

PROPERTY SUB-COMMITTEE

Friday, 27th March, 2015

10.00 am

Darent Room, Sessions House, County Hall, Maidstone





AGENDA

PROPERTY SUB-COMMITTEE

Friday, 27 March 2015, at 10.00 am
Darent Room, Sessions House, County
Hall, Maidstone

Ask for: **Ann Hunter**
Telephone: **03000 416287**

Tea/Coffee will be available 15 minutes before the start of the meeting

Membership (7)

Conservative (4): Mr A J King, MBE (Chairman), Miss S J Carey,
Mr L B Ridings, MBE and Mrs P A V Stockell

UKIP (1) Mr R A Latchford, OBE

Labour (1) Mr D Smyth

Liberal Democrat (1): Mrs T Dean, MBE

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

Webcasting Notice

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site or by any member of the public or press present. The Chairman will confirm if all or part of the meeting is to be filmed by the Council.

By entering the meeting room you are consenting to being filmed. If you do not wish to have your image captured please let the Clerk know immediately.

A - Committee Business

A1 Apologies and Substitutes

To receive apologies for absence and notification of any substitutes present

A2 Declarations of Interest by Members in Items on the Agenda

In accordance with the Members' Code of Conduct, Members are requested to declare any interests at the start of the meeting. Members are reminded to

specify the agenda item number to which it refers and the nature of the interest being declared

A3 Minutes of the meeting held on 10 December 2014 (Pages 7 - 10)

To consider and approve the minutes as a correct record

B - Key or significant Cabinet Member Decision(s) for recommendation or endorsement

B1 Approval to the principle of KCC acquiring a site for a new primary school at Dartford (Pages 11 - 16)

To consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on a proposed decision to approve in principle the acquisition of a site for a new primary school in Dartford

B2 Approval to enter into a new lease for West Kingsdown Children's Centre (Pages 17 - 22)

To consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision to enter into a new lease for the West Kingsdown Children's Centre

B3 Approval to enter into new long term lease at Lawn Primary School, Northfleet (Pages 23 - 28)

To consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision for KCC to enter into a new long lease for a new playing field at Lawn Primary School

B4 Southborough Hub (Pages 29 - 60)

To consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision in relation to the Southborough Hub

C - Monitoring of Performance

C1 Total Facilities Management - Biannual Review (Pages 61 - 76)

To receive an update on the performance of the Total Facilities Management Solution following the signing of the Mid- Kent contract with Amey, the West Kent contract with Skanska and the East Kent contract with Kier

Motion to exclude the press and public (IF REQUIRED)

That under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph(s) 3 of Part 1 of Schedule 12A of the Act.

Peter Sass
Head of Democratic Services
(01622) 694002

Thursday, 19 March 2015

This page is intentionally left blank

KENT COUNTY COUNCIL

PROPERTY SUB-COMMITTEE

MINUTES of a meeting of the Property Sub-Committee held in the Swale 1, Sessions House, County Hall, Maidstone on Wednesday, 10 December 2014.

PRESENT: Mr A J King, MBE (Chairman), Miss S J Carey, Mr R A Latchford, OBE, Mr L B Ridings, MBE, Mr D Smyth and Mrs P A V Stockell

ALSO PRESENT: Mr G Cooke

IN ATTENDANCE: Mr B Appleby (New Ways of Working Programme Manager), Mr M Cheverton (Asset Management Surveyor), Mr R Lemerle (Disposals Surveyor), Mr P Smith (Assistant Asset Management Surveyor) and Mrs A Hunter (Principal Democratic Services Officer)

UNRESTRICTED ITEMS**30. Apologies and Substitutes**
(Item A2)

Apologies for absence were received from Mrs T Dean.

31. Declarations of Interest
(Item A3)

There were no declarations of interest.

32. Minutes of the meeting held on 22 September 2014
(Item A4)

Resolved that the minutes of the meeting held on 22 September 2014 are a correct record and that they be signed by the Chairman.

33. Exclusion of the Public

- (1) The Chairman proposed that the press and public be excluded from the meeting.
- (2) Resolved that under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.

34. New Ways of Working Strategy (East Kent region) and Proposal to acquire a Freehold to become an East Kent Key Office Hub
(Item B1 & C1)

- (1) Mr Cooke (Cabinet Member for Corporate and Democratic Services) introduced the reports relating to this item. The reports asked the Property

Sub-Committee to consider and endorse or comment on his proposed decision. Mr Cooke said the intention of the New Ways of Working project was to create hubs in addition to the Strategic Headquarters in Maidstone. He said hubs had already been established in west and mid Kent and it was proposed to acquire a suitable property near Whitstable as a key office hub for east Kent.

- (2) In response to questions, Mark Cheverton (Property Fund Manager) and Bob Appleby (New Ways of Working Programme Manager) outlined the current arrangements for office accommodation and gave further detailed information about the options considered for east Kent as outlined in the exempt report. It was also confirmed that: it would cost significantly more to build a new premises than to acquire an existing one; a surveyor's report had been commissioned; due diligence was underway to ensure value for money and any risks were considered; any premises acquired would provide suitable and flexible accommodation without the need for additional adaptation or refurbishment.
- (3) Resolved to endorse the Cabinet Member's proposed decision to agree:
 - (a) To the continued implementation of the New Ways of Working Programme into the east Kent region;
 - (b) To the freehold purchase and inclusive refurbishment of a property located on the outskirts of the Whitstable area at the price stated in the recommendations of the exempt report;
 - (c) To note the additional costs of purchase, including agents' fees and stamp duty, together with final fit-out works, as stated in the exempt report;
 - (d) That the Executive Scheme of Delegation for Officers set out in Appendix 2, Part 4 of the Constitution (and the directorate schemes of sub-delegation made there under) provides the governance pathway for the implementation of this decision by officers. In this instance, the Director of Property and Infrastructure Support on behalf of the Corporate Director of Strategic & Corporate Services) will take all such steps as are necessary to implement the decision.

35. Disposal of Land at Churchill CEP School, Westerham
(Item B2 & C2)

- (1) Mr Cooke (Cabinet Member for Corporate and Democratic Services) introduced the reports relating to the proposed disposal of the land at Churchill CEP School, London Road, Westerham and asked the Property Sub-Committee to consider and either endorse or make recommendations on his proposed decision. Mr Cooke suggested the addition of the words "in consultation with the Cabinet Member" to the recommendation set out in the reports.

- (2) Rod LeMerle (Disposals Surveyor) outlined the history of the site and gave further information about an adjoining site currently being used for allotments. He also provided an update on the offers received and outlined the proposed next steps to establish the best overall bid that should be accepted and taken forward.
- (3) During discussion it was confirmed that no information was available in relation to an objection to an earlier planning proposal by KCC for a care home on the site.
- (4) Resolved that:
 - (a) The Cabinet Member's proposed decision to sell the property and to delegate final authority to the Director of Property and Infrastructure Support, in consultation with the Cabinet Member, to finalise the selected purchaser and the terms of the proposed sale be endorsed;
 - (b) A report on the outcome of the disposal be received at a future meeting of the Property Sub-Committee.

36. Disposal of five leasehold interests for 125 years at market value for all units in the Nautical Mews Development in Cliftonville, as part of the Live Margate regeneration programme

(Item C3)

- (1) Mr Cooke (Cabinet Member for Corporate and Democratic Services) introduced the report which considered the proposed disposal of five leasehold interests for 125 years at market value for all units in the Nautical Mews development in Cliftonville as part of the Live Margate regeneration programme. The report also asked the Property Sub-Committee to consider and either endorse or make recommendations on the Cabinet Member's proposed decision.
- (2) Peter Smith (Assistant Asset Management Surveyor) gave a short history of the site and described how the proposed decision would contribute to the Live Margate regeneration programme. He also circulated a proposed site plan.
- (3) Mark Cheverton (Property Fund Manager) confirmed that in accordance with the Council's constitution the proposed decision should be taken by the Cabinet Member for Corporate and Democratic Services.
- (4) Resolved:
 - (a) That the Cabinet Member's proposed decision to agree the disposal of five leasehold interests in the terms set out in the exempt report and to delegate authority to the Director of Property and Infrastructure Support to adjust the final terms, if necessary, to conclude the transaction, be endorsed;
 - (b) That a report on the Live Margate regeneration programme be considered at the Policy and Resources Cabinet Committee on 22 April 2015.

This page is intentionally left blank

From: Gary Cooke – Cabinet member for Corporate and Democratic Services
Rebecca Spore – Director of Property and Infrastructure Support

To: Policy and Resources Property Sub Committee – 27 March 2015

Decision No: 15/00032

Subject: Approval to the principle of KCC acquiring a site for a new primary school at Dartford

Classification: Unrestricted

Past Pathway of Paper:

Future Pathway of Paper:

Electoral Division: Dartford North East

Summary: This report seeks approval to the principle of KCC acquiring a site for a new primary school at Dartford Northern Gateway East at a price to be agreed, together with authority to agree the final terms to be delegated to the Director of Property and Infrastructure Support.

Recommendation(s): The Property Sub Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision to approve in principle the acquisition of a site for a new primary school at Dartford, at a price to be agreed and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction in due course.

1. Introduction

- 1.1 There is a requirement for a new primary school within Dartford Northern Gateway East and although in the short term existing growth (indigenous and development related) could be accommodated by expanding local schools, this will be insufficient to accommodate all the planned growth in Dartford. There are plans for up to 2,000 new homes within the borough and as a result, Dartford Borough Council's "Northern Gateway Supplementary Planning Document" of 2012 identified a suitable site of 2.1 hectares for a new primary school.
- 1.2 KCC have had some initial discussions with the landowner, and are intending to make an initial offer, subject to due diligence. Agreement on the terms would allow the landowner to progress their aspirations for the remainder of the site. A feasibility appraisal commissioned by KCC last year indicated that the proposed site was suitable for a 2FE primary school (subject to further environmental investigations) but it has now been decided that as a minimum,

a 1FE school on 1 ha could be sufficient, alongside expansion of other local schools.

- 1.3 The landowner is pressing for KCC to make an offer for the required land or for DBC to release it for residential development in the absence of any offer from KCC to date.

2. Financial Implications

- 2.1 The terms for the acquisition are yet to be negotiated, but the landowner claims the open market value should be based on residential development as they believe this is the most likely alternative use in the absence of the requirement for a school site.
- 2.2 A number of s.106 contributions have been secured to fund the acquisition and construction costs of the new school but some of these are time limited.

3. Bold Steps for Kent and Policy Framework

- 3.1 The acquisition of the site will enable the County Council to provide the necessary primary school places to accommodate the expanding local population growth in the vicinity and ensure the following benefits:
- ensure all pupils meet their full potential,
 - shape education and skills provision around the needs of the Kent economy.
- 3.2 The proposed decision does not relate to a plan or strategy set out in the Council's Policy Framework.

4. Proposed Acquisition Terms

- 4.1 Negotiations have not commenced yet but P&IS will endeavour to secure the site on the best terms possible.
- 4.2 No equalities implications are anticipated in respect of the taking of the lease.

5. Conclusions

The acquisition of the site will help safeguard the necessary provision of additional primary school places and mitigate the impact of the proposed development of up to 2,000 new homes in the vicinity. KCC will be seeking to agree terms that will allow the provision of a new primary school within the constraints of the available funding.

6. Recommendation(s)

Recommendation(s): The Property Sub Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision to approve in principle the acquisition of a site for a new primary school at Dartford, at a price to be agreed and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction in due course.

7. Contact details

Report Author:

Kahren Knott – Estates Surveyor, Property & Infrastructure Support
03000 416356
kahren.knott@kent.gov.uk

Relevant Director:

Rebecca Spore – Director of Property & Infrastructure Support
03000 416716
Rebecca.spore@kent.gov.uk

8. Background Documents

Appendix 1 - Record of Decision

This page is intentionally left blank

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Cabinet Member for Corporate and Democratic Services

DECISION NO:

15/00032

For publication

Subject: Approval to the principle of KCC acquiring a site for a new primary school in Dartford

Decision: As Cabinet Member for Corporate and Democratic Services, I agree to give approval in principle to the acquisition of a site for a new primary school at Dartford Northern Gateway East at a price to be agreed, with authority to finalise terms and complete the transaction in due course to be delegated to the Director of Property and Infrastructure Support.

Reason(s) for decision:

Cabinet Committee recommendations and other consultation:

To be entered after the meeting and considered by the Cabinet Member when taking the decision.

Any alternatives considered:

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

.....
signed

.....
date

This page is intentionally left blank

From: Gary Cooke – Cabinet Member for Corporate and Democratic Services

Rebecca Spore – Director of Property and Infrastructure Support

To: Policy and Resources Property Sub Committee – 27th March 2015

Decision No: 15/00025

Subject: Approval to enter into new lease for West Kingsdown Children’s Centre

Classification: Unrestricted

Past Pathway of Paper:

Future Pathway of Paper:

Electoral Division: Sevenoaks North East

Summary: This report seeks approval to enter into a new 99 year lease with Rochester Diocesan Board of Education.

Recommendation(s):

The Property Sub-Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision to enter into a new lease for the West Kingsdown Children’s Centre and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction.

1. Introduction

1.1 West Kingsdown Children’s Centre was created within refurbished accommodation at West Kingsdown Church of England Primary School in 2010 / 11. Most of the school is currently owned by the County Council. The school is scheduled to convert to an Academy on 1st April 2015.

1.2 Prior to the proposed conversion, the Diocesan Board are anxious to complete a longstanding Statutory Transfer of buildings and tar-paved areas at the School, in accordance with the School Standards and Framework Act 1998. The Centre is located within the buildings which are to transfer to the Board, and the Board are heavily resisting the County Council from retaining the freehold interest in the accommodation occupied by the Centre.

1.3 The Board have indicated they will grant a long lease to the County Council to enable the Centre to remain operational upon completion of the Transfer. A long lease is desired, to ensure that the Government’s funding used to create the Centre is safeguarded. The Board have indicated that the Department for Education could direct the County Council to take a lease,

having regard to a recent situation in respect of a similar case within the London Borough of Bexley.

1.4 Discussion with officers at the London Borough of Bexley confirmed the DfE had signalled its intent to make a direction against Bexley to take a lease from the Diocese. Whilst no formal order was ever made it may be that a rejection of this lease proposal could result in the matter being referred by the Diocese to the Department for Education for determination.

1.5 The County Council has two options to consider how it proposes to deal with this matter:-

(a) retain the freehold interest in the Centre, as part of the terms of the Statutory Transfer. This will continue to be severely resisted by the Diocesan Board, who in turn seek intervention from the Department for Education within any dispute,

(b) include the Centre within the Statutory Transfer and take a leaseback of the Centre, on terms which can be agreed between the Board and the County Council without influence from the Department for Education, which protects the funding used to create the Centre and avoid any financial penalty arising to the County Council should the Centre close within the short to medium term.

1.6 Terms for a possible lease have been agreed with the Board, subject to Member's authority being granted to the principle of taking such a lease.

2. Financial Implications

2.1 The County Council has agreed to pay a rent of a peppercorn per annum, if demanded, throughout the term of the proposed lease.

2.2 The County Council has agreed to bear the Diocesan Board's legal costs upon completion of the lease; these are to be capped at £1,750 plus VAT.

3. Bold Steps for Kent and Policy Framework

3.1 The taking of the lease will enable the Centre to remain operational and within the County Council's control, with the following benefits:-

- ensure all pupils meet their full potential,
- shape Education and skills provision around the needs of the Kent economy,
- improve services for the most vulnerable people in Kent,
- support families with complex needs and increase the use of community budgets.

3.2 The proposed decision does not relate to a plan or strategy set out in the Council's Policy Framework.

4. Proposed Lease Terms

4.1 The Diocesan Board have agreed the following lease terms:-

- Term: 99 years, with effect from 1st April 2015,
- Rent: a peppercorn per annum, if demanded, throughout the lease term
- the County Council to reserve pedestrian and vehicular rights of way to the Centre, to accord with existing arrangements on site, together with car parking,
- the County Council to be responsible for external and internal repairs and decorations to the Centre,
- if not separately serviced, the County Council to contribute to the Board's utility costs (precise proportion to be assessed prior to completion of the lease),
- the County Council to insure the Centre, and its contents,
- the County Council to be permitted to use the Centre for its operational purposes, provided such purposes are reasonably compatible with an adjoining CE Primary School,
- the County Council not to assign, sublet, part with possession or share use of any part of the Centre without the Board's consent, such consent not to be unreasonably with-held or delayed,
- all other terms to be in accordance with a standard full repairing and insuring lease, as prepared and agreed between both parties Solicitors.

4.2 Entering into the proposed lease will maintain the presence of the Centre within the School grounds, with no significant additional costs being incurred by the County Council.

4.3 The County Council will be taking a long lease of the Centre, rather than retaining ownership of the freehold of the accommodation. The length of the lease will protect the Government's funding used to create the Centre. The length of the lease can be regarded as a "virtual freehold" of the premises.

4.4 No equalities implications are anticipated in respect of the taking of the lease.

4.5 The County Council's Education and Young People's Services team will be responsible for continued daily management and operation of the Centre upon completion of the proposed lease.

4.6 Members are asked to note that as detailed above and following their experiences in the London Borough of Bexley, the Diocese could seek to ensure their preferred interest in the site through representations to the DfE which may result in the County Council being directed to enter into a lease. The County Council may or may not wish to mount a legal challenge in this eventuality.

5. Conclusions

The taking of the lease will enable the School to convert to an Academy on 1st April and ensure that the County Council can continue to operate and maintain a Children's Centre at this location, with no material detriment to the County Council's property portfolio. Use of the premises as a Children's Centre will not be unduly restricted, providing an opportunity for the County Council to use the accommodation for other statutory functions should the Centre ever close, provided such uses are reasonably compatible with the adjoining CE Primary School.

6. Recommendation(s)

Recommendation(s):

The Property Sub-Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision to enter into a new lease for the West Kingsdown Children's Centre and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction.

7. Contact details

Report Author

- Andrew White, Estates Surveyor
- 03000 416825 / 07500 080069
- andrew.white@kent.gov.uk

Relevant Director:

- Rebecca Spore, Director of Property and Infrastructure Support
- 03000 416716
- rebecca.spore@kent.gov.uk

8. Background Documents

Appendix 1 – Record of Decision

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Gary Cooke – Cabinet Member for Corporate and Democratic Services

DECISION NO:

15/00025

For publication

Subject: West Kingsdown Children’s Centre – Taking of a long lease from Rochester Diocesan Board of Education

Decision:

As Cabinet Member for Corporate and Democratic Services, I agree to the County Council taking a long lease of West Kingsdown Children’s Centre, on terms to be finalised by the Director of Property.

Reason(s) for decision:

Under the Property Management Protocol, the taking of any lease over 20 years in length should be considered by Members, and the Decision taken by the Cabinet Member.

The decision to take the long lease would secure the property for operational use for the future.

Cabinet Committee recommendations and other consultation:

To be entered after the meeting and considered by the Cabinet Member when taking the decision.

Any alternatives considered:

Consideration has been given to retaining the freehold interest in the Centre, though deciding to pursue this would prejudice the desired Academy conversion of the School. The County Council would also become embroiled within a dispute with the Diocesan Board, which would probably be determined by the DfE to the Board’s advantage.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

.....
signed

.....
date

This page is intentionally left blank

From: Gary Cooke – Cabinet Member for Corporate and Democratic Services
 Rebecca Spore – Director of Property and Infrastructure Support

To: Policy and Resources Property Sub Committee – 27 March 2015

Decision No: 15/00026

Subject: Approval to enter into new long term lease at Lawn Primary School, Northfleet

Classification: Unrestricted

Past Pathway of Paper:

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: Northfleet and Gravesend West

Summary: This report seeks approval in principle to enter into a new long term lease with Lafarge Tarmac Cement and Lime Limited, to expire on 21 December 2114, with authority to agree the final terms to be delegated to the Director of Property and Infrastructure Support

Recommendation(s):

The Property Sub-Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision for KCC to enter into a new long lease for a new playing field at Lawn Primary School and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction in due course.

1. Introduction

- 1.1 KCC, Gravesham Borough Council and Lafarge have been negotiating the terms of a s.106 Agreement in respect of Lafarge’s development site adjoining Lawn Road, Northfleet. A new playing field is to be delivered as part of the s.106 Agreement and is a contribution to mitigate the impact of the adjacent development upon Lawn Primary School and to free up space on the existing site to enable expansion of the existing school buildings from 1FE to 2FE. Lafarge is to create the new school playing field and to maintain the subsoil thereafter.
- 1.2 Lafarge have indicated they will grant a lease of a maximum 99 year term to the KCC, to be co-terminus with the KCC’s existing lease from Lafarge for the school’s adjoining land which expires on 21 December 2114. A long lease is desired, to ensure that the investment in the expansion of the school is safeguarded.

- 1.3 It is intended to finalise the s.106 Agreement by 31 March and a draft lease for the playing field site will be attached to that agreement. It is therefore necessary to agree the basic terms for the lease even though the playing field will not be provided to KCC until the 50th dwelling occupation which is expected to be in 2019.
- 1.4 The playing field will have engineered fill in accordance with Lafarge's supplied specification. The surface is to be prepared in accordance with Sport England guidance.
- 1.5 Terms for the taking of a lease are virtually agreed but negotiations are on-going concerning the final details.

2. Financial Implications

- 2.1 KCC has agreed to pay a nominal rent, if demanded, throughout the term of the proposed lease.
- 2.2 Lafarge has agreed to bear the KCC's legal costs upon completion of the lease, at a capped figure to be agreed.

3. Bold Steps for Kent and Policy Framework

- 3.1 The taking of the lease will enable the KCC to provide the necessary open space required to enlarge the school and ensure the following benefits:-
 - ensure all pupils meet their full potential,
 - shape education and skills provision around the needs of the Kent economy.
- 3.2 The proposed decision does not relate to a plan or strategy set out in the Council's Policy Framework.

4. Proposed Lease Terms

- 4.1 The following terms have been agreed:
 - Term: maximum of 99 years to expire on 21 December 2114
 - Landlord's Works: Lafarge to create and fence the playing field to an agreed specification.
 - Other Terms: all other terms to be in accordance with a standard full repairing and insuring lease, as prepared and agreed between both parties solicitors.
- 4.2 The County Council will be taking a long lease of the playing field, rather than the freehold as Lafarge are required to retain responsibility for the subsoil, given that the site is composed of made-up ground. The length of the lease will protect the funding used to expand the school and is co-terminus with the lease term for the part of the school site which is subject to an existing lease from Lafarge.

4.3 No equalities implications are anticipated in respect of the taking of the lease.

5. Conclusions

The taking of the new lease will safeguard the long term use of the playing field by the school and mitigate the impact of the adjacent development by freeing up space on the existing site to enable expansion of the existing school buildings from 1FE to 2FE. Lafarge is to create the new school playing field free of charge to KCC and will maintain the subsoil thereafter to ensure any subsidence or pre-existing contamination issues are resolved at no cost to KCC.

6. Recommendation(s)

Recommendation(s):

The Property Sub-Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision for KCC to enter into a new long lease for a new playing field at Lawn Primary School and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction in due course.

7. Contact details

Report Author:

Kahren Knott – Estates Surveyor, Property & Infrastructure Support
03000 416356
kahren.knott@kent.gov.uk

Relevant Director:

Rebecca Spore – Director of Property & Infrastructure Support
03000 416716
Rebecca.spore@kent.gov.uk

8. Background Documents

Appendix 1 – Proposed Record of Decision

This page is intentionally left blank

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Mr Cooke, Cabinet Member for Corporate and Democratic Services

DECISION NO:

15/00026

For publication

Subject: New Long Lease of Playing Field At Lawn Primary School

Decision: As Cabinet Member for Corporate and Democratic Services, I agree to give approval for KCC to enter into a new long lease for a new playing field at Lawn Primary School and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction in due course.

Reason(s) for decision:

A new playing field is needed to mitigate the impact of the adjacent development upon Lawn Primary School and to free up space on the existing site to enable expansion of the existing school buildings.

Cabinet Committee recommendations and other consultation:

To be entered after the meeting and considered by the Cabinet Member when taking the decision.

Any alternatives considered:

There are no suitable alternatives as a location adjacent to the school is essential.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

.....
signed

.....
date

This page is intentionally left blank

From: **Gary Cooke: Cabinet Member for Corporate and Democratic Services**

Donald Farquharson: Interim Director of Property and Infrastructure Support

To: **Policy & Resources Property Sub Committee – 27 March 2015**

Decision No: 15/00024

Subject: **Southborough Hub**

Key decision **Sale of assets over £1M
Expenditure over £1M**

Classification: **Unrestricted**

Past Pathway of Paper: **N/A**

Future Pathway of Paper: **Growth Economic Development and Communities Cabinet Committee¹**

Electoral Division: **Tunbridge Wells North (Peter Oakford)**

Summary: Progress is being made on the Southborough Hub with the proposal that Tunbridge Wells Borough Council (TWBC) and Southborough Town Council (STC), now enter into call options on their lands with Kent County Council (KCC) to enable the development of a multi use facility which would include a library, theatre, football pavilion, town council offices, cafe and possibly a medical centre. The development will be paid for via a residential and commercial enabling development and the Call Options can be activated anytime at KCC's request. In tandem with this will be a Memorandum of Understanding (MoU) that will set out the governance of how all three councils will work together in progressing the project. This report sets out the details of this scheme and recommends that KCC now look to enter into these agreements.

Recommendations:

The Property Sub-Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision:

To enter into significant legal agreements including, but not limited to, land options and a Memorandum of Understanding with Southborough Town Council and Tunbridge Wells Borough Council.

¹ Cabinet Member for Community Services will subsequently sign the key decision on allowing the library to move and for the scheme to proceed.

To permit the disposal of the Ridgeway site in Southborough and the fifty percent claw back over the adjacent land owned by Southborough Town Council, with part or all of the combined receipts being allocated to support the development of the Southborough Hub.

To seek approval for the Director of Property and Infrastructure Support to be authorised to finalise the purchase of the Tesco's and Lloyds Bank land as part of the Hub redevelopment.

To seek approval for the Director of Property and Infrastructure Support to be authorised to finalise terms for a freehold or leasehold interest of the library and football pavilion.

To seek approval for the Director of Property and Infrastructure Support to be authorised to finalise terms for the disposal of the Hub and the Car Park back to Southborough Town Council and Tunbridge Wells Borough Council respectively.

This decision is required to enable the Southborough Hub which has been a long term aspiration for all three tiers of local government to be brought forward and delivered.

1. Introduction

- 1.1 The Southborough Hub has been a long term aspiration of TWBC, STC and KCC. The development would see a mixed use community asset developed that would include a theatre, town council offices, a library, football pavilion, café and possibly a medical centre thanks to a residential and commercial enabling development.
- 1.2 Numerous attempts have been made at bringing forward the project which is fettered with complex land ownerships and outstanding legal agreements. The town council clearly rejected the last scheme brought forward by Tesco's and the current proposal seeks to bring forward a comprehensive development that would include the Tesco land in tandem with land owned by Lloyds bank.
- 1.3 In terms of the development STC would be putting in the most land², however due to a 50% claw back on much of that, KCC³ would in effect be putting in the most value. TWBC would put in a similar amount of land⁴ to KCC. The partners have taken a land equalisation approach to values given that certain partners freeholds bring different benefits such as access and high street frontage to the scheme. Without these neither partner would be in a position to deliver a comprehensive and enhanced value from the overall development.
- 1.4 All three councils have currently invested £25k in the latest development programme and this has enabled the project to masterplan the area, work up

² Circa 15,978 sqm Ridgeway land and the Royal Victoria Hall

³ KCC land circa 3,564 sqm The Ridgeway

⁴ Circa 3,325 sqm (137 London Road, Yew Tree Road car park, toilet block adjacent to Tesco land)

options, consult the community and architects are now progressing towards enhancing the high level designs in consultation with stakeholders.

- 1.5 For political and viability reasons, two options are being worked up, one which would see the Royal Victoria Hall (RVH) refurbished alongside a minimal new build and another option which would see a cleared site with a complete new build. Current community facilities are in a poor to very poor condition. The town councils recent decision to cease all expenditure on the RVH and close it has been one of the main reasons for this project now gaining momentum.
- 1.6 Given the sometimes unpredictable political nature at the local level, both TWBC and KCC believe that binding the three councils together with regard to a Call Option on the land will now ensure that this project will progress. In tandem with this will be an MOU setting out how the project will be governed and delivered. The proposal will see each council having one vote and the setup will look to incentivise STC to engage with the borough and the county regardless of any changes post the elections.
- 1.7 In addition TWBC and KCC are seeking to assist STC by helping to coordinate the project and give them the relevant expertise, knowledge and capacity they require to deliver the hub.
- 1.8 Following the signing of the agreements KCC will then be required to deliver a Development Agreement that will cover the specifics of the project. Once signed KCC will then call in the option and transfer partners land over for £1 and then progress with the marketing, sale and entering into of all necessary contracts for the delivery of the hub. On completion STC will have the hub transferred back to it for a £1. KCC will benefit from a long term peppercorn rent on the new library while also owning the football pavilion and benefiting from a rental income from it. KCC could then dispose of the old library and use those surplus funds as it deems fit. TWBC will have part of the Yew Tree Road car park transferred back to it for a £1. Any capital surplus will be returned to the partners based on their initial up front investment and as a percentage of the land they contributed. It is not anticipated that there will be much if any of the latter.
- 1.9 As part of the agreements all three authorities will provide the necessary funding to progress the project to completion. It is anticipated that a contribution of £70k will be required from KCC to match STC and TWBC contributions. The funding source for these funds is yet to be agreed.
- 1.10 It is anticipated that on completion of the project a not for profit organisation will take over the running of the facility to ensure its longevity and this will be fully funded by STC.

2. Financial Implications

- 1.11 To date STC and TWBC have invested £25k each in the project with KCC contributing £25k in kind via staff time. Moving forward it is anticipated that a further £70k will be required from each party to now deliver the scheme.

- 1.12 High level figures suggest that the total development costs for the hub are likely to be in the region of £4.5M and this matches the anticipated £4.5M income from the enabling development. It is critical that the scheme should be self funding as neither partners wish to invest any further sums above what the enabling development and up front investments will permit.
- 1.13 The project would see KCC sell the dilapidated Ridgeway site which is currently occupied by the Ridgeway Football club and sees regular use from its +500 young members. The sale of this site to anyone else other than the football club would be politically difficult and the current position sees KCC taking either a freehold of the new pavilion (and or a long term peppercorn leasehold) and re-provides for the club while benefiting from an ongoing and possibly enhanced revenue income stream with a longer term sale still possible to the club should they raise sufficient funds. The development would be phased to ensure ongoing use of their facilities and minimise disruption. There is also a limited company operating from the site that teaches young people with learning difficulties and they would have to find alternative premises.
- 1.14 The current dilapidated library site which is on the Yew Tree Road, London Road junction would be able to continue to operate during the development phase. Once the hub was complete, it would move across and would benefit from a long term peppercorn rent. The new site would be marginally larger than the old one in order to benefit from s106 funds while the old site could then be sold for an estimated £400k and the local development framework already has the site allocated for c10 units.
- 1.15 In bringing this project forward officers have worked closely with Bob Lane to ensure that any risk to KCC from breaching its VAT partial liability exemption position are being monitored. While it is currently anticipated that the funds would pass through KCC books, any final decision on this would be taken by the section 151 officer prior to signing of any contract. In the interim officers continue to monitor the situation and should the position change, then the funding would be passed through STC books where breaching their position would cost the council £25k and this would be amalgamated within the costs of the development along with any increased VAT implications for the project.

3. The Report

- 1.16 Numerous attempts have been made at bringing forward the development but partners, politics and circumstances have never been conducive to allowing the project to move forward. Tesco who bought the site back in c2008 put forward the latest scheme however this was rejected by the town council as their footprint continued to expand beyond any reasonable measures. The current proposals present the best opportunity for the three councils to take advantage of legally binding agreements that would firmly put KCC in the driving seat and enable the scheme to now be delivered.
- 1.17 Option 1: Do nothing: KCC does not sign up to the land option and MoU and maintains the status quo. The project would then fail as KCC land is central in terms of allowing the wider development to proceed. TWBC would then look to

dispose of their land leaving the town council with non productive assets and ongoing legal issues over maintenance and dilapidation of the current buildings.

- 1.18 Option 2: Seek to gain value from the land: KCC enters into the agreements on the basis that they retain best value (or some value for their land). This would lower the capital contribution towards the hub which would make viability ever more difficult for KCC to achieve. In addition TWBC would then also consider its position with regard to the value of its land and could also look to pull additional value out leading to further viability issues and a failed project.
- 1.19 Option 3: Gift the Ridgeway site STC: STC could then for political reasons decide not to enter into the agreement and or enter into the agreement and look to exit it at a later date. STC would then benefit from an access onto their land along with the revenue income stream from the facility. This would not solve the RVH issue or the town council buildings leading potentially to further dilapidations issues and TWBC losing patience and selling its assets. KCC would lose any ability to influence the partners and ensure regeneration of the area.
- 1.20 Option 4: Dispose of the Ridgeway site: KCC would have political difficulty in doing so as this would be against the partnership approach adopted to date. In addition the presence of the Ridgeway Football club would severely limit the value of the site in comparison to one where the councils worked together to maximise value for the development. Unless purchased by STC or TWBC the project would then fail as KCC land is central in terms of allowing access for the wider development to proceed.
- 1.21 Option 5: Adopt a different approach: Rather than entering into a call option for the land and a MOU, KCC could request that a full Development Agreement be signed up to in order to know exactly what will be delivered before taking control of the project. Time has not permitted this approach to take place and given the impending elections, STC are looking to enter into a legally binding agreement now in order to ensure that future councils cannot simply unwind their position. The delivery of the hub has been dogged for over 20 years with amended political priorities and TWBC and KCC no longer wish to continually invest the capital sums required to progress such a project. The costs of a Development Agreement are substantial and STC could choose to walk away at any point during the development of this agreement.
- 1.22 The legal implications regarding the Call Option give KCC five years to complete the scheme once the options have been called. The MoU which is a non legally binding document sets out the governance for how the scheme will be managed and provides the blue print for the Development Agreement that will follow. The MoU proposes that three elected members will attend and vote on decisions at a project board. The representatives for the board are anticipated to be the Chairman of STC, the Cabinet Member for Communities and Wellbeing from TWBC and the Cabinet Member for Communities from KCC. The KCC representative will chair the meetings with each council having one vote other than the chairman who will have a casting vote if required. Any disputes will be escalated to an independent expert before being referred for arbitration. The governance is set out in such a way to encourage STC to

partake and help form the debate, however should they choose not to attend, decisions could still be made.

- 1.23 In moving the site forward there are three other legal implications that should be mentioned. Part of TWBC land is currently unregistered and TWBC are looking to have this registered as soon as possible. There is open public space belonging to STC being transferred to KCC and the relevant notices are being put up to ensure the transfer is legal. STC currently occupy TWBC land without any agreed lease in place and partners have agreed that both will sign up to a lease just prior to transfer of the land to KCC. KCC will then break the lease once development is ready to happen.
- 1.24 A full equalities impact assessment will be undertaken should the three partners sign up to the Call Options and MoU.
- 1.25 There are no implications on public health for this project.
- 1.26 The project will allow the council to dispose of the Ridgeway site and the old library site while gaining a new football pavilion and a new library.
- 1.27 This report seeks to delegate the necessary authority to the Head of Property and Infrastructure Support to enable the delivery of the scheme to happen. It recommends however that regular updates be brought back to the appropriate committees to update members on progress as and when key milestones are reached.
- 1.28 Subject to this key decision being granted the final sign off for this project to proceed is subject to agreement by the Economic Development and Communities Cabinet Committee on the 14 April 2015.

4. Conclusions

- 1.29 The opportunity has now arisen for KCC, TWBC and STC to enter into a joint call option and MOU in order to progress the Southborough Hub. Subject to all three councils signing up to these agreements within a very narrow timeframe, the opportunity has finally arisen to make this project a reality. The outcome would ensure that current legal issues are resolved and that KCC, TWBC and STC will all benefit from modern, fit for purpose community facilities that will benefit Kent's residents and help to revitalise the heart of Southborough.

5. Recommendation(s):

The Property Sub-Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision:

To enter into significant legal agreements including, but not limited to, land options and a Memorandum of Understanding with Southborough Town Council and Tunbridge Wells Borough Council.

To permit the disposal of the Ridgeway site in Southborough and the fifty percent claw back over the adjacent land owned by Southborough Town Council, with part or all of the combined receipts being allocated to support the development of the Southborough Hub.

To seek approval for the Director of Property and Infrastructure Support to be authorised to finalise the purchase of the Tesco's and Lloyds Bank land as part of the Hub redevelopment.

To seek approval for the Director of Property and Infrastructure Support to be authorised to finalise terms for a freehold or leasehold interest of the library and football pavilion.

To seek approval for the Director of Property and Infrastructure Support to be authorised to finalise terms for the disposal of the Hub and the Car Park back to Southborough Town Council and Tunbridge Wells Borough Council respectively.

6. Background Documents

6.1 Appendix A - MoU

6.2 Appendix B – Risk register

6.3 For a copy of the call options please contact relevant officers below.

7. Contact details

Report Authors
Jonathan White,
Projects and Operations Manager,
03000 417198
jonathan.white@kent.gov.uk

Joe Reidy
Estates Surveyor
03000 414437
joe.reidy@kent.gov.uk

Donald Farquharson
Interim Head of Property and Infrastructure and Support
03000 416079
donald.farquharson@kent.gov.uk

Director
Rebecca Spore
Director of Property and Infrastructure Support
03000 416716
Rebecca.spore@kent.gov.uk

DATE

MEMORANDUM OF UNDERSTANDING

between

KENT COUNTY COUNCIL (1)

and

TUNBRIDGE WELLS BOROUGH COUNCIL (2)

AND

SOUTH BOROUGH TOWN COUNCIL (3)

THIS MEMORANDUM OF UNDERSTANDING is dated

PARTIES

The parties to this memorandum of understanding ("**MoU**") are:

- (1) Kent County Council, of County Hall, Maidstone, Kent ME14 1XG ("KCC").
- (2) Tunbridge Wells Borough Council, Town Hall, Mount Pleasant Road, Tunbridge Wells, TN1 1RS ("TWBC")
- (3) Southborough Town Council 137 London Road, Southborough, Tunbridge Wells TN4 0ND ("STC")

Definitions

In this Memorandum of Understanding, the following terms have the meanings shown:

"Additional Land"	The land registered under title number K262785 shown edged [] on the Plan; and the unregistered land shown edged [] on the Plan.
"Authorised Representative"	The individual authorised by each Partner to sit on the Project Board.
"Development Agreement"	A development agreement to be entered into between the Partners pursuant to the MOU
"Implement"	means implementation by the carrying out of any material operation within the meaning of Section 56 of the Town and Country Planning Act 1990 but not including any works of site clearance nor any ground investigation diversion of services nor any erection of means of enclosure for the purposes of site security and "Implemented" and cognate expressions shall be interpreted in accordance with this definition.
"KCC Land"	The land edged [] on the Plan.
"Key Objectives"	The Key Objectives for the Project, defined in section 2 of the MoU.
"Land"	The collective term for the land contributed by KCC, TWBC and STC to the Project and defined below.
"Option Period"	5 years from the date of this MOU.
"Partner"	An individual party to this MoU.
"Partners"	The collective parties to this MoU.
"Plan"	the Plan showing the location of the Land and Additional Land and attached at Annex A.
"Principles"	The principles of collaboration between the Partners, defined in section 3 of this MoU.

"Project"	The development of the Land and any Additional Land to form a customer-focused hub outlet for cross agency services surgeries information self-help and routine advice and transactions, with access to visiting members of the public together with associated functions relevant to a town council including (for the avoidance of doubt) entertainment, sports facilities, theatre, medical centre, the town council offices, coffee shop, library ancillary to such outlet or other community uses or offices for use under B1 of the Town and Country (use Classes) Order 1987 together with retail units under A1-A5 of the Town and Country (use Classes) Order 1987 and the Residential Development.
"Project Board"	The group of Authorised Representatives who will approve the management and delivery of the Project on behalf of the Partners.
"Residential Development"	The development of the Residential Scheme.
"Residential Scheme"	A development of residential units on the Land .
"STC Land"	The land edged [] on the Plan.
"STC Option"	The option agreement relating to the STC Land dated on the date hereof and made between STC (1) and KCC (2) .
"TWBC Land"	The land edged [] on the Plan.
"TWBC Option"	The option agreements relating to the TWBC Land dated on the date hereof between TWBC (1) and KCC (2).

1. BACKGROUND

- 1.1 The Partners have agreed to work together on the Project.
- 1.2 The Partners have entered into the STC Option and the TWBC Option on or before the date of this MOU
- 1.3 This MOU is not intended to create legally binding obligations.
- 1.4 The Partners wish to record the basis on which they will collaborate with each other on the Project.
- 1.5 This MoU sets out:
 - (a) the Key Objectives of the Project;
 - (b) the Principles;
 - (c) the governance structures the Partners will put in place; and
 - (d) the respective roles and responsibilities the Partners will have during the Project.

2. KEY OBJECTIVES FOR THE PROJECT

2.1 The Partners agree the following key objectives:

- a. To work together in good faith to develop the Land and any Additional Land for the Project within five (5) years from the date here of;
- b. To minimise the up-front cost to the Partners;
- c. To deliver the Project if financially viable in terms of initial capital and on a revenue basis.

2.2 The Partners shall undertake the Project in accordance with this MOU.

2.3 The Partners acknowledge that the current position with regard to the Project and the contributions already made (financial and otherwise) are as detailed in the Schedule 2 to this MoU.

2.4 The Partners shall cooperate with KCC in the proposed purchase of the Additional Land.

3. PRINCIPLES OF COLLABORATION

The Partners agree to adopt the following principles when carrying out the Project

- (a) collaborate and co-operate. Establish and adhere to the governance structure set out in this MoU to ensure that activities are delivered and actions taken as required;
- (b) be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- (c) be open. Communicate openly about major concerns, issues or opportunities relating to the Project;
- (d) learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) adopt a positive outlook. Behave in a positive, proactive manner;
- (f) adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation.
- (g) act in a timely manner. Recognise the time-critical nature of the Project and respond accordingly to requests for support;
- (h) manage stakeholders effectively;

- (i) deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU.
- (j) act in good faith to support achievement of the Key Objectives and compliance with these Principles.

4. PROJECT GOVERNANCE

4.1 Overview

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

4.2 Guiding principles

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

- (a) provide strategic oversight and direction;
- (b) be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- (c) align decision-making authority with the criticality of the decisions required;
- (d) be aligned with Project scope and each Project stage (and may therefore require changes over time);
- (e) leverage existing organisational, group and user interfaces;
- (f) provide coherent, timely and efficient decision-making; and
- (g) correspond with the key features of the Project governance arrangements set out in this MoU.

4.3 Project Board

The Project Board will provide strategic management for the Project. It will provide assurance to the Partners that the Principles are being met and that the Project is performing effectively.

5 PROJECT BOARD MEMBERS

5.1 The Project Board shall comprise three Authorised Representatives, one nominated by each Partner.

5.2 Each Partner shall have the power to appoint, remove or replace the Authorised Representatives it nominates.

5.3 Each Partner will advise the Project Board of its nominated Authorised Representative from time to time.

5.4 A Partner may nominate a substitute representative to attend and vote at a meeting in place of an Authorised Representative by notifying this in advance to the other Partners.

5.5 At the date of this agreement the Authorised Representatives are:

- (a) TWBC – Cabinet Member for Communities and Wellbeing or such person as he/she chooses to represent him.
- (b) KCC - Cabinet Member for Community Services or such person as he/she chooses to represent him.
- (c) STC – Chairman Southborough Town Council or such person as he/she chooses to represent him.

6 OPERATION OF THE PROJECT BOARD

6.1 Each Partner shall act in good faith to ensure that an Authorised Representative (or a substitute) attends each Project Board meeting.

6.2 No business shall be transacted at any meeting of the Project Board unless all three Authorised Representatives (quorum) are present in person or by audio or video conferencing at the time when the relevant business is transacted.

6.3 The members of the Project Board shall not be involved in considering planning applications at KCC or TWBC. If at any time members are or become responsible for considering planning applications they shall ensure that suitable arrangements are in place to ensure probity and that no challenge on that basis can successfully be made to any planning permission granted.

6.4 Other representatives of KCC, TWBC and STC shall be entitled to attend meetings of the Project Board at the discretion of the Authorised Representatives.

7 PROCESS FOR PROJECT BOARD MEETINGS

7.1 Project Board meetings shall be held at STC's offices or at such other locations as the Project Board may determine and will be held monthly or at such other intervals as the Partners agree.

7.2 The Project Board shall prepare minutes of every meeting of the Project Board and circulate them to all Partners and to the relevant Partners' Council and/or other

committee meetings as required. Notes of required actions and decision shall be circulated to all Partners and the relevant people/committees as soon as possible after the meetings.

7.3 Action by the Project Board shall be by simple affirmative majority vote decided on a poll of those Authorised Representatives present at a Project Board meeting. The Project Board shall have authority to determine the procedures for the calling and holding of meetings of the Project Board, for the taking and recording of decisions of the Project Board and for the taking of votes of the Project Board should that be necessary. An Authorised Representative shall be entitled to vote in all circumstances notwithstanding any interest he/she or the Partner, may have in the matter falling for consideration, but any such interest must be disclosed to the meeting.

8 PROJECT BOARD CHAIRMAN

8.1 The KCC Authorised Representative will be the chairman of the Project Board unless otherwise agreed by the Project Board. The chairman shall not have an extra or casting vote .

9 EXECUTION OF DOCUMENTS

9.1 The Partners agree that any agreement or other document to be entered into in relation to the Project shall be approved by the Project Board.

9.2 No Partner or Authorised Representative shall have authority to approve any agreement or other document on behalf of the Project Board unless it has been approved by the Project Board.

10 GENERAL MANAGEMENT

10.1 The Project Board has ultimate authority for all aspects of the business and affairs of the Project.

10.2 The Partners will delegate appropriate authority to their respective Authorised Representatives to manage the Project.

10.3 The Project Board shall have authority to:

- approve any expenditure from capital held by the Project Board or any actual or contingent liability assumed by the Project (including providing any associated security);
- authorise KCC to employ or contract with such service providers as it deems appropriate for the Project (acting reasonably) PROVIDED THAT in so doing it shall

follow open and transparent procurement procedures and comply with all applicable procurement laws;

- authorise KCC to enter into and vary such agreements as it deems necessary for the effective running of the Project.

10.2 Each of the Partners irrevocably and unconditionally agrees to ratify all actions and decisions of the Project Board properly performed within the scope of this authority.

11 Reporting

11.1 Project reporting shall be undertaken as follows:

Project Board: Minutes and actions will be recorded for each Project Board meeting. Any additional reporting requirement shall be at the discretion of the Project Board.

Organisational: the Project Board members shall be responsible for drafting reports to their respective Partners (Cabinet and/or Council) as required for review and/or approval as necessary.

12 ROLES AND RESPONSIBILITIES

12.1 The Partners shall undertake the following roles and responsibilities to deliver the Project: (TO complete)

Activity	Kent County Council	Tunbridge Wells Borough Council	Southborough Town Council
Project Board	Lead	Assure	Assure
Vision delivery	Lead (subject to full approval by the Project Board)	Assure	Assure
Operations delivery	Lead (subject to full approval by the Project Board)	Assure	Assure
Communications	Lead (subject to full approval by the Project Board)	Assure	Assure
Financial oversight	Lead (subject to full approval by the Project Board)	Assure	Assure

Legal	Lead (subject to full approval by the Project Board)	Assure	Assure
Procurement	Lead (subject to full approval by the Project Board)	Assure	Assure
Project build delivery	Lead (subject to full approval by the Project Board)	Assure	Assure
Evaluation	Lead (subject to full approval by the Project Board)	Assure	Assure

12.2 For the purpose of the table above:

"Lead": the Partner which has principal responsibility for undertaking the particular task, and is authorised by the Project Board to determine how to undertake the task. The Lead must act in compliance with the Key Objectives and Principles at all times, and consult with the other Partners in advance if they are identified as having a role to Assure the relevant activity;

"Assure": the Partner which will have the opportunity to review and provide input to the Lead before they take a final decision on any activity and where a unanimous decision is required, veto such activity. All assurance must be provided in a timely manner. Any derogations raised must be limited to raising issues that relate to specific needs that have not been adequately addressed by the Lead and/or concerns regarding compliance with the Key Objectives and Principles.

12.3 Within 3 months of the date of this MoU the Partner with the lead role for any aspect of the Project shall develop a delivery plan for that part of the Project which shall identify the following:

- 12.3.1 the key milestones for the delivery the Key Objectives;
- 12.3.2 what employees (other than employees identified in this MoU) will be required to work on the Project;
- 12.3.3 whether any staff will need to be seconded from one Partner to the other;
- 12.3.4 what staff will require access to the premises of the other Partner;

Each delivery plan must be approved by the Project Board prior to being implemented.

13 ESCALATION AND EXPERT DETERMINATION

- 13.1 If either Partner has any issues, concerns or complaints about the Project, or any matter in this MoU, that Partner shall notify the other Partners and the Partners shall then seek to resolve the issue through the Project Board. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to be determined by an Expert in accordance with the provisions of this Clause 13..
- 13.2 The Partners shall agree on the appointment of an independent Expert and shall use reasonable endeavours to agree with the identity of the Expert the terms of his appointment.
- 13.3 Each Partner shall be entitled to make representations to the Expert and will provide (or procure that others provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 13.4 The Expert is required to prepare a written decision and give notice (including a copy) of the decision to the parties within a maximum of one month of the matter being referred to the Expert.
- 13.5 If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by this clause then:
- 13.5.1 either party may apply to discharge the Expert and to appoint a replacement Expert with the required expertise; and
- 13.5.2 this clause shall apply to the new Expert as if he were the first Expert appointed.
- 13.6 All matters under this clause must be conducted, and the Expert's decision shall be written, in the English language.
- 13.7 To the extent not provided for by this clause, the Expert may in his reasonable discretion determine such other procedures to assist with the conduct of the determination as he considers just or appropriate including (to the extent he considers necessary) instructing professional advisers to assist him in reaching his determination.
- 13.8 Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel and/or things as the other party may reasonably require to make a submission under this clause.
- 13.9 The Expert shall act as an expert and not as an arbitrator.
- 13.10 Each party shall bear its own costs in relation to the reference to the Expert
- 13.11 All matters concerning the process and result of the determination by the Expert shall be kept confidential among the parties and the Expert.
- 13.12 Each party shall act reasonably and co-operate to give effect to the provisions of this clause and otherwise do nothing to hinder or prevent the Expert from reaching his determination.

14 INTELLECTUAL PROPERTY

14.1 The Partners intend that any intellectual property rights created in the course of the Project shall vest in the Partner whose employee created them

14.2 Where any intellectual property right vests in either Partner in accordance with the intention set out above, that Partner shall grant an irrevocable licence to the other Partner to use that intellectual property for the purposes of the Project.

15 TERM AND TERMINATION

15.1 This MOU shall commence on the date of signature by all Partners, and, subject to clause 15.2, shall expire on the earlier of practical completion of the Project and the expiry of the Option Period.

15.2 If the development of the Project has been Implemented within five (5) years from the date hereof then this MOU shall not terminate until the Project has reached practical completion or until a unanimous decision of the Project Board is reached that the delivery of the whole of the Project is no longer viable or prudent.

16 VARIATION

16.1 This MoU, including the Schedule and Annexes, may only be varied with the unanimous agreement of the Partners in writing.

17 CHARGES AND LIABILITIES

17.1 Except as otherwise provided, the Partners shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.

17.2 The Partners agree to share the costs and expenses arising in respect of the Project between them in accordance with the Financial Contributions set out in Schedule 2.

17.3 The Partners shall remain liable for any losses or liabilities incurred due to their own or their employees' actions and neither Partner intends that the other Partner shall be liable for any loss it suffers as a result of this MoU.

18 STATUS

18.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.

18.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of

the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

19 GOVERNING LAW AND JURISDICTION

19.1 This MoU shall be governed by and construed in accordance with English law.

Signed for and on behalf of KCC

Signature:
Name:
Position:
.....

Signed for and on behalf of TWBC

Signature:
Name:
Position:
.....

Signed for an on behalf of STC

Signature
Name
Position

SCHEDULE 1 THE PROJECT

1. PROJECT OVERVIEW AND DEVELOPMENT AGREEMENT

1.1 The STC Option and the TWBC Option have been entered into simultaneously with completion of this MOU and KCC has agreed to contribute the KCC Land in order that KCC shall deliver the Project.

1.2 The Partners intend that KCC shall, on behalf of the Partners and in collaboration with them, develop the following proposals:

- a. a comprehensive business plan to be agreed by the Project Board for both the capital and operational element of the Project ;
- b. an arrangement by which KCC, STC and TWBC share in the proportions referred to in paragraph 2.2 of Schedule 2 any economic return from the development of the Land and Additional Land, however obtained;
 - the concept, design, layout, specification and any planning application in respect of the Project which will include a theatre
 - library facilities
 - council offices
 - sports pavilion;
 - café;
 - medical facility (subject to feasibility);
- c. the concept, design and layout of the enabling Residential Development together with an agreed plan for bringing the Residential Development forward in terms of a planning application and marketing strategy
- d. considering fully the implications of SDLT and VAT;
- e. options for the future operation of the Project, including the possibility of a not for profit organisation to operate it.

1.3 The Partners agree that the proposals contained in paragraph 1.2, of this Schedule 1 , the Project Principles (where appropriate) and Schedule 2 (Financial Issues) shall be developed in accordance with this MOU with a view reaching agreement so that the

Development Agreement can be drafted negotiated and exchanged as soon as practicable.

2. PROJECT PRINCIPLES

2.1 The STC Option and the TWBC Option have been entered into simultaneously with completion of this MOU and KCC has the ability to call for the transfer of the STC Land and the TWBC Land to be transferred to KCC. The STC Land and the TWBC Land may only be used for the Project.

2.2 The Partners intend that the Land will be developed as the Project.

2.3 The Partners agree that the Residential Development is the enabling development and it is intended that the proceeds of sale from the Residential Development shall pay for the costs of the rest of the Project.

2.4 KCC agree that any overage that it is entitled to in respect of any part or parts of the STC Land shall be waived.

2.5 The Partners agree to use reasonable endeavours to maximise the market value of the Residential Development.

2.6 The overall contributions of the Partners shall be considered to be based on the total land area contributed by each Partner. The contributions are detailed in Schedule 2 (Financial Contributions).

2.7 The Project Board shall authorise KCC to procure surveys, valuations and other professional services on behalf of the Partners in order to submit planning applications.

2.8 Any planning application and all plans and drawings must be approved by the Project Board prior to their submission to the local planning authority.

2.9 Following the completion of the development the following terms shall apply and the Development Agreement shall provide that :

- d. STC will have the option to purchase the completed Project excluding the sports pavilion and Yew tree Road car park from KCC for £1 subject to a new lease being granted to KCC of the library building for 99 years at a peppercorn rent. The lease will contain provision for KCC to contribute to the Project service charge at an appropriate level.

- e. TWBC will have the option to purchase the Yew Tree Road car park (forming part of the TWBC Land) for £1 or will be granted a long term lease of the same at a peppercorn rent
- f. KCC will have the option to retain the completed sports pavilion within its separate ownership or (if the freehold is transferred to STC) KCC will be granted a long lease at a peppercorn rent.
- g. Any tenants within the scheme will be responsible for a fair proportion of the overall service charge and the maintenance and up keep of their property. Commercial tenants and tenants not being one of the Partners will be required to pay an appropriate commercial rent. Commercial income received from the Project development is to be used in support and maintenance of the overall scheme.

SCHEDULE 2 FINANCIAL ISSUES

1 CONTRIBUTIONS

1.1 Each of the Partners has provided [Twenty Five Thousand Pounds (£25,000)] towards the enabling costs of the Project (the "**Contributions**").

1.2 If the Partners agree to contribute any further sum to the enabling costs of the Project then such sum shall be added to any existing sum and treated as that Partner's Contribution of the purposes of priority recovery of costs pursuant to paragraph 2.

1.3 Capital costs for the Project will be met by an enabling Residential Development. The Development Agreement will provide that the Residential Development shall be sold and the proceeds of sale will be held by KCC on trust for STC and TWBC in a KCC escrow account and overseen by the Project Board. Funds will be released in the following order:

- secure the purchase of the Additional Land (and repay any funds provided by the Partners in order to acquire the Additional Land);
- procure the construction for the Project;
- fund the relocation of STC's maintenance staff and equipment storage facility including the cost of any new facility and the refurbishment of it;
- repay the Contributions to the Partners.
- repay to each Partner any capital contributions made to the Project including the capital contributions set out in section 4.1 below
- distribute to each Partner any surplus funds from the sale of the Residential Development and/or Project based on the percentages set out in paragraph 2.2 below following completion of the Project..

1.4 All capital contributions made by a Partner shall be credited to the capital balance of the Project.

2 RETURN OF CONTRIBUTIONS AND LOANS

2.1 Within one month of the date of practical completion of the Project, the Project Board shall have discretion to determine when to distribute any capital surplus balance or any of the Contributions.

2.2 Any surplus of capital remaining after the scheme is complete shall be redistributed to Partners based on the following percentages which is based on the proportions of the Land contributed to the Project.

Partner	Profit Percentage (%)
Kent CC	15.59
TWBC	14.54
STC	69.87

3 SHARING OF COSTS

All costs and expenses incurred in respect of the Project prior to the sale of the Residential Development shall be agreed by the Project Board and shall be born 33.3% KCC; 33.3% STC; 33.3% TWBC. The Partners have, at the date of this agreement, each contributed £25k. It is anticipated that a further £70k will be required from each Partner.

4 FINANCE

KCC will provide monthly updates to the Project Board on the state of the funding, including remaining funds and funds committed.

5 MISCELLANEOUS

- 5.1 Where possible the three Partners will work in partnership with Kent Highways Services to ensure the successful delivery of the improvements to Yew Tree Road.
- 5.2 The Partners will agree and prepare a business plan prior to the opening of the Project detailing the future management proposals.

ANNEX A - Plan

ANNEX B - Deed of Mutual Covenants and Easements

This page is intentionally left blank

Southborough Risk Log 27/02/15

	Type	Description	Impact 1 Minor 2 Moderate 3 Significant 4 Serious 5 Major	Probability 1 V. unlikely 2 Unlikely 3 Possible 4 Likely 5 V. likely	Score (IXP) & Rating (Low/ Med/ High)	Responses to the risk (Consider Prevention /Reduction/ Acceptance /Contingency/ Transference as well as existing controls)	Revised Impact	Revised Probability	Revised score & rating	Planned Outcome	Owner	RAG
1	Political / Reputational	Project delayed due to councils not being able to agree a way forward	5	4	20 High	Project is looking to sign the three councils up to a Call Option and Memorandum of Understanding so that the partners are locked in and must work with each other to deliver a viable and acceptable outcome	3	3	9 Medium	Project delivered on time	Project team	A
2	Project / finance Page 57	Project stalls as councils do not wish to invest capital / revenue costs up front to progress the project	5	4	20 High	Seeking early agreement on the up front investments and have contingency methods in place should one partner refuse or is unable to inject further funds.	3	3	9 Medium	Project fully funded	Project team	A
3	Political / Reputational	Two options are being put forward refurb / new build. The latter is very contentious and highly political	5	5	25 High	Full and thorough evaluation of both options will be presented to the project board and a thorough public consultation will be done to ensure that the chosen option can be validated	4	4	16 High	Acceptable option delivered	Project Board	R
4	Political / Project	Councils fail to agree and or sign up to Call Options and Memorandum of Understanding	3	3	9 Medium	Sign the documents prior to the elections or should that fail look to work with the councils to bring forward a development agreement. Councils agree to terminate the project and KCC and TWBC dispose of assets with small refurb of RVH considered by STC	3	2	6 Low	Councils agree a way forward	Project team	G
5	Project / Finance	Cost overrun due to requirement for additional works.	5	3	15 Medium	- Design and build contract could ensure that a greater level of risk was taken on by the contractor - Value engineering as necessary to ensure the final scheme is viable - Fix cost to be agreed on IT and FF&E prior to build - Any additional cost items to be	2	2	4 Low	Project delivered on budget	Project team	G

CONFIDENTIAL

						highlighted immediately and escalated - Clear scope and approval process for additional items - STC have the capability to input further capital should they require it						
6	Political/ Reputation	Political and reputation damage to councils if modernisation is delayed	4	4	16 High	Councils are determined to enter into a legally binding position to move the project forward	3	2	6 Low	Project delivered on time	Project team	G
7	Service	Disruption to customers due to modernisation	3	4	12 Medium	- Library service will continue to function from its current off site location and will transfer once the project is complete - Football club will be phased with the new pavilion brought forward before the demolition on their current facilities - Theatre groups may or may not be phased subject to what option is brought forward and or whether the RVH can be re-opened - Town Council is looking to re-locate to other premises in the interim build period	2	2	4 Low	Minimise disruption to customers	Project Team	G
8	Legislative/ Financial	Asbestos issue in building greater than that identified leading to possible time delays	3	4	12 Medium	- Intrusive and destructive asbestos survey done on the RVH and only small quantities have been identified	1	1	1 Low	Asbestos issues do not cause delays	Project team	G
10	Project	Lack of co-ordination of services, contractors and ICT.	4	4	16 High	- Need to scope works and plan timescales carefully -Regular planning meetings to ensure issues discussed. - Project plan and timescales regularly reviewed	2	2	4 Low	Partners work to one plan with clear governance structure	Project team	G
11	Procurement / Project	Procurement route and the need to go out for both housing and community buildings fails to deliver best value	3	3	9 Medium	- Re-run tendering - Seek independent cost plan to determine value for money	2	2	4 Low	Ensure best value for money is achieved	Project team	G

CONFIDENTIAL

12	Planning	Planning application denied	4	3	12 Medium	- Seek initial planning view from TWBC planners prior to sign off - Revise proposals to meet planning requirements - Minimise planning requirements	2	1	2 Low	Minimise planning risk	Project team	G
13	Partners	Problems in agreeing future service delivery model, costs and partners	5	2	10 Medium	- STC has confirmed a not for profit organisation is the best way forward - Asset collaboration opportunities bring economies of scale - Early dialogue will ensure baselines can be agreed	2	3	6 Low	Smooth transition of service delivery into a shared asset	Libraries, STC, third party not for profit org	G
14	Procurement / Operations	Problems in procuring a not for profit organisation to take on the management of the operations	5	2	10 Medium	- Seek advice on new regulations for putting facilities out to a trust - Work with potential partners to form an acceptable operational model that would be attractive to the market	2	3	6 Low	Service delivery model agreed and operational	Project team	G
16	Project	Partners fail to agree design or level of investment	3	3	9 Medium	- Engage partners early to agree design and investment	2	1	2 Low	Agreement on design and investment	Partners	G
18	Environmental	Weather disrupts building works	3	3	9 Medium	- Work with consultants to ensure timeline of work is coordinated at the best time of the year to minimise impact to the project	1	3	3 Low	Limited disruption	Project team	G
19	Ecological	Animal species disrupt the project or add significant costs	3	3	9 Medium	Ensure all surveys are completed early and all mitigation measures put in place to ensure work can begin when required	2	2	4 Low	Ecological impact minimised	Project team	G
20	Archaeological	Archaeology is found on site and adds significant cost and time delays to the project	3	3	9 Medium	Ensure all desk top surveys are complete and agree an archaeological assessment with KCC at the earliest to ensure contingencies are put aside should they be required	2	2	4 Low	Archaeological risk minimised	Project team	G
21	Project	Contractor not able to deliver on time	5	3	15 Medium	Employer's agent to monitor monthly progress and where timeline is slipping ensure contractor rectifies this	2	3	6 Low	Project runs to agreed timeline	Project team	G
22	Technological	ICT unable to deliver on time	3	2	6 Low	- Ensure ICT are engaged in the project and in determining its timeline from the outset	3	2	6 Low	Correct procedure in place	IT team	G

Page 59

CONFIDENTIAL

23	Project	Post construction defects or problems with the works are identified	4	4	16 High	- Identify possible defects early on and resolve within initial contract timeline - Ensure robust defects liability period within the contract to ensure contractor rectifies these at their cost.	2	3	6 Low	Project delivered with no defects	Project team	G
----	---------	---	---	---	------------	---	---	---	----------	-----------------------------------	--------------	---

From: Gary Cooke, Cabinet Member for Corporate and Democratic Services
Rebecca Spore, Director of Property and Infrastructure Support

To: The Policy and Resources Property Sub Committee

Subject: **Total Facilities Management – Biannual Review**

Classification: **Unrestricted**

Past Pathway of Paper: Policy and Resources Committee 27th September 2012

Future Pathway of Paper:

Electoral Division: All

Summary: This biannual report seeks to update the Policy and Resources Property Sub Committee on the performance of the Total Facilities Management (TFM) Solution following the signing of the Mid Kent Contract with Amey, the West Kent Contract with Skanska, and the recent East Kent Contract with Kier.

This report includes the Performance Deductions of the Mid and West TFM contractors during the bedding in period, the issues encountered by KCC services, and the KCC contract management in place which has helped resolve these issues with the contractors, so the Property Sub Committee has oversight of the contractor's performance and KCC governance.

This approach is in line with the commissioning cycle principles as set out in the County Council paper on the 15th May 2014 titled Facing the Challenge: Towards a Strategic Commissioning Authority, with a view to providing wider scrutiny of the contracts performance.

Recommendation(s): The Policy and Resources Property Sub-Committee is asked to:

- (1) Note the performance of the Mid Kent, West Kent, and East Kent TFM contractors during this early bedding in period.
- (2) Note the issues which have occurred and actions to resolve these items.
- (3) Note the existing KCC contract governance in place to manage and monitor the performance of the Total Facilities Management Contracts.

1. Introduction

- 1.1 On the 27 September 2012, the Policy and Resources Cabinet Committee considered a review which had been undertaken to consider how Facilities

Management Services are delivered across the County. The report set out a range of options which had been considered to deliver services to KCC's Corporate Landlord buildings and it was proposed that KCC implement a Total Facilities Management solution across the council's estate. Following discussion, the Cabinet Member responsible for this portfolio took a decision on the 11 January 2013 (Decision No. 12/01838) to proceed with the implementation of a Total Facilities Management solution. A competitive procurement process has been undertaken and contracts have now been signed as follows –

Mid Kent

Contractor - Amey

Contract Signature - 29th August 2014

Contract Start Date – 31st October 2014

West Kent

Contractor – Skanska

Contract Signature – 1st September 2014

Contract Start Date – 31st October 2014

East Kent

Contractor – Kier

Contract Signature – 1st December 2014

Contract Start Date – 21st January 2015

This report is intended to update members on the performance of these contracts, and to provide members with assurance that management and monitoring of the three TFM contracts is in place.

2. Financial Implications

- 2.1 A proportion of the property services savings identified in the MTP was dependent on the consolidation of Facilities Management Support across the building stock. This is the equivalent of £1 million revenue savings.

3. Bold Steps for Kent and Policy Framework

- 3.1 The implementation of a Total Facilities Management solution directly relates to the delivery of the benefits from implementing a corporate landlord model as part of the change to keep succeeding plans, ensuring that our buildings are able to support front line service delivery and the delivery of the financial position as set out in the medium term financial plan.

4. The Report

4.1 As outlined in section 1.1, an independent service review was commissioned to consider the way that Facilities Management Services are currently delivered and future delivery options. As part of this, a report which outlined the options was considered by the Policy and Resources Cabinet Committee on the 27 September 2012. This included consideration of:

- Do nothing and continue with fragmented service delivery
- In house service delivery
- Blended service delivery
- Managed Services Contracts
- Total Facilities Management solution

4.2 The scope of the Facilities Management service includes building support services to all council properties currently within the property corporate landlord portfolio. Building support services include the full range of soft and hard services. Following discussion at the Policy and Resources Cabinet Committee, a formal decision was taken and a competitive dialogue procurement process has been undertaken to select three total facilities management providers (mid, east and west). The Cabinet Member for Corporate and Democratic Services oversaw with the Director of Property and Infrastructure Support the procurement process and the final evaluation of the tenders received to provide assurance to the executive. The Mid Kent and West Kent contracts were awarded and signed, and commenced on the 31st October 2014.

With respect to the East Kent contract, the preferred bidder Interserve, withdrew from the procurement process at short notice. KCC then appointed Kier as the new preferred bidder. The East Kent contract was signed on the 1st December 2014, and commenced on the 21st January 2015.

4.3 The principles behind the contracts are:

- The delivery of outcomes. The authority's requirements are set out in the Output Specification. Bidders have then provided solutions which they intend to implement to deliver the outcomes required by the council. Bidders take the risk on how they deliver the required outcomes.
- Performance in the delivery of outcomes is measured against a set of key performance indicators (KPIs). This is supported by a performance regime where deduction penalties are made for poor performance. The contracts are for 5 years with an option to extend for 2 years and are designed to foster a partnering relationship.

4.4 As with all substantial contracts (approximately £10 million spend per annum across the three contracts) there is a need to ensure that there is a robust client function and contract management process in place to manage performance. On a day to day basis, Property has put in place a number of contract managers and support officers who will manage and monitor activity. This will be supported by monthly performance review meetings with the

Director of Property and Infrastructure Support and a quarterly review with the Cabinet Member for Corporate and Democratic Services.

- 4.5 In order to ensure that Members have oversight as to the ongoing performance of this contract, it has been agreed that a biannual performance review is undertaken by the Property Sub-Committee on behalf of the Policy and Resources Cabinet Committee. This approach is in line with the commissioning cycle principles set out in the County Council Paper on the 15 May 2014 titled Facing the Challenge: Towards a Strategic Commissioning Authority, with a view to providing wider scrutiny of the contracts performance.
- 4.6 It was suggested that the first biannual performance review is undertaken on the 27th March 2015, following the submission of a briefing paper by the Director of Property and Infrastructure Support. It was also suggested that at future biannual reviews the three TFM contractors could attend the committee to provide a further presentation and answer Members' questions. Further briefing papers and reviews are then to be planned for every October and March.
- 4.7 Biannual reviews will form part of the following contract governance in place, managed by the contract management team within Property and Infrastructure Support –
- Daily monitoring of contractors' performance through discussions with contractors and stakeholders
 - Daily monitoring of Helpdesk performance through scrutiny of the contractors CAFM system (computer aided facilities management)
 - Site visits and discussions with stakeholders
 - Regular planned Stake holder meetings
 - Weekly, monthly and ad hoc contractors meetings
 - Monthly contract review meetings
 - Review of contractors' monthly reports against KPIs
 - Review of contractors' annual plans against KPIs
 - Review of monthly invoices.
 - Budget management

5. Performance Review

- 5.1 This is the first biannual review and this has been undertaken during the contractors bedding in period. All contractors have worked very hard to mobilise the three contracts within a very short timescale, and since contract commencement date they are now delivering facility management services to over 300 KCC premises, and working successfully in partnership with KCC.

The financial performance deductions within the appendices reported since the Mid Kent and West Kent contracts commenced on the 31st October 2014, and the results demonstrate the very early nature of the contracts.

Please note, as there is a 3 month bedding in period for these two contracts it was agreed that no financial penalties are applied for November 2014,

December 2014, and January 2015. From February 2015 financial penalties can be applied.

For East Kent we are waiting for the issue of the first monthly performance report, again Kier will have a 3 month bedding in period before performance deductions apply.

- Mid Kent Performance Deductions. November 2014 – Please see Exempt Appendix 1, December 2014 – Please see Exempt Appendix 2.
- West Kent Performance Deductions. November 2014 – No report provided as agreed with KCC, December 2014 – Please see Exempt Appendix 3, January 2015 – Please see Exempt Appendix 4.

East Kent Performance Deductions. To be reported at next biannual review.

5.2 The attached appendices show the areas where Performance Deductions have been identified in Mid and West Kent. During this period all contractors (including Kier) have encountered issues with responding to a number of requests on time, and in particular with the following services –

- Late delivery of some consumable supplies.
- Some delay in response to repair requests within the contractual timescales.
- In some instances the Helpdesks not following up with requests when parts have been ordered.
- Cleaning below the required standard in some instances.
- Some issues with bins not being delivered to site
- Planned Preventative Maintenance delayed in some areas.
- Some confusion on who is responsible for providing caretaking and handyman services at certain sites, as not all KCC caretakers and handyman staff transferred to the contractors and were retained by the services.

5.3 The contract management teams of both KCC Property and the TFM contractors have worked hard to resolve the above issues. Actions have included –

- Meetings arranged and attended with area managers and stakeholders from the services that have raised concern with the new service. These meetings are also used to explain the TFM services and service matrix.
- The KCC Property team being the point of escalation for service users if a request has not been actioned or is unresolved.
- Daily clarification to site users at meetings, by phone and email, on the scope of individual works.
- Identification of incorrect contractual services items and resultant changes within the individual site matrix for those sites.
- Daily contact between both teams to resolve items which require contractual clarification.
- Continuation of specialist sub-suppliers to some locations to maintain consistency of service i.e. care homes.
- As per item 4.7 weekly meetings with contractors to review issues and services and management and monitoring of the contracts.

6. Conclusions

- 6.1 During this early bedding in period the three TFM contractors have faced many challenges in providing the services which have generally been actioned and resolved, but the services presently provided by the contractors identified within item 5.2 are below their own high expected standards, and the standards expected by the Property team and KCC's stakeholders.

These three contracts are very new to KCC, and taking into account there are over 300 sites to be managed by the three contractors across the three areas of Kent, and the transfer of a large number of staff (both KCC and third party) to their new companies occurred within a short mobilisation timescale, and the cancellation of many small contracts which were in place before corporate landlord, KCC did expect there to be issues with the new services provided, and generally the three TFM contractors have managed to provide a reasonable service to most of the Corporate Landlord estate.

There are still many issues to be resolved by the TFM contractors to raise the standard of the services, but working in partnership with the Property contract management team we will continue to drive up performance for our stakeholders, improve communication of TFM across KCC, and drive through the improvements in quality, consistency in service, efficiency and value for money which was the foundation of implementing a TFM solution.

- 6.2 It is suggested that the three TFM contractors are invited to the next planned biannual review in October to present to members an update on their performance, and answer any member's questions.

7. Recommendation(s)

Recommendation(s):

The Policy and Resources Property Sub Committee is asked to:

- (1) Note the performance of the Mid Kent, West Kent, and East Kent TFM contracts during this early bedding in period.
- (2) Note the issues that have occurred and the actions to resolve these.
- (3) Note the existing contract governance in place to manage and monitor the performance of the three Total Facilities Management Contracts.

8. Background Documents

- 8.1 Policy and Resources Cabinet Committee Report 27 September 2012
- 8.2 Record of Decision No: 12/01838
- 8.3 Attachments Exempt Appendices - Performance Deductions for Mid Kent and West Kent TFM contractors (Mid Kent November 2014 and December 2014).

Performance Deductions. West Kent December 2014 and January 2015
Performance Deductions).

9. Contact details

Rebecca Spore
Director of Property and Infrastructure Support
03000 416716

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank