknield Way, Letchworth Garden City on Thursday, 8th February, 2018 at 7.30 pm

**PRESENT:** Councillors Alan Millard (Chairman), Councillor John Bishop (Vice-Chairman)(until 9.30pm), Ian Albert, David Barnard, Clare Billing, Judi Billing, John Booth, Paul Clark, Julian Cunningham, Steve Deakin-Davies, Sarah Dingley, Jean Green, Simon Harwood (until 8.40pm), Steve Hemingway, Cathryn Henry (until 9.30pm), Fiona Hill, Terry Hone, Tony Hunter, Steve Jarvis, Lorna Kercher, David Levett, Ben Lewis (from 8.10pm), Bernard Lovewell, Ian Mantle, Jim McNally (until 8.05pm), Paul Marment, Gerald Morris, Michael Muir, Lynda Needham, Frank Radcliffe, Mike Rice, Deepak Sangha, Adrian Smith (from 7.40pm), Harry Spencer-Smith (until 9.30pm), Martin Stears-Handscorn, Claire Strong (until 9.30pm), Richard Thake, Terry Tyler (from 7.46pm), Ray Shakespeare-Smith and Michael Weeks.

**IN ATTENDANCE:** David Scholes (Chief Executive), Anthony Roche (Deputy Chief Executive), Ian Couper (Head of Finance, Performance and Asset Management), Kerry Shorrocks (Corporate Human Resources Manager), Gavin Ramtohal (Contracts Lawyer and Deputy Monitoring Officer) and Ian Gourlay (Committee and Member Services Manager).

**ALSO PRESENT:** Mr Rob Williams (BNP Paribas Real Estate).  
24 members of the public.

#### 67 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bill Davidson, Elizabeth Dennis, Faye S. Frost, Jane Gray, Gary Grindal, Nicola Harris, Janine Paterson and Valentine Shanley.

#### 68 MINUTES - 18 JANUARY 2018

It was moved by Councillor Lynda Needham, seconded by Councillor Julian Cunningham, and

**RESOLVED:** That the Minutes of the meeting of the Council held on 18 January 2018 be approved as a true record and signed by the Chairman.

#### 69 NOTIFICATION OF OTHER BUSINESS

No additional business was presented for consideration by the Council.

#### 70 CHAIRMAN'S ANNOUNCEMENTS

##### (1) Holocaust Memorial Day

The Chairman announced that Holocaust Memorial Day had taken place on 27 January 2018. This day was to remember the millions of people murdered or whose lives had been changed beyond recognition due to the Holocaust, Nazi persecution, and in subsequent genocides in Cambodia, Rwanda, Bosnia and Darfur.

The Chairman asked everyone stand to observe a Minute's silence in respect of Holocaust Memorial Day.

**(2) Retirement of David Miley (Democratic Services Manager)**

The Chairman advised that this would have been the final Council meeting attended by David Miley (Democratic Services Manager) prior to his retirement at the end of March 2018. Unfortunately, David was unwell. David had worked for NHDC for over 15 years. The Chairman was sure that Members would join him in thanking David for his invaluable support and advice throughout that time, and in wishing him an enjoyable retirement and best wishes for the future.

**(3) Variation of Order of Business**

The Chairman announced that he was varying the order of business so that, following the exclusion of the press and public, Item 14 (the Part 2 item on Churchgate) would take place immediately after Item 5 (Public Participation). The press and public would then be invited back into the room for the remainder of the meeting.

**(4) Declarations of Interest**

The Chairman reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question.

**71 PUBLIC PARTICIPATION**

The Council was addressed by the following members of the public regarding the regeneration of Churchgate Shopping Centre, Hitchin.

**(a) Mr Robin Dartington (Hitchin Resident)**

Mr Dartington advised that he was speaking as a concerned member of the public, who was aware of the many previous abortive attempts to improve Churchgate, and was anxious that this time it was a success. Although speaking just for himself, he stated that he had 40 years' experience in the development industry, and so was representative of the many qualified professionals in the Hitchin Community. He also believed that a majority of Hitchin residents would welcome this new initiative, but not support the Council rushing to terms with a property company before there had been much more investigation.

Mr Dartington commented that the lessons from the failed Simons project were summed up in 10 points from the Scrutiny Committee, all supported by the Cabinet in September 2017. Three were relevant at this stage and he hoped Members agreed that, when considered, they supported the following suggested amendments to the recommendations in the report now before the Council, to make this project a success:

1. In Recommendation 1: add change to "That Full Council support regeneration of the Churchgate Centre and of Hitchin Market".

Reason: The Visitor Survey revealed that Hitchin Market was the second most quoted reason for visiting Hitchin – the Market was far more important to Hitchin than the few shops in Churchgate, especially now that comparison shopping was so much easier on-line.

2. Recommendation 2: change totally to "Delay negotiations with Shearer Property Group until there has been meaningful consultation with the Hitchin Committee, Hitchin Market and the public - and until an experienced Project Director has been brought into the Negotiating Team".

Reasons: (1) Just to inform major stakeholders only a few days ago – and the public not at all - was frankly insulting. There must be opportunity for meaningful consultation outside of Cabinet.

(2) To proceed with negotiations, without including an experienced team member, would be an insult to the property industry.

3. Recommendation 3: Change totally to “Extend the existing Market Contract until the start of actual work on Regeneration”.

Reasons: The Council has no experience in operating the Market. Hitchin Market Ltd has, so just let the contract run until the site needs to be cleared. Why load officers who are already over-stretched?

Mr Dartington considered that the above amendments were supported by the following Scrutiny recommendations:

Recommendation 9 – “The Council should ensure there is meaningful consultation with the public prior to it finalising its plans; and make sure it continues to inform the public throughout the life of the project.”

Hitchin was a special place, with a 1,000 year history, that had shaped its very attractive, but very complex, character. It had a very active community, expressed through a large number of organised groups. Unless the public was brought on board, the scheme would turn out bad.

Recommendation 6 – “The Council needs to have clear, documented objectives before it embarks on projects”.

All that the report included was a general assumption that “pushing-up” the shops, and diminishing Hitchin Market, was a whizz idea. Clarity was needed on what, and crucially who was Hitchin town centre now for? Were all sectors of society given equal opportunity? Was the right priority to push-up shops for affluent visitors or did Hitchin need more starter opportunities, more space for leisure activities? Where were open markets now going? The trend in London was towards food halls, offering home produced food to eat in a communal setting. Perhaps there were enough cafes in Hitchin, but we should look around.

The Chairman thanked Mr Dartington for his presentation.

(b) Mr Brian Foreman (Churchgate Retailers Association)

Mr Foreman advised that he was the Voluntary Advisor to the Churchgate Association, which represented the interests of the Shopping Centre tenants. There were three main issues he intended to address, namely the awful present state of the Centre, the improvements that were needed, and the footfall.

Mr Foreman was of the view that it was a disgrace and an eyesore which, despite money that was paid to Hammersmatch for servicing and maintenance by the tenants, had been allowed to deteriorate for the last 17 years. As a result there were a serious number of health and safety issues for tenants, employees and members of the public which had not been addressed by the landlord or NHDC. NHDC could be considered culpable for not carrying out the routine inspections under the contractual arrangements. Sadly the exterior problems were all too clearly evidenced in the main thoroughfare with the rusting and decaying canopies, filthy electrical lighting underneath, with fascias covered in dirt. The regular contractual two coats of good quality paint simply had not been applied. In side the shops tenants had reported dangerous ancient electrical fittings, heating systems not working, broken toilets, water ingress, and even possible subsidence of outer walls in one area of the Centre.

Mr Foreman stated that, whilst getting repairs done had been lengthy and difficult, it had become impossible. Withholding rents had been considered. The rear exterior shop walls on both sides of the main walkway were truly looking dreadful, lacking the essential maintenance needed.

Mr Foreman commented that improvements were urgently needed, but the first step was to make an inventory of what needed to be done, with an inspection by Council officers seeking co-operation from all the tenants to compile it. Churchgate had been largely forgotten by Town centre Management and had not had the investment or help received by other retailers in the town. Where was the street furniture with seating and flower tubs?

Mr Foreman considered that roofing of some kind would be needed if the canopies were removed and not replaced. Improved lighting was essential to combat the dark and dangerous parts of the main walkway in the winter months. Whilst the entrance from Market Square could be improved, that wall was far better than the other end facing the market.

Mr Foreman felt that it was independent shops rather than chains that drew people to Churchgate. Whether the two charity shops opening shortly would be beneficial remained to be seen in increasing the footfall as Hitchin already had so many. Some of the retailers certainly considered the market days to be an asset in attracting additional trade. Any decline leading to a reduction in market stalls raised concerns over loss of footfall and issues of market management.

Mr Foreman stated that to what extent had concerns reported to him of aggressive unfriendly action against stallholders taken their toll? Had rent increases and the failure to undertake truly proactive advertising campaigns led to the market decline? Could there not be a plan for future growth and development put out for public comment? NHDC raising car park charges had affected trade for the market and town in a negative way. The market office was better where it was located in the market. If the river bank opposite St. Mary's Church was made into more of a picnic area with seating and refreshments there would be no need to remove more popular stalls in an area also used on Fridays and Saturdays as a piazza.

Mr Foreman was of the view that any investment in the Churchgate Shopping Centre by NHDC, together with the right business partner, was money well spent. Some Churchgate retailers would feel that their money spent on shopfronts, window displays and interiors had been worthwhile after all.

The Chairman thanked Mr Foreman for his presentation.

(c) Mr Alan Doggett (Hitchin Market)

Mr Doggett advised that the Board of Hitchin Market Limited (HML) were strongly supportive of the principle of refurbishing Churchgate and rebuilding the market. However, acknowledging that the plan was indicative, HML were concerned that the market footprint illustrated was about halved. Whilst the existing fixed stalls of 170 (of which 55 were shuttered in) were sometimes more than needed, the average stall use on a Tuesday was 90, whereas Friday was 130 average and, on Craft and Farmers' Saturdays, the total rose to 150+. Restricting the market to some 40 fixed stalls, plus demountables, would entail a very different market with a very different cost base.

Mr Doggett commented that there was further concern that the substantial "public realm" area illustrate, which appeared to be the same size as the Market Place, would (even on market days) look empty and bleak, thereby distancing the market from the rest of the retail offer.

Mr Doggett felt that Members should be aware that reliance on demountable stalls, which could not be left overnight for fear of vandalism, carried huge operational costs. The estimated costs to get teams out at 5.00am and in the evenings would be in the region of £30,000 per annum. This was about the amount that HML paid annually to NHDC under its operating contract.

Mr Doggett explained that HML was a social enterprise, part of Hitchin Initiative, run by volunteer directors for the benefit of the town. It took on the operation of the market in 2008,

in partnership with the Council, who had previously run the market at a loss. During that time, stall numbers had increased and the contract renewal application anticipated paying NHDC £34,000 annually under the licence (as well as opening the lavatories 4 days a week at an annual cost to HML of some £14,000), and so it was anticipated that an in-house operation would not be cost effective. HML had successfully operated in partnership with NHDC for nearly ten years, and considered that they were best placed to continue this, under a different contract, for any development period.

Mr Doggett hoped that Members were also understanding of the uncertainty that now existed and that people's livelihoods, families and financial existence was all at stake.

The Chairman thanked Mr Doggett for his presentation.

## **72 REGENERATION OF CHURCHGATE SHOPPING CENTRE**

[Note: this item was considered after Minute 80]

The Council considered the Part 1 report of the Deputy Chief Executive in respect of the Regeneration of Churchgate Shopping Centre. The following appendix was submitted with the report:

Appendix A – Indicative Site Plan.

The Executive Member for Finance and IT (Councillor Julian Cunningham) advised that the report was asking the Council to agree, in principle, to a scheme for the redevelopment of Churchgate. It did not commit the Council in any way, other than further discussions with the Shearer Property Group (SPG). As and when (and if) the Council was in a position where a scheme was to be proposed for taking forward, the matter would come back before the Council.

The Executive Member for Finance and IT stated that the scheme was two separate, but intertwined projects, one being the regeneration on the existing footprint of the Churchgate Shopping Centre, and the other the redevelopment of the public realm to the rear of the shopping centre, including the position of the Hitchin Market. He commented that the proposals to regenerate the shopping centre would not work without a market operation and a high quality public realm behind it. The experience of SPG and the Council's own consultants was that people would not visit any shopping centre, however wonderful the shops, if it was located in the middle of a "wasteland".

The Executive Member for Finance and IT felt that it was important that it was recognised that Hitchin was a market town with a 1,000 year history. There were no plans for the market to be taken out of Hitchin, as the future of the market was integral to the success of the shopping centre.

The Executive Member for Finance and IT commented that the reality of the situation was that the world was changing, as was the retail trade. Work had been done by the Council's consultants and the evidence gathered supported the view that there was significant demand for "high end" shops in Hitchin. Even at this early stage, the consultants considered that there was a scheme that could be developed which made financial sense and delivered the significant social benefit of improving Hitchin Town Centre for all retailers, the market and residents.

The Executive Member for Finance and IT had heard all that had been said about the market by the public speakers earlier in the meeting, and stressed again that the Council recognised the value of Hitchin Market, but just as the retail environment was changing, so was the way in which markets operated. Any visit to other towns like Hitchin showed that the types of markets operating in those towns were not the same type of market that currently operated in Hitchin. This was in no way denigrating the current operators and stallholders of Hitchin

Market, but the Council's belief (supported by considerable evidence) was that the nature of markets was changing and because of that, significant work would be needed on the infrastructure to allow that to happen.

The Executive Member for Finance and IT stated that one of the reasons it was felt appropriate to take back Hitchin Market into Council ownership was, if the development was to proceed, it was hoped that it would do so in the near future, and in which case there would be significant disruption to the operation of the market. It therefore seemed unfair on Hitchin Markets Limited (HML), as a commercial operator, to try and deal with such disruption. However, going forward, nothing in the report in any way precluded the Council from entering into further arrangements with HML or any other third party for operation of the market.

The Executive Member for Finance and IT stressed that the Council needed to make some decisions. Was doing nothing acceptable? No, as the current centre was extremely dilapidated, and it would not be in the Council's interests to be the freeholder of a centre whose rental income would be diminishing.

The Executive Member for Finance and IT advised that there was a question of whether or not the regeneration of a shopping centre was an appropriate development for the Council to take on at the present time. He reiterated that the Council's consultants had considered that there was case to be made that the right sort of development at the right sort of cost was something that would not only provide a financial return to the Council, but would also provide a social benefit to Hitchin.

The Executive Member for Finance and IT stated that there was a further question as to whether or not a joint venture was the best way forward. One of the reasons that the Council was looking at a joint venture was because SPG would bring professional expertise in shopping centre development. If the Council went down that route, then SPG would be expected to provide virtually all of the commercial information and the commercial expertise to allow the venture to progress in line with the Council's expectations.

The Executive Member for Finance and IT concluded by advising that there was still a significant amount of work to be done, as set out in the report, and any or all of these had the capacity to throw the scheme off course. He added that the Council had been trying to resolve the Churchgate issue for some time. He was unable to say with certainty that this proposed project was the right answer, but the Council could not allow the current situation to continue.

It was moved by Councillor Julian Cunningham, and seconded by Councillor Lynda Needham, that the recommendations contained in the report be approved.

Following debate, during which Councillor Cunningham answered a number of Members' questions, the Chairman agreed to a request that the recommendations in the motion be voted upon separately.

Upon the recommendations in the motion being voted on separately, it was

**RESOLVED:**

- (1) That the principle of a joint venture regeneration of the Churchgate Centre, with the Council as funder of the regeneration, be supported;
- (2) That the Deputy Chief Executive, in consultation with the Chief Finance Officer, the Leader of the Council and Executive Member for Finance and IT, be authorised to progress negotiations with Shearer Property Group on the terms of a potential joint venture regeneration of the Churchgate Centre, subject to Full Council's final approval of the terms of any proposal; and



- (3) That the proposal to allow the contract for the management of Hitchin Market to expire and for the market to be managed in-house, subject to Cabinet's approval, be noted.

**REASON FOR DECISION:** To progress the potential regeneration of the Churchgate Shopping Centre in Hitchin.

**73 ITEM REFERRED FROM CABINET: 23 JANUARY 2018 - DRAFT REVENUE BUDGET 2018/19**

The Council considered the Minute of the meeting of the Cabinet held on 23 January 2018, in respect of the Draft Revenue Budget 2018/19 (Minute 83 refers). A copy of the report and addendum report considered by the Cabinet was included with the agenda, as were the following appendices:

Appendix A – Budget Summary 2018/19 - 2021/22;  
Appendix B – Revenue Efficiency and Investment proposals; and  
Appendix C – Budget Risks for 2018/19.

The Council had been provided with a further addendum report, tabled at the meeting, which detailed the Parish and Town Council precepts for 2018/19 and the total District Council Tax requirement for 2018/19.

Prior to the consideration of the Draft Revenue Budget for 2018/19, the Leader of the Council (Councillor Lynda Needham) and the Executive Member for Finance and IT (Councillor Julian Cunningham) presented a Budget Speech.

These documents are reproduced at Appendices A and B to these Minutes.

It was moved by Councillor Julian Cunningham, and seconded by Councillor Lynda Needham, that the recommendations contained in the Cabinet referral and the addendum report tabled at the meeting be approved.

The Finance Spokesperson of the Labour Group (Councillor Ian Albert) and representative of the Liberal Democrat Group (Councillor Steve Jarvis) gave responses to the speeches made by the Leader of the Council and the Cabinet Executive Member for Finance and IT.

As an amendment, it was moved by Councillor Martin Stears-Handscomb, and seconded by Councillor Clare Billing, that the following new Recommendation (6) be added, with renumbering accordingly:

- “(6) That Council regrets that the financial decisions on the scope and funding arrangements of the Waste and Recycling contract, which have such a major impact on this budget, were not decided by full council. It agrees to make such changes as necessary to its constitution and delegation arrangements to ensure that all such decisions are taken by full council in future.”

Following a point of order raised as to acceptability of this amendment, the Deputy Monitoring Officer referred to Paragraph 4.8.14 of the Council's Constitution stated that amendments to motions should be relevant to the motion itself. Given that the above amendment sought to deal with future Council decisions, he was of the view that it was not relevant to the motion, but was in fact a new motion rather than an amendment. He added that, in any event, major changes to the delivery of Council services would usually be made by way of a “Key Decision”, and legally such decisions were required to be taken by the Council's Cabinet. Therefore, the proposed amendment, if approved, would amount to a change in the Constitution which would be unlawful. For the above reasons, he concluded that the proposed amendment would not be permissible.

**Thursday, 8th February, 2018**

As a further amendment, it was moved by Councillor Ian Albert, and seconded by Councillor Martin Stears-Handscomb, that the following new Recommendation (6) onwards be added, with renumbering accordingly:

- “(6) That the proposals to remove play equipment from nine town play areas be put on hold at an additional cost of £19,800 in 2018/19 to allow for the further consideration within each town of future funding for all play areas.
- (7) That the Councillors’ basic and special allowances be reduced by 3% instead of being increased by 2% at a saving of £16,880 and be raised in future years by no more than the percentage rise afforded to Council staff.
- (8) That the budget for the Civic reception be reduced to £3,400 at a saving of £2,920 and Councillors who attend be asked to make a contribution.”

Following debate, and upon being put to the vote, the amendment was lost.

As a further amendment, it was moved by Councillor Judi Billing, and seconded by Councillor Deepak Sangha, that, in the first bullet point of Recommendation (7), the replacement of all after “Area Committee Grants” with “be removed from the list of efficiency savings and an adjustment of £22,000 be made to the budget and balance figures”.

Following debate, and upon being put to the vote, the amendment was lost.

As a further amendment, it was moved by Councillor Frank Radcliffe, and seconded by Councillor Ian Mantle, that a new item be added after Recommendation (7), with renumbering accordingly:

- “(8) That a figure of £100,000 additional income be introduced in the budget and that a cross party Member/Officer Group be established to drive forward the income generation agenda and ensure that at least this amount is raised in the coming year.”

Following debate, and upon being put to the vote, the amendment was lost.

As a further amendment, it was moved by Councillor Steve Jarvis and seconded by Councillor Paul Clark, that the following be added to Recommendation (7):

“Deletion of E21 (Garden Waste Charging) from the list of efficiency savings and the cancellation of the charge.”

Following debate, and upon being put to the vote, the amendment was lost.

Following debate, and in accordance with Standing Order 4.8.16(h), Councillor Julian Cunningham requested that a Recorded Vote be undertaken on the substantive motion.

*(Voting:*

*For: Councillors David Barnard, John Booth, Julian Cunningham, Steve Deakin-Davies, Sarah Dingley, Jean Green, Steve Hemingway, Fiona Hill, Terry Hone, Tony Hunter, David Levett, Ben Lewis, Bernard Lovewell, Paul Marment, Alan Millard, Gerald Morris, Michael Muir, Lynda Needham, Mike Rice, Ray Shakespeare-Smith, R.A.C. Thake, Michael Weeks - 22*

*Against: Councillors Ian Albert, Clare Billing, Judi Billing, Paul Clark, Steve. Jarvis, Lorna Kercher, Ian Mantle, Frank Radcliffe, Deepak Sangha, Adrian Smith, Martin Stears-Handscomb, Terry Tyler - 12*

*Abstentions: 0*

*The motion was carried.)*

It was therefore,

**RESOLVED:**

- (1) That the expected Central Government funding levels be noted;
- (2) That the estimated position on the Collection Fund and how this will be funded be noted;
- (3) That a 2.99% increase in Council Tax for 2018/19 be approved;
- (4) That the position relating to the General Fund reserve be noted and, that due to the risks identified, a minimum balance of £2.15 million is recommended;
- (5) That the reduction in the 2017/18 working budget of £682,000 be approved, and the expected impact in 2018/19 of a £82,000 reduction in budget be noted;
- (6) That the requests for the carry-forward of budgets that total £198,000 from 2017/18 to 2018/19 be noted, subject to further review of the carry forward relating to Area Committee Budgets at the end of the 2017/18 Financial Year;
- (7) That the inclusion of the efficiencies and investment proposals, as set out at Appendix 2 to the report, in the General Fund budget estimates for 2018/19 be approved, subject to the following amendments:
  - Efficiency E9 (Cessation of Area Committee Grants) – amendment to show a 30% reduction in grants available to Area Committee;
  - Efficiency E16 (Apprenticeship Scheme) – to be removed from the list of efficiency savings;
  - Efficiency E20 (Waste Contract Lot 2 Award) – removal from the list for 2018/19 as it was expected that the savings attributable to this item would be zero;
- (8) That the amendments to previously agreed efficiencies, as detailed in Paragraph 8.5.3 and Table 8 of the report, be approved;
- (9) That the proposal that any revenue savings arising from the capitalisation of waste vehicle costs are transferred to a specific reserve be noted;
- (10) That the savings targets for future years be noted;
- (11) That the estimated 2018/19 net expenditure of £14.6Million, as detailed in Appendix 1 to the report, as amended, be approved;
- (12) That the Parish and Town Council precepts of £1,095,531 be noted; and
- (13) That total District Council Tax Requirement is £12,071,060 be noted and that this figure be approved for inclusion in the Council Tax Resolution.

**REASON FOR DECISION:** To ensure that all relevant factors are taken into consideration when arriving at the proposed Council Tax precept for 2018/19; and to ensure that a balanced budget is agreed.

**74 ITEM REFERRED FROM CABINET: 23 JANUARY 2018 - CAPITAL PROGRAMME 2018/19 ONWARDS**

The Council considered the Minute of the meeting of the Cabinet held on 23 January 2018, in respect of the Capital Programme – 2018/19 Onwards (Minute 84 refers). A copy of the report considered by the Cabinet was included with the agenda, as were the following appendices:

Appendix A – Capital Programme Summary;  
Appendix B – Capital Programme Detail; and  
Appendix C – Capital Investment Proposals for 2018/19 and onwards.

It was moved by Councillor Julian Cunningham, and seconded by Councillor Lynda Needham, that the recommendations contained in the report be approved.

In the light of the outcome of the amendment on the Draft Revenue Budget 2018/19 item concerning Play Areas (see Minute 73 above), Councillor Martin Stears-Handscomb withdrew the tabled amendment on the same matter in relation to the Capital Programme 2018/19 onwards.

Following brief debate, and upon the motion being put to the vote, it was

**RESOLVED:**

- (1) That the inclusion in the proposed Capital Programme of all the new Capital Investment proposals listed in Appendix C to the report, totalling £3.274Million overall (£1.931Million profiled in 2018/19) be approved; and
- (2) That the provisional Capital Programme for 2018/19 to 2021/22 of £17.075Million, as detailed in Appendices A and B to the report, be adopted.

**REASON FOR DECISION:** To ensure that the Capital Programme meets the Council's objectives and that officers can plan the implementation of the approved schemes.

**75 ITEM REFERRED FROM CABINET: 23 JANUARY 2018 - TREASURY MANAGEMENT STRATEGY 2018/19**

The Council considered the Minute of the meeting of the Cabinet held on 23 January 2018, in respect of the proposed Treasury Management Strategy for 2018/19 (Minute 85 refers). A copy of the report considered by the Cabinet was included with the agenda, as were the following appendices:

Appendix A – Treasury Management Policy Statement;  
Appendix B – Treasury Management Practices; and  
Appendix C – Treasury Strategy Statement.

It was moved by Councillor Julian Cunningham, seconded by Councillor Lynda and upon being put to the vote, it was

**RESOLVED:** That the 2018/19 Treasury Strategy Statement, as attached at Appendix C to the report, be adopted.

**REASON FOR DECISION:** To ensure the Council's continued compliance with CIPFA's Code of Practice on Treasury Management and the Local Government Act 2003 and that the Council manages its exposure to interest and capital risk.

**76 PAY POLICY STATEMENT 2018/19**

The Leader of the Council (Councillor Lynda Needham) presented the report of the Corporate Human Resources Manager in respect of the Pay Policy Statement 2018/19. The following appendix was submitted with the report:

Appendix 1 – North Herts District Council Draft Pay Policy Statement 2018/19.

The Leader of the Council advised that the Localism Act 2011 required the Council to approve, on an annual basis, a Pay Policy Statement. The suggested contents of the statement were set out in guidance issued under Section 40 of the Act, the Local Government Transparency Code 2015 and the Enterprise Act 2016.

The Leader of the Council explained that, whilst the guidance primarily required Councils to set out the policy in relation to senior pay, it was important to understand that NHDC's existing Pay Policy, adopted in 2004, did not differentiate between senior staff and others. Thus, the existing and draft NHDC Pay Policy Statement went beyond that which was required to be published in accordance with paragraph 31 of the guidance.

The Leader of the Council stated that, since the adoption of the first Pay Policy Statement in March 2012, supplementary guidance had been issued by the Secretary of State and this was described further in paragraph 8.2 of the report.

The Leader of the Council commented that the Pay Policy Statement, along with other information on senior salaries (already published in accordance with the Accounts & Audit Regulations 2015 and the Local Government Transparency Code 2015), must be published as soon as reasonably practical on the Council's website.

The Leader of the Council advised that the Local Government Transparency Code 2015 required, inter alia, the publication of the pay multiple between the highest earning and the median earnings of the whole of the workforce. The Council had, however, included this information in all of the previous Pay Policy Statements in the interests of transparency.

The Leader of the Council concluded by outlining the main changes from the 2017/18 Pay Policy Statement, as follows:

- Pay Comparisons referred to in the Pay Policy Statement (Appendix 1, Paragraph 2.5);
- Details of the pay offer for 2018/19 set out in the Pay Policy Statement (Appendix 1, Paragraph 2.6);
- An update on the Public Sector Exit Payment Regulations 2016 (Appendix 1, Paragraphs 3.12 and 3.13); and
- Proposed changes to the Council's Senior Manager structure that were set to be implemented during the first quarter of 2018/19, set out in the Pay Policy Statement (Appendix 1, Paragraph 3.5).

It was moved by Councillor Lynda Needham, and seconded by Councillor Julian Cunningham, that the recommendations contained in the report be approved.

Upon the motion being put to the vote, it was

**RESOLVED:**

- (1) That the Pay Policy Statement 2018/19, as attached at Appendix 1 to the report, be endorsed; and
- (2) That the Corporate Human Resources Manager, in consultation with the Leader of the Council, be delegated authority to agree subsequent revisions to the Pay Policy

Statement, such as subsequent pay awards agreed nationally and new legislative requirements, as outlined in Paragraph 3.8 of the Policy Statement at Appendix 1.

**REASON FOR DECISION:** To comply with the requirements of Section 38 of the Localism Act 2011, statutory guidance issued under Section 40 and the Local Government Transparency Codes 2014 and 2015.

## 77 QUESTIONS FROM MEMBERS

### North Hertfordshire Local Plan Examination

In accordance with Standing Order 4.8.11(b), the following question had been submitted by Councillor Steve Jarvis to Councillor David Levett (Executive Member for Planning and Enterprise):

“In the light of the extended timescales of the Local Plan Examination in Public and the level of scrutiny by the Inspector do you expect that Main Modifications to the plan will be required?”

Councillor Levett replied that he did expect that Main Modifications to the Local Plan as a result of the Examination would be required.

## 78 NOTICE OF MOTIONS

There were no notices of motion.

## 79 EXCLUSION OF PRESS AND PUBLIC

**RESOLVED:** That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A of the said Act (as amended).

## 80 REGENERATION OF CHURCHGATE SHOPPING CENTRE

[Note: this item was considered before Minute 72]

The Council considered the Part 2 report of the Deputy Chief Executive in respect of the Regeneration of Churchgate Shopping Centre. The following appendix was submitted with the report:

Appendix A – Report of BNP Paribas Real Estate.

It was moved by Councillor Julian Cunningham, and seconded by Councillor Lynda Needham, that the information contained within the report be noted.

Following debate, and upon the motion being put to the vote, it was

**RESOLVED:** That the information contained within the report be noted.

**REASON FOR DECISION:** progress the potential regeneration of the Churchgate Shopping Centre in Hitchin.

The meeting closed at 11.26 pm

Chairman

**STATEMENT BY  
THE LEADER OF THE COUNCIL  
ON THE BUDGET FOR 2018/2019**

COUNCIL MEETING – 8 FEBRUARY 2018

**Chairman, Fellow Members**

1. This evening the Council has the duty to set a budget for the forthcoming year.
2. The Council accepted the four year settlement offered by the Department for Communities and Local Government (DCLG) in February 2016. Whilst this gave us some certainty over our future funding, it does mean that the Council needs to expect a significant further reduction in its funding in 2019/20 when 'negative Revenue Support Grant (RSG)' is due to become a reality. This means the Council will have to hand back to Central Government a further £1million of business rates income, meaning that of every £1 of Business Rates we collect we will keep less than 5 pence. The four year settlement period also comes to an end in 2019/20, and forecasting funding beyond then becomes very uncertain.
3. The provisional finance settlement did not make any further changes to the way that New Homes Bonus is funded. So this means that the only change that has an additional impact this year is the reduction in the period over which the grant is received down to 4 years. Again it is uncertain what will happen to this funding source in the future that still provides income of £1.2 million per year.
4. The Council has achieved significant expenditure reduction and income generation in recent years, delivering efficiencies totalling £6.5 million since 2011/12, and striving for continuous improvement and value for money has become a regular part of the annual corporate business planning process.
5. The Medium Term Financial Strategy agreed by Council in August forecast the need to deliver a further £4.2 million of annual savings by 2021/22. Of this £1.9 million had been identified as to where it would come from, but still needed to be delivered. The successful tendering of the Council's waste and street cleansing contract has significantly increased the level of savings that have been identified, but there is still work to do to ensure that they are delivered.
6. Whilst the level of efficiencies that still need to be identified is significantly reduced, it is clear that achieving them is going to be very challenging, particularly if we want to continue delivering the services that are most valued by residents. Recognising the limited opportunity for savings from reducing resources and staffing levels, the focus is now on investment to deliver service transformation, working with others and commercialisation opportunities.
7. At a time when everyone is facing financial pressures, Cabinet faced a very difficult decision on how to balance continuing provision of those services which our residents desire with a need to raise more income from Council Tax. Given that there are more savings to find and the uncertainty over future funding, the proposal is to increase Council Tax by 2.99% for 2018/19.

8. I would like to thank all members and officers who have taken part in working up the proposals before us this evening, especially Mr Ian Couper and his team, and our Executive Member for Finance, Cllr Cunningham, who will be presenting the details of the Administration's recommendations to you.
9. The three major priorities of the Council for 2018/19 continue to be providing an attractive and safe environment for our residents, promoting sustainable growth, and delivering cost effective and necessary services.
10. In short, I can report that we have continued to review our services to ensure that they provide best value for money and looked for opportunities to improve our services.
11. The Green Space Strategy for 2017-21 will continue to ensure significant, sustainable investment in the District's green spaces over the coming years. This includes funding for a Multi-Use Games Area at Bancroft (Hitchin) and renovating the play area at the District Park in Great Ashby during the next year.
12. We have continued to enhance our leisure facilities. This includes the opening of the new teaching pool at North Hertfordshire Leisure Centre and continued investment in our other facilities. We have set aside capital funding next year for the Royston Leisure Centre to see if the centre can be expanded to provide a better facility for our residents whilst also providing additional income to the Council.
13. We have maintained the allocation of funding for John Barker Place in Hitchin. Whilst North Herts Homes are leading on the redevelopment of this area, the Council can see the benefits that a contribution to a successful scheme in this area would provide.
14. Members have contributed to the Corporate Business Planning process through a series of workshops. I feel sure that this level of participation will assist the agreement of our budget, which I believe represents a reasonable balance of savings and income generation.
15. I now invite Cllr Cunningham to expand on the budget situation and proposals.

**As Presented by COUNCILLOR L. Needham**  
*Leader of the Council*



**STATEMENT BY  
EXECUTIVE MEMBER FOR FINANCE & IT  
ON COUNCIL TAX ESTIMATES 2018/2019**

COUNCIL MEETING – 8 FEBRUARY 2018

**THE CURRENT YEAR FINANCIAL STATEMENT**

When Full Council approved the budget for this financial year, it was based on the Council needing to use its general fund reserves to make up for the shortfall in funding from the reduction in Government funding. The expectation was that £1.3 million of reserves would be required to cover the in-year deficit, reducing the general fund balance to £5 million by the 31 March 2018. Due to favourable variances and carry forwards towards the end of 2016/17, the opening General Fund balance at 1 April was higher than budgeted at £8.2m. However the expectation of using reserves to balance the budget for this year was still there.

As at the end of November, the estimated use of these reserves in the financial year 2017/18 has decreased by £0.5 million, due to both favourable variances reported during the year and the request to carry budgets forward into 2018/19 and delay the spending on specific projects. The revised forecast is that the General Fund balance at the end of this financial year will be around £7m.

As expected the general fund balance has been significantly greater than the budgeted minimum of £1.6m approved by Members at the time of setting the 2017/18 budget.

All the various funds and other earmarked reserves held in the General Fund are estimated to total £12.1 million at 31 March 2018 and comprise of the general fund balances of £7million and other earmarked reserves of £5.1million. The detail of the earmarked reserves can be found in Table 5 of the budget report.

**CAPITAL ACCOUNTS**

The Council continues to have a negative Capital Financing Requirement (CFR), due to the set-aside receipts it received from the housing stock transfer. This is forecast to be £5.7 million at 31<sup>st</sup> March 2018, although may be higher depending on the rate of spend in delivering capital projects towards the end of the year. Cabinet have confirmed that the use of these receipts is the most affordable and prudent way of continuing to invest in North Herts.

It is estimated that at 31 March 2018 the Council will have a capital receipts balance of £2.3million. In the 2015 Spending Review, the Chancellor announced the “flexible use of Capital Receipts direction”. Subject to certain conditions this allows Local Authorities to use new Capital Receipts to fund the revenue costs of reform projects. This flexibility only applies to capital receipts received since the 1st April 2016. By the end of the current financial year, NHDC expect to have generated £1.2m in capital receipts since that date, with further receipts expected during 2018/19, and potential revenue costs have been identified that could be funded under the direction.

Following the recent update to the Prudential Code, the accompanying new guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG) last

week requires Local Authorities to now prepare and publish annually a Capital Strategy, which must be approved by Council prior to its application. This would be additional to the annual Treasury Management Strategy and would include additional information. While the new guidance applies from April 2018, MHCLG have confirmed that Local Authorities have the option to defer meeting all the disclosure requirements to the following year if it is not practical to do so in time for 2018/19. Given that the guidance was only announced last week, I confirm that it is not practical to incorporate it for this coming year.

### **CORPORATE BUSINESS PLANNING AND GENERAL FUND ESTIMATES 2018/2019**

The priority-led budgeting principle continues to be used. This approach seeks to ensure that policy drives financial planning and gives members choices on their budget priorities. However at the same time policy also has to consider the available resources of the Council. The Corporate Business Planning process began early in the year, due to the extent of the efficiencies required to balance the budget over the medium term. The planning also had to consider the future funding uncertainties, particularly in relation to longer-term funding beyond the current national parliament term.

The Council's Medium Term Financial Strategy adopted by Full Council on 31<sup>st</sup> August 2017 indicated that to balance expenditure and funding the Council would need to find and deliver on-going annual efficiencies of around £4.2million by 2021/22. As only £1.9million had been identified where it was expected to come from, the assumed phasing of these savings allowed time for the identification, development and implementation of initiatives. This meant that over this period there would be a need to use £2.8 million of reserves.

The strategy recognised that the ability to be more efficient by reducing resources and staffing levels was becoming extremely limited, hence the Council's financial strategy going forward would focus on:

- Transformation of services so that they can be delivered at lower cost. This may involve up-front investment to allow the transformation to take place. This could include sharing of services with other organisations to make best use of resources and realise potential economies of scale.
- Reviewing existing service provision and planned capital investment to ensure there is a strong case for the continued provision of the service, particularly where the service is not statutory.
- Commercialisation and the options available to make use of our assets (e.g. capital resources) to generate revenue income (or reduce revenue costs). This would include increasing investment returns from our assets.

The Corporate Business Planning process allowed for initial high level proposals to be put forward for consideration by each Political group, followed by Member workshops on detailed options in November. The General Fund estimates for 2018/19 include the results of those proposals, with total planned efficiencies of £2.3million and revenue investments totalling £147k incorporated in the proposed budget of £14.6million for financial year 2018/19.

The majority of the total of planned efficiencies expected to be delivered in 2018/19 relate to the new contract awarded for the provision of Waste, Recycling and Street Cleansing services within the District. The contract award was the culmination of a joint procurement exercise with East Herts District Council. While the key services received by residents

remain broadly the same, the full year cost to the Council is anticipated to reduce by £1.9million (£1.7million in 2018/19). The new contract will also be supported by a shared client team, with further savings incorporated in the budget estimates from this new way of working. As detailed in the post-script to the Cabinet referral, the savings from the client team were agreed to be recommended to Council at their meeting in December. The impact was included in the totals presented to Cabinet at their meeting in January but it was not included in the appendix that lists all the efficiencies. This error has been corrected in the papers presented to you tonight, and it is included in Appendix B.

The most notable pressure on Council resources in 2018/19 is likely to be expenditure associated with the progress of the District's Local Plan, the inspection of which is ongoing. An extended examination time period or a requirement to make extensive modifications to the submitted plan would be likely to result in significant additional costs, as indicated in the identified financial risks for 2018/19. In addition, resource may be required to challenge the plans of neighbouring areas where there are adverse consequences for North Herts. In seeking to mitigate the financial impact in 2018/19, the Council is planning to transfer resources into an earmarked reserve in the current year.

Last year's budget highlighted a risk in relation to a review that was due to be carried out by the National Joint Council (NJC) on Local Government pay scales. This was in relation to the impact of pay freezes, the increases for the new National Living Wage and that salaries are no longer in line with the general market. Assumptions in the MTFs for 2018-2023 were consequently revised to assume a 3% increase in 2018/19 and 2019/20, followed by a 2% increase each year thereafter. The previous assumption had been 1% wage inflation per year. With the NJC pay offer for 2018/19, published in December 2017, still subject to negotiation and agreement at this point, the assumptions in the MTFs remain in the budget estimates.

The Central Government settlement funding allocation for 2018/19, published in December 2017, is in line with the four year funding allocations for 2016/17 to 2019/20 previously announced in February 2016 and which the Council subsequently signed up to by submitting a sustainability plan. The reduction in settlement funding in 2018/19 represents a lower decrease than in prior years and that expected in 2019/20, when the prospect of 'negative RSG' is expected to become a reality. Negative RSG requires the Council to pay over an additional amount of business rates income collected, expected to be £1.1m, to Central Government. Whilst the provisional Local Government Finance Settlement in December 2017 stated that Government would look at "fair and affordable" options for dealing with negative Revenue Support Grant (RSG), the prudent forecast is that this review will unfortunately not lead to a significant change. A further announcement on this is due in the spring, so this will be kept under review. Beyond the end of the four year settlement period it is highly uncertain what the Council's funding will be. The introduction of increased Business Rates retention within Local Government and a Fair Funding review are both expected. As a worst case, this could result in additional responsibilities for the Council and also the redistribution of funding to other areas and to social care Authorities.

New Homes Bonus is also a significant element of the Council's funding. Changes announced last year to how the Bonus is calculated mean that the expectation of under £1.3m in 2018/19 is considerably lower than the almost £2 million received in the current year (and £2.7 million in 2016/17). The confirmed total for 2018/19 is however in line with the estimates in the Council's MTFs for 2018-23 and hence has not impacted on the level of efficiencies required. There remains scope for New Homes Bonus to be reduced or even withdrawn in the future. The baseline of 0.4% that was introduced last year can be

increased at any time, which reduces the number of homes that the Council receives a bonus for. There has also been a consultation on not paying the bonus for any homes that are built on appeal.

The draft Council Tax referendum principles for 2018/19 were published on 19 December 2017. The Principles include the option for Local Authorities to increase Council Tax by up to 3% or £5 (for Band D properties), whichever is the greater amount, without the requirement for a referendum. The Medium Term Financial Strategy agreed by Council in August stated that “the Council will continue to raise Council Tax by as much as it is allowed to without triggering a local referendum” and therefore Cabinet resolved at its meeting on the 23<sup>rd</sup> January 2018 to recommend to Council a 2.99% increase in the District Council Tax.

### **BUSINESS RATES**

Locally retained business rates give Local Authorities some limited financial incentive to promote growth in the business base of the district. The amount of Business Rates that are collected is dependent on the number and type of business premises in the area, the success in collecting what is owed, eligibility for relief and the number of successful appeals.

As of the 1 April 2013, 50% of the collectible Business Rates are retained by Local Government with the remaining 50% paid to central government. NHDC then passes 20% of the retained 50% to the County Council and then, as a tariff authority, pays around 80% to Central Government to reflect the fact that our anticipated income from Business Rates is higher than our assessed need. The outcome is that for every £1 collected in Business rates, NHDC keeps approximately 7p. The introduction of Negative RSG would see this drop below 5p.

Hertfordshire was unsuccessful in its application to become a Business Rates Pilot area for 2018/19. There may be an opportunity to apply again for 2019/20. North Hertfordshire will be part of a Hertfordshire Business Rates pool in 2018/19. The financial benefit from being in the pool is a reduction in the levy required to be paid to Central Government (compared to being outside a pool). As any gain is uncertain and would be a one-off, we have not forecast for it in the budget. If it does materialise, then we will review how this funding can be invested in North Hertfordshire.

As in previous years, and in accordance with the Local Government Finance Act 1992, I arranged a consultation meeting with representatives of Business Ratepayers on 29 January 2018.

### **DISTRICT COUNCIL REQUIREMENTS 2017/2018**

The budget proposals were put together after taking into consideration the comments and recommendations from the various consultation meetings and reflecting on the priorities of the Council.

The overall estimates considered by the Cabinet at its meeting on 23 January 2018, indicate a net expenditure for the Council's own requirements in 2018/19 of £14.6million. In response to feedback and consultation, the Cabinet made several changes to the proposed budget, including ceasing the annual review of the Council's Apprenticeship scheme. This will mean that this scheme will now be invested in on an ongoing basis. Council will be asked to approve this evening further amendments to the budget, which relate to initiatives previously approved by Council and therefore require Council's

authority to amend. These include the removal of the saving in relation to four yearly District Council Elections and deferring for a year the savings in relation to an NHDC Lottery and an alternative format for Area Committees. Table 8 in the budget report summarises the impact on the budget estimates from these changes.

If these changes are approved then it will increase General Fund expenditure by £115k in 2018/19, and by £89k on an ongoing basis from 2020/21. This will increase projected net expenditure in 2018/19 up to £14.7 million, and therefore increase forecast use of reserves. This, combined with the changes made by Cabinet at their January meeting, mean that the savings that are forecast as needing to be identified and delivered by 2021/22 will need to increase. Based on current forecasts, to achieve a balance between funding and expenditure in 2021/22, the required additional savings will increase from £150k up to around £400k.

The revised projected net expenditure of £14.7million in 2018/19 is a notable reduction from the 2017/18 original budget of £16.5million. The planned implementation of £2.3m of efficiencies identified for next year mitigates the growth pressures facing the Council in the year ahead and the reduction in Central Government funding to the extent that the Council is currently anticipating making a small contribution to reserves from General Fund activities in 2018/19. This contribution will help to cushion the impact of the significant further reduction in funding expected in 2019/20.

An assessment of the risks faced in the coming year has identified items where the financial impact is not wholly known and prudence would therefore indicate the need to set the General Fund balance substantially higher than 5% of net expenditure. The full list of all the identified financial risks is attached to the budget report as appendix C. Although the total assessment of risk is £7.5million, the level of risk varies low to high. Taking a proportion of the risk into account would mean it would be prudent to maintain balances that are £1.4million above the minimum level. As required by the Local Government Act 2003, the Chief Finance Officer, must give an assurance on the robustness of the estimates and the adequacy of reserves allowed for in the budget. The Head of Finance, Performance and Asset Management advises that a General Fund minimum balance of £2.15million for 2018/19 is necessary.

Returning to the generality of the report, even the revised level of additional savings to be identified and delivered by 2020/21 is still relatively small. In the light of this, it could be argued that the level of proposed general reserves that the Council was carrying was not necessary. However, this needs to be considered alongside:

- The general uncertainty surrounding Local Government finance mentioned previously
- That the significant savings that have been identified still need to be delivered, and:
- The need for the Council to find new ways of financing its activities, such as commercialisation. These activities may need investment from reserves during the early years. They also fundamentally increase the risk profile of the Council, such that the 5% base assumption may need to be reviewed.

The proposed level of reserves is still significantly below the maximum CIPFA recommended level.

Cabinet recommend that a 2.99% increase on Council Tax (average band D of £223.45) be levied upon the Collection Fund for 2018/19. The make-up of funding for a band D property is shown below (prior to any budget amendments agreed this evening):

**DISTRICT COUNCIL TAX AT BAND D**

	£	Change from 2017/2018 %
<b>NHDC Budget</b>	<u>297.91</u>	-12.27
Contribution to / (from) reserves	3.88	
Less:		
Government Grant & Business Rates	(52.59)	-3.36
<u>New Homes Bonus</u>	<u>(25.75)</u>	<u>-36.92</u>
<b>NHDC (All Areas)</b>	<u>223.45</u>	+2.99

The Council Tax requirement for the Council's own purposes (excluding Parish precepts) is £10,975,529. Parish Precepts, as listed in the addendum report tonight, total £1,095,531. Therefore, the total District Council Tax requirement including Parish Precepts is £12,071,060.

Formal notification of precept requirements from the Hertfordshire Police and Crime Commissioner and Hertfordshire County Council are expected shortly. The Police and Crime Panel reviewed the recommendations by the Police and Crime Commissioner on the 1 February and raised no objections. Formal notification is therefore expected shortly. The County Council will meet to set their budget on 20 February. The NHDC formal Council Tax Resolution will be presented to the Council Tax Setting Committee for approval on 28 February 2018.

**CAPITAL PROGRAMME 2018/19 – 2021/22**

Total capital expenditure planned for 2018/19 amounts to £12.5million, and £17.1million for the four year period to 2021/22.

The Cabinet at their meeting on 23 January 2018 considered the proposed capital programme and resolved to recommend approval of the programme. The budget allocations for each capital scheme are provided as an appendix to the capital report, alongside the forecast funding arrangements.

The capital report shows that on current forecasts the Council would use up all its capital reserves during 2018/19. This would result in having to borrow or using revenue reserves. The Council is forecasting to generate £8.5 million of capital receipts over the next four years, however this forecast could be affected by the inspection and adoption of the Local Plan. Achieving this level of receipts also involves the sale of the majority of the Council's remaining land that is suitable for residential development. Beyond this four year period, in common with most Councils, it is inevitable that the Council will need to borrow to fund its ongoing capital investments in the District.

Included within the capital programme is a commitment to fund extension to the Hitchin Swim Centre car park. The Council was advised recently of the outcome of a public enquiry in to carrying out restricted works on Common Land. The inspector decided against the proposal. The implications of this decision will be reviewed and for now the capital funding allocation will be kept. The detailed review of the decision may mean that there is no financially viable case for this work that can be made, and if this is the case the item will be removed from the capital programme.

Finally I would like to thank all the officers across the Council, for their hard work and commitment in producing the budget information under such continued difficult financial circumstances.

**As Presented by COUNCILLOR Julian Cunningham.**  
***Executive Member for Finance & IT***

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<b>COUNCIL</b> <b>10 APRIL 2018</b>
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<b>PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>
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	<b>6</b>
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**TITLE OF REPORT: COUNCIL CONSTITUTION – ANNUAL REVIEW 2018**

REPORT OF THE ACTING CORPORATE LEGAL MANAGER & MONITORING OFFICER  
EXECUTIVE MEMBER: MRS L.A. NEEDHAM, LEADER OF THE COUNCIL  
COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

**1. EXECUTIVE SUMMARY**

This report recommends amendments to update the Council's Constitution.

**2. RECOMMENDATIONS**

That Full Council:

- 2.1 approves the proposed amendments set out in Appendix A.
- 2.2 delegates to the (Acting) Corporate Legal Manager & Monitoring Officer authority to make such amendments as are necessary to the Constitution to give effect to the Senior Management Restructure post implementation.

**3. REASONS FOR RECOMMENDATIONS**

To ensure the Council meets its statutory obligations and continues to improve its working practices.

**4. ALTERNATIVE OPTIONS CONSIDERED**

None.

**5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

The proposals take into account issues raised by Members and Officers since the last review. The Group Leaders were consulted on the proposed changes.

**6. FORWARD PLAN**

This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

## 7. BACKGROUND

- 7.1 The Monitoring Officer has a duty to monitor and review the Constitution. Under paragraph 2.4 of the Constitution there is an annual straightforward (necessary/ minor) and triennial in-depth review process. The last in-depth review took place in 2015 and so 2018 was scheduled for an in-depth review. Whilst the 2018 review has taken into account all of the matters raised with the Monitoring Officer during the course of the year, it is considered most appropriate to await the outcome of the Senior Management Restructure before a significant in-depth review is undertaken.
- 7.2 Members will note that further amendments will be required following the conclusion of the Senior Management Restructure and it is proposed that authority to finalise the detail of that aspect of the review is delegated to the (Acting) Corporate Legal Manager and Monitoring Officer, as per recommendation 2.2.
- 7.3 The key changes set out in Appendix A are summarised in section 8 below.

## 8. RELEVANT CONSIDERATIONS

### **Section 2 Changes to the Constitution including the Financial Regulations**

- 8.1 Presently all minor amendments to the Financial Regulations have to be reported to Full Council, whereas only certain changes to the main body of the Constitution have to be reported in this way, with others notified to members via MIS. The proposed changes to this section address this inconsistency by applying the existing procedure for minor amendment to the main body of the Constitution, to the Financial Regulations.

### **Section 4 Functions of Full Council**

- 8.2 Amendments to the Functions of Full Council are proposed for clarification and to reflect current practice.

### **Section 4 Standing Orders**

- 8.3 New procedure rules are proposed to apply to presentations by the public. The rules are intended to align the procedures for questions and presentations by the public and include the ability for the presentation to be rejected if it is substantially the same as a presentation that has been made at a meeting in the previous six months, or the same as one presented at the same meeting; it will also allow some consideration and thereby protection of the Council from defamatory or offensive presentation. It is proposed that the presentation be sent to the Proper Officer two working days prior to the meeting to enable consideration of whether the presentation is repetitious in this way, or otherwise is not in accordance with the rules. However it is not proposed to apply this new notification requirement to Planning Control Committee or Area Committees. It is acknowledged that embedded within the constitution these committees have their own rules with regard to notification of presentations<sup>1</sup>, and it is intended that these practices should continue.
- 8.4 Changes have been introduced to formalise the Councillor's Speaking Right introduced by the revised Code of Conduct adopted on 27 November 2017 which will take effect on 4 May 2018. The right shall apply to Full Council, Cabinet, Committees and Sub-committees (excluding the Employment Panel).

### **Section 5 Functions of Cabinet**

- 8.5 Several amendments to the Functions of Cabinet are proposed for clarification, for consistency with other constitutional provisions, and to reflect current practice. In

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<sup>1</sup> Paragraph 1.5 of Appendix 1 to Section 8, and paragraph 9.3(c)(i)  
COUNCIL (10.4.18)

addition, changes are proposed to set out the role of the Cabinet Sub-Committee (Local Authority Trading Companies' Shareholder) prior to the creation of any partly or wholly owned company.

**Section 8 Procedure for Member's participation in Planning Control Committee**

- 8.6 As part of the introduction of the Councillor's Speaking Right to this committee, consideration has been given to how the right should be aligned with the rights of ward advocates and members who are excluded from participating in the debate and vote on the basis of perceived or actual bias or predetermination. The proposed amendments to this section clarify that the 5 minute timeslot for addressing the committee (or 10 minutes in the case of a major application) is to be shared between all members who are eligible to speak.

**Section 9 Area Committee Grant funding delegation**

- 8.7 It is proposed that an officer in consultation with the Chairman or Vice Chairman of area committees has delegated authority to provide grants aid/financial support in between meetings of the Area Committee. This delegation will be subject to a limit of £500 for each individual grant. Allowing small grants of this nature to be dealt with outside of the committee cycle will provide greater flexibility for the Area Committee to meet the needs of the applicant groups. The intention is to finalise this amendment following the conclusion of the Senior Management Restructure so that the Service Director with responsibility for community development can become the delegated officer.

**Section 10 Employment Committee and new Employment Appeals Committee**

- 8.8 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 provided new arrangements for taking disciplinary action against Council Statutory Officers. In July 2015 the necessary changes to the Constitution were introduced to reflect the new statutory arrangements. Since that time, The Joint Negotiating Committee for Local Authority Chief Executives (JNC), which is the body responsible for Chief Officer Conditions of Service, has undertaken a thorough consideration of the statutory changes and has published a model discipline procedure and guidance. The model procedure includes provisions for Statutory Officers to have a right of appeal to an Appeals Committee against decisions by the Employment Committee to take action short of dismissal (as a decision to dismiss would be referred to Full Council under the procedure). The proposed changes to this section introduce an Employment Appeals Committee to undertake this function. Previously this appeals function fell within the terms of reference of the Licensing and Appeals Committee, however it was felt that this a was disproportionate and inappropriate forum to consider appeals of this nature.
- 8.9 The JNC's model procedure also recommends that the Monitoring Officer is delegated powers to filter complaints of misconduct against Chief Officers before they are referred to the Employment Committee for consideration, in consultation with the Chairman. This delegation has been incorporated into the proposed amendments to the Employment Committee's terms of reference. Where such complaints related to the Monitoring Officer, they shall be dealt with by the/ a Deputy Monitoring Officer.

**Sections 12 & 14**

- 8.10 Members will be aware that the formal consultation into the Senior Management Restructure closed on 21<sup>st</sup> March 2018. Sections 12 and 14 of the Constitution will require extensive amendments to reflect the new structure and to give effect to a new scheme of delegation (although some further consequential ones will be required elsewhere to align descriptions/ terminology). Due to the timing of reports and the need for the consultation responses to be fully considered, it has not been possible to bring

forward the relevant proposals as part of this annual review. The recommendation at 2.2 of this report is therefore included to allow the necessary amendments to be made at the earliest opportunity and these will be reported back to members via MIS.

## **9. LEGAL IMPLICATIONS**

9.1 Full Council's terms of reference include "approving of adopting the Policy Framework. The Policy Framework includes the Constitution.

9.2 Section 37 Local Government Act 2000 requires the Council to have in place a constitution and to keep that constitution under review. The Local Government Act 2000 section 9P sets out the requirements of a local authority's constitution, including the requirements to prepare it and keep it up to date and the requirement to make it available for public inspection.

## **10. FINANCIAL IMPLICATIONS**

The proposed change in paragraph 8.7 provides an additional delegation in relation to the award of Area Committee Grants. Any awards will still be required to be within the annual budget allocated to that Committee. As a result there are no financial implications (either revenue or capital) arising from this report.

## **11. RISK IMPLICATIONS**

Ensuring the Council has appropriate governance arrangements in place is an important risk mitigation measure. The Council's Constitution is a fundamental part of those governance arrangements.

## **12. EQUALITIES IMPLICATIONS**

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 The proposals made within this report for changes to the Constitution do not materially affect any groups with protected characteristics, but it is the aim, in revising the Constitution and its content regularly, to make it more 'user friendly', ensure transparency and also to encourage greater participation in the Council's decision making processes.

## **13. SOCIAL VALUE IMPLICATIONS**

The Social Value Act and "go local" policy do not apply to this report.

## **14. HUMAN RESOURCE IMPLICATIONS**

The Senior Management Restructure is not the subject matter of this report; however, changes shall be made to the Constitution following consultation, consideration of those responses and implementation. Otherwise, no other implications.

## **15. APPENDICES**

Appendix A – Schedule of proposed amendments to the Constitution.

**16. CONTACT OFFICERS**

16.1 Jeanette Thompson; Acting Corporate Legal Manager & Monitoring Officer  
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16.3 Ian Couper; Head of Finance, Performance and Asset Management  
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16.4 Reuben Ayavoo; Senior Corporate Policy Officer  
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**17. BACKGROUND PAPERS**

17.1 Current NHDC Constitution 2017: <https://www.north-herts.gov.uk/home/council-and-democracy/council-constitution>

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Reference	Subject	Raised by	Reference to changes made to denote proposal. Reason for proposed change. Words inserted shown in <i>italics</i> and words removed shown <del>stricken through</del>
Section 2			
Section 2.2.2	Definitions	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Amendment to definition of SIAS</p> <p>means the Shared Internal Audit Service appointed by the <del>Strategic Director of Finance Policy and Governance</del> Chief Finance Officer to undertake the Internal Audit function for the Council</p> <p><b>Reason:</b> appointment is made by the Chief Finance Officer</p>
Section 2.4	Duty to Monitor and Review the Constitution	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Deletion of requirement for every minor change to the Financial Regulations to be reported to Full Council</p> <p>The Chief Finance Officer shall be responsible for keeping under review the Financial Regulations set out in Section 19 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. <del>He/She shall report any amendments made to Section 19 to the next available Council meeting for noting.</del></p> <p><b>Reason:</b> to bring parity between the requirements for minor changes to the Constitution and minor changes to the Financial Regulations so that whilst members are informed regarding all changes, only certain alterations have to be reported back to Full Council</p>
Section 2.6	Changes to the Constitution	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Amendment to heading</p> <p>Changes to the Constitution <i>including the Financial Regulations</i></p> <p><b>Reason:</b> to clarify that section 2.6 governs changes to the Financial Regulations and to bring parity between the requirements for minor changes to the Constitution and minor changes to the Financial Regulations so that whilst members are informed regarding all changes, only certain alterations have to be reported back to Full Council</p>
Section 3			

Section 3.1.1	Getting information and getting involved	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Revised wording of 3.1.1(f)</p> <p><del>During the annual audit of the accounts, the Council's accounts are available for public inspection to enable members of the public to make their views known to the external auditor.</del></p> <p><i>During a 30 working day period that includes 1-14 June, any 'interested' person can inspect the Council's accounts and accounting records. Local electors may also inspect various reports issued by the auditors and ask questions of the auditor about the accounting records. Local electors can also make objections to the auditor where they believe that an item in the accounts is unlawful or they think that a public interest report should be made. The National Audit Office has produced a guide that further explains the public's rights in relation to the inspection of accounts.</i></p> <p><b>Reason:</b> to clarify the rights of the public in relation to the Council's accounts as set out in ss26, -27 Local Audit and Accountability Act 2014 and guidance from the National Audit Office.</p>
Section 4			
Section 4.4.1	Functions of Full Council	Property solicitor	<p><b>Change:</b> insertion of word 'annual' into terms of reference (u) and (v)</p> <p>(u) to authorise the disposal (by sale or lease) of land or buildings where the sale price, premium or initial <i>annual</i> rent (after the expiry of any rent free period) exceeds £2,500,000;</p> <p>(v) to authorise the acquisition of land or buildings where the purchase price, premium or initial <i>annual</i> rent (after the expiry of any rent free period) exceeds £2,500,000;</p> <p><b>Reason:</b> for clarification and for consistency with delegated powers.</p>
Section 4.4.1	Functions of Full Council	Democratic Services Manager	<p><b>Change:</b> Insert new function of Full Council at 4.4.1 (cc)</p> <p><i>setting the scale of fees for elections</i></p> <p><b>Reason:</b> to reflect current practice</p>
Section 4.4.1	Functions of Full Council	Monitoring Officer	<p><b>Change:</b> Insert new function of Full Council 4.4.1 (dd)</p> <p><i>approving the treasury management strategy statement</i></p> <p><b>Reason:</b> to reflect current practice</p>



Section 4.4.1	Functions of Full Council	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Insert new function of Full Council 4.4.1 (ee)</p> <p><i>To determine those financial matters reserved to Council by the Financial Regulations</i></p> <p><b>Reason:</b> for clarification as there are some matters referred to Council by the Financial Regulations<sup>1</sup> which are not expressly set out in Council's terms of reference namely:</p> <ul style="list-style-type: none"> <li>• Approve annual Risk Report (Financial Regs paragraph 11.4)</li> <li>• Creation and movement of reserves (Financial Regs paragraph 10.2)</li> </ul>
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<sup>1</sup> Adopted by Full Council on 18 Jan 2018

<p>Section 4.8.9</p>	<p>Presentations by the public</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> Insert new 4.8.9(d), (e) and (f) (and consequential amendments to numbering)</p> <p><i>(d) Notice of Presentations</i></p> <p><i>A presentation may only be made if notice has been given by delivering it in writing or by electronic mail to the Proper Officer no later than midday, two working days before the day of the meeting.</i></p> <p><i>(e) Number of Presentations</i></p> <p><i>At any one meeting no person may make more than two presentations and no more than two such presentations may be made on behalf of one organisation.</i></p> <p><i>(f) Scope of Presentations</i></p> <p><i>The Chairman and/or Proper Officer may reject a presentation if it:</i></p> <ul style="list-style-type: none"> <li><i>(i) is not about a matter for which the Council has a responsibility or which affects the District;</i></li> <li><i>(ii) is defamatory, frivolous or offensive;</i></li> <li><i>(iii) is substantially the same as a presentation which has been made at a meeting of the Council in the past six months;</i></li> <li><i>(iv) is a duplicate of a same or similar one at the meeting;</i></li> <li><i>(v) requires the disclosure of confidential or exempt information.</i></li> </ul> <p><b>Reason:</b> to bring consistency between the rules on public presentations and public questions, and provide sufficient time to review for the purposes of (e) &amp; (f).</p>
<p>Section 4.8.10</p>	<p>Questions by the public</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> insertion of word 'Chairman and/or' at paragraph 4.8.10(e):</p> <p><i>The Chairman and/or Proper Officer may reject a question if it:</i></p> <p><b>Reason:</b> to reflect current practice</p>

Section 4.8.10	Questions by the public	Monitoring Officer	<p><b>Change:</b> Insert new 4.8.10(e)(iv) allowing a question by the public to be rejected if it is a duplicate of a same or similar one at the meeting (and consequential amendments to numbering)</p> <p><i>is a duplicate of a same or similar one at the meeting</i></p> <p><b>Reason:</b> to prevent duplicate questions</p>
Section 4.8.11	Questions by members	Monitoring Officer	<p><b>Change:</b> insertion of word 'Chairman and/or' at paragraph 4.8.11(e):</p> <p>The <i>Chairman and/or</i> Proper Officer may reject a question if it:</p> <p><b>Reason:</b> to reflect current practice</p>
Section 4.8.11	Questions by members	Monitoring Officer	<p><b>Change:</b> Insert new 4.8.11(e)(iv) allowing a question by a member to be rejected if it is a duplicate of a same or similar one at the meeting (and consequential amendments to numbering)</p> <p><i>is a duplicate of a same or similar one at the meeting</i></p> <p><b>Reason:</b> to prevent duplicate questions</p>
Section 4.8.14	Rules of Debate	Monitoring Officer	<p><b>Change:</b> Insert new 4.8.14(d) (and consequential amendments to numbering) <b>as from 4 May 2018</b></p> <p><i>Councillor's Speaking Right</i></p> <p><i>After a motion has been moved and seconded, any Member who has indicated that they wish to exercise a Councillor's Speaking Right in relation to any item of business shall be entitled to speak to the item from the public area of the meeting room. The rules as to content and length of speeches set out at 4.8.14(e) shall apply. Once the right to speak has been exercised, the member must leave the room before the debate and vote.</i></p> <p><b>Reason:</b> to reflect rights set out in the revised Code of Conduct (paragraph 6.2 (c)) adopted on 23 November 2017, effective from 4 May 2018</p>

Section 4.8.16	Method of Voting	Committee and Member Services Manager	<p><b>Change:</b> Insert option to take votes using electronic voting buttons</p> <p>Unless a recorded vote is demanded under 4.6.16(e) the Chairman will take the vote <i>either</i> by show of hands <i>or (where available) by use of electronic voting buttons</i>, or if there is no dissent, by the affirmation of the meeting.</p> <p><b>Reason:</b> to reflect the introduction of electronic voting</p>
Section 4.8.24	Application to committees and sub-committees	Monitoring Officer	<p><b>Change:</b> Numbering amended and new 4.8.24(e) inserted:</p> <p><i>(e) Standing Order 4.8.9(d) shall not apply to Planning Control Committee or Area Committees</i></p> <p><b>Reason:</b></p> <ul style="list-style-type: none"> <li>• to account for the insertion of 4.8.14(d)</li> <li>• to apply new Councillor’s Speaking Right to Cabinet and Committees and Sub-committees (excluding the Employment Panel), and</li> <li>• to exclude from Planning Control Committee and Area Committee the requirement to deliver presentations in writing to the Proper Officer two working days before the meeting so that the current practice for these committees can continue</li> </ul>
Section 5			
Section 5.6.17	Functions of Cabinet	Head of Development and Building Control	<p><b>Change:</b> wording amended</p> <p>To exercise the Authority’s powers <del>for</del> <i>in planning for</i> and responding to civil emergencies.</p> <p><b>Reason:</b> for clarification</p>
Section 5.6.18	Functions of Cabinet	Head of Development and Building Control	<p><b>Change:</b> Insertion of words ‘consultations/referendums’</p> <p>to receive reports on: strategic planning matters, applications for, approval/ designation, <i>consultations/referendums</i> revocation (or recommend revocation of) neighbourhood plans and orders,</p> <p><b>Reason:</b> to reflect current practice</p>

Section 5.6.20	Functions of Cabinet	Property solicitor	<p><b>Change:</b> insertion of word 'annual' into terms of reference</p> <p>To approve the purchase or appropriation of land and buildings where the sale price, premium or initial <i>annual</i> rent (after the expiry of any rent free period) exceeds £250,000 and does not exceed £2,500,000.</p> <p><b>Reason:</b> for clarification and for consistency with delegated powers.</p>
Section 5.6.21	Functions of Cabinet	Property solicitor	<p><b>Change:</b> insertion of word 'annual' into terms of reference</p> <p>To dispose of land or buildings where the purchase price, premium or initial <i>annual</i> rent (after the expiry of any rent free period) which exceeds £250,000 but does not exceed £2,500,000.</p> <p><b>Reason:</b> for clarification and for consistency with delegated powers.</p>
Section 5.6.22	Functions of Cabinet	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Revised wording</p> <p>To accept tenders <del>which</del> <i>for individual capital schemes where the estimated expenditure exceeds the budgetary provision by the limits set out in the Financial Regulations.</i></p> <p><b>Reason:</b> for clarification that not all tenders which exceed budgetary provision require Cabinet approval and to reflect para 5.6 of the Financial Regulations</p>
Section 5.6.23	Functions of Cabinet	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Insertion of words 'on capital schemes':</p> <p>To receive reports on contract overspends <i>on capital schemes</i> in accordance with limits set out in the Financial Regulations and agree the action to be taken.</p> <p><b>Reason:</b> to clarify that only capital projects overspends require Cabinet to determine the action to be taken.</p>

Section 5.6.35	Functions of Cabinet	Head of Finance, Performance and Asset Management	<p><b>Change:</b> New paragraph 5.6.35 (and consequential renumbering)</p> <p><i>To determine those financial matters reserved to Cabinet by the Financial Regulations</i></p> <p><b>Reason:</b> for clarification as there are a number of matters referred to Cabinet by the Financial Regulations which are not expressly set out in Cabinet’s terms of reference namely:</p> <ul style="list-style-type: none"> <li>• carry-forwards at year end (Financial Regs para 9.3)</li> <li>• approving the Risk and Opportunities Management Policy and Strategy (Finance Regs para 11.3)</li> <li>• approval of Council’s bankers and accounts (Finance Regs para 13.4)</li> </ul>
Section 5.6.36	Functions of Cabinet	Head of Finance, Performance and Asset Management	<p><b>Change:</b> New paragraph 5.6.36 (and consequential renumbering)</p> <p><i>To determine those procurement matters reserved to Cabinet by the Contract Procurement Rules</i></p> <p><b>Reason:</b> for clarification as there are a number of matters referred to Cabinet by the Contract Procurement Rules which are not expressly set out in Cabinet’s terms of reference namely:</p> <ul style="list-style-type: none"> <li>• approving alternative methods of tendering (Contract Procurement Rules para 8.8)</li> <li>• where tenders are assessed on price alone, not awarding to the cheapest (Contract Procurement Rules para 17.7)</li> <li>• non-contractual variations to contract that are not subject to authorisation by Executive Members or Officers (Contract Procurement Rules para 28.9)</li> <li>• disposal of land or property that is not held for investment nor has been declared surplus (Contract Procurement Rules para 33.8)</li> </ul>
Section 5.6.39	Functions of Cabinet	Head of Finance, Performance and Asset Management	<p><b>Change:</b> New paragraph 5.6.39</p> <p>[By recommendation to Council] <i>The treasury management strategy statement</i></p> <p><b>Reason:</b> to reflect current practice</p>
Section 5.11.4	Cabinet Sub Committee (Local Authority Trading Companies’ Shareholder)	Monitoring Officer	<p><b>Change:</b> correction to incorrect numbering</p>

Section 5.11.4	Cabinet Sub Committee (Local Authority Trading Companies' Shareholder)	Monitoring Officer	<p><b>Change:</b> New 5.11.4 (i) (and consequential re-numbering)</p> <p><i>(i) Prior to the creation of any wholly or partly owned company:</i></p> <ul style="list-style-type: none"> <li>(i) <i>to consider options for activities which are for a commercial purpose and would need to be undertaken by such a company;</i></li> <li>(ii) <i>to make recommendation to Cabinet to establish such a company</i></li> </ul> <p><b>Reason:</b> to allow the Sub-Committee to be proactive in its approach</p>
Section 8			
Section 8.2.3	Licensing and Appeals Committee	Monitoring Officer	<p><b>Change:</b> deletion of powers of Licensing and Appeals Committee 8.2.3(c)</p> <p><del>to consider appeals against decisions made by the Employment Committee relating to the conduct, capability or other substantial issue concerning all chief officers where the action to be taken is short of dismissal.</del></p> <p><b>Reason:</b> to enable this function to be undertaken by a dedicated Employment Appeals Committee as per the Joint Negotiating Committee for Local Authority Chief Executives Conditions of Service recommendations.</p>
Section 8.4.1	Planning control committee	Head of Development and Building Control	<p><b>Change:</b> Insertion of words 'or reasons for refusing an application'</p> <p>Note - members may be requested to present to a Planning Appeal any Planning Control Committee objections to a planning application <i>or reasons for refusing an application.</i></p> <p><b>Reason:</b> so the Inspector is clear as to reasons for refusal, particularly where this is against officer recommendation</p>

Section 8.4.5	Planning control committee	Head of Development and Building Control	<p><b>Change:</b> Insertion of new obligation for member to provide written reasons for call in if unable to attend planning committee:</p> <p>Where a member makes such a request they should attend the relevant Committee meeting to present their reasons/grounds to the Committee. <i>If they are unable to attend the relevant Committee meeting the member must arrange for another member to present on their behalf or provide a written statement presenting their reasons/grounds, otherwise the item shall be deferred.</i></p> <p><b>Reason:</b> to ensure that the planning committee are fully appraised of the reasons for call in and provides greater flexibility for Members.</p>
Appendix 1 to Section 8 paragraph 1.3	Planning control committee	Head of Development and Building Control	<p><b>Change:</b> Insertion of words 'or another officer not directly involved'</p> <p>It is suggested that the Committee &amp; Member Services Officer <i>or another officer not directly involved</i> has the responsibility for time-keeping rather than the Chairman.</p> <p><b>Reason:</b> to reflect current practice</p>
Appendix 1 to Section 8 paragraph 1.5	Planning control committee	Head of Development and Building Control	<p><b>Change:</b> Deletion of words 'unless they have spoken at the first meeting'</p> <p>They may speak at subsequent meetings, in the case of a decision being deferred, <del>unless they have spoken at the first meeting.</del></p> <p><b>Reason:</b> deferral can follow after the speakers and as such, current practice is to allow them to speak again.</p>



<p>Appendix 2 to Section 8 paragraph 1.3 and 1.4 (new)</p>	<p>Planning control committee</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> Insertion of new 1.3 and 1.4:</p> <p><i>1.3 Planning Control Committee Members who have a Declarable Interest may address the Committee by exercising their Councillor’s Speaking Right<sup>2</sup>.</i></p> <p><i>1.4 Planning Control Committee Members who are excluded from taking part in the debate and vote on the basis of perceived or actual bias or predetermination may address the Committee in accordance with this scheme provided that they do no have a Disclosable Pecuniary Interest in the relevant application.</i></p> <p><b>Reason:</b> to reflect the rights set out in the revised Code of Conduct and to clarify the position for members who may not take part in the debate and vote on the basis of bias or predetermination.</p>
<p>Appendix 2 to Section 8 paragraph 1.5 (as renumbered)</p>	<p>Planning control committee</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> Insertion of word ‘Member’:</p> <p>There will be a maximum of two “groups” of <i>Member</i> speakers (i.e. those supporting and those objecting) for each application.</p> <p><b>Reason:</b> to clarify that all Members speaking under the scheme are required to share a 5 minute timeslot for those supporting and those objecting. This is to prevent an unequitable imbalance between supporting and objecting representations to the committee.</p>
<p>Appendix 2 to Section 8 paragraph 2.4</p>	<p>Planning control committee</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> Revised wording and insertion of words:</p> <p><del>Any Non-Planning Control Committee</del> Members objecting to the application is/are then invited to address the Committee for up to 5 minutes in total or 10 minutes in total where the application is a Major Application. <i>This category of speakers shall include, any Non Planning Control Committee Members who are entitled to speak, Planning Control Committee members exercising their Councillor’s Speaking Right and Planning Control Committee members who are excluded from participating in the debate and vote on the basis of perceived or actual bias or predetermination.</i></p> <p><b>Reason:</b> to clarify that all Members speaking under the scheme are required to share a 5 minute timeslot for objecting to an application. This is to prevent an unequitable imbalance between supporting and objecting representations to the committee.</p>

<sup>2</sup> As defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015, or any subsequent provision replacing the same

<p>Appendix 2 to Section 8 paragraph 2.5</p>	<p>Planning control committee</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> Revised wording:</p> <p>Any <del>Non-Planning Control Committee</del> Members supporting the application is/are then invited to address the Committee for up to 5 minutes in total or 10 minutes in total where the application is a Major Application. <i>This category of speakers shall include, any Non Planning Control Committee Members who are entitled to speak, Planning Control Committee members exercising their Councillor’s Speaking Right and Planning Control Committee members who are excluded from participating in the debate and vote on the basis of perceived or actual bias or predetermination.</i></p> <p><b>Reason:</b> to clarify that all Members speaking under the scheme are required to share a timeslot for supporting an application. This is to prevent an unequitable imbalance between supporting and objecting representations to the committee.</p>				
<p>Section 9</p>							
<p>Section 9.8.1</p>	<p>Area Committee terms of reference</p>	<p>Head of Finance, Performance and Asset Management</p>	<p><b>Change:</b> Removal of ‘provide public seats and shelters’ from terms of reference</p> <p><del>To provide public seats and shelters</del></p> <p><b>Reason:</b> to reflect current practice as funding is no longer available for this function</p>				
<p>Section 9.8.1</p>	<p>Area Committee terms of reference</p>	<p>Hitchin Area Committee 5.9.17 minute 32</p>	<p><b>Change:</b> Creation of delegated powers of the Area Committee:</p> <table border="1" data-bbox="884 911 2101 1201"> <thead> <tr> <th data-bbox="884 911 1491 975"><b>Delegated powers</b></th> <th data-bbox="1491 911 2101 975"><b>Delegated Members and Officers</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="884 975 1491 1201"><i>The provision of grant aid/financial support to a maximum limit of £500 where the grant aid/financial support is to facilitate an event which will take place prior to the next meeting of the Area Committee</i></td> <td data-bbox="1491 975 2101 1201"><i>The [relevant director] in consultation with the Chairman or Vice Chairman of the relevant Area Committee</i></td> </tr> </tbody> </table> <p><b>Reason:</b> to allow for budget allocations between Area Committee meetings. <b>Note</b> – the relevant director will be determined by the (Acting) Corporate Legal Manager &amp; Monitoring Officer following conclusion of the consultation on the Senior Management Restructure.</p>	<b>Delegated powers</b>	<b>Delegated Members and Officers</b>	<i>The provision of grant aid/financial support to a maximum limit of £500 where the grant aid/financial support is to facilitate an event which will take place prior to the next meeting of the Area Committee</i>	<i>The [relevant director] in consultation with the Chairman or Vice Chairman of the relevant Area Committee</i>
<b>Delegated powers</b>	<b>Delegated Members and Officers</b>						
<i>The provision of grant aid/financial support to a maximum limit of £500 where the grant aid/financial support is to facilitate an event which will take place prior to the next meeting of the Area Committee</i>	<i>The [relevant director] in consultation with the Chairman or Vice Chairman of the relevant Area Committee</i>						

Section 10			
Section 10.1.4	Proceedings of the Finance, Audit and Risk Committee	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Amendment to number of meetings</p> <p>There shall be <del>five</del> six regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate.</p> <p><b>Reason:</b> to reflect current practice</p>
Section 10.1.5	Terms of Reference of the Finance Audit and Risk Committee	Head of Finance, Performance and Asset Management	<p><b>Change:</b> Amendment to 10.1.5 (o)</p> <p><del>(Subject to enabling legislation) to</del> To appoint <i>(when this requirement arises)</i> the Council's Auditor Panel (if expedient, with one or more other relevant authority).</p> <p><b>Reason:</b> to reflect that the relevant legislation<sup>3</sup> has been enacted, but that the Council also has alternative options in relation to appointment of auditors. Note unclear or possibly unlikely if this provision will be enacted.</p>
Section 10.3.4	Terms of Reference of Employment Committee	Monitoring Officer	<p><b>Change:</b> New power of the Employment Committee at 10.3.4(e) (and consequential renumbering):</p> <p><i>To authorise suspension of the Chief Executive where it is considered appropriate during the investigation of alleged misconduct.</i></p> <p><b>Reason:</b> to ensure clarity as to the process for suspension and as per the Joint Negotiating Committee for Local Authority Chief Executives Conditions of Service recommendations.</p>
Section 10.3.4	Terms of Reference of Employment Committee	Monitoring Officer	<p><b>Change:</b> Deletion of 10.3.4(f)</p> <p><del>To consider appeals against decisions made by the Chief Executive relating to the dismissal by redundancy or otherwise of Strategic Directors (except Statutory Officers), Heads of Service and Corporate Managers.</del></p> <p><b>Reason:</b> to enable the newly created Employment Appeals Committee to deal with such matters</p>

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<sup>3</sup> Local Audit and Accountability Act 2014

<p>Section 10.3.4</p>	<p>Terms of Reference of Employment Committee</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> Creation of delegated powers of the Employment Committee:</p> <table border="1" data-bbox="884 263 2040 635"> <thead> <tr> <th data-bbox="884 263 1491 331"><b><i>Delegated powers</i></b></th> <th data-bbox="1491 263 2040 331"><b><i>Delegated Members and Officers</i></b></th> </tr> </thead> <tbody> <tr> <td data-bbox="884 331 1491 635"> <p><i>To ascertain whether allegations raised against the Chief Executive the Monitoring Officer, the Chief Finance Officer or the Directors are substantial issues regarding investigation or whether they do not require investigation on the basis that they are clearly unfounded, trivial or best dealt with under an alternative procedure.</i></p> </td> <td data-bbox="1491 331 2040 635"> <p><i>Monitoring Officer (or Deputy Monitoring Officer in the event of conflict or absence) in consultation with the Chairman</i></p> </td> </tr> </tbody> </table> <p><b>Reason:</b> to ensure that only allegations which merit investigation by the Employment committee are placed before the Committee.</p>	<b><i>Delegated powers</i></b>	<b><i>Delegated Members and Officers</i></b>	<p><i>To ascertain whether allegations raised against the Chief Executive the Monitoring Officer, the Chief Finance Officer or the Directors are substantial issues regarding investigation or whether they do not require investigation on the basis that they are clearly unfounded, trivial or best dealt with under an alternative procedure.</i></p>	<p><i>Monitoring Officer (or Deputy Monitoring Officer in the event of conflict or absence) in consultation with the Chairman</i></p>
<b><i>Delegated powers</i></b>	<b><i>Delegated Members and Officers</i></b>						
<p><i>To ascertain whether allegations raised against the Chief Executive the Monitoring Officer, the Chief Finance Officer or the Directors are substantial issues regarding investigation or whether they do not require investigation on the basis that they are clearly unfounded, trivial or best dealt with under an alternative procedure.</i></p>	<p><i>Monitoring Officer (or Deputy Monitoring Officer in the event of conflict or absence) in consultation with the Chairman</i></p>						

<p>Section 10.5</p>	<p>Employment Appeals Committee</p>	<p>Monitoring Officer</p>	<p><b>Change:</b> Creation of new Employment Appeals Committee (and consequential renumbering)</p> <p><b>10.5 Employment Appeals Committee</b></p> <p><i>10.5.1 Membership</i></p> <p><i>No more than five (5) members who are not be members of the Employment Committee (including at least one (1) member of Cabinet) shall be appointed to the Employment Appeals Committee.</i></p> <p><i>10.5.2 Quorum</i></p> <p><i>The quorum for a meeting of the Committee shall be three (3) voting members of that Committee.</i></p> <p><i>10.5.3 Meetings</i></p> <p><i>Ad-Hoc</i></p> <p><i>10.5.4 Terms of Reference</i></p> <p><i>(a) The determination of appeals against any decision of the Employment Committee to take action short of dismissal against the Chief Executive, the Monitoring Officer or the Chief Finance Officer following an allegation of misconduct</i></p> <p><i>(b) To consider appeals against decisions made by the Chief Executive relating to the dismissal by redundancy or otherwise of Directors.</i></p> <p><b>Reason:</b> as recommended by the Joint Negotiating Committee for Local Authority Chief Executives</p>
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Section 14			
Section 14.6	Delegation of Authority – Strategic Director Finance Policy and Governance	Property Solicitor	<p><b>Change:</b> Amendment to delegated authority:</p> <p>granting, negotiating and settling terms of leases, licences, easements, wayleaves, rent reviews, assignment of leases, the appointment of arbitrators / experts, consents, guarantees and all other minor land matters where the initial annual rent (after the expiry of any rent free period) <i>or the premium</i> does not exceed £50,000 <del>or the calculation of the annual rent is based on a premium not exceeding £50,000</del></p> <p><b>Reason:</b> For clarity and to remove superfluous wording</p>
Section 14.8	Cabinet Portfolios	Monitoring Officer	<p><b>Change:</b> Deletion of Cabinet member details and insertion of website link:</p> <p>In accordance with the Cabinet Procedure Rules and Terms of Reference executive functions will be delegated to the Cabinet Portfolios <i>detailed on the Council’s website:</i></p> <p><i><a href="https://www.north-herts.gov.uk/home/council-and-democracy/councillors-mps-and-meps/councillor-duties-and-responsibilities">https://www.north-herts.gov.uk/home/council-and-democracy/councillors-mps-and-meps/councillor-duties-and-responsibilities</a>.</i></p> <p><b>Reason:</b> To remove the need for updating</p>
Section 14.8.8	Functions of executive member for Policy Transport and Green issues	Communications Manager	<p><b>Change:</b> Deletion of 14.8.8(k)</p> <p><del>the Council’s communications strategies and activities and press and publicity activity in consultation with the Leader</del></p> <p><b>Reason:</b> For clarification. Currently responsibility for communications sits with the Leader (paragraph 14.8.2.5 (i)) and also with the Portfolio holder for Policy Transport and Green issues in consultation with the Leader. The amendment will place responsibility solely with the Leader.</p>

Section 15			
Section 15.6.2	Access to Information Rules – Supply of Copies	Monitoring Officer	<p><b>Change:</b> Clarification that this clause is subject to 15.23.1</p> <p>The Proper Officer will ensure that copies of the agenda and reports are made available at the meeting of the Committee for any other Member, or member of the public, who attends the meeting. <i>This is subject to 15.23.1.</i></p> <p><b>Reason:</b> Paragraph 15.23.1 covers additional rights of access for members and the relevant exemptions that apply.</p>
Section 15.23.1	Additional Rights of Access for Members	Monitoring Officer	<p><b>Change:</b> Clarification that paragraph 15.23.1(c) also applies</p> <p>All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which contain material relating to any business to be transacted at a public meeting unless 15.23.1(a) or 15.23.1(b) or 15.23.1(c) applies.</p> <p><b>Reason:</b> to reflect the legislative exceptions<sup>4</sup> that apply to the access to information rights</p>
Section 15.23.1	Additional Rights of Access for Members	Monitoring Officer	<p><b>Change:</b> Additional wording at 15.23.1(c)</p> <p><i>where it appears to the Proper Officer that allowing the Member to inspect the document would involve the disclosure of advice provided by a political advisor or assistant.</i></p> <p><b>Reason:</b> to reflect the legislative exceptions that apply to the access to information rights</p>

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<sup>4</sup> Pursuant to the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089

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**COUNCIL  
10 APRIL 2018**

<b>*PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>  <span style="font-size: 2em; font-weight: bold;">7</span>
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**TITLE OF REPORT: EXTENSION OF BUILDING COMPLIANCE CONTRACT: USE OF URGENCY IN RELATION TO CALL-IN**

REPORT OF THE HEAD OF FINANCE, PERFORMANCE AND ASSET MANAGEMENT  
 EXECUTIVE MEMBER: COUNCILLOR JULIAN CUNNINGHAM  
 COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

**1. EXECUTIVE SUMMARY**

1.1 As required by the Constitution, this report informs Full Council of the use of urgency provisions in respect of the decision:

*“To extend the contract for Building Compliance for a period of six and a half months (from 1st April 2018) with SSE Contracting Limited registered office 55 Vastern Road, Reading, Berkshire, RG1 8BU (company number 2317133).*

1.2 The availability of the final terms for the extension of the contract were not available in time for the decision and allow a call-in period and still sign the extension before the current contract expired on 31<sup>st</sup> March 2018.

**2. RECOMMENDATIONS**

2.1 That Council note that, due to urgency, the Delegated Decision in respect of the extension of the Building compliance contract was not subject to call-in.

**3. REASONS FOR RECOMMENDATIONS**

3.1 Where urgency provisions are applied under section 6.3.11 (b) (i) of the Constitution there is a requirement that this is reported to the next available Full Council meeting.

**4. ALTERNATIVE OPTIONS CONSIDERED**

4.1 See delegated decision notice (section 5).

**5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

5.1 The Chairman of the Council agreed to the application of section 6.3.11 (b) (i) of the Constitution in respect of this decision.

5.2 Also see delegated decision notice (section 6).

**6. FORWARD PLAN**

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

**7. BACKGROUND**

7.1 The Council has a building compliance contract that expires on 31<sup>st</sup> March 2018. As described in the delegated decision notice the retendering of this contract has been delayed.

**8. RELEVANT CONSIDERATIONS**

8.1 See delegated decision notice (section 7).

**9. LEGAL IMPLICATIONS**

9.1 See delegated decision notice (section 8).

**10. FINANCIAL IMPLICATIONS**

10.1 See delegated decision notice (section 9).

**11. RISK IMPLICATIONS**

11.1 See delegated decision notice (section 10).

**12. EQUALITIES IMPLICATIONS**

12.1 See delegated decision notice (section 11).

**13. SOCIAL VALUE IMPLICATIONS**

13.1 See delegated decision notice (section 12).

**14. HUMAN RESOURCE IMPLICATIONS**

14.1 See delegated decision notice (section 13).

**15. APPENDICES**

Appendix A - Delegated Decision Notice.

**16. CONTACT OFFICERS**

16.1 Ian Couper, Head of Finance. Performance and Asset Management  
[ian.couper@north-herts.gov.uk](mailto:ian.couper@north-herts.gov.uk); ext 4243

16.2 Gavin Ramtohal, Contracts Lawyer  
[gavin.ramtohal@north-herts.gov.uk](mailto:gavin.ramtohal@north-herts.gov.uk); ext 4370

16.3 Reuben Ayavoo, Senior Policy Officer  
[reuben.ayavoo@north-herts.gov.uk](mailto:reuben.ayavoo@north-herts.gov.uk); ext 4212

**17. BACKGROUND PAPERS**

None

**RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY**

**\*PART 1 – PUBLIC DOCUMENT**

*Any queries must be directed to the Senior Committee and Member Services Manager.*

Any interest to declare/ or conflict and any dispensation granted *[if applicable]*

**DIRECTORATE: FINANCE, POLICY AND GOVERNANCE**

**1. DECISION TAKEN**

To extend the contract for Building Compliance for a period of six and a half months (from 1<sup>st</sup> April 2018) with SSE Contracting Limited registered office 55 Vastern Road, Reading, Berkshire, RG1 8BU (company number 2317133).

**2. DECISION TAKER**

Ian Couper, Head of Finance, Performance and Asset Management

**3. DATE DECISION TAKEN:**

26<sup>th</sup> March 2018

**4. REASON FOR DECISION**

The procurement process for a full retender is being led by Stevenage Borough Council (SBC), and is a joint tender between SBC, North Hertfordshire District Council (NHDC), Broxbourne Borough Council (BBC) and East Hertfordshire District Council (EHDC). There have been a number of delays in getting the tender documents completed, mainly due to SBC wanting to include housing within the contract, but also due to the complexities of joint procurement. As a result there is a need for an interim contract to ensure continuation of the property compliance checks and maintenance. The existing contractor has offered to extend the contract with a 1.5% price uplift.

**5. ALTERNATIVE OPTIONS CONSIDERED**

It is essential for the Council to have compliant buildings to ensure that they can continue to be used and also adhere to relevant legislation. It was not considered practical to contract for an alternative contractor on a short term (six and a half months) basis.

**6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)**

This proposed extension has been agreed by SBC and BBC, who are party to the current contract. The compliance contract is provided to various buildings that are operated by community groups. Whilst no consultation has been undertaken, this extension will ensure that the service continues in the same way.

## 7. RELEVANT CONSIDERATIONS

The Council has an obligation to ensure that its buildings are compliant. The contract also ensures that checks and minor maintenance is carried out that means that the buildings continue to operate effectively.

There has been a lot of work that has gone in to tendering for the new contract, which has been led by SBC, but with significant support from the Council's Property Services Team. Unfortunately delays have meant that the new contract will not start when the current one ends and therefore there is a need to cover the interim period. Negotiations with the current provider (SSE Contracting Limited) have been undertaken by SBC resulted in an offer to continue the existing contract with a 1.5% price increase. This is considered to be reasonable terms given the short remaining term and the difficulty with getting these provided by any other contractor. The increase is also less than the current rate of inflation.

The delays in procuring the new contract have arisen for the following reasons:

- SBC adding their housing stock in to the contract which required them to undertake a consultation process. This increases the size of the contract which should make it more attractive to providers.
- EHC becoming a party to the contract and ensuring that they were happy with the scope

## 8. LEGAL IMPLICATIONS

8.1 Regulation 29 of the Procurement Regulations relates to contract extensions, and requires that:

*29.3 If the extension is for more than three months a single extension only may be approved by the appropriate Executive Member, following consultation with the Finance & IT Executive Member and the Strategic Director of Finance, Policy & Governance.....*

*29.4 In all cases, officers must demonstrate that a detailed and robust cost/benefit analysis has been undertaken and that sufficient budget is available. Evidence of the decision making process must be formally recorded in a delegated decision sheet which is filed on the relevant contract file and a copy sent to the Corporate Legal Manager.*

*29.5 Any extension under this section does not require reassessment of the original procurement process as a result of a change in the overall value of the extended contract if such overall value:*

- (i) does not exceed any applicable limits as set out in the Public Contracts Regulations 2015; or*
- (ii) is within the limits as set out in the original contract notice; or*
- (iii) is below the applicable OJEU threshold*

8.2 In relation to regulation 29.5, SBC (as contracting Authority) have confirmed that:

- There was no period specified in either the framework or OJEU notice. Therefore the extension value does not exceed any limits set out in these notices and is also less than any other applicable limits as set out in the Public Contracts Regulations 2015
- The total revised value of the contract (including the value of the extension) is within the value of the original contract notice
- The value of the extension is below the applicable OJEU threshold, and the total value (including the value of the extension) is within the value of previous OJEU adverts (i.e. £40m).

8.3 Urgency provisions have been applied to this decision. The final version of the terms of the contract extension was only available on 23<sup>rd</sup> March 2018. To comply with procurement regulations there is a need to extend the contract before it expires on 31<sup>st</sup> March 2018. Due to the Bank Holiday on Good Friday, this resulted in less than the 5 clear working days required for call-in. The Chairman of the Council has been consulted and agreed that it is “both reasonable in all the circumstances and to it being treated as a matter of urgency” (Constitution 6.3.11 (b) (i)).

**9. FINANCIAL IMPLICATIONS**

9.1 It is estimated that the cost of the contract during the 6 and a half months of the extension will be under £49k. This cost will be covered by the existing budget for this service.

**10. RISK IMPLICATIONS**

10.1 The risks are mitigated by extending the contract with the current supplier. It is felt that seeking an interim contract could lead to no suitable contractor or paying an increased rate.

**11. EQUALITIES IMPLICATIONS**

11.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

11.2 There are no equalities implications in relation to this procurement.

**12. SOCIAL VALUE IMPLICATIONS**

12.1 As the recommendations in the report relate to a contract below £50,000 the “go local” policy was considered. However due to the nature of the contract and the specific situation it was not possible to contract with a local supplier.

**13. HUMAN RESOURCE IMPLICATIONS**

It would have taken much more staff time to specify and award an interim contract to an alternative supplier.

**14. BACKGROUND PAPERS**

None.

**15. NOTIFICATION DATE**

26<sup>th</sup> March 2018

**Signature of Executive Member Consulted .....**  
**(Executive Member for Finance and IT, and relevant service area)**

**Date .....**

**Signature of Decision Taker .....**

**Urgency provisions apply to this decision and therefore it is not subject to call-in.**

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<b>COUNCIL</b> <b>10 APRIL 2018</b>
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<b>*PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>  <b>8</b>
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**TITLE OF REPORT: QUESTIONS FROM MEMBERS**

To consider any questions submitted by Members of the Council, in accordance with Standing Order 4.8.11(b).

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<b>COUNCIL</b> <b>10 APRIL 2018</b>
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<b>*PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b> <b>9</b>
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**TITLE OF REPORT: NOTICE OF MOTIONS**

To consider any Motions submitted by Members of the Council, due notice of which has been given in accordance with Standing Order 4.8.12.

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