

Rother District Council

Report to	-	Council
Date	-	18 December 2023
Report of the	-	Cabinet
Subject	-	References from Cabinet Meetings

The Council is asked to consider recommendations arising from the Cabinet meetings held on 9 October, 6 November and 11 December (to follow) as set out below.

CABINET – 9 OCTOBER 2023

CB23/29. **ROTHER DISTRICT COUNCIL OWNED/LEASED ACCOMMODATION POLICIES**

Cabinet received Minute OSC23/21 arising from the meeting of the Overview and Scrutiny Committee (OSC) held on 11 September 2023 that had considered a number of proposed Rother District Council owned / leased accommodation policies for implementation. Since becoming a Registered Social Landlord in 2020, the Council was required to have a suite of relevant policies in place to comply with Housing Ombudsman, Social Housing (Regulation) Act 2023 and the Council's duty as a landlord. The Council currently owned 33 units of accommodation with more being acquired. The Chair of the OSC confirmed that the OSC had considered the draft policies in detail and were happy to commend their adoption to Cabinet and Council.

RECOMMENDED: That the following Rother District Council Owned / Leased Accommodation Policies be approved and adopted, as submitted:

Unacceptable Behaviour Policy;
Anti-Social Behaviour Policy;
Recharge Policy;
Compensation Policy;
Domestic Abuse Policy; and
Window Restrictors Policy.

(Cabinet Agenda Item 6)

CB23/30. **THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

Under the Regulation of Investigatory Powers Act 2000 (RIPA) (as amended by the Protection of Freedoms Act 2012), the Council was required to adopt a policy determining how officers carried out surveillance legally during investigations; the last Policy had been adopted in 2018. The Act provided a legal framework for authorising investigations in a manner consistent with obligations under the Human Rights Act 2000 where the investigation was for the purposes of preventing or detecting crime or for preventing disorder.

The RIPA and the associated statutory codes of practice determined how the Council should carry out surveillance, provided safeguards for the persons being investigated, the Council and officers. A draft policy was appended to the report at Appendix A for consideration and approval. It was noted that as it was now common practice for officers to carry out research using websites and social media, an additional policy was required, and this had been added as Appendix 2 to the RIPA Policy.

It was noted that the Council was also inspected every three years by the Investigatory Powers Commissioners Office and no major issues were identified during this year's inspection, with the next inspection due in 2026.

RECOMMENDED: That the revised Regulation of Investigatory Powers Policy be approved and adopted as submitted.

(Cabinet Agenda Item 10)

CABINET – 6 NOVEMBER 2023

CB23/39. DISCHARGE OF HOMELESSNESS DUTY TO A SUITABLE PRIVATE RENTED PROPERTY POLICY

Cabinet received Minute OSC23/29 arising from the meeting of the Overview and Scrutiny Committee held on 16 October 2023 that had considered a report on the proposed Discharge of Homelessness Duty to a Suitable Private Rented Property Policy. The Cabinet Portfolio Holder advised that the Policy regularised the processes that were already in place as part of the solution to combat homelessness. The Policy enabled the Council to make transparent offers of private sector tenancies to all households where a suitable property had been identified. The Private Sector Housing Team worked hard to secure suitable properties with reputable landlords each month.

RECOMMENDED: That the Discharge of Homelessness Duty to a Suitable Private Rented Property Policy be approved and adopted.

Cabinet also **RESOLVED:** That the Head of Housing and Regeneration be granted delegated authority to make any further changes that may be required to the Discharge of Homelessness Duty to a Suitable Private Rented Property Policy in the future.

(Cabinet Agenda Item 7)

CB23/40. REVENUE BUDGET AND CAPITAL PROGRAMME MONITORING AS AT QUARTER 2 - 2023/24

Consideration was given to the report of the Interim Deputy Chief Executive on the Revenue Budget and Capital Programme Monitoring as of 30 September 2023. The Revenue Budget and Capital Programme statements were summarised in Appendices A and B respectively to the

report, together with the impact of the forecast on the Council's Reserves at Appendix C. The report also included a brief update on the Collection Fund performance.

The forecast outturn for the 2023/24 financial year, indicated a forecast deficit position of £2.961m at 31 March 2024, against a budgeted deficit of £2.221m which was a variance of £0.74m. The updated Medium Term Financial Strategy looked to address the financial position of the Council, considered elsewhere at this meeting (see Minute CB23/42 below).

The Revenue Budget forecast as at the 30 September 2023 indicated a deficit of £0.656m against the approved budgeted drawdown from Reserves of £2.045m resulting in a forecast reserve drawdown of £2.701m. The main reasons for the variations were detailed in the report, although it was noted and agreed that the descriptions of the main variances would be more explicit in future reports.

The Council's Net Financing Costs had reduced due to a review of several schemes within the Capital Programme to ensure deliverability of anticipated outcomes and affordability. As a result of the review, the anticipated borrowing had not been required and interest due to be paid was lower than expected by £471k. Interest income from investments was expected to yield an additional £730k, of which £530k was in respect of an increased focus on treasury management activity and higher interest rates since the budget was calculated and £200k due in interest on loans to the housing company.

The revised 2023/24 Capital Programme budgets had been derived from reviewing the project cashflows and assessing the expected position at this time. There were a number of additions to the Capital Programme including unexpected replacement boiler costs at the Town Hall; the refurbishment of five tennis courts at Egerton Park as part of grant acceptance conditions; potential payments in respect of contributions towards dilapidations at Rye Swimming Pool and Bexhill Leisure Centre and Pool; an additional Disabled Facilities Grant allocation and changes to the Changing Places Toilet schemes approved previously. The current budget for the Capital Programme's for the year was £28.4m, with the forecast outturn for the year as at Quarter 2 being £19.9m, a variance of (£8.5m) or 30% of the programme.

It was noted that the collection rate as at the 30 September 2023 for the Council Tax and Business Rate parts of the Collection Fund was 57.10% and 58.62% respectively of the collectable debit, which was 0.21% and 0.43% lower respectively than the corresponding figures in 2022/23. It was considered that the collection rates had held up well despite the squeeze on finances following the pandemic and the cost-of-living crisis, but a future decline in collection rates would have an adverse impact on the Council's income.

RECOMMENDED: That:

- 1) the scheme to meet the potential costs of the Council's contributions towards dilapidations to Rye Swimming Pool and Bexhill Leisure Centre and Pool at a forecast cost of £60k in

2024/25 and £50k in 2025/26, to be funded from capital receipts, be approved; and

- 2) the changes to the Capital Programme budget as follows be approved:
 - A new capital scheme be added to the capital programme in 2023/24 in respect of replacement boilers in administrative buildings, at a total cost of £95k, to be funded from revenue reserves.
 - An increase of £161k to the current capital programme scheme in 2023/24 in respect of Disabled Facilities Grants, funded from an additional grant allocation from Government (DLUHC).
 - Transfer of £53k from Pebsham toilets and £68.5k from Camber toilets/Camber Sands Welcome Centre (the latter subject to formal approval from the funding body) to a new scheme at Egerton Park toilets in 2023/24, in respect of a Changing Places Toilets scheme, to be funded from a Government (DLUHC) grant.
- 3) the acceptance of £128k revenue grant funding for Bexhill leisure pool and Rye swimming pool (subject to the notification of a formal offer) be approved.

Cabinet also **RESOLVED**: That the report be noted.

(Councillor Field declared a personal interest in this matter as an elected Member of East Sussex County Council and in accordance with the Code of Conduct remained in the room during the consideration thereof).

(Cabinet Agenda Item 9)

CB23/41. **BLACKFRIARS HOUSING AND INFRASTRUCTURE PROJECT**

Members considered the comprehensive report of the Director – Place and Climate Change which provided an update on the progress of the Blackfriars Infrastructure and Housing project and the latest financial position. The report also outlined some recommended amendments to the Shareholders Agreement between the Council and Rother District Council Housing Company Ltd (the Company) and the Company Articles of Association. The report demonstrated that positive progress had been made with the infrastructure scheme on this historically stalled site, however, the biggest risk to the project was the marginally viable status of the site, compounded by increased infrastructure costs and challenging market conditions.

At the time of reporting, the Company Board's approved housing delivery option of 130 affordable homes and 70 open market sale, was now not viable. This would leave no surplus available to help absorb the deficit on the infrastructure delivery or to manage the ongoing project risk of further cost increases.

Whilst the Company had considered various options to demonstrate a profit-making scheme required of a commercial entity, the only viable option to provide sufficient business justification to continue the housing project at this stage, was to formally submit a Financial Viability Assessment to Planning to determine the removal of the s106 planning obligation, with the view to delivering 100% open market sale. This enabled the Company to proceed with a scheme and to secure the necessary loan funding arrangements for continued business justification and to achieve the business aim of increasing supply of housing. The various options considered by the Company were detailed in the financial appraisal contained within confidential Appendix 5 to the report; Members did not go into confidential session to discuss the confidential Appendix.

It was noted that the option to sell the whole site to a registered provider for 100% affordable housing had been considered and ruled out as an unviable option but had not been included in the options appraisal; details of this option would be circulated separately to Members to demonstrate why it was not viable. It was further noted that if this option was viable, the Council would not lose nomination rights, however, many registered providers had curtailed their building programmes due to the current economic viability constraints.

The local Battle Members were disappointed that the affordable housing element had been removed and that this would not be a popular decision locally within Battle, where there was a real need for affordable homes. However, positively, it was noted that all the housing in the new scheme would be Energy Performance Certificate rated B and A, if economically viable.

Members were reassured that the delivery of an element of affordable housing on this site was still very much the intention of the Housing Company and that every effort possible would be made to achieve this at some point.

The Council and Company continued to work collaboratively to improve the overall financial performance of the project and the key activities and resources involved in this process were explored in detail in the report. It was noted that there was a need for an additional contingency of £1.1m for the delivery of the infrastructure, increasing the estimated cost reported to Members in July from £19.9m to £21.0m which represented a 5.5% contingency.

The Company had also undergone a review and refresh of previously agreed governance documents from 2018 and a small number of amendments had been agreed in principle, to incorporate in the Shareholder Agreement and Articles of Association, subject to Member approval. The changes had been reviewed by both the Company and Council's respective legal teams and were detailed at Appendices 1, 2 and 3 to the report.

Members were also advised that the Council and the Company were working on finalising a Working Capital Agreement and wider Development Funding Agreement with legal advisors and this provided a further opportunity to review and assess governance arrangements.

The Service Level Agreement was also in the process of being finalised and it was hoped that this could be agreed and signed off by both parties by the end of the year.

RECOMMENDED: That:

- 1) the updated capital budget requirement for the Blackfriars Infrastructure scheme of £21m be approved, to be funded as outlined within paragraph 15 of the exempt report (confidential exempt Appendix 5 to the report); and
- 2) the Council's Chief Executive be granted delegated authority in their capacity as the Company Shareholder Representative to finalise and agree the proposed amendments to Rother District Council Housing Company Ltd Articles of Association and Shareholder Agreement proposed in Appendices 2 and 3 to the report as submitted.

Cabinet also **RESOLVED** That:

- 3) the position in respect of the Service Level Agreement and Working Capital Agreement be noted; and
- 4) the recent Housing Company Board decision to apply to the Planning Committee for removal of the Section 106 planning obligation and to deliver 200 market homes and the potential impact this has on the scheme financing be noted.

(The Confidential Appendix in relation to this matter, as set out at Agenda Item 14 was considered exempt from publication by virtue of Paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended).

(Councillor Coupar declared a personal interest in this matter as a Council appointed Director of Rother DC Housing Company and in accordance with the Code of Conduct remained in the room for the considered thereof).

(Councillor Thomas declared a personal interest in this matter as Chair of Rother DC Housing Company and in accordance with the Code of Conduct remained in the room for the considered thereof).

(Cabinet Agenda Item 12)

CABINET – 11 DECEMBER 2023 – TO FOLLOW

Councillor D.B. Oliver
Leader of the Council