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CABINET AGENDA

Date: Wednesday 16th March 2022

Time: 7.00pm NB Time

Venue: Council Chamber

This meeting will be webcast live on the internet.

Membership:

Councillor Sheldon	Chairman - Leader of the Council
Councillor Cutler	Waste & Environmental Health
Councillor Mrs Egan	People – Health & Wellbeing
Councillor Hart	Place – Infrastructure
Councillor Isaacs	People – Community
Councillor Johnson	Resources
Councillor Mrs Thornton	Growth - Economic Environment & Sustainability
Councillor Varker	Special Projects (Deputy Leader of the Council)

Cabinet Enquiries: **Ann Horgan ext. 2413**
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Reference: **10/2021/2022**
Publication Date: **Tuesday 8th March 2022**

AGENDA
PART I
(Business to be taken in public)

- 1. Apologies**
- 2. Members' Interests**
- 3. Minutes**
To approve the Minutes of the meeting held on 23rd March 2022.
- 4. Forward Plan**
To review the Forward Plan.
- 5. Notice of Motion – Examination of Minister's comments**
(Report of the Interim Chief Executive)
- 6. Corporate Performance Scorecard Quarter 3**
(Report of the Cabinet Member – Special Projects)
- 7. Partnership Memorandum of Understanding**
(Report of the Cabinet Member – Resources)
- 8. Big Local Project for Canvey Island**
(Report of the Cabinet Member – Special Projects)
- 9. Matters to be referred from /to Policy & Scrutiny Committees**
- 10. Matters to be referred from /to the Standing Committees**

PART II
(Business to be taken in private)
(Item to be considered with the press and public excluded from the meeting)

There were no items known at time of publication of the agenda.



CABINET



23rd FEBRUARY 2022

PRESENT:

Councillor Sheldon	Chairman – Leader of the Council
Councillor Cutler	Waste & Environmental Health
Councillor Mrs Egan	People – Health & Wellbeing
Councillor Hart	Place – Infrastructure
Councillor Isaacs	People – Community
Councillor Johnson	Resources
Councillor Mrs Thornton	Economic Development Delivery
Councillor Varker	Special Projects – Deputy Leader of the Council

ALSO PRESENT:

Councillors: Acott, Anderson, Blissett, Campagna, Fuller, Greig, MacLean, May, C Mumford, S Mumford, Mrs Sach and A.Thornton.

APOLOGIES:

There were none

65. MEMBERS' INTERESTS:

No declarations were made.

66. MINUTES:

The Minutes of the Cabinet meeting held on 26.1.2022 were signed and approved as a correct record.

67. FORWARD PLAN:

To comply with regulations under the Localism Act 2011, the Leader presented a revised Forward Plan to the meeting which outlined key decisions likely to be taken within the next quarter of 2022. The Plan is reviewed each month.

Resolved: To note and approve the Forward Plan as amended.

68. AUTHORITY TO REPRESENT THE COUNCIL

Cabinet considered a report seeking authorisation to allow a member of the Council's Law Team employed by the Council to represent the Borough Council in proceedings before the Magistrates' Court and County Court.

Resolved:

That Benjamin Badura – Trainee Solicitor member of the Law team be authorised to appear before the Magistrates' Court and County Courts to represent the Borough Council in legal proceedings pursuant to Section 223 Local Govt Act 1972 and Section 60(2) County Courts Act 1984

69. HOUSING REVENUE ACCOUNT (HRA) – 2022/23 RENT LEVELS, REVENUE BUDGET AND CAPITAL PLAN FOR 2022/23 AND 2021/22 REVISED

Cabinet received a report presenting for consideration and agreement: Proposed rent levels for Council dwellings and garages for 2022/23; HRA Revenue budget for 2021/22 (revised) and 2022/23 together with the HRA Capital Plan for 2021/22 (revised) and 2022/23.

The report was presented mindful of the Cabinet's role to determine the rent levels for Council dwellings and garages and approve a budget for the Housing Revenue Account (HRA) that met legal requirements and delivered the approved HRA Business Plan and associated policies and strategies.

Cabinet and Members discussed and raised questions regarding the report.

Resolved:

1. A rent increase of 4.1% for all social rent HRA dwellings be agreed, resulting in an average increase of £3.72 per week.
2. A rent increase of 4.1% for all affordable rent HRA dwellings be agreed, resulting in an average increase of £7.28 per week.
3. Following no annual rent increase being applied to garages in 2021/22 to increase garage rents in 2022/23 by £1 excluding VAT.
4. The HRA revenue budget for revised estimate 2021/22 and estimate 2022/23, as set out in Annexe A, is approved.
5. The HRA capital plan for revised estimate 2021/22 and estimate 2022/23, as set out in Annexe B, is approved.

70. POLICY FRAMEWORK AND BUDGET SETTING FOR 2022/23

Cabinet received a report submitting proposals and recommendations for the Council's Policy Framework and Budget Setting for 2022/23. Cabinet was asked to consider these and make appropriate recommendations to Council at the meeting to be held later that evening.

Resolved:

Implementation of Council policies and related spending plans

1. That the Cabinet approves the continued funding of priority projects and other items of discretionary expenditure, as set out in table 3.4.
2. That the Cabinet notes the cost pressures and budget increases (growth) as set out in table 3.5.

3. That the Cabinet note the efficiency savings, cost reductions and additional income summarised in table 3.6.
4. That subject to recommendations 1 to 3 above, the revenue spending plans for 2021/22 (revised) and 2022/23, set out in section 3, tables 3.1 (summary) and 3.2 (net services expenditure) of the accompanying report, are approved.

Capital spending plans and prudential indicators

5. That the capital spending plan described in section 9 of the accompanying report (tables 9.2 and 9.3) is approved in respect of 2021/22 (revised) and 2022/23.
6. That as required by section 3 of the Local Government Act 2003, and the Prudential Code for Capital Finance in Local Authorities (the Prudential Code), the following Prudential Indicators are approved as set out in the appropriate sections of the accompanying report:

Prudential Indicator - Reference to sections 9, 10 and 11 of accompanying report	
Capital expenditure	Tables 9.2 and 9.3
Capital financing requirement (CFR)	Table 9.4
Authorised limit for external debt	Table 9.5
Operational boundary for external debt	Table 9.6
Ratio of financing costs to new revenue stream	Table 9.7 (a & b)
Gross external borrowing does not exceed CFR	Section 9 – para 53
Maturity structure of fixed rate borrowing - upper and lower limits	Table 10.2
Upper limits of fixed and variable interest rate exposures	Table 10.3
Maximum period and counterparty limits for specified and non-specified investments	Table 11.2 & 11.3

7. That the Statement of Minimum Revenue Provision for 2022/23, as stated in paragraphs 55 to 60 of section 9 of the accompanying report is approved.
8. That no new capital proposals are allowed until:
 - the proposal has been evaluated in accordance with relevant evaluation criteria;
 - the Cabinet has confirmed affordability and compliance with the Prudential Code for Capital Finance in Local Authorities;
 - the Cabinet has considered and approved details of the proposal.
9. That, as stated in paragraph 69 of section 9 of the accompanying report, and as required by the Prudential Code, the statement of the Strategic Director

(Resources) in respect of the affordability, deliverability and appropriateness of risk management arrangements with respect to the Capital Strategy is noted.

10. That the policies and strategies supporting the budget framework and contained within the accompanying report are approved.

Statutory report of the Strategic Director (Resources)

11. That as required by Section 25 of the Local Government Act 2003, the report of the Strategic Director (Resources) set out in section 13 of the accompanying report in respect of robustness of the estimates is noted.
12. That as required by Section 25 of the Local Government Act 2003, the report of the Strategic Director (Resources) set out in section 7 of the accompanying report in respect of the adequacy of proposed financial reserves is noted.

Statutory calculations in respect of the budget requirement & Council Tax as required by the Local Government Finance Act 1992, as amended ("the Act")

13. That as set out in section 4 of the accompanying report it is noted that acting under delegated authority and in consultation with the Cabinet Member responsible for Finance, the Strategic Director (Resources) has calculated:
 - A tax base for the Borough of Castle Point of **31,181** being the amount **T** required by Section 31B of the Act; and
 - A tax base for Canvey Island to which a Town Council precept applies as **12,041**.
14. That the following amounts be calculated for the year 2022/23 in accordance with sections 31 to 36 of the Act:

Ref	Amount £	Item
(a)	58,028,189	being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish (Town) Councils.
(b)	49,298,244	being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
(c)	8,797,265	being the amount by which the aggregate at 14(a) above exceeds the aggregate at 14(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31B of the act)
(d)	282.14	being the amount at 14(c) above (item R), divided by item T (14(a) above), calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year (including Parish (Town) precepts).
(e)	263,337	being the aggregate amount of the (Parish (Town) precepts) referred to in Section 34(1) of the Act.
(f)	273.69	being the amount at 14(d) above less the result given by dividing the amount at 14(e) above by item T (14(a) above),

		calculated by the Council in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.
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15. That the Cabinet recommends that Council, in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, sets the aggregate amounts shown in the tables below as the amounts of Council Tax for 2022/23 for each part of its area and for each category of dwelling. This information is included within section 14 of the accompanying report:

Castle Point Borough Council Tax 2022/23, including and excluding Town Council precept, for each of the following categories of dwelling:

Council Tax			
Band	Ratio in 9ths	Canvey Residents Council Tax Including Town Council	Mainland Residents Council Tax Excluding Town Council
A	6	197.04	182.46
B	7	229.88	212.87
C	8	262.72	243.28
D	9	295.56	273.69
E	11	361.24	334.51
F	13	426.92	395.33
G	15	492.60	456.15
H	18	591.12	547.38

16. To note that the County Council, the Police Authority and the Fire Authority have issued precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992 for each category of dwelling in the Council's area, as indicated in the table below:

Council Tax for each band							
Band	Castle Point Borough Council	Essex County Council	Essex PFCC - Fire and Rescue Authority	Essex PFCC - Policing and Community Safety	Total excluding Town Council	Canvey Island Town Council	Total including Town Council
	£	£	£	£	£	£	£
A	182.46	934.08	50.22	145.68	1,312.44	14.58	1,327.02
B	212.87	1,089.76	58.59	169.96	1,531.18	17.01	1,548.19
C	243.28	1,245.44	66.96	194.24	1,749.92	19.44	1,769.36
D	273.69	1,401.12	75.33	218.52	1,968.66	21.87	1,990.53
E	334.51	1,712.48	92.07	267.08	2,406.14	26.73	2,432.87
F	395.33	2,023.84	108.81	315.64	2,843.62	31.59	2,875.21
G	456.15	2,335.20	125.55	364.20	3,281.10	36.45	3,317.55
H	547.38	2,802.24	150.66	437.04	3,937.32	43.74	3,981.06

17. To note that, in accordance with the requirements of section 52ZC of the Act the Council has determined whether it's Relevant Basic Amount of Council Tax for 2022/23 is excessive.
18. For 2022/23, the relevant basic amount of Council Tax for Castle Point would be deemed excessive if the authority's relevant basic amount of Council Tax for 2022/23 is:
- (a) 2%, or more than 2%, greater than its relevant basic amount of Council Tax for 2021/22; and
 - (b) More than **£5.00** greater than its relevant basic amount of Council Tax for 2021/22.

Ref	Amount £	Item
(a)	268.38	being the Relevant Basic Amount of Council Tax for 2021/22, excluding local precepts.
(b)	2.0%	being the percentage increase above which the Secretary of State has determined the Relevant Basic Amount of Council Tax for 2022/23 would be excessive.
(c)	273.75	being the amount above which the Relevant Basic Amount of Council Tax for 2022/23, excluding local precepts, would be excessive (rounded down to the nearest penny).
(d)	273.69	being the Relevant Basic Amount of Council Tax for 2022/23, excluding local precepts.

The Relevant Basic Amount of Council Tax for 2022/23 is therefore not excessive and the duty to make substitute calculations and hold a referendum does not apply (Chapter 4ZA of Part 1 of the Act).

71. MATTERS TO BE REFERRED FROM / TO POLICY & SCRUTINY COMMITTEES

There were no matters.

72. MATTERS TO BE REFERRED FROM / TO THE STANDING COMMITTEES

There were no matters.

Chairman



Castle Point Borough Council

Forward Plan

MARCH 2022

CASTLE POINT BOROUGH COUNCIL

FORWARD PLAN

MARCH 2022

This document gives details of the key decisions that are likely to be taken. A key decision is defined as a decision which is likely:-

- (a) Subject of course to compliance with the financial regulations, to result in the local authority incurring expenditure which is, or the savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates subject to a threshold of £100,000; or
- (b) To be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the local authority.

The Forward Plan is a working document which is updated continually.

Date	<u>Item</u>	Council Priority	Decision by Council/ Cabinet	Lead Member(s)	Lead Officer(s)
March 2022	<u>Notice of Motion examination of Minister' s comments – implications</u>	Economy and Growth	Council	– Leader of the Council /Special Projects /Resources	Interim Chief Executive/ Head of Place & Policy/Section 151 Officer
TBC	Draft Update of the Developer Contributions Guidance referred from Place & Community PSC	Economy and Growth	Council Cabinet	Growth – Leader of the Council	Head of Place & Policy
March 2022	<u>Corporate Performance Score Card Quarter 3</u>	All	Cabinet	Special Projects	Strategy Policy & Performance Manager
April 2022	<u>Public Space Protection Order – Report from PSC</u>	People	Cabinet/ Council	People	Corporate Services
April 2022	<u>Waste Collection Arrangements</u> – to consider recommendations from Environment PSC	Environment	Cabinet	Waste &Environmental Health	Head of Environment
April 2022	<u>Refresh RIPA Policy</u>	Enablers	Cabinet	People – Community	Solicitor to the Council
April 2022	<u>Refresh Suicide Protocol</u>	Enablers	Cabinet	People – Community	Strategic Director Corporate Services
April 2022	<u>Energy Bills Rebate</u> – Ratify Scheme	Enablers	Cabinet	Resources	Head of Customer and Digital Services

April 2022 – Standing item	<u>Transformation – Solutions to budget Challenge</u>	All	Cabinet	Resources	Interim Chief Executive Strategic Directors Section 151 Officer and Heads of Service
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CABINET

16th March 2022

Subject: Report on Notice of Motion regarding the Castle Point Local Plan

Report of: Interim Chief Executive, Section 151 Officer and Head of Place and Policy

1. Purpose of Report

To set out a response to and implications of the Motion: *'We call on the Council to stop and assess the recent announcements made by the Conservative Government and the new Secretary of State Michael Gove with regard to changes to the planning system (and take whatever action is necessary) to protect and preserve the precious green belt in our local area and reduce the housing numbers and extend the term of delivery in the emerging new local plan.'*

2. Links to Council's Priorities and Objectives

The Local Plan seeks to achieve elements within each of the new Corporate Plan objectives - Economy and Growth, People, Place and Environment

3. Recommendations

That Cabinet notes the implications of the Motion and refers this report to Ordinary Council to inform debate on the Motion

4. Background

Notice of the Motion

4.1 At Ordinary Council on 24 November 2021 a Motion was submitted in respect to the new Castle Point Local Plan. The Motion as published was:

Councillor Mountford has given notice of the following:

We call on the Council to stop and assess the recent announcements made by the Conservative Government and the new Secretary of State

Michael Gove with regard to changes to the planning system (and take whatever action is necessary) to protect and preserve the precious green belt in our local area and reduce the housing numbers and extended (sic) the term of delivery in the emerging new local plan.

The Motion is to be seconded by Councillor Gibson. Note 'extended' should read 'extend.'

4.2 It was noted with the Motion that:

'As this Motion has budget implications the Motion will be deferred without debate for a report to Cabinet[.] Council Procedure Rule 13 applies. The Motion will not be dealt with at this meeting.'

The New Castle Point Local Plan

- 4.3 On 22nd October 2019 the Council agreed to proceed with the publication of the Pre-Submission Local Plan and submit the Plan for examination, following a period of public consultation.
- 4.4 The Council has a statutory responsibility to prepare development plan documents for the Borough in accordance with its Local Development Scheme, as set out in the Planning and Compulsory Purchase Act 2004 (the "2004 Act"). It also has a responsibility to ensure that development plans are kept up to date, and since January 2018, that any local plans are reviewed within 5 years of their adoption.
- 4.5 Local Plans should be prepared in consultation and engagement with the local communities and key stakeholders and in accordance with the Planning Acts and Local Planning regulations. The Town and Country Planning (Local Plans) Regulations 2012 (as amended) sets out the procedures to be followed.
- 4.6 The current Development Plan for Castle Point is the Castle Point Local Plan which was adopted in 1998. That plan ran to 2001 and was prepared prior to the 2004 Act, which established the 'new style' local plan based on a local development framework.
- 4.7 The 2004 Act did allow for local planning authorities with recently adopted 'old-style' local plans to save policies, which met the objectives of national policy at that time. In 2007 the Council saved some of the Policies in the 1998 Local Plan.
- 4.8 The Council is currently in a position of not having an up-to-date local plan in place. National policy changed in 2012 with the National Planning Policy Framework, and an out-of-date Local Plan puts the Council at risk of not be able to defend against inappropriate development, including on appeal.
- 4.9 On adoption of the new Local Plan it will replace with immediate effect the existing Local Plan (1998 – saved 2007). It will, with the Essex and Southend waste Local Plan and the Essex Minerals Plan, be the development plan for the Borough.

- 4.10 Planning law requires that planning applications must be determined in accordance with the development plan unless there are material considerations that justify otherwise. The material considerations must be justifiable in planning terms. With a new local plan in place, maximum weight is available for the Council to defend against inappropriate development.

The Inspectors Report

- 4.11 A fuller account of the Examination progress was set out in Item 11 at the Council meeting on 24 November 2021. This report updates members on the conclusion of the examination with on 3 March 2022 the receipt and publication of the Inspector's report. In paragraph 220 of his Report, the Inspector, Mr Philip Lewis, concluded that:

'The Council has requested that I recommend MMs [Main Modifications] to make the Plan sound and/or legally compliant and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix the New Castle Point Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.'

The Examination

- 4.12 The draft Local Plan, together with a comprehensive set of supporting documents, was submitted to the Secretary of State on 2nd October 2020. The examination of the Plan started with the submission and the appointment of the Inspector.
- 4.13 Mr Phillip Lewis was appointed as the Inspector to examine the Plan in accordance with the regulations and procedures. The Inspector is appointed by the Planning Inspectorate and is independent of the Council and the government.
- 4.14 The Inspector is required to examine the Plan as submitted: in this case, the same plan approved by Council in October 2019. He is required to consider whether the submitted plan is sound, and if necessary, make modifications to the plan to ensure its soundness and ask the Council to consult on those modifications.
- 4.15 The examination of plans is designed to test the soundness and ensure legal compliance. As set out in paragraph 35 of the National Planning Policy Framework (NPPF), Plans are 'sound' if they are:
- 'a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs¹⁹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
 - b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*

- c) *Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
 - d) *Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.'*
- 4.16 In the examination, the Inspector is guided by all of the material submitted and national policy that is relevant and extant at the time of the examination.
- 4.17 As part of his examination of the Plan, the Inspector held hearings between 11th May 2021 to 29th June 2021.
- 4.18 The Inspector's Post Hearing letter was received on 29th September 2021 – see **Appendix One**. The Inspector's letter is not his final report, and the plan remains in Examination until his final report has been published.
- 4.19 The Inspector concluded in paragraph 2 of his letter that:
- 'Overall, I consider that, subject to main modifications, the Plan is likely to be capable of being found legally compliant and sound.'* He further stated in that paragraph that he *'will set out my reasoning for this in my final report.'*
- 4.20 The Inspector reserves his final decision on the legal compliance and soundness of the Plan to his final report as he will want to consider representations made to the main modifications. He has called upon the Council to prepare the main modifications for public consultation. The Main Modifications had been agreed with the Inspector.
- 4.21 The Council noted the modifications on 24 November 2021, and consultation started on 10 December 2021. After the end of the consultation (4th February 2022) on the main modifications and associated documents and his consideration of representations made, the Inspector issued his final report on 3 March 2022.
- 4.22 The receipt and publication of the Inspector's report drew his examination to an end. It is not the intention of this report to consider the Inspector's report and a decision to adopt the plan or not. This is a matter for ordinary Council and will be subject to a separate report.

5 Report

- 5.1 Any Motion to Council that could impact on progression of a Local Plan has serious implications for the Plan, planning policy, decision making and the reputation and finances of the Council.
- 5.2 It is not the purpose of this report to set out what a new local plan would be if the proposed motion was adopted as the basis of a future planning strategy – that would require significant investment in time and resources and be subject

to further reports. However, this report will address the implications of the Motion.

The Motion

- 5.3 The Motion before Council is:

'We call on the Council to stop and assess the recent announcements made by the Conservative Government and the new Secretary of State Michael Gove with regard to changes to the planning system (and take whatever action is necessary) to protect and preserve the precious green belt in our local area and reduce the housing numbers and extended (sic) the term of delivery in the emerging new local plan.'

- 5.4 This Motion as drafted suggests that the Council should stop or extend (pause) the plan making process to do three things:

- a) Assess the recent announcements by the Government on changes to the planning system;
- b) Protect the Green Belt; and
- c) Reduce the housing numbers

This report takes each in turn.

- 5.5 Section 23 of the 2004 Act sets out the legal framework for adopting a plan. It allows the Council to adopt the plan as submitted (if sound) or with the modifications recommended by the Inspector to make the plan sound. The only other modifications that can be made are *'additional modifications [which] (taken together) do not materially affect the policies that would be set out in the [local plan] document.'*

- 5.6 The proposal in the motion to protect the Green Belt from development and reduce the housing numbers would materially affect the policies in the plan, and, therefore, cannot be made to the New Castle Point Local Plan.

Stop or extend the plan making process to assess the recent announcements by the Government on changes to the planning system

- 5.7 The Planning Acts provide primary legislation as the backdrop for the making of government policy. The principal planning act is the Town and Country Planning Act 1990 and for plan making the Planning and Compulsory Purchase Act of 2004 ("the 2004 Act"). Although some parts of that Act have been superseded by other legislation, the provisions of that Act generally remain in place.

- 5.8 Under the 2004 Act and the associated Regulations, it is not the purpose of an examination to allow the local planning authority to rethink its strategy or promote an alternative strategy to the submitted Plan. Once a plan has been submitted, substantive changes can only be made to it if the Inspector thinks they are necessary to achieve soundness or to secure legal compliance. A Council has a limited power to promote 'additional modifications' but these only

relate to minor or consequential matters and cannot include substantive changes to policies or proposals.

- 5.9 Procedurally, the course of an examination is a matter for the Inspector. Only the Inspector can 'pause' an examination. Given the purpose of an examination (as outlined above), if the Inspector has been able to conclude that the Plan (with modifications) is 'sound' and that he is therefore in a position to complete his examination, it is hard to see why he would agree to 'pause' the examination. A 'pause' that is not needed for 'soundness' or legal compliance reasons would, from the Inspector's perspective, serve no purpose but would simply delay the Plan and the completion of the examination. Once the Inspector's final report has been issued (which it has been), the examination is at an end and the Inspector no longer has any powers to exercise.
- 5.10 With regard to statements made by the Prime Minister or Secretary of State, national planning policy is set out in the National Planning Policy Framework - <https://www.gov.uk/government/publications/national-planning-policy-framework-->. This was first published in 2012, and has been updated three times since, most recently in 2021 (in response to which the Inspector held a consultation in August 2021 on whether there were any implications for the Plan). The Council was asked by the Inspector to review the Plan against the changes to the NPPF. The response was published in August 2021 - <https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjm4n6213.pdf&ver=10045>.
- 5.11 The NPPF is the primary source of government planning policy and paragraph 35 is clear that plans are sound if they are '*d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.*' Therefore, the Inspector must consider the plan against the prevailing national planning policy.
- 5.12 In addition to the NPPF, the government publishes Planning Practice Guidance notes (PPGn). These are not generally policy but provide advice on how policy should be implemented. There are total of 57 PPGn on a wide range of subjects including many procedural matters - [Planning practice guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/planning-practice-guidance). The Inspector will consider these in his examination of the Plan.
- 5.13 In August 2020 the Government published for consultation a White Paper called the Future of Planning - <https://commonslibrary.parliament.uk/research-briefings/cbp-8981/>.
- 5.14 That White Paper proposed changes to the planning system. It was reported to Cabinet on 21 October 2020 (Minute No. 2020/135) - <https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjm4n5370.pdf&ver=8810>
- 5.15 The Planning White Paper is not government policy. It has not featured in the examination, although some elements in respect of beautiful places have been included in the latest version of the NPPF 2021, and these were a consideration for the Inspector as set out in paragraph 5.11 above.

- 5.16 Statements made at party conferences are not government policy. At the Conservative Party Conference on 6 October 2021 the Prime Minister said on housing in his speech:

'to build the homes that young families need in this country, not on green fields, not just jammed in the South East, but beautiful homes on brownfield sites, in places where homes make sense'

- 5.17 The reference to '*not on green fields*' may suggest a potential future change in government policy, but the statement does not, in itself, change policy.
- 5.18 There is no disputing that both the Secretary of State and Housing Minister have made statements which reiterate support for protecting the Green Belt and how housing needs should be met. However, these are not policy statements and, therefore, not policy.
- 5.19 The motion also refers to the forthcoming 'changes to the planning system' or planning reforms.
- 5.20 Both the Secretary of State and Housing Minister have been clear that plan preparation should not be stopped pending planning reforms. This complies with current plan making policy and regulations. Indeed, the Housing Minister has recently written to Welwyn Hatfield Council, following a request for clarification from that Council's Cabinet, stressing the importance of getting an up to date local plan in place <https://one.welhat.gov.uk/localplanresponse>.
- 5.21 In a letter dated 18 November from the Housing Minister to the Leader of Welwyn Hatfield Council, the Minister said:

'In relation to future changes to the planning system, an announcement on our proposed way forward for the planning reforms will be made in due course. In the meantime, local authorities should continue work on meeting the deadline the Government has set to have an up-to-date local plan in place by the end of 2023...

Local Authorities are more at risk of appeals and speculative planning applications being successful if they do not have a Local Plan setting out an up-to-date housing requirement, as the presumption in favour of sustainable development applies. The latest Housing Delivery Test results show that the majority of those Local Authorities delivering 75% or less of the housing they need, have a plan over 5 years old at the time of results publication – this underlines the importance of having an up-to-date plan and proactively supporting development in a plan-led way. An out-of-date Plan puts local residents at risk.'

As a consequence of the letter, Welwyn Hatfield Council have recommenced progression of their local plan.

- 5.22 The Housing Minister made similar comments (paragraph 3 in the text below) in a Parliamentary debate at Westminster Hall regarding the Green Belt in Hertfordshire and national planning policy (on 23 November 2021). The Minister said:

'We believe that the green belt is vital for preventing urban sprawl from towns and cities—it helps stop the advance of developments on to precious countryside—and national planning policies deliver strict protections for the green belt along with strong safeguards against development and changes to boundaries. Any proposals to release land from the green belt are subject to consultation with local people followed by a rigorous and independent examination of the revised local plan by a qualified planning inspector...

Let me reiterate that green-belt land can change only in exceptional circumstances and that must be done in accordance with the NPPF and the local plan process, in consultation with local people, followed by rigorous examination of the revised plan. That is why the NPPF provides for two tests in safeguarding the green belt. The first prevents local authorities from changing a green-belt boundary unless there are exceptional circumstances and they have shown that they have examined every other option—using brownfield land, optimising the density of development and discussing whether neighbouring authorities can take some of the necessary development...

The challenge for all authorities, however, is to get an up-to-date plan in place. We might say that, in the land of no plan, the local housing need number is king. If there is no set number in an up-to-date local plan, it is quite possible for developers to submit speculative development applications to local authorities. The local authorities may choose to turn them down, but if they have no number in their plan, the local housing need number is the default that the Planning Inspectorate will look at. It is entirely possible that the Planning Inspectorate will overturn refusals sent down by local authorities that do not have up-to-date plans or targets, and will instead look at the local housing need target. It is incumbent on local authorities that wish to protect their communities and avoid speculative development to get up-to-date plans in place.'

<https://hansard.parliament.uk/commons/2021-11-23/debates/A1816F84-64EE-41F6-8900-70938C91E88A/HertfordshireGreenBeltNationalPlanningPolicy>

- 5.23 There is no set timetable for the introduction of planning reforms. There has been speculation that the reforms set out in the Future of Planning White Paper will be changed. The Government has yet to publish their response to the public consultation on the White Paper. Therefore, it would be inappropriate in this report to speculate on what might happen. At the appropriate time a report will be made to Council through Cabinet on the reforms and the implications for local planning policy.
- 5.24 It should be noted however, that the Government intend to introduce a Planning Bill as set out in the Queen's Speech on 11 May 2021:

*'My Government will help more people to own their own home whilst enhancing the rights of those who rent. **Laws to modernise the planning system, so that more homes can be built, will be brought forward**, along with measures to end the practice of ground rents for new leasehold*

properties [Planning Bill, Leasehold Reform (Ground Rent) Bill].’ (report authors emphasis)

- 5.25 If this Bill is a new Town and Country Planning Act it will have to go through full law-making procedures in Parliament. There is currently no draft Bill and therefore no timetable for its introduction and target date for coming into effect.
- 5.26 It is important for members to note that the Inspector has not asked the Council to respond to these statements by the Prime Minister, Secretary of State or ministers or on the planning white paper.
- 5.27 The Council must prepare the plan in accordance with the timetable set out in its Local Development Scheme. The LDS, which was approved by Cabinet in November 2021 (Minute No. 2020/144) sets out the timetable for the preparation of the Plan and at that time anticipated adoption by the end of 2021.
- 5.28 There has been a delay in the progress of the Plan since that LDS due to various circumstances including a delay in the appointment of the Inspector; a break in the hearings sessions; the four week consultation on the revised NPPF; and a three week period between the writing and publication of the Inspector’s letter.
- 5.29 The Inspector indicated in his letter that adoption could feasibly be towards the end of winter 2021/22.
- 5.31 The Inspector’s report has been received and published, so the next decision for the Council is on whether to adopt the Local Plan. Given that the planning reforms have not been published such a decision will be made before they come into effect.
- 5.30 Consequently, a delay risks the Council not being able to meet its obligations to have a plan in place in accordance with a revised LDS and with the timetable suggested by the Inspector.
- 5.31 Furthermore if the Council was to pause the plan pending the implementation of the planning reforms, given the above, it is highly unlikely that a plan would be adopted by the end of 2023, which was the deadline the Government put in place in March 2020 for all local planning authorities to have an up-to-date local plan in place. This was restated by the Housing Minister in a Written Ministerial Statement in January 2021 - <https://questions-statements.parliament.uk/written-statements/detail/2021-01-19/hcws720>
- 5.32 The Housing Minister wrote to Basildon Council in response to the, then, proposed motion to withdraw the draft Basildon Borough Local Plan (https://www.basildon.gov.uk/media/11045/Correspondence-letter-to-Basildon-Council-from-the-Minster-of-State-for-Housing/pdf/Cllr_Baggott_correspondence.pdf?m=637819218763330000) He stressed the importance of having an up-to-date local plan in place but also the implications of not doing so:

‘Having an effective, up to date plan in place is essential to planning for and meeting housing requirements; in ways that make good use of land and result

in well-designed and attractive places to live. The Government's priority for getting up-to-date plans in place by the end of 2023 has not changed.

The Basildon Local Plan was adopted in 1998, with subsequent alterations in 1999 and accordingly Basildon have not had a plan under the 2004 Planning Act. The then Secretary of State wrote to the Council in 2017 regarding potential local plan intervention based on the intervention priorities set out in the 2017 Housing White Paper. Following the Secretary of State's letter, considerable progress has been made in preparing a plan, culminating in it being submitted for examination in 2019. It is, therefore, very disappointing, having reached this advanced stage of plan preparation, that the Council is now considering withdrawing the emerging Local Plan.

I note that the Council will be considering a report which sets out the details of the implications of any decision to withdraw the plan from examination. If the plan is withdrawn it will take some time to ensure an up-to-date plan is put in place. Not having an up-to-date plan puts Basildon at more risk of appeals and speculative development. An out-of-date plan can result in development being built on a speculative basis with no coordination and limited buy in from local people.

If the Council decides to withdraw the plan at the Extraordinary Full Council meeting on 3 March, I will ask my officials to carefully monitor your progress on preparing a new local plan. Given my continued commitment to ensuring up-to-date local plans are in place, I must remind the Council that the Government remain prepared to intervene where local authorities fail to make sufficient progress in accordance with the existing statutory powers in the Planning and Compulsory Purchase Act 2004. I will carefully consider all appropriate action using available statutory powers, including whether to direct with regard to the local development scheme and inviting the County Council to prepare a local plan for Basildon.'

- 5.33 The Motion suggests that the plan making process should be stopped or paused. As set out above the recent statements by the Prime Minister and Secretary of State are not national policy and the Inspector has not asked the Council to comment or review any aspect of the plan. But it is also clear that the Secretary of State and Housing Minister want Plans in preparation to proceed in accordance with the current regulations, national guidance, and local development schemes.
- 5.34 Not having an up-to-date local plan or a lengthy delay is a very significant risk to the Council. This is something that the Inspector comments on. The Authority Monitoring Report is clear that housing delivery remains below 50% of the target and the Council is failing the Housing Delivery Test. This puts the borough at risk of continued inappropriate speculative development including within the green belt, and results in a small number of affordable homes being built. The Council will struggle to secure infrastructure investment without a clear plan which provides justification for such investment.
- 5.35 Crucially, planning law requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. This priority for plan-led decisions means that the Council has the greatest control

over decision making and the highest level of influence when working with developers to ensure that developments comply with policies and the requirements in the site allocations.

- 5.36 Without an up-to-date local plan the level of control the council has over development is diminished and there will be a real risk that developers will erode compliance with the Council's requirements. Officers will do everything they can to avoid that, but they cannot stop a developer from submitting a planning application, or the determination of that application and any subsequent appeal. An up-to-date plan with a five-year supply of land and needs shown to be met, provides the most important tool the Council needs to defend against inappropriate development in the borough.
- 5.37 In addition, the absence of a plan causes greater uncertainty for developers, which creates delays, impacts on viability and therefore weakens the ability to secure infrastructure and affordable homes.
- 5.38 Each year of delay adds another year of unmet need to the housing target, and with so few affordable homes being built, it also means that tackling homelessness and reducing the Council waiting list is not possible.

Protect the Green Belt

- 5.39 The protection against inappropriate development within the green belt is at the heart of national planning policy on Green Belt. Section 13 of the NPPF on Protecting the Green Belt defines what is appropriate development in the Green Belt; as well as the purposes against which harm to the green belt is assessed, the need to define boundaries and to review them if required in exceptional circumstances; and the very special circumstances for allowing inappropriate development in the Green Belt.
- 5.40 National policy, in the NPPF, on Green Belts allows for changes to Green Belt boundaries to be made in exceptional circumstances and through local plans. This is not recent as the previous Planning Policy Guidance 2 on Green Belts included the same allowance but the NPPF now gives clearer guidance on how the exceptional circumstances test should be applied.
- 5.41 The Inspector has concluded that the Council has been legally compliant in this regard and that the housing strategy and spatial strategy is sound subject to main modifications. The Inspector has also concluded that the Council has met the tests in paragraph 141 of the NPPF with regard to whether exceptional circumstances for removing land from the green belt have been demonstrated.
- 5.42 The Government is clear that the Green Belt is a constraint to development – this has fundamentally been its purpose. It is also a constraint when setting locally assessed need. Where there is unmet need – i.e. need which cannot be met within unconstrained areas then the local planning authority will have to demonstrate where that need will be met. This is what the 2016 Plan sought to do, but the Council was unable to demonstrate that the need would be met elsewhere.

- 5.43 In preparing the plan a sequential approach was taken to identify how the need for the borough could be met. This involved, in order, consideration of:
- 1) extant planning consents, irrespective of location;
 - 2) any unimplemented allocations from the 1998 Plan (all within the urban areas);
 - 3) a capacity assessment of urban areas and any urban sites identified by landowners as available in successive call for sites and assessed as suitable in the strategic housing land availability assessment;
 - 4) a windfall assessment; and if required, and it was
 - 5) sites within the green belt which passed various assessments into their suitability including a two-stage green belt review.
- 5.44 In addition, the Council has a legal duty to engage with nearby local planning authorities – Duty to Cooperate (DTC) (see Section 33A of the Planning and Compulsory Purchase Act 2004 (inserted as a consequence of the Localism Act 2011) - <https://www.legislation.gov.uk/ukpga/2004/5/section/33A>
- 5.45 Government guidance on plan making - <https://www.gov.uk/guidance/plan-making#statutory-duty-and-the-role-of-plans> – requires that as part of the statutory Duty to Cooperate statements of common ground should be prepared, which in the case statements agreed between local planning authorities includes consideration of:
- ‘f. distribution of needs in the area as agreed through the plan-making process, or the process for agreeing the distribution of need (including unmet need) across the area;’*
- 5.46 Unmet need, in the case of Castle Point, is need that cannot be accommodated with urban areas. No nearby local authorities agreed to accept unmet need from Castle Point. Indeed, the Council has had similar requests from other authorities (which have been rejected), which indicate that other authorities are unlikely to meet their own needs within urban areas. This is borne out by other local plans in South Essex also releasing Green Belt land for new development, as have many Green Belt authorities throughout the country.
- 5.47 If the motion is carried and the future planning policy strategy of the Council in a new local plan is to *‘take whatever action is necessary to protect and preserve the precious green belt in our local area’* then that plan will not be able to promote any development sites within the Green Belt, whether they be those proposed in the current Plan or new sites, such as North West Thundersley.
- 5.48 The effect of the motion will be that a future local plan will need to set out how housing need will be met within the non-green belt area – i.e. the urban area.
- 5.49 Policy HO1 of the new plan, proposes some 5,510 new homes (net) during the plan period. Of these broadly 45% are within the existing urban areas. This includes completions since 2018 and sites with planning permission. But with limited urban capacity, the plan proposes 2,960 new homes outside of urban areas to meet the identified need. The Inspector was clear in paragraph 53 of his report that this strategy is appropriate:

'With regard to paragraph 11(b)I, footnote 7 of the NPPF lists the policies that protect assets or areas of particular importance. Having regard to the evidence before me, which includes the SA, the HRA, the Green Belt Review, the Strategic Flood Risk Assessments and results of the sequential and exceptions tests, and Heritage Impact Assessments and archaeological evaluation report, I conclude that the application of policies in the NPPF that protect areas or assets of particular importance do not provide a strong reason for restricting the overall scale, type or distribution of development in the Plan area as a whole.'

- 5.50 There is insufficient land in urban areas to meet the identified need. The Council could adopt an urban intensification strategy which means significantly higher density development on the limited number of urban sites and high-rise development. However, this not only imposes risks on viability (and consequently affordable housing and infrastructure provision) but also could result in a disproportionately high level of flatted development which may not meet the housing mix needs of the borough.
- 5.51 Alternatively and potentially in addition, the Council would have to consider urban open spaces for development. Current local planning policy, and that in the New plan, and the NPPF seeks to protect such open spaces.

Reduce housing numbers

- 5.52 The implications of reducing housing numbers are to some extent set out above.
- 5.53 In addition, if the Council was to prepare a local plan that sought to reduce the housing numbers then it will need the most robust evidence. It cannot rely on unmet need being met elsewhere. Therefore, it will need to challenge as a starting point the standard methodology calculation.
- 5.54 Government guidance on how to assess local need is set out in the 'Housing and economic needs assessment' PPGn - <https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>
- 5.55 This sets out how the standard methodology is calculated. Whilst the guidance states that the standard methodology is not mandatory, it is also clear that it is the starting point. The NPPF states in paragraph 61:

'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.'

- 5.56 The Council has already determined what an appropriate level of housing is needed, factoring in a wide range of issues including demographic growth, housing aspirations, tackling homelessness and waiting lists, and general affordability. These factors form part of a Strategic Housing Market Area Assessment (SHMA).
- 5.57 Castle Point is within the South Essex SHMA area. SHMAs should be based on market housing areas rather than simply district boundaries. People do move locally between districts and changes in property prices and supply and demand have impacts across boundaries.
- 5.58 The SHMA used as evidence to support the Local Plan, was the South Essex Strategic Housing Market Area Assessment 2017 (<https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjjm4n5184.pdf&ver=8611>) and the update in 2018 (<https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjjm4n5186.pdf&ver=8613>)
- 5.59 The SHMA is an independent assessment that can be used to challenge the standard methodology. Using the same baseline population and household projections as is currently used by the standard method it concluded that the housing need for Castle Point was 311 dwellings per annum. Over a 15-year period this equates to 4,665 new homes which is in excess of the assessed urban capacity, unless the Council adopts a policy of urban intensification and high-density development. Otherwise, pressure will remain to develop green belt sites.
- 5.60 Local plans should provide a buffer between need and allocations to take account of any non-delivery of sites (which will count towards future supply targets) and therefore, the difference between identified need and allocated site numbers was acceptable to the Inspector.
- 5.61 If the housing numbers were reduced to protect the green belt, based on current urban capacity assessments the annual target will be about 200 per annum (between 2018 and 2033). Members must note that delivery against even this target has underperformed in recent years and the difference between the target and actual homes is added to the future requirements. In addition, if the unmet need cannot be accommodated elsewhere it is unlikely that this figure will be found sound.
- 5.62 Furthermore, simply reducing numbers without evidence is neither logical nor legally compliant.
- 5.63 The problem of the supply of affordable housing is a combination of insufficient new homes being built (no new affordable homes were built by private developers and housing associations in 2021) and without an increase in the supply of land, viability.
- 5.64 Table 6.1 in the Castle Point Local Plan and CIL Viability Assessment 2020 - <https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjjm4n5157.pdf&ver=8584> – clearly details the difference in viability between greenfield and brownfield sites for various housing types. In some instances, development is

showing as not being viable on Canvey Island. This means that securing affordable housing is even more at risk on brownfield sites.

- 5.65 In addition, where brownfield sites are re-used for new homes paragraph 64 of the National Planning Policy Framework introduces vacant building credit, which means that affordable housing can only be secured on additional floorspace created and not the total floorspace, again reducing the supply of affordable homes that can be achieved from such sites.
- 5.66 There is no suggestion in the motion as to what the reduced housing numbers target will be. A full assessment of options will be needed if the motion is carried. The options will need to include the existing local plan.

6 Implications

Alternative strategy

- 6.1 The preparation of a new local plan is one of the most significant pieces of work that a local authority does. Local plan preparation is resource and time intensive.
- 6.2 Members must note that there are powers of intervention invested in the Secretary of State under Section 21 of the Planning and Compulsory Purchase Act 2004. These can be found at: <https://www.legislation.gov.uk/ukpga/2004/5/section/21>. These are discussed below but, in simple terms, the Secretary of State has default powers to approve a plan even if a local planning authority is unwilling to adopt it.
- 6.3 The Motion is proposing alternatives which are fundamentally different to the plan (i.e. no loss of green belt and reduced housing numbers).
- 6.4 A Local Plan that is submitted for examination is the local plan that a council wants to be examined and if found sound and legally compliant, with or without modifications, the Plan a Council wishes to adopt.
- 6.5 The Council is in receipt of and published the Inspector's report.
- 6.6 The Inspector had considered representations against the plan and whether the Council has adequately considered alternatives. On the latter point he is satisfied the Council has. He concluded that the plan, with the recommended modifications is legally compliant and sound.
- 6.7 Once the Inspector's report has been issued, the Council cannot change the Plan (as modified by the Inspector) or request the Inspector to do so.

Not progressing the Local Plan

- 6.8 The powers of the Secretary of State are set out in Section 21 is sub-section 4 of the 2004 Act:

'At any time before a development plan document is adopted by a local planning authority the Secretary of State may direct that the document (or any part of it) is submitted to him for his approval.'

- 6.9 In order for the Secretary of State to use his powers under Section 21 he will need to be aware of the risk of a sound plan not being adopted. That can be done in writing from anyone, including the Council, Cabinet, members of the public or landowners/developers.
- 6.10 If the Secretary of State decides to use section 21(4) and the Plan is submitted to him for his approval, the Council will not be able to take any more decisions on the plan, unless that direction is withdrawn by the Secretary of State. This includes adopting the Plan.
- 6.11 There is a precedent in Essex of the Secretary of State approving a plan. In July 2017 the Secretary of State approved the Maldon Local Development Plan. The Plan came into effect on the day of his approval letter and the Council did not vote to adopt the plan.
- 6.12 Secretary of State approval of a local plan is not something that is to be taken lightly. For the Council it indicates that there is a failing in the ability of the Council to adopt a plan. For the Secretary of State, although the powers exist, it is seen as imposing on local decision making.
- 6.13 The Secretary of State now knows the outcome of the examination process prior. A pause for an unknown period of time to await planning policy reforms and any new planning strategy that might then be put forward, would imply a significant delay to the plan's adoption, and the Secretary of State may regard such delay as unsatisfactory and could trigger call-in. Also, a proposal by the Council to withdraw the plan could also prompt the Secretary of State to intervene (as he did in South Oxfordshire in 2020).

Appeals

- 6.14 During plan preparation a critical factor in demonstrating whether a site is developable, or deliverable is through discussion with prospective landowners and developers. The Council has established the Local Plan Delivery Board as a discussion forum to ensure that developers submit planning applications that accord with the Plan and can deliver, inter alia, the necessary infrastructure, highest quality standards and affordable housing.
- 6.15 In the event that the plan is delayed or not adopted, it is highly likely that the developers will continue with the preparation and submission of planning applications. Without an up to date local plan, there is a risk that the Council would decide to refuse planning permission. Developers will contend that there are very special circumstances to grant planning permission and appeal a decision to refuse.
- 6.17 The evidence that informed the current plan remains valid, as are the conclusions in the Inspector's report. The Inspector has examined the plan using this evidence and is satisfied that the evidence supports the plan and its soundness. Whilst the weight attributed to an Inspector's conclusions does not

hold the same weight as an adopted plan, in the absence of an adopted plan and no five-year land supply, there is a risk of the evidence being used successfully by developers on appeal.

7 Financial Implications

- 7.1 The costs to date of the plan preparation are about £1.4 million, this includes the costs of the examination and the Inspector's report.
- 7.2 Should the local plan not be adopted and a new plan prepared; the Council will have significant costs to fund. The costs of doing so would be determined to a large extent by the policy direction the Council wish the Plan to take. If the plan is significantly different to the current plan, which the motion suggests, most of the evidence would have to be reviewed with new evidence produced that takes account of the alternative approach. It is not possible to say what the estimated costs would be but the £1.4 million cost to date is a guide.
- 7.3 In addition, a delay in the plan's adoption (and not having an up-to-date local plan in place), would lead to the increased risk of appeals, whether on sites allocated in the plan or speculative development elsewhere. The cost risks would relate to the costs the Council would incur in defending decisions and possibly developers' costs awarded against the Council. Whilst there will be an increase in fee income should major applications be submitted, the net effect of that income would be substantially reduced or fully eradicated by the potential appeal costs.
- 7.4 Every year, the Council's Section 151 Officer (Strategic Director, Resources) is required under section 25 of the Local Government Act 2003 to report on the adequacy of the proposed financial reserves, and this is done within the Policy Framework and Budget Setting Report.
- 7.5 Whilst a very small amount is allowed for as a provision for planning appeals, that envisages only the typical 'business as usual' type appeals rather than appeals on larger sites 'allocated' or speculative development on non-allocated sites.
- 7.6 Consequently, if the Council does not have the reserves earmarked to meet an increase in appeal costs or the cost for an immediate review of the local plan, any significant use of the reserves could result in the Section 151 determining the proposed financial reserves are inadequate.
- 7.7 With reserves unavailable to fund the estimated costs, the Council would instead need to find new savings in order to balance the budget. Service areas have already, as part of the 2023/24 budget process, been tasked with identifying savings so that the existing budget gap of £1.3m (as reported in the Policy Framework and Budget Setting for 2022/23 report) can be closed.
- 7.8 This is against the backdrop of the Council having already found permanent savings over several recent years to match the reduction of Government funding. There remain no easy or inconsequential options

- 7.9 The Council has a legal requirement to set a balanced budget, with a risk of significant Government intervention if there is or, in the opinion of the Section 151 officer, is likely to be an unbalanced budget.

8. Corporate Implications

(a) Financial Implications

These are set out in a main report

(b) Legal Implications

The Council has a statutory duty to prepare and maintain an up-to-date local plan. Sanctions of intervention are included within the Planning Acts as set out in the main report.

The report also highlights the implications for decision making, appeals and ability to secure necessary infrastructure and affordable housing. In defending appeals, the Council may need legal representation.

There is also a risk of judicial review into any decision by the council to stop and significantly change the plan's strategy at this late stage, or at a future date withdraw the plan.

(c) Human Resources and Equality Implications

Human Resources

Work on the Castle Point Local Plan has been undertaken by a small but dedicated team of professional officers. Receipt of the Inspector's letter which finds the Plan sound, means that officers have succeeded in their responsibilities handed down by the Council in October 2019.

A Motion to not proceed with that plan will have a very significant impact on the morale of those officers, and other officers in the Council. It will make decision making and the ability to continue to defend council decisions on appeal harder.

It is likely that should applications on sites allocated in the draft plan result in appeals, the Council will need to employ consultants to represent the Council at those appeals. Officers who represented the Council in support of the plan will be precluded from arguing against the development of the same sites by the RTPI Code of Ethics and Professional Standards (rtpi.org.uk).

Preparing a new plan will require new staff. The new plan will need to be adopted by the end of December 2023, to meet the Government's deadline. This is less than two years away. In response to the decision to withdraw the Plan, the Housing Minister advised Basildon Council that he may consider intervention, unless progress is made towards a new plan.

It will be more difficult for the Council to attract new professional staff, and retain existing staff, if the uncertainty of the local plan remains.

Should the Council be in the position of needing to find new savings to fund the costs shown in paragraph 7.1 above, it is likely that a reduction in services will be required.

Equality Implications

The Local Plan is subject to an equalities impact assessment at each stage and the latest version of the assessment was presented to Council on 24 November 2021.

(d) IT and Asset Management Implications

The Local Plan includes green belt releases of two parcels of land owned by the Council: the Former WRVS site in South Benfleet and land to the east of Kings Park Village.

8. Background Papers

As highlighted in the report

Report Author:

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CABINET

16th March 2022

Subject: Corporate Performance Scorecard Quarter 3 2021/22

Cabinet Member: Councillor Varker, Cabinet Member - Special Projects

1. Purpose of Report

To set out the performance figures for the Corporate Performance Scorecard for Q3 2021/22.

2. Links to Council's priorities and objectives

The scorecard is explicitly linked to the Council's priorities.

3. Recommendations

That Cabinet notes the report and continues to monitor performance.

4. Background

4.1 The Corporate Scorecard reports on performance indicators for important service outcomes that are relevant to the Council's priorities.

4.2 The indicators and targets for the corporate performance scorecard for 2021/22 were considered and approved by Cabinet in July 2021.

5. Report

5.1 Summary of performance

5.1.1 Appendix 1 sets out the performance achieved by the Council against the measures in the scorecard, together with trend data and commentary on performance.

5.1.2 Of the 27 indicators reported, 23 are at or above target, a further 1 is near target and 2 indicators are below target. One indicator on default notices in relation to highways verge cutting had no performance against target as serving of defaults is suspended in winter months. Trend in performance shows that there is improving performance in 15 indicators, declining performance for 5 indicators and performance levels maintained for 4 indicators. The remaining 3 indicators do not have an indication of trend.

5.1.3 Performance is set out against the four priorities in the new corporate plan as follows:

Economy & Growth

The indicators under this priority area are reported annually and therefore there is no performance to report this quarter.

People

The Homelessness performance indicator is split into two parts and looks at the success rate of the homelessness team in preventing and relieving homelessness. Year-to-date at the end of Q3, the service secured accommodation for just under 7 out of every 10 households to whom the Council owed a Prevention duty and 5 out of 10 households owed a Relief duty. Both of these are above target.

There were a number Prevention duties granted following an increase during the pandemic of Section 21 notices served by landlords. However, due to restrictions on court possession orders, evictions did not progress, and a number of cases were closed off as “no further/lost contact” which the Council cannot include as a successful outcome.

The success rate for the Relief duties reflects the work being carried out by an appointed Outreach Worker, who solely specialises in supporting single homeless applicants (provided temporary accommodation under “everyone in” and “protect and vacate” initiatives as result of Covid-19) and who have complex needs. This includes attending Job Centre appointments with clients, driving them and accompanying to viewings in respect of properties secured in the private rented sector.

Satisfaction with Leisure Services is measured by a Net Promoter Score which can range from -100 (where everybody is a detractor and would not recommend the service) to +100 (where everybody is a promoter and would recommend the service). Both Waterside Farm and Runnymede Leisure Centres scored well over the quarter (82 and 78, respectively), Nationally, leisure facilities score around 40-45 for Net Promoter Score.

The number of leisure memberships stood at 3,096 at the end of the quarter, which was an increase in memberships from the same period last year. The number of memberships continues to increase each month and the service has already exceeded its target of 3,000 members by the end of the financial year, and is back to pre-Covid membership levels.

The number of vacant allotments remained over the quarter at 15. Overall, 140 of the 154 usable plots are now being worked and there are just 10% vacant, which is an improvement on the same time last year.

97% of rated food premises (488 of 503) were classified as 'broadly compliant' with food regulations, having been awarded 3 stars or above on the Food Hygiene Ratings Scheme.

A new measure for 2021/22 is the Amount of Disabled Facilities Grant allocated as a percentage of overall budget. At the end of the quarter, 100% of available budget had been allocated. Delivery of the improvements will allow 123 people to live comfortably and safely in their own homes.

Place

Tenant satisfaction with repairs and maintenance is now reported monthly by the new contractor. All jobs are rated out of 10 with anything below 7.5 considered as dissatisfied. 97% of tenants were satisfied, which is above target. On void turnaround times, performance was impacted by one property re-let in the quarter that had been vacant for 112 days. However, an average of 25.8 days represents a significant improvement in performance compared with last year.

The percentage of planning applications processed within target times has two measures – one for major and one for non-major applications – and gives a longer-term view of performance, looking over a rolling two-year period. Nationally set standards have been comfortably achieved.

The building control service ensured all applications were processed within statutory timescales.

Full Council approved the draft Local Plan for Regulation 19 consultation on 22 October 2019. The Council also approved the Local Development Scheme (LDS). The plan was submitted for examination in public on the 2 October 2020. The Plan is now in the examination phase. An Inspector conducted examination Hearing Sessions during May and June 2021. The Inspector's letter was received at the end of September 2021. He found the plan sound subject to main modifications. Consultation on the modifications commenced in December 2021 and will conclude in February 2022. The Council is on track to receive an Inspectors report in March 2022. Indeed at time of publication of this agenda, the report has been received.

Environment

The percentage of household waste recycled or composted (including food waste) was 51.73% at the end of the quarter, comparable with the same period last year and above target.

The good performance for street cleanliness continues this quarter and is on target with just 7.97% of inspected streets deemed unsatisfactory, although slightly up from 6.80% over the same period last year.

The serving of default notices for highway verge grass cutting was not applicable in Q3. The number of services requests for grass cutting was very low in Q3 at just 2 requests, even lower than over the same period last year.

Fly tipping removal is above target, maintaining high levels of performance with 99% of fly tips removed within one working day. The number of fly tips over the quarter is as follows: October 56, November 100 and December 58.

Enablers

The First Contact team continue to deal with queries effectively; 95% of calls received were dealt with at the first point of contact without the need to transfer to the back office. This is above target and maintains a consistently high level of performance.

At the end of the quarter, there were 13,543 subscribers to the wheeled bin garden waste collection service. This is an improvement on the same period last year and is above the annual target.

The sickness absence indicator has been split between short-term and long-term (4 calendar weeks or more) with targets adjusted down to reflect lower levels seen over the previous year. At 4.6 days against a target of 4.1 days, short-term absence remains low, although now above target – over the quarter, 93 working days were lost to Covid. Long-term sickness absence is 2.9 days, better than the target of 3.4 days and, although a slight increase from Q2, is an improvement on the same time last year.

The Council is keen to encourage members of the public and businesses to transact with the Council online. The “channel shift” indicators cover the numbers signed up to the e-billing service for council tax and business rates and a measure of Council Tax transactions using online forms. The number signed up to e-billing at the end of the quarter was 8,947 above target and an improvement on last year. Up to the end of the quarter, there were 1,634 online form transactions, an increase on the same period last year.

The average time to process housing benefit claims is split into new claims and change of circumstances. For new claims, staff absences have caused a slight drop in performance over the quarter (22 days against a target of 21 days). Change of circumstances are processed in 7 days, on target although a slight drop in performance compared with the same period last year.

6. Corporate Implications

a. Financial implications

Good performance on some indicators can lead to reduced costs.

b. Legal implications

There are no direct legal implications at this stage.

c. Human resources and equality

There are no direct human resource or equality implications at this stage.

d. Timescale for implementation and risk factors

Monitoring of the Corporate Performance Scorecard is ongoing throughout the year.

7. Background Papers:

None

Report Author: Ben Brook bbrook@castlepoint.gov.uk

Corporate Performance Scorecard

Quarter 3 2021/22

Appendix 1



Economy and Growth

Annual indicators (reported at Q4):

- E&G001: Number of apprenticeship starts in the Borough
- E&G002: Percentage of businesses that report local skills shortages when recruiting
- E&G003: Number of businesses operating in Castle Point

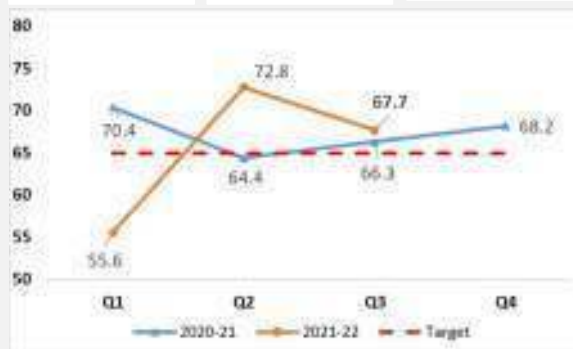
People

HOT021a: Percentage of homelessness *prevention* duties which ended during the quarter with a successful outcome

On target  Improving 

Target
65%

Latest Performance
67.7%



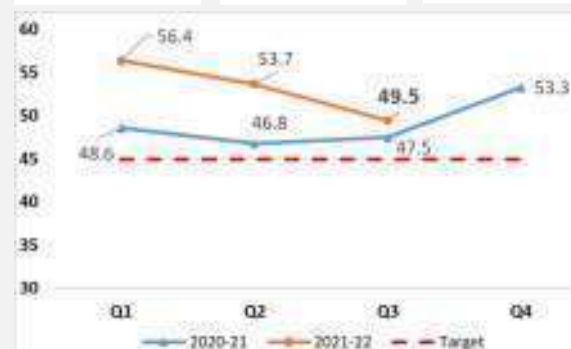
Up to the end of Q3, the prevention duty ended for 96 households of which we secured housing for 65 households (67.7%) which is above target and higher than the same period last year.

HOT021b: Percentage of homelessness *relief* duties which ended during the quarter with a successful outcome

On target  Improving 


Target
45%

Latest Performance
49.5%



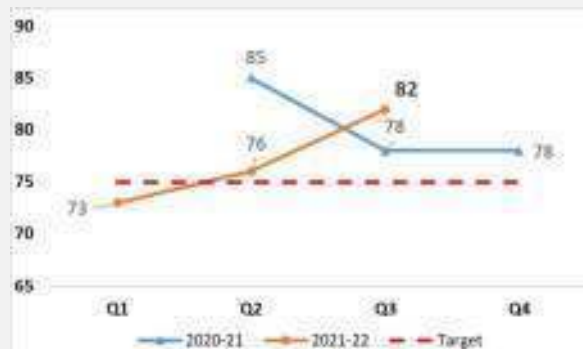
Up to the end of Q3, the relief duty ended for 103 households of which we secured housing for 51 households (49.5%) which is above target and higher than the same period last year.

L001a: Leisure satisfaction – Net Promoter Score (NPS) Waterside Farm

On target  Improving 

Target
75

Latest Performance
82



Higher than at the same time last year, and comfortably above target, the service achieved an exceptionally high NPS of 82 in Q3 2021/22.

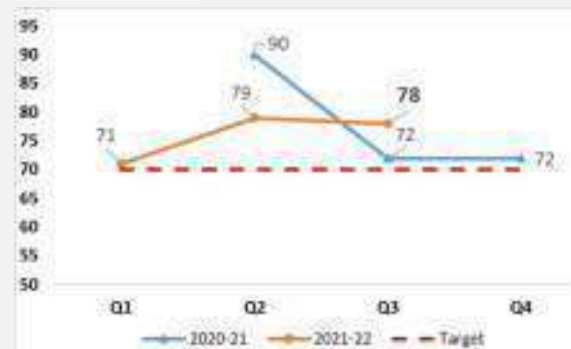
Nationally, leisure facilities score around 40-45 for NPS.

L001b: Leisure satisfaction – Net Promoter Score (NPS) Runnymede

On target  Improving 

Target
70

Latest Performance
78



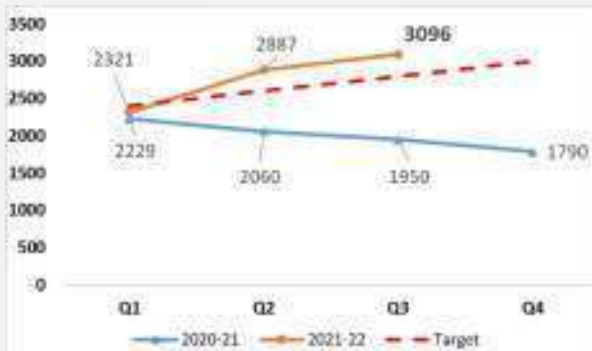
An improvement on the same time last year, and comfortably above target, the service achieved an exceptionally high NPS of 78 in Q3 2021/22.

People

L003: Leisure Memberships

On target  Improving  Target 2,600


Latest Performance
3,096



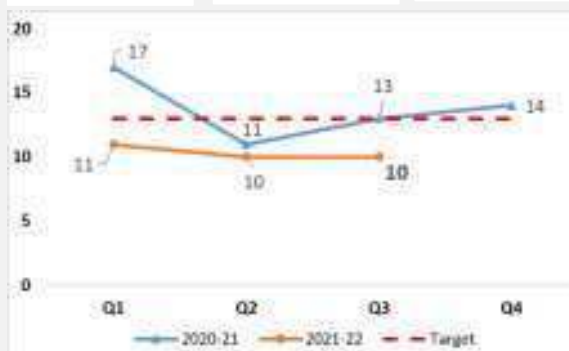
At the end of Q3 2021/22, there were 3,096 leisure members, above the target of 2,800 members by this stage of the year.

The number of memberships continues to increase and the service has already exceeded its target of 3,000 members by the end of the financial year and is back to pre-Covid membership levels.

PE002: Percentage of usable allotment plots owned and managed by Castle Point that are vacant

On target  Improving  Target 13%


Latest Performance
10%



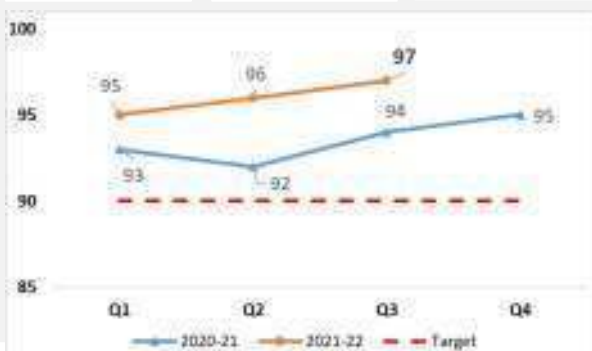
During Q3 2021/22, the number of usable vacant plots has remained at 15.

Overall, 140 of 154 usable plots are now being worked and there are just 10% vacant which is an improvement on the same period last year.

EH002: Percentage of food premises that are awarded a score of at least 3 on the food hygiene rating scheme

On target  Improving  Target 90%


Latest Performance
97%



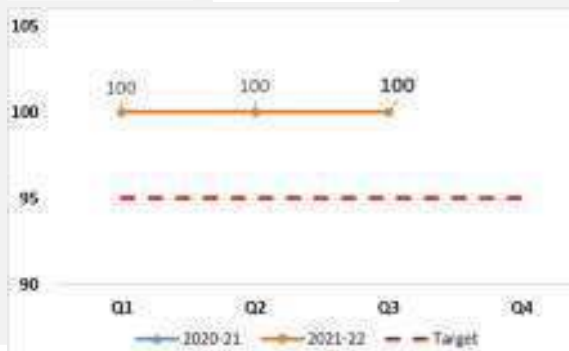
488 of 503 rated premises were classified as 'broadly complaint' with food regulations, having been awarded 3* or above on the Food Hygiene Ratings Scheme.

This is an improvement on the same period last year and above target.

EH012: Amount of Disabled Facilities Grant allocated as a percentage of overall budget

On target  N/A – new indicator Target 95%

Latest Performance
100%



At the end of Q3 2021/22, 100% of the Disabled Facilities Grant budget had been allocated.

Delivery of the improvements will allow 123 people to live comfortably and safely in their own homes.

People

Annual indicators (reported at Q4):

- PE001: Percentage of people who agree that there is a strong sense of community in their local area
- PE003: Proportion of people participating in physical activity
- LCT13: Proportion of people who feel safe after dark

Place

HOS001: Overall tenant satisfaction with repairs and maintenance

On target 

N/A – new methodology

Target 95%

Latest Performance 97.0%

All jobs are rated out of 10 with anything below 7.5 considered as dissatisfied.

The new contractor has resolved staffing and supply issues experienced earlier in the year, resulting in customer satisfaction levels in Q3 above target.



HOS006: Average Void Turnaround Time

Off target 

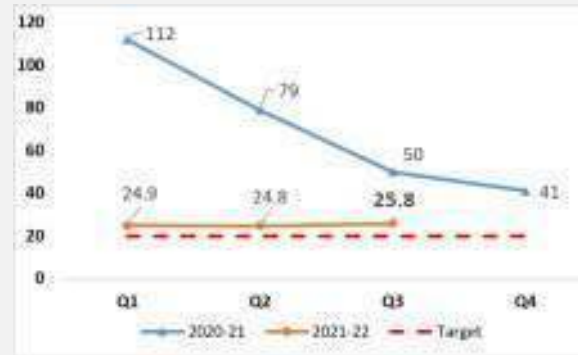
Improving 

Target 20 days

Latest Performance 25.8 days

Performance remains off target but is significantly better than at the same time last year.

Performance has been impacted by one property let in the quarter which had been void for 112 days as it required significant work. Excluding this property, average void turnaround time would be 21 days for the year to date.



DC007: Percentage of planning applications processed within target time limits for major applications

On target 

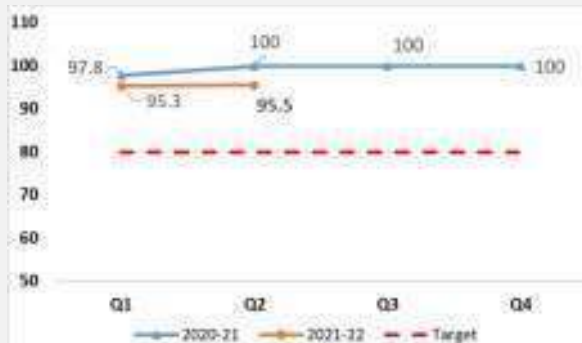
Declining 

Target 80%

Latest Performance 95.5%

Performance is shown on a two-yearly rolling basis. Performance determining major applications is 95.5%, a drop since the same period last year, although comfortably above target.

Note: Figures represent 24 months cumulative performance to the end of September 2021 as Government-produced statistics to the end of December 2021 are not yet available.



DC008: Percentage of planning applications processed within target time limits for non-major applications

On target 

Improving 

Target 80%

Latest Performance 99.3%

Performance is shown on a two-yearly rolling basis. Performance determining non-major applications is 99.3%, has improved since the same period last year and is comfortably above target.


Note: Figures represent 24 months cumulative performance to the end of September 2021 as Government-produced statistics to the end of December 2021 are not yet available.



Place

BC001: Percentage of Building Control applications processed within statutory time limits

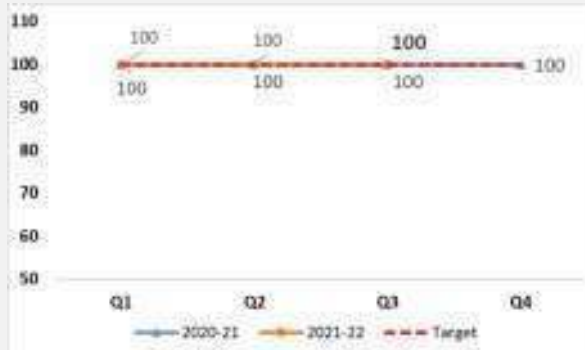
On target 

Maintained 

Target
100%

Latest Performance
100%

All applications continue to be processed within time limits.



Annual indicators (reported at Q4):


PP003: Number of new affordable homes in the Borough

PP004: Number of new homes built in the Borough

NEW: The delivery of the ASELA five-anchor programmes against targets set out in those programmes, including the preparation of a strategic planning framework.

PP001: Progress of Local Plan against the milestones set out in the Local Development Scheme

On target 

Improving 

Target
100%

Latest Performance
95%



Full Council approved the draft Local Plan for Regulation 19 consultation on 22 October 2019. The Council also approved the Local Development Scheme (LDS). The plan was submitted for examination in public on the 2 October 2020. The Plan is now in the examination phase.

An Inspector conducted examination Hearing Sessions during May and June 2021. The Inspector's letter was received at the end of September 2021. He found the plan sound subject to main modifications. Consultation on the modifications commenced in December 2021 and will conclude in February 2022. The Council is on track to receive an Inspectors report in March 2022.



Environment

OPS004&OPS005: Percentage of Household Waste Recycled or Composted (inc. food waste)

On target  Maintained  Target 50%





Latest Performance
51.73%

At the end of Q3 2021/22, the amount of household waste recycled or composted is comparable to the same time last year and is above target.

Note: Figures are early calculations and may be subject to change.

SS002: Percentage of streets inspected which are deemed to be unsatisfactory using Code of Practice for Litter and Refuse methodology

On target  Declining  Target <10%



Latest Performance
7.97%

Litter levels were slightly higher than the same period in 2020 – during which there were Covid restrictions - but comparable with 2019.

SS014: Number of default notices served in relation to Highway Grass Verge cutting



Against target - N/A Direction of travel - N/A Target <90



Latest Performance
N/A

With only a small amount of grass cutting being undertaken in the winter months the serving of Defaults was not applicable.

SS013: Number of service requests received in relation to Highway Grass Verge cutting

On target  Improving  Target <45





Latest Performance
2

Service requests for grass cutting reduces in the winter months, hence the low figure, which is even lower than at the same time last year.

Environment

SS003: Percentage of fly tips removed within one working day

On target 

Maintained 

Target
90%

Latest Performance
99%



There were 56 fly tips in October, 100 in November and 58 in December. All except one fly tip in November were removed within one working day.


A Default was served for the one not removed within the contract spec timeframe.


Annual indicators (reported at Q4):

- OPS002: Satisfaction with maintaining parks and open spaces
- OPS003: Satisfaction with household waste collection, including recycling and composting
- SS001: Satisfaction with Council's efforts to keep public land clear of litter and refuse
- EH013: Amount of CO2 produced from the Council's buildings and operations

Enablers

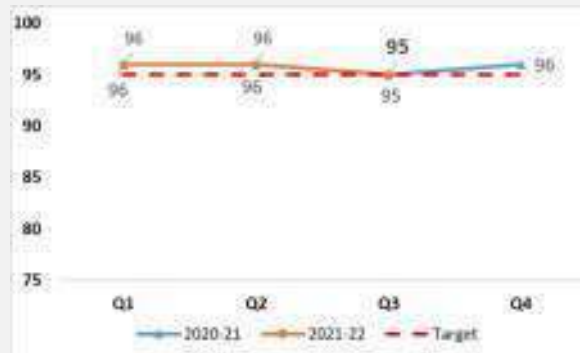
FC001: Percentage of calls taken from customers by First Contact that are dealt with without the need to transfer to the back office

On target 

Maintained 

Target
95%

Latest Performance
95%



The First Contact team continue to deal with queries effectively; 95% of calls received were dealt with at the first point of contact without the need to transfer to the back office.

OPS016: Number of wheeled bin garden waste subscribers

On target 

Improving 

Target
12,750 (A)

Latest Performance
13,543



At the end of Q3 2021/22, there were 13,543 subscribers to the wheeled bin garden waste collection service.

This is an improvement from the same period last year and is above the annual target. The number of subscribers generally remains stable for the final quarter of the year.

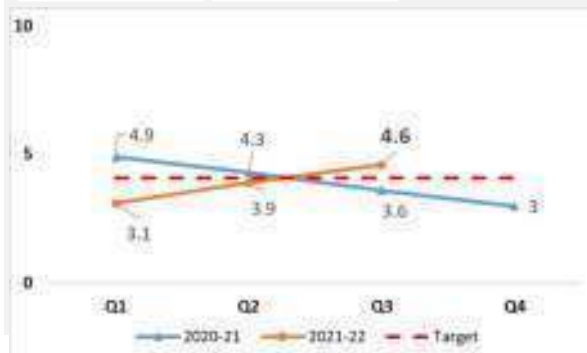
CORP1a: Average number of days sickness absence per FTE staff for all Council Services (rolling year) *short term*

Off target 

Declining 

Target
4.1 days

Latest Performance
4.6 days



Sickness absence is reported on a rolling year. Short-term sickness absence is 4.6 days, an increase on Q2 and higher than at the same time last year and off target.

Over the quarter, 93 working days were lost to Covid-19.

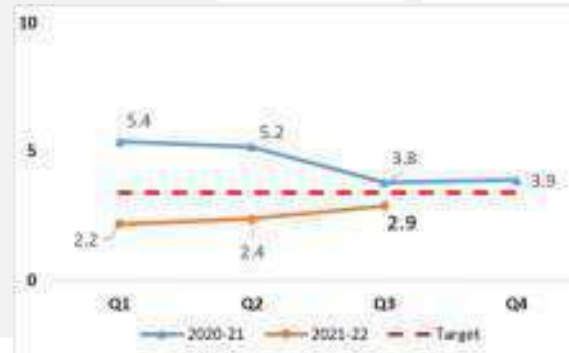
CORP 1b: Average number of days sickness absence per FTE staff for all Council Services (rolling year) *long term*

On target 

Improving 

Target
3.4 days

Latest Performance
2.9 days



Sickness absence is reported on a rolling year. Long-term sickness is defined as 4 calendar weeks or more.

Long-term sickness absence is 2.9 days, an increase on Q2 although an improvement on the same time last year and better than target.

Enablers

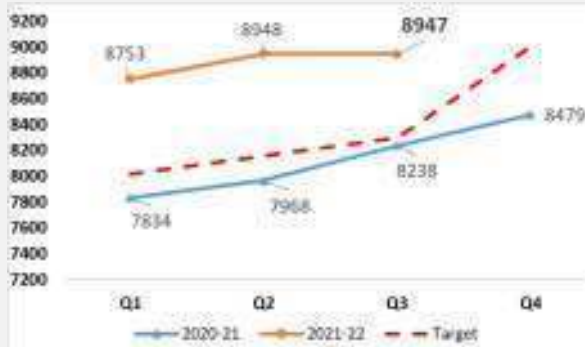
REV006: Channel shift to online services: take up of e-billing for Council Tax and Business Rates

On target 

Improving 

Target
8,297

Latest Performance
8,947




The number of customers signed up to the e-billing service has been maintained since the last quarter and is substantially higher than at same period last year.

Performance is on track to meet the year-end target of 9,000 customers.

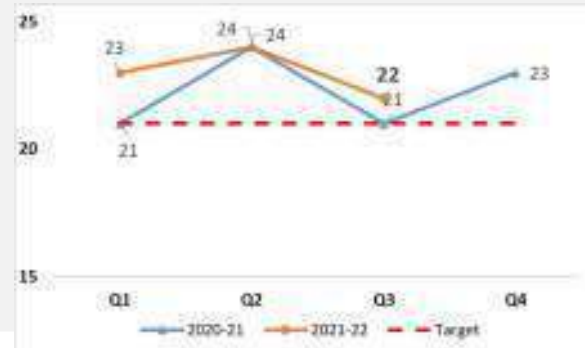
BEN001: Average time to process benefits claims: new claims

Near target 

Declining 

Target
21 days

Latest Performance
22 days



Staff absences have contributed to the slight increase in processing times for new benefits claims compared with the same period last year.

However, performance is an improvement on the previous quarter.

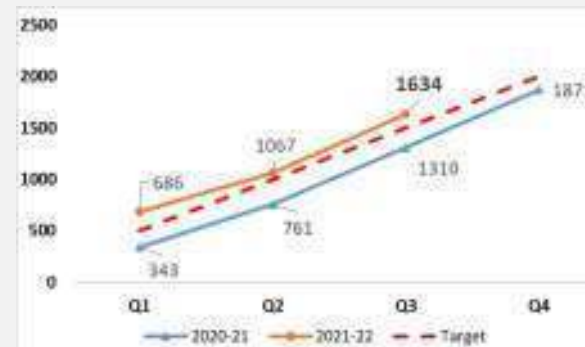
REV011: Channel shift to online services: use of Open Channel online forms

On target 

Improving 

Target
2,000 (A)


Latest Performance
1,634




Up to the end of Q3 2021/22, there were 1,634 Council Tax transactions conducted using OPENChannel online forms.

This is an improvement on the previous year and on target for 2,000 transactions by the year end.

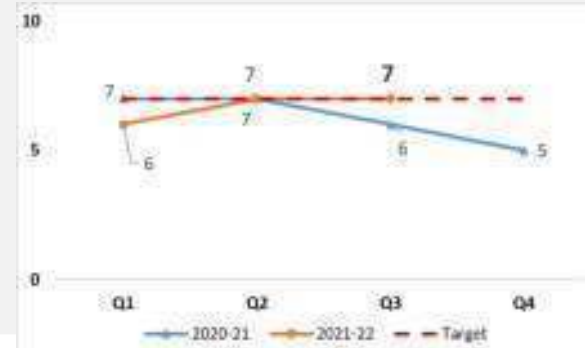
BEN002: Average time to process benefits claims: change of circumstances

On target 

Declining 

Target
7 days

Latest Performance
7 days



Performance times processing change of circumstances is slightly longer than over the same period last year although is on target.

Enablers

Annual indicators (reported at Q4):

ENA001: Overall satisfaction with the Council

CABINET

16th March 2022

Subject: Partnership Memorandum of Understanding

Cabinet Member: Councillor Johnson – Resources

1. Purpose of Report

To seek approval from Cabinet to enable the Council to enter into a partnership Memorandum of Understanding (MoU) with Basildon Borough Council and Brentwood Borough Council.

2. Links to Council's priorities and objectives

This report is linked to the Council's enabling role of resources. Sound and strategic financial management – including creating opportunities to explore partnership and joint working - are essential in order to ensure that resources are available to support the Council's priorities and to ensure services are maintained and continually improved.

3. Recommendations

That Cabinet approves Castle Point Borough Council entering into a Memorandum of Understanding (MoU) with Basildon Borough Council and Brentwood Borough Council to enable the commencement of exploratory work in relation to potential joint working opportunities.

4. Background Information

- 4.1 Following discussions between the Chief Executive Officers of Castle Point Borough Council and Basildon Borough Council in December 2021, a high level piece of work was undertaken to benchmark Castle Point Borough Council's Revenues and Benefits Service against the existing Basildon and Brentwood Shared Service.
- 4.2 As this piece of work was very high level the data gathered could not be used to establish viability of a shared service without further detailed work being undertaken.

- 4.3 To proceed, an equal level of commitment is required from all interested parties and this is reflected in the proposed Memorandum of Understanding (MoU) provided at **Appendix A**.
- 4.4 The MoU allows for collaboration in any areas that parties to the MoU agree are mutually beneficial, however it is proposed that the first such project undertaken under the MoU will be the development of the detailed business case relating to the expansion of the Revenues and Benefits Service to include Castle Point Borough Council.

5. The Memorandum of Understanding (MoU)

- 5.1 The Memorandum of Understanding (MOU) sets out the following vision statement for a partnership between Basildon Borough Council, Brentwood Borough Council and Castle Point Borough Council and their shared aspirations to deliver quality front and back office services in collaboration through partnership working and shared service arrangements;

'Basildon Borough Council, Brentwood Borough Council and Castle Point Borough Council believe that our collaboration enables resilience and preservation of the services we offer our customers. Basildon Borough Council, Brentwood Borough Council and Castle Point Borough Council are committed to collaborate in areas where service synergy or operational need/resilience present opportunities that meet and fulfil strategic objectives in our respective Corporate Plans. Such arrangements must offer benefits to our customers and work to create future income streams or cost efficiencies whilst retaining the identity of each council'.

- 5.2 The purpose of the MoU is to clearly and publicly set out what the partners have agreed to do and ensure that all members and employees of the respective organisations are aware and committed to this objective.
- 5.3 Under the MoU each partner organisation will have approval to commit time and resources to deliver the business case for the project and to make officers and/or resources available to lead, support and facilitate delivery of the business case.
- 5.4 Projects will be undertaken collaboratively but will be reflective and considerate of individual project governance and reporting arrangements and, where the business case leads to implementation these will supercede by legal agreements subject to individual governance approval.
- 5.5 The partnership under the MoU will operate to provide modern, high quality and affordable services, and will look to deliver this across a range of both support, and customer facing services.
- 5.6 The partnership also aims to attract additional business from public sector customers, by embracing the following core objectives:

- a) Improve service experience for our customers
- b) Improve service resilience and business continuity
- c) Deliver value for money
- d) Demonstrate strong leadership and commercial competency
- e) Maximise opportunities for income generation and cost recovery
- f) Provide a model of longevity to deliver an ongoing income stream
- g) Drive continuous improvement in terms of performance, cost, and user experience
- h) Public sector value and experience 'By public sector for public sector'
- i) Reinvest all income generated back into services which benefit our residents
- j) Reduce costs through the adoption of innovative design and technology
- k) Adopt a true partnership approach, as opposed to an outsourcing approach
- l) Ensure a mechanism for our Councils to retain their sovereign identity

5.7 It is intended that the work undertaken under this MOU will also set a framework for any future shared service arrangements.

6. Options

6.1 Option 1: Approve Recommendation

Cabinet approves the recommendation to enter into a Memorandum of Understanding (MoU) with Basildon Borough Council and Brentwood Borough Council and commence partnership exploration of potential joint working opportunities.

This option is recommended because;

- a) It may provide opportunities to work in ways that improve organisational efficiency
- b) Economies of scale may be explored and delivered through wider partnership working
- c) It may provide opportunities to build greater resilience in essential services, enabling consistent and high standards of service for residents

6.2 Option 2: Do Nothing

Cabinet does not approve or enter the MoU.

This option is not recommended because;

- a) Failing to explore opportunities for collaboration could detrimentally impact the ability to generate financial savings that would benefit the residents of Castle Point.

7. Corporate Implications

a. Financial Implications

- 7.1 There are no direct financial implications of entering into the MOU itself however there will be costs associated with developing any business cases resulting from it, and subject to viability, any subsequent implementation work.
- 7.2 It is likely, assuming business cases show viable projects, that joint working will deliver financial benefits as well as resilience. Any savings made will directly contribute towards closing the forecast budget gap in 2023/24 and beyond.
- 7.3 Parties to the MoU are expected to appoint necessary resources to undertake this work and this will be done on an equal contribution basis unless specifically agreed otherwise by all parties.
- 7.4 The costs of implementation of any given business case will be identified as part of the business case scoping work.
- 7.5 Costs for development of the Revenues and Benefits business case are expected to be in the region of £30K and these are expected to be met from existing resources and the Council's 'spend to save' earmarked reserve.

b. Legal Implications

- 7.5 An MoU is a document that demonstrates the intent of stated parties to move forward with a particular course of action and sets out their commitment to that intent - it is not a legally binding document unless the parties agree to the inclusion of such a clause.
- 7.6 The Partnership MoU does not substitute or override the need to enter formal legal arrangements via Section 101 of the Local Government Act 1972, which provides the formal legal mechanism (via Delegation Framework Deeds) for a Local Authority to discharge any of their functions to any other Local Authority.
- 7.7 In addition, Section 113 of the Local Government Act 1972 provides for the placing of staff of Local Authorities at the disposals of other Local Authorities.
- 7.8 Under Article 4 of the Council's Constitution, the decision whether or not to discharge delegation to, or to accept the discharge of functions from, another Local Authority under a Section 101 Deed must be approved by Full Council.
- 7.9 Article 9 of the Council's Constitution further provides that the Council may, pursuant to Section 101, enter into joint arrangements with one or more Local Authorities to advise the Council or to exercise Council functions.

c. Human resources/equality/human rights

- 7.10 Consideration will need to be given to potential staffing implications under the Transfer of Undertakings (Protection of Employment) Regulations in relation to

any Delegation Framework Deeds agreed under this MoU. This will include consultation with the recognised Trade Unions.

- 7.11 A full Equality Impact Assessment will be required should any formal agreements be put in place.

Timescale for implementation and risk factors

- 7.12 The work to develop the Revenues and Benefits Shared Service business case is expected to start upon agreement of the MoU and is expected to be completed by June/July 2022.

- 7.13 This work will include development of a full implementation project plan setting out key dates should the business case prove viable.

- 7.14 The following risks have been identified:

- a) Failure to ensure adequate resources to deliver projects under the MoU could lead to delay or complete failure.

The Executive Management Team and Strategic Leadership Group have prioritised projects under the MoU as part of the wider Corporate Transformation programme. Each project approved for development under the MoU will be supported by detailed discussion and agreement amongst partners as to the resource requirements. Where possible this will be sourced through existing resources, with consideration given to using 'spend to save' funding where necessary.

- b) Lack of 'buy in' and uncertainty amongst key stakeholders could hamper or delay the project and could lead to disruption to the existing service.

A comprehensive communications strategy that engages all key stakeholders with timely and relevant information will be developed as part of each project. Recruitment processes will be simplified, and budget will be set aside for any interim recruitment that may be needed to mitigate and stabilise any disruption to services whilst business cases are under development.

- c) The business cases do not deliver change and efficiencies to the scale needed.

Each detailed business case will be developed to include careful analysis of costs and benefits. Each business case will need to be approved under formal local governance arrangements before it can proceed to implementation stage. Business cases that do not deliver sufficient change or efficiencies are not expected to receive approval to proceed to implementation.

8. Background Papers:

Appendix A Partnership Memorandum of Understanding

Report Author:

Eddie Mosuro – Head of Customer & Digital Services



Basildon Council, Brentwood Council and Castle Point Council Collaboration Vision

MEMORANDUM OF UNDERSTANDING

Date: March 2022

Basildon, Brentwood and Castle Point Vision

MEMORANDUM OF UNDERSTANDING

Vision

This Memorandum of Understanding (MOU) sets out the following vision:

‘Basildon Borough Council, Brentwood Borough Council and Castle Point Borough Council believe that our collaboration enables resilience and preservation of the services we offer our customers. Basildon Borough Council, Brentwood Borough Council and Castle Point Borough Council are committed to collaborate in areas where service synergy or operational need/resilience present opportunities that meet and fulfil strategic objectives in our respective Corporate Plans. Such arrangements must offer benefits to our customers and work to create future income streams or cost efficiencies whilst retaining the identity of each council’.

Endorsement:

Agreed By:

Leader of Castle Point Council

Printed.....Dated.....

Leader of Basildon Borough Council

Printed.....Dated.....

Leader of Brentwood Borough Council

Printed.....Dated.....

Appendix 1 - Memorandum of Understanding (MOU)

Introduction

This Memorandum of Understanding (MOU) endorses the vision of the partnership between Basildon Borough Council, Brentwood Borough Council and Castle Point Borough Council (the Partnership)- supporting the Councils partnership aspirations to deliver quality front and back-office services in collaboration.

The Partnership will operate to provide modern, high quality and affordable services, and will look to deliver this across a range of both support, and customer facing services. Herein referred to as a Project.

The First Project to be considered under the MOU will be the expansion of the Revenues and Benefits Shared Service.

The Partnership aims to attract additional business from public sector customers, for the First Project and any subsequent Project that may be agreed, by embracing the following core objectives:

The Partnership will;

- Improve service experience for our customers
- Improve service resilience and business continuity
- Deliver value for money
- Demonstrate strong leadership and commercial competency
- Maximise opportunities for income generation and cost recovery
- Provide a model of longevity to deliver an ongoing income stream
- Drive continuous improvement in terms of performance, cost, and user experience
- Public sector value and experience 'By public sector for public sector'
- Reinvest all income generated back into services which benefit our residents
- Reduce costs through the adoption of innovative design and technology
- Adopt a true partnership approach, as opposed to an outsourcing approach
- Ensure a mechanism for our Councils to retain their sovereign identity

The work undertaken to date under this MOU will set a framework for any future Projects for shared service arrangements.

1.0 Purpose of this Memorandum of Understanding (MoU)

1.1 To set out clearly what the partners have agreed to do and ensure all members and employees of the respective organisations are aware and committed to this objective.

1.2 Each partner organisation now has approval to:

- Commit time and resources to deliver a Business Case for a Project
- Observe the Project governance arrangements as set out within this agreement.
- Make officers and/or resources available to lead, support and facilitate delivery of the Project.

- 2.0 The Proposed Project Governance Arrangements that will move the Partnership from this Approval to Feasibility and Transition Phase**
- 2.1 The Partnership will take forward the development of a Business Case for each prospective Project. The Partnership will ensure that their respective boards or other governing structures are appropriately briefed before seeking the required approvals at the appropriate stages of the project. It will do this by working collaboratively within the Partnership to develop and deliver against a detailed project plan with clearly defined milestones.
- 2.2 The Partnership agree to use their reasonable endeavours to implement Projects in accordance with the timescales envisaged. This shall include ensuring respective board approvals and necessary consents are sought in a timely and efficient manner to the relevant decisions that must be made by the Partnership board at each milestone requirement.
- 3.0 The Funding for the ‘Start – up’ Phase**
(The Start-up phase being the development of the Outline Business Case)
- 3.1 If funding is required to appoint dedicated resources in respect of an agreed Project under this MOU, this will be funded as an equal contribution from all shared service partners that are involved in the delivery of that Project.
- 4. The Timescale**
- 4.1 Individual business cases will be explored separately for each identified Project. A clear timeline and delivery plan will be presented with each opportunity and business case.
- 4.2 The senior sponsors of the collaboration have the desire to explore as many Projects as possible, to assess opportunity, synergies and service needs.
- 4.3 If the Outline Business Case of a Project is approved, progress to a Detailed Business Case, including option and financial analysis can commence. Following approval of the Detailed Business Case project feasibility, mobilisation and implementation of the project plan will begin as soon as reasonably practicable following approval.
- 4.4
- 5. The Required Behaviours and Attributes during the ‘Start up’ and ‘Development’ Phase**
(The Development Phase being the production of the Detailed Business Case)
- 5.1 In carrying out ongoing operational activity, the Partnership will work in an open and transparent fashion to promote their shared strategic aims and objectives.
- 5.2 The Partnership will do this by:
- Actively considering and anticipating decisions, which may have an impact on the role and purpose of the Project.
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- Not entering into any formal agreements or decisions that could impact on the role and purpose of a Project without consulting and liaising with the Partnership Group.
 - Ensuring key decisions (those which move a Project from one phase to another) are notified in advance of final decision to the members of the Partnership together with consideration of their impact on a Project and its future deliverability.
 - Before commissioning any further key planning or contracts, the Partnership will consult and engage with the Partnership Group and consider their views.
- For the avoidance of doubt the above points in 5.2 do not apply to any overarching strategic agreements between Partnership members and other partners, that are subject to existing arrangements

5.3 In working to deliver these objectives the Partnership will:

- Commit fully to working together to achieve the objectives and vision of the Partnership.
- Act with integrity, selflessness, and openness.
- Be as open as possible about all the decisions and actions that are taken.
- Give reasons for decisions and restrict information only when the wider public interest clearly so requires.
- Promote and support the principles of the Partnership through leadership, behaviour, and leading by example.

6.0 Communication and Publicity

6.1 No announcement, circular, press release or other statement shall be made in relation to this MoU and/or ensuing Project unless such announcement is agreed by the nominated spokesperson from each of the partners.

7.0 Project Governance

7.1 The governance structure defined below provides a structure for the development and delivery of a Project.

7.2 Guiding Principles

7.3 The following guiding principles are agreed. A Project's governance will:

- provide strategic oversight and direction;
- be based on clearly defined roles and responsibilities at Delivery Team, Partnership Board and organisational level;
- align decision-making authority with the criticality of the decisions required;
- be aligned with a Project's scope (and each Project stage) (and may therefore require changes over time);
- provide coherent, timely and efficient decision-making; and
- Correspond with the key features of Project governance arrangements set out in this MoU.

7.4 The Project / Partnership Board

- 7.5 The Project / Partnership Board provides overall strategic oversight and direction to a Project. This group will consist of a senior sponsor from Basildon Borough council, Brentwood Borough Council and Castle Point Borough Council.
- 7.6 A Project Board shall be managed in accordance with the terms of reference set out in this MoU.

7.7 The Delivery Team

- 7.8 The Delivery Team will provide strategic management at Project and work stream level. It will provide assurance to the Individual Sponsors at the individual organisation level that the Key Objectives are being met and that a Project is performing within the boundaries set by the Board.
- 7.9 The Delivery Team consists of representatives from each of the Partner Organisations. The Delivery Team shall have responsibility for the creation and execution of the project plan and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the Project Board. The core Delivery Team members are those nominated from each of their Board representatives.

7.10 Reporting

- 7.11 Each Project shall report at three levels:
- 7.12 **Organisations' Individual Governance Arrangements:** Receive reports a Business Cases for sign off.
- 7.13 **Project Board:** Once a Project has been accepted reporting shall be monthly or when necessary, based on the action points from the Delivery Team Meetings highlighting: Progress this period; issues being managed; issues requiring help (that is, escalations to the Partnership Board) and progress planned next period and/or aligned with the frequency of the Partnership' Board meetings.
- 7.14 **Delivery Team:** Once a Project has been accepted actions will be recorded for each project team meeting. The Delivery Team members shall be responsible for drafting reports to the Project Board as required for review.

8.0 Escalation

- 8.1 If any partner has any issues, concerns or complaints about a Project, or any matter in this MoU, that partner shall notify the other partners and the partners shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable 28 days, the matter shall be escalated to the Project Board, which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the Project Board within 20 working days, the matter may be escalated to the Partnership Board for resolution.

- 8.2 If any partner receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to a Project, the matter shall be promptly referred to the Project Board (or its nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, without the prior approval of the Project Board (or its nominated representatives). This to take no more than 15 days so that any response can be provided within the statutory timeframes, this paragraph also applies to any request under the Environmental Information Regulations.
- 8.3 Each Project shall ensure that a Data Protection Impact Assessment is undertaken on the sharing of personal data under the Data Protection Act 2018 (and Applied UK GDPR). Each partner must ensure that they have suitable and adequate arrangements in place to keep data secure. Any breach must be reported to each partner within 24 hours to the Data Protection Officer(s) (DPO) of the partners who will appoint a lead who will collate and gather information or ensure compliance with reporting of any breaches to the Information Commissioner's Officer (ICO).
- 8.4 Any formal data sharing agreement will form part of each Business Case for each Project signed off and agreed by the DPO(s).

9.0 Intellectual Property

- 9.1 The partners intend that any intellectual property rights created in the course of the Project shall rest in the partner whose employee created them (or in the case of any intellectual property rights created jointly by employees of more than one partner in the partner that is lead partner for the part of a Project that the intellectual property right relates to).
- 9.2 Where any intellectual property right rests in a partner in accordance with the intention set out in clause 9.1 above, that partner shall grant an irrevocable licence to the other partners to use that intellectual property for the purposes of that Project.

10.0 Term and Termination

- 10.1 This MoU shall commence on the date of signature by all partners and shall expire on the approval of the Final Business Case.
- 10.2 Any of the partners may terminate its involvement in the MoU by giving at least three months' notice in writing to the other partners at any time.

11.0 Variation

- 11.1 This MoU, may only be varied by written agreement of the whole of the Partnership Board.

12.0 Charges and Liabilities

- 12.1 Except as otherwise provided, the partners shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.
- 12.2 The partners agree to share the costs and expenses arising in respect of a Project between them in accordance with a Contributions Schedule to be developed by the Delivery Team and approved by the Project Board within three months of the date of this MoU. In so far as each partner is party to the Project in question for the avoidance of doubt only those partners who are involved in the approval and delivery of the approved business cases will be liable for costs and expenses in relation to that Project.
- 12.3 All partners shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and no partner intends that any other partner shall be liable for any loss it suffers as a result of this MoU.
- 12.4 This MoU does not substitute or override the section 101 Delegation Framework Deed between Basildon Borough council and Castle Point Borough Council.
- 12.5 Nothing in this MOU substitutes or overrides the Strategic Partnership s113 between Brentwood Borough Council and Rochford District Council (the Strategic Partnership). Nothing in this MOU has the effect to prevent the Strategic Partnership from implementing its own business cases without prior approval of the Partnership Board herein referred to above.
- 12.6 For the avoidance of doubt this MOU does not enable Rochford District Council to be party to any Project the Partnership shall propose and approve.

13.0 Status

- 13.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the Partners from this MoU. The Partners enter into the MoU intending to honour all their obligations.
- 13.2 Nothing in this MoU is intended to, or shall be deemed to, establish any binding partnership or joint venture between the Partners, constitute any Partner as the agent of another Partner, nor authorise any Partner to make or enter into any commitments for or on behalf of another Partner.

14.0 Governing Law and Jurisdiction

- 14.1 This MoU shall be governed by and construed in accordance with English law and, without affecting the Escalation procedure set out in clause 8, each Partner agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

15.0 Resources

- 15.1 The project board will define the expected resource allocation for the development of the Outline Business Case as each project is considered.

CABINET

16th March 2022

Subject: Big Local Project for the Gunny Site Canvey Island

Cabinet Member: Councillor Varker – Special Projects

1. Purpose of Report

To update Cabinet on the improvements to the Gunny site proposed by the Big Local Partnership and on the future management arrangements which are being considered.

2. Links to Council's Priorities and Objectives

This proposal links with the Council's Environment priority.

3. Recommendations

That Cabinet note:

The improvements to the Gunny site proposed as by the Big Local Partnership and endorses, supports the future management and ownership arrangements for the site.

4. Background

In 2013 parts of the Winter Gardens and Canvey Island Central wards in the western part of Canvey Island were awarded £1m of Big Local funding. The Big Local area (population 6,900) is characterised by high levels of deprivation compared with the rest of the Borough and East England. Decisions regarding how the grant funding is spent are made by the Canvey Island Big Local Partnership (CIBL). From the outset an aim has been to bring into community use the run-down Gunny site.

The Gunny is an area of grassed open space in the centre of Canvey Island and on the eastern edge of the Big Local area. During WWII the site was used as an anti-aircraft gun battery and barracks (named TN7 Furtherwick) supporting the defence of London. There were six-gun emplacements, each with a bomb-proof shelter for the gun crew and an ammunition recess. To the west there was a central command post and to the south there was an on-site magazine bunker and, south of that, c.20 accommodation huts. Two of the

emplacements have since been demolished but the remaining four and the central command post have been buried under large mounds of earth, up to 4m in height, and grassed over although parts have become visible after erosion of the covering. Today the site is mostly used by dog walkers and is unfortunately prone to anti-social behaviour issues, but its history generates a lot of nostalgia amongst residents.

The project was slow to get off the ground until Jan Stobart from the Rural Community Council of Essex was employed to help move the project forward and to facilitate discussions with potential partner organisations. Wynne-Williams Associates are the architects who were commissioned to develop detailed designs for the site. They had early consultation with Historic England to establish the site constraints and the types of development that would be acceptable given its Scheduled Ancient Monument status. Works that would damage or disturb the buried structures were not supported.

Yellow Door is the Local Trusted Organisation, or accountable body and currently holds the Big Local Funds, ensuring their proper use and awarding contracts.

The Canvey Island Big Local have had ongoing discussions with Castle Point Borough Council, Canvey Island Town Council, Trust Links and Yellow Door about how the Gunny site could be improved and managed in the future, the vision being the creation of a facility (or a number of facilities) that will enable all ages and abilities to meet together informally, to enjoy gardening and other activities, to play and to appreciate local history, in a way which is sustainable in the long term and enables community ownership of the facilities.

A resident survey was conducted in February to April 2021 with leaflets delivered to households (immediate neighbours to the site were also spoken to), posters displayed at local shops and venues, and online promotion. 361 local residents responded. 65% lived within 1 mile of the site and a further 30% lived within 5 miles. The survey showed that respondents highest priorities were for seating and benches, a community garden, community building, play equipment, wildflowers and trees.

The Borough Council has been supportive of the project and has indicated its in principle willingness to consider transferring the freehold ownership of the site to the Town Council in order to help the project proceed.

Trust Links has for the last six years been in discussion with Canvey Island Big Local regarding local need, the use of facilities on the site, funding and management. In December 2021 Trust Links confirmed its in-principal willingness to lease and manage the Gunny site.

A planning application for the proposed improvements to the site which include a community building with café/meeting room and activities room/workshop, community garden, wetland habitat, play /gym equipment, car parking spaces, battery storage unit, etc was approved in February 2022.

The meeting room / café would be used directly by the project and would be available for hire. The activity room would be used by Trust Links for 3 days per week in connection with the Growing Together project on the site. Revenue funding has been offered by Mid & South Essex CCG and Essex County Council to support the delivery of the project over the next three years. At other times the activity room would be available for hire.

Following discussions between the partners about the future ownership and management of the site the preferred option is for the freehold ownership to be transferred to Canvey Island Town Council who would oversee the works which will be funded by the Big Local grant in line with the planning application and as designed by Wynne Williams Associates (landscape) and Trinity Construction (building). Trinity Construction have been awarded a contract by Canvey Island Big Local (via Yellow Door as their Local Trusted Organisation) to contract manage the works on site. Construction tender documents will be prepared by Trinity and would be tendered in line with CITC procurement rules. Some works (e.g. wildflower and shrub planting, benches, mural etc) would be excluded from the contract to enable Trust Links to undertake item specific fundraising and then undertake the works themselves.

Following completion of the Big Local funded works Canvey Island Town Council would grant a 25-year full repairing and insuring lease for the whole site at a peppercorn rent to Trust Links. Trust Links would be responsible for management of the whole site which comprises the community building, the landscaped park and all fixtures and fittings. The site would form part of Trust Link's Growing Together project.

Trust Links would contract with Canvey Island Town Council to provide maintenance and management of the play equipment. This would include weekly inspections and annual ROSPA inspections. Trust Links would carry out a daily visual check (weekdays only) of the play equipment area, clear any litter and identify any obvious problems for CITC to address.

5. Corporate Implications

(a) Financial Implications

The Council's financial situation means that it is not able to incur expenditure over and above that what it already spends on grass cutting and litter picking this recreational facility.

The site is held at nil value within the Council's accounts and consequently should the site be transferred to the Town Council there will be no financial implications.

The remainder of this section covers the financial implications for the Town council and Trust Links.

The Town Council resolved at a meeting on the 17th January 2022 to approve the land transfer of the Gunny site to the Town Council subject to negotiated leases with Trust Links and approval by Castle Point Borough Council

The freehold asset transfer to the Canvey Island Town Council (at no cost to the Town Council) would ensure that the facility is greatly improved in line with the Big Local Partnership vision, thereby benefiting residents living in one of the most deprived areas of the Borough at no ongoing cost or risk to this Council.

A cost plan for landscaping and construction of the hub has been provided by Trinity Construction (1 November 2021) with a total cost of £658,923. This excludes VAT, professional fees, artwork, finishes to storage containers and (beyond a basic allowance) internal fitout. Trust Links have identified some items that they could deliver at lower cost e.g. wildflower, shrub and tree planting. The total value of these works is shown in the cost plan at £61,555. These items will be removed from the main contract which will therefore reduce in value to £597,369.

The draft Big Local business plan 2021-23 includes £654,000 for capital works (building and landscaping) at The Gunny.

Under the proposed arrangements the Town Council would receive a grant from Big Local for the cost of the capital works and it will act as the Local Trusted Organisation for the purposes of the grant. Once it owns the site it will be able to tender for the works and reclaim the VAT thereby ensuring that maximum benefit is derived from the remaining Big Local Funding which they would be responsible for administering. If tenders come back more than expected the Town Council would be responsible for deciding what works to proceed with and what works would need to be delayed until further funding becomes available.

The Canvey Island Town Council intends to enter into a 25-year lease agreement with Trust Links. Under the terms of this agreement Trust Links would receive all income from the battery storage unit and the use of the community building. It would also receive a grant of £51k from Big Local spread over the first three years to help cover operational costs whilst the site becomes established as a self-sustaining project. In addition, it has secured three years of revenue funding for its Growing Together project which provides therapeutic gardening, mental health support and positive activities for adults with mental health problems and learning disabilities from the NHS and Essex County Council.

(b) Legal Implications

Canvey Island Town Council has indicated that it is willing to acquire freehold ownership of the site rather than a long-term lease if it is to take over the responsibility for the site

The Solicitor to the Council will be instructed to grant, negotiate, and agree any terms relating to the disposal of the land as deemed appropriate by the Chief Executive, the Strategic Director (Corporate Services) and Head of Environment.

(c) Human Resources and Equality Implications

None associated with this report.

(d) IT and Asset Management Implications

None associated with this report

6. Timescale for implementation and Risk Factors

The proposed improvements and future management arrangements are dependent on the transfer of the freehold ownership of the site to Canvey Island Town Council. The asset transfer would be dependent on the Canvey Island Town Council agreeing to take on the freehold ownership of the site at a future meeting of its Council and to negotiated leases with Trust Links being in place. The Town Council will not be able to commence the tender process until this Council confirms its intention to transfer the freehold ownership of the site to them and any necessary legal agreements are in place. The extent of the works that can be undertaken using the Big Local funding will be dependent on the tendered prices for the works. Other works will be dependent on securing funding from other sources. Trust Links would be reliant on income from the use of the community hub and battery storage unit and funding from other external sources to offset its operational costs. Subject to the necessary legal agreements being in place the intention is that the Big Local funded works will be completed during 2022/23 but if the Big Local funding is not spent by 2026 any unspent funding will potentially be required to be paid back.

Background Papers

None

Report Author:

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