

Public Document Pack



RUSHMOOR BOROUGH COUNCIL

CABINET

*at the Council Offices, Farnborough on
Tuesday, 1st March, 2016 at 4.30 pm
in Concorde Room, Council Offices, Farnborough*

To:
Councillor P.J. Moyle
Councillor K.H. Muschamp, Deputy Leader and Business, Safety and Regulation
Portfolio Holder

Councillor Hughes, Health and Housing Portfolio
Councillor Sue Carter
Councillor P.G. Taylor, Corporate Services Portfolio Holder
Councillor R.L.G. Dibbs
Councillor A. Jackman

Enquiries regarding this agenda should be referred to Chris Todd, Democratic Services, Democratic and Customer Services on 01252 398825 or e-mail: chris.todd@rushmoor.gov.uk

A full copy of this agenda can be found here:
www.rushmoor.gov.uk/

A G E N D A

1. **MINUTES** – (Pages 1 - 6)

To confirm the Minutes of the Meeting held on 2nd February, 2017 (copy attached).

2. **SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015** – (Pages 7 - 26)

(Health and Housing)

To consider the Head of Environmental Health and Housing's Report No. EHH1605 (copy attached), which sets out the implications of the regulations on private sector landlords and the Council.

3. **OSBORNE ROAD RECREATION GROUND - BASKETBALL COURT UPGRADE –**
(Pages 27 - 28)
(Leisure and Youth)

To consider the Head of Community and Environmental Services' Report No. COMM1603 (copy attached), which seeks approval to vary the 2016/17 Capital Programme to allow works to upgrade the basketball court at the Osborne Road Recreation Ground.

4. **FARNBOROUGH AIRPORT COMMUNITY ENVIRONMENTAL FUND –** (Pages 29 - 36)
(Environment and Service Delivery)

To consider the Head of Community and Environmental Services' Report No. COMM1604 (copy attached), which sets out details of applications for grants from the Farnborough Airport Community Environmental Fund.

5. **APPOINTMENT OF CORPORATE DIRECTOR - APPROACH AND NEXT STEPS –**
(Pages 37 - 44)
(Corporate Services)

To consider the Chief Executive's Report No. CEX1601 (copy attached), which sets out a proposed approach for the position of Corporate Director.

6. **DELEGATION OF AUTHORITY - BUSINESS SUPPORT CONTRACTS –** (Pages 45 - 46)
(Environment and Service Delivery)

To consider the Head of Environmental Health and Housing's Report No. EHH1606 (copy attached), which sets out proposed revised arrangements for the provision of regulatory advice and support to businesses.

7. **EXCLUSION OF THE PUBLIC –**

To consider resolving:

That, subject to the public interest test, the public be excluded from this meeting during the discussion of the undermentioned items to avoid the disclosure of exempt information within the paragraphs of Schedule 12A to the Local Government Act, 1972 indicated against such items:

Item Nos.	Schedule 12A Para. Nos.	Category
8,9 and 10	3	Information relating to financial or business affairs

8. **NO. 12 ARTHUR STREET, ALDERSHOT - UPDATE** – (Pages 47 - 52)
(Corporate Services)

To consider the Solicitor to the Council's Exempt Report No. LEG1602 (copy attached), which provides an update on the progress of the project and seeks approval for funding to undertake the conversion works.

9. **SALE OF LAND - QUEENSMEAD AND KINGSMEAD, FARNBOROUGH** – (Pages 53 - 56)
(Corporate Services)

To consider an urgent decision made by the Chief Executive, in consultation with the Cabinet Member for Corporate Services, in relation to the sale of two plots of land at Queensmead and Kingsmead, Farnborough. The Record of Executive Decision is attached and further details can be provided at the meeting.

10. **SALE OF LAND - WESTMEAD AND SOLARTRON ROAD, FARNBOROUGH** –
(Pages 57 - 60)
(Corporate Services)

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RUSHMOOR BOROUGH COUNCIL

CABINET

*Tuesday, 2nd February, 2016 at 4.30 pm
at the Council Offices, Farnborough*

Councillor P.J. Moyle
Councillor K.H. Muschamp, Deputy Leader and Business, Safety and
Regulation Portfolio Holder

Councillor Hughes, Health and Housing Portfolio
Councillor Sue Carter
Councillor P.G. Taylor, Corporate Services Portfolio Holder
Councillor R.L.G. Dibbs
Councillor A. Jackman

Apologies for absence were submitted on behalf of .

The Cabinet considered the following matters at the above-mentioned meeting. All executive decisions of the Cabinet shall become effective, subject to the call-in procedure, from **16th February, 2016**.

78. **MINUTES –**

The Minutes of the meeting of the Cabinet held on 12th January, 2017 were confirmed and signed by the Chairman.

79. **REVENUE BUDGET, CAPITAL PROGRAMME AND COUNCIL TAX LEVEL –**
(Leader of the Council)

The Cabinet considered the Head of Financial Services' Report No. FIN1603, as amended at the meeting, which made final recommendations on the budget, Council Tax requirement and proposals for budget savings for 2016/17. The Report also set out the General Fund revenue budget summary, detailed base revenue budgets in Cabinet portfolio order, lists of additional items for inclusion in the budget and the Capital Programme.

At its meeting on 17th November, 2015, the Cabinet had considered and endorsed the Head of Financial Services' Report No. FIN1518, which had included the Council's Medium Term Financial Strategy for 2015/16 – 2018/19 and set out the high level strategic financial direction for the Council, after taking account of the Medium Term Financial Forecast.

The main areas where the Council would be facing increased levels of risk and uncertainty over the medium term were set out in the Report, which also outlined the way in which these increased risks would be mitigated by maintaining current reserves, such as the Stability and Resilience Reserve, to protect the Council from adverse fluctuations in its financial position and the Service Improvement Fund, to ensure sufficient resources were available to progress key invest-to-save projects. This would enable the Council to take a strategic, longer term approach that built upon the Council's 8 Point Plan, focusing on key projects that would contribute towards the savings required to maintain a balanced budget, while moving the Council towards financial stability in the medium to long term.

The Cabinet was advised that the Report had been prepared on the basis that there would be no change to the provisional local government finance settlement figure. Any changes which materially altered the figures contained in the budget summary, particularly in respect of the local government finance settlement figure or the operation of the Business Rates Retention Scheme, would be made by the Council's Section 151 Officer, in consultation with the Leader of the Council, under the delegation arrangements agreed by the Council on 20th January, 2014.

The update to the Report provided a revised General Fund Summary due to the finalisation of the Council's estimates for business rates for both 2015/16 and 2016/17, as reported to DCLG via the submitted NNDR1 form.

The General Fund Revenue Budget would enable the Council to deliver services at similar to current levels and identified reductions in the level of net spending of £900,000, to be delivered during 2016/17. The General Fund summary showed that the revenue balances were expected to be around £1.5 million by the end of 2016/17. This was at the mid-point of the approved range of balances of £1 million - £2 million and was deemed to be acceptable given the levels of risks and uncertainty that had been identified. The General Fund Revenue Budget assumed a 1.99% increase in Council Tax, which accorded with Government policy assumptions and fell within the permissible level of increase before triggering a local referendum. This equated to an increase of £3.66 per annum for a Band D property. The Cabinet was advised that the Business Rate Retention Scheme represented a volatile income stream and, for this reason, the budget proposals included a transfer of £800,000 to the Stability and Resilience Reserve, which had been set up during 2012/13 to manage the increased level of risk and provide protection against potentially adverse fluctuations. It was reported that uncertainty over the time period that successful Business Rate appeals might be backdated continued to represent a significant risk to the Council. Future changes to the New Homes Bonus and the pace and extent of the Council's invest-to-save programme and regeneration plans would bring further potential pressures to the revenue budget over the medium term. Additional items for inclusion in the budget had been kept to a minimum and were only included where they had been identified as having a high priority in terms of achieving the Council's aims. These items were expected to total £44,350 in 2016/17.

The Capital Programme of £8.8 million in 2016/17 was set out in Appendix 4 of the Report. The use of revenue contributions of £550,000 to capital spending would continue to support a sustainable Capital Programme. Implementation of the core Programme in 2016/17 would require the use of £5.4 million in capital receipts, together with £2.6 million use of developers' Section 106 contributions and income from other capital grants. In addition, the Programme would be supported by revenue contributions to improvement grants of £200,000.

Under Section 25 of the Local Government Act, 2003, the Head of Financial Services, being the Council's Chief Finance Officer, was required to report to the Council on the robustness of the estimates contained in the budget and the adequacy of the reserves maintained by the Council. The Council had to have regard to this report when making its decisions on the budget. The Chief Finance Officer was satisfied that the budget was robust and that it was supported by adequate reserves.

The Cabinet

- (i) **RECOMMENDED TO THE COUNCIL** that approval be given to:
- (a) the General Fund Revenue Budget Summary, as set out in the amended Appendix 1 of the Head of Financial Services' Report No. FIN1603;
 - (b) the detailed General Fund Revenue Budget Summary, as set out in Appendix 2;
 - (c) the additional items for inclusion in the budget, as set out in Appendix 3;
 - (d) the Council Tax requirement of £5,664,404 for this Council;
 - (e) the Council Tax level for Rushmoor Borough Council's purposes of £187.73 for a Band D property in 2016/17;
 - (f) the Capital Programme, as set out in Appendix 4;
 - (g) the Head of Financial Services' Report under Section 25 of the Local Government Act, 2003, as set out in the Report;
 - (h) the holding of reserves, as set out in the Report;
- (ii) the delegation of authority to the Council's Section 151 Officer, in consultation with the Leader of the Council and the Cabinet Member for Corporate Services, to consider and accept, or otherwise, the Government's four-year settlement offer; and

RESOLVED that authority be delegated to the Council's Section 151 Officer, in consultation with the Leader of the Council and the Cabinet Member for Corporate Services, to make any necessary changes to the General Fund

Summary arising from the final confirmation of the Local Government Finance Settlement and the Business Rates Retention Scheme estimates.

80. **ANNUAL TREASURY MANAGEMENT STRATEGY 2016/17 AND PRUDENTIAL INDICATORS FOR CAPITAL FINANCE –**
(Corporate Services)

The Cabinet considered Head of Financial Services' Report No. FIN1602, which set out the Treasury Management Strategy for 2016/17, the Annual Investment Strategy, the Prudential Indicators for Capital Finance, the Minimum Revenue Provision Statement and revisions to treasury management practices. Members were reminded that the purpose of the treasury management operation was to ensure that the Council's cash flow was planned, so that sufficient cash was available when needed but also that any surplus funds were invested in counterparties or instruments, in line with the Council's agreed Investment Strategy. The Strategy allowed for the use of a wide range of financial institutions and investments, after due consideration of security and liquidity, to enable the generation of improved returns. The Strategy also provided the flexibility to pursue a range of diverse investment opportunities, within appropriate investment boundaries. This approach was in line with the latest advice from the Council's treasury advisers, Arlingclose.

The Cabinet RECOMMENDED TO THE COUNCIL that

- (i) the Treasury Management Strategy, Annual Borrowing Strategy and Annual Investment Strategy, as set out in Appendix A of the Head of Financial Services' Report No. FIN1602, be approved;
- (ii) the Prudential Indicators, as set out in Appendix B, be approved; and
- (iii) the Minimum Revenue Provision (MRP) Statement, as set out in Appendix C, be approved.

81. **WASTE REGULATIONS 2012 - RECYCLING SYSTEM ASSESSMENT FOR RUSHMOOR –**
(Environment and Service Delivery)

The Cabinet considered the Head of Community and Environmental Services' Report No. COMM1602, which set out the results of a recycling assessment carried out under the Waste (England and Wales) Regulations 2012 (as amended in 2014).

It was reported that local authorities were required to maximise high quality recycling and apply the waste hierarchy as a priority order for the management of waste materials. The legislation required authorities to collect the range of materials separately but only where it was "Technically, Environmentally and Economically Practicable" (TEEP) to do so. Members heard that the Council, along with all other authorities within Hampshire, collected mixed recyclable materials in one container, with glass collected in a separate container. It was considered that the Council's recycling yield was, currently, relatively low and this yield would decrease if residents were asked to further sort recycling materials into additional containers. Rushmoor's assessment had been carried out in conjunction with consultants White Young Green and the Report broke down the process used.

The Cabinet RESOLVED that the TEEP assessment, as outlined in the Head of Community and Environmental Services' Report No. COMM1602, be endorsed and that the current collection system be deemed fit for purpose.

82. EXCLUSION OF THE PUBLIC –

RESOLVED: That, taking into account the public interest test, the public be excluded from the meeting during the discussion of the under mentioned items to avoid the disclosure of exempt information within the paragraph of Schedule 12A to the Local Government Act, 1972 indicated against the items:

Minute Nos.	Schedule 12A Para. Nos.	Categories
83	3	Information relating to financial or business affairs

THE FOLLOWING ITEM WAS CONSIDERED IN THE ABSENCE OF THE PUBLIC

83. ACQUISITION OF PLOT NO. 20 BLACKWATER VALLEY INDUSTRIAL PARK, ALDERSHOT –
(Corporate Services)

The Cabinet considered the Solicitor to the Council's Exempt Report No. LEG1601, which sought approval for the purchase of the leasehold interest in Unit No. 20 Blackwater Valley Industrial Estate, Aldershot as an investment asset, subject to securing a pre-let.

Members heard how discussions had been held with the current leaseholders and that they were willing to surrender the lease for an appropriate payment. It was anticipated that this unit would attract a rent of up to £7 per square foot. Members were informed that a potential tenant had been identified. It was explained that this business would be displaced from its current location, should the council proceed with the purchase of its preferred site for its refuse and street cleansing depot. The purchase price had been recommended by the Council's professional valuer.

The Cabinet RESOLVED that

- (i) subject to obtaining a pre-let agreement with the prospective tenant, a variation to the 2015/16 Capital Programme, in the sum of the purchase price of Unit No. 20 Blackwater Valley Industrial Estate, as set out in the Solicitor to the Council's Exempt Report No. LEG1601, be approved; and
- (ii) if required, the establishment of a sinking fund towards future repairs and maintenance of the unit be approved.

84. MR DAVID QUIRK - CORPORATE DIRECTOR –

On behalf of the Cabinet, the Leader of the Council thanked Mr. David Quirk for his excellent and long service to the Council and wished him well for his retirement. Mr. Quirk had been a great asset to the Council and would be deeply missed by Members and Officers.

The Meeting closed at 5.05 pm.

D.E. CLIFFORD
LEADER OF THE COUNCIL

AGENDA ITEM NO. 2

**CABINET
1ST MARCH, 2016**

**ENVIRONMENTAL HEALTH AND HOUSING
REPORT NO. EHH1605**

SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015**1.0 INTRODUCTION**

- 1.1 The purpose of this report is to advise Cabinet of this new legislation which came in to force on 1st October 2015 and to seek the appropriate delegations to operate the scheme. The regulations require all private sector landlords to fit smoke alarms and where appropriate carbon monoxide alarms in their rented properties.
- 1.2 The Regulations also require Local Authorities to publish a Statement of Principles, which must be used to determine the level of Penalty Charge (fine) when a Penalty Charge Notice is served. Cabinet is asked to approve this statement.

2.0 BACKGROUND

- 2.1 On 17th September 2015 parliament approved The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (Appendix 1) which came in to force on 1st October 2015.
- 2.2 The Regulations require all private sector landlords to install smoke alarms on every level of their rented properties and a carbon monoxide alarm in any room containing a solid fuel-burning appliance e.g. a wood burner or open fire. It is also the landlord's responsibility to ensure that all existing alarms are in proper working order at the start of each new tenancy.
- 2.3 There are exemptions specified under the Regulations that are separately risk assessed under other legislation. The exemptions are:
- Social housing – communal areas (Regulatory Reform Order 2005)
 - Social housing – independent flats/houses (no legislative requirement)
 - Houses in multiple occupation (Housing Act 2004)
 - Live in landlords (Housing Act 2004)
 - Long leases where there is a freeholder (Housing Act 2004)
 - Student halls of residence (Regulatory Reform Order 2005)
 - Hostels and refuges (Regulatory Reform Order 2005)
 - Care homes, hospitals, hospices and other NHS accommodation (Regulatory Reform Order 2005)
- 2.4 The responsibility for the enforcement of the Regulations lies with the Council, who is required to take enforcement action if there is a breach

3.0 DETAILS OF THE ENFORCEMENT PROCESS

- 3.1 If a landlord breaches the requirements of the Regulations, the Council must serve a Remedial Notice detailing what the landlord needs to do to comply with the Regulations. The landlord must take all reasonable steps to comply within 28 days from the service of the Remedial Notice
- 3.2 If the landlord does not comply with the Remedial Notice the Council must, subject to obtaining the consent of the occupier, arrange for remedial action to be taken, ie to provide the required alarms. There is no provision in the Regulations for the Council to redeem the cost of this work.
- 3.3 Hampshire Fire and Rescue Service have agreed to fit fire alarms, free of charge in properties that are occupied by vulnerable residents in order that the Council can comply with the requirements of the Regulations
- 3.4 Where the Council has to arrange for smoke and/or carbon monoxide alarms to be fitted because the landlord is in breach of his duty to comply with the Remedial Notice, the Council can serve a Penalty Charge Notice. The only guidance to Councils as to the level of charge is that it can be up to a maximum of £5,000. To ensure that Councils are open and transparent when calculating the charge there is a requirement for them to publish a Statement of Principles, which must detail the level of charges and how they have been determined. A copy of the Statement of Principles is attached (Appendix 2) for approval by Cabinet.
- 3.5 A landlord can challenge the Penalty Charge Notice and the Council must consider this and let the landlord know the outcome by serving a Notice of its decision.
- 3.6 If the landlord is still unhappy with the outcome, he may appeal to the First-Tier Tribunal (formerly the Residential Property Tribunal) who will review the case and give the final decision as to whether the Penalty Charge Notice is to be confirmed, varied or quashed.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The cost of the provision and fitting of smoke and carbon monoxide alarms will fall to the Council; however, Hampshire Fire and Rescue Service have agreed to fit the alarms free of charge, for vulnerable residents, for example the elderly or those in receipt of means tested benefits.
- 4.2 Where Hampshire Fire and Rescue Service are unable to assist the cost will be covered from the Council's existing works in default budget.
- 4.3 Any funds collected from a Penalty Charge Notice will be an income to the Council and can be offset against the cost of fitting the alarms. This money will be credited to the existing works in default budget.
- 4.4 It is anticipated that any breaches identified will be rectified with the service of a Remedial Notice and that the likelihood of the need to serve a Penalty Charge

Notice on the landlord will be minimal, therefore there should be little or no impact on resources.

5.0 CONCLUSION

- 5.1** These regulations are intended to reduce the risk of injury or death caused by the effects of smoke or carbon monoxide on those living in the private rented sector.
- 5.2** The Council has a duty to serve a Remedial Notice on private landlords when they have failed to provide and fit smoke or carbon monoxide alarms. If the landlord does not comply with the Remedial Notice the Council must, subject to obtaining the occupiers consent, arrange for the relevant alarms to be fitted at its own cost. However, any penalty charges paid by the landlords will help to meet these costs in accordance with the Statement of Principles.

6.0 RECOMMENDATIONS

- 6.1** To ensure compliance with these new regulations it is recommended that Cabinet approves the Statement of Principles (Appendix 2) pursuant to Regulation 13 to be followed in determining the amount of a Penalty Charge for publication and delegates authority to revise and publish the statement in subsequent years.
- 6.2** It is also recommended that Cabinet agrees to delegate authority to the Head of Environmental Health and Housing to:
- a) Issue Remedial Notices if a landlord breaches his duty to provide a smoke or carbon monoxide alarm in his privately rented property under Regulation 6 (1)
 - b) Take remedial action to arrange for the installation of the required smoke or carbon monoxide alarms as specified in the Remedial Notice under Regulation 7
 - c) Issue Penalty Charge Notices if a landlord fails to comply with a Remedial Notice under Regulation 8
 - d) Consider and determine Regulation 10 reviews

Background Papers:

Appendix 1 – Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Appendix 2 – Statement of Principles

Qamer Yasin

Head of Environmental Health and Housing

Contacts: Hilary Smith
Private Sector Housing Manager

 STATUTORY INSTRUMENTS

2015 No. 1693

ENERGY, ENGLAND

HOUSING, ENGLAND

 The Smoke and Carbon Monoxide Alarm (England) Regulations
2015

Made - - - - 17th September 2015

Coming into force in accordance with regulation 1(1)

The Secretary of State, in exercise of the powers conferred by section 150(1) to (6) and (10) of the Energy Act 2013^(a) and paragraph 3(a) of Schedule 4 to the Housing Act 2004^(b), makes the following Regulations.

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 150(9) of the Energy Act 2013 and section 250(6)(f) of the Housing Act 2004.

PART 1

Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and come into force on 1st October 2015.

(2) These Regulations apply to England only.

Interpretation

2.—(1) In these Regulations—

“authorised person” means a person authorised in writing by the local housing authority for the purpose of taking remedial action under regulation 7;

“building” includes part of a building;

“penalty charge” means a monetary penalty imposed under regulation 8;

“premises”^(c) does not include vehicles or vessels or—

(a) 2013 c. 32.

(b) 2004 c. 34. As to the meaning of “appropriate national authority” see section 261(1).

(c) See the definition of “premises” in s. 150(10) of the Energy Act 2013.

- (a) an HMO (as defined in section 77 of the Housing Act 2004) in respect of which a licence is required under Part 2 of that Act, or
- (b) a house (as defined in section 99 of that Act) in respect of which a licence is required under Part 3 of that Act;

“prescribed alarm” means an alarm which is required to be equipped at residential premises under regulation 4(1)(a);

“remedial action” means action—

- (a) to install a prescribed alarm;
- (b) to repair a prescribed alarm; or
- (c) to check a prescribed alarm is in proper working order;

“remedial notice” means a notice requiring the landlord on whom it is served to take such remedial action as is specified in the notice in accordance with regulation 5(2)(c);

“rent” includes any sum paid in the nature of rent;

“residential premises”(a) means premises (as defined above) all or part of which comprise a dwelling; and

“specified tenancy” means a tenancy(b) of residential premises in England which—

- (a) grants one or more persons the right to occupy all or part of the premises as their only or main residence;
- (b) provides for payment of rent (whether or not a market rent); and
- (c) is not a tenancy of a description specified in the Schedule to these Regulations.

PART 2

Prescribed alarms

Meaning of “relevant landlord”

3.—(1) For the purposes of these Regulations, a landlord is a “relevant landlord” if the landlord—

- (a) is the immediate landlord in respect of a specified tenancy; and
- (b) is not a registered provider of social housing (as to which see section 80(2) of the Housing and Regeneration Act 2008(c)).

(2) In paragraph (1) “immediate landlord”—

- (a) where the premises are occupied under a specified tenancy which is not a licence means the person for the time being entitled to the reversion expectant on that tenancy; and
- (b) where the premises are occupied under a specified tenancy which is a licence means the licensor, except that where the licensor himself or herself occupies the premises under a specified tenancy which is not a licence, it means the person for the time being entitled to the reversion expectant on that tenancy.

Duties of relevant landlord in relation to prescribed alarms

4.—(1) A relevant landlord in respect of a specified tenancy must ensure that—

- (a) during any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy—

(a) This definition repeats the definition of “residential premises” in s. 150(10) of the Energy Act 2013 but modifies it so that the narrower definition of “premises” in these Regulations applies.
 (b) See the definition of “tenancy” in s. 150(10) of the Energy Act 2013.
 (c) 2008 c. 17.

- (i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
 - (ii) a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- (b) checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.
- (2) For the purposes of paragraph (1)(a), a bathroom or lavatory is to be treated as a room used as living accommodation.
- (3) For the purposes of paragraph (1)(b), a tenancy begins on the day on which, under the terms of the tenancy, the tenant is entitled to possession under that tenancy.
- (4) In this regulation—
- “new tenancy” means a tenancy granted on or after 1st October 2015, but does not include—
- (a) a tenancy granted in pursuance of an agreement entered into before that date;
 - (b) a periodic shorthold tenancy which arises under section 5 of the Housing Act 1988(a) on the coming to an end of a fixed term shorthold tenancy;
 - (c) a tenancy which comes into being on the coming to an end of an earlier tenancy, under which, on its coming into being—
 - (i) the landlord and tenant are the same as under the earlier tenancy as at its coming to an end; and
 - (ii) the premises let are the same or substantially the same as those let under the earlier tenancy as at that time;
- “room” includes a hall or landing; and
- “shorthold tenancy” means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of the Housing Act 1988.

PART 3

Remedial action

Duty of local housing authority to serve a remedial notice

5.—(1) Where a local housing authority has reasonable grounds to believe that, in relation to premises situated within its area, a relevant landlord is in breach of one or more of the duties under regulation 4(1), the authority must serve a remedial notice on the landlord.

(2) A remedial notice must—

- (a) specify the premises to which the notice relates;
- (b) specify the duty or duties that the local housing authority considers the landlord is failing or has failed to comply with;
- (c) specify the remedial action the local housing authority considers should be taken;
- (d) require the landlord to take that action within 28 days beginning with the day on which the notice is served;
- (e) explain that the landlord is entitled to make written representations against the notice within 28 days beginning with the day on which the notice is served;
- (f) specify the person to whom, and the address (including if appropriate any email address) at which, any representations may be sent; and

(a) 1988 c. 50. Section 5 was amended by the Housing and Regeneration Act 2008 (c. 17), Schedule 11, Part 1, paragraphs 5, 6(1), (2) and (3), and by the Housing Act 2004 (c. 34), section 222(1), (2).

- (g) explain the effect of regulations 6, 7 and 8, including the maximum penalty charge which a local housing authority may impose.

(3) The local housing authority must serve a remedial notice within 21 days beginning with the day on which the authority decides it has reasonable grounds under paragraph (1).

Duty of relevant landlord to comply with a remedial notice

6.—(1) Where a remedial notice is served on a landlord who is in breach of one or more of the duties under regulation 4(1), the landlord must take the remedial action specified in the notice within the period specified in regulation 5(2)(d).

(2) A landlord is not to be taken to be in breach of the duty under paragraph (1) if the landlord can show he, she or it has taken all reasonable steps, other than legal proceedings, to comply with the duty.

Duty of local housing authority to arrange remedial action

7.—(1) Where a local housing authority is satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under regulation 6(1), the authority must, if the necessary consent is given, arrange for an authorised person to take the remedial action specified in the remedial notice.

(2) The local housing authority must ensure the authorised person takes the remedial action within 28 days beginning with the day on which the authority is first satisfied under paragraph (1).

(3) An authorised person must—

- (a) give not less than 48 hours' notice of the remedial action to the occupier of the premises on which it is to be taken; and
- (b) if required to do so by or on behalf of the landlord or occupier, produce evidence of identity and authority.

(4) In paragraph (1) “the necessary consent” means the consent of the occupier of the premises on which the remedial action is to be taken.

(5) A local housing authority is not to be taken to be in breach of a duty under this regulation where the authority can show it has taken all reasonable steps, other than legal proceedings, to comply with the duty.

PART 4

Penalty charges

Penalty for breach of the duty under regulation 6(1)

8.—(1) Where a local housing authority is satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under regulation 6(1), the authority may require the landlord to pay a penalty charge of such amount as the authority may determine.

(2) The amount of the penalty charge must not exceed £5,000.

(3) Where a local housing authority decides to impose a penalty charge, the authority must serve notice of that fact on the landlord (“a penalty charge notice”) within six weeks beginning with the day on which the authority is first satisfied under paragraph (1).

Content of penalty charge notice

9.—(1) A penalty charge notice must state—

- (a) the reasons for imposing the penalty charge;

- (b) the premises to which the penalty charge relates;
- (c) the number and type of prescribed alarms (if any) which an authorised person has installed at the premises;
- (d) the amount of the penalty charge;
- (e) that the landlord is required, within a period specified in the notice—
 - (i) to pay the penalty charge, or
 - (ii) to give written notice to the local housing authority that the landlord wishes the authority to review the penalty charge notice;
- (f) how payment of the penalty charge must be made; and
- (g) the person to whom, and the address (including if appropriate any email address) at which, a notice requesting a review may be sent and to which any representations relating to the review may be addressed.

(2) A penalty charge notice may specify that if the landlord complies with the requirement in paragraph (1)(e)(i) or (ii) within 14 days beginning with the day on which the penalty charge notice is served, the penalty charge will be reduced by an amount specified in the notice.

(3) The period specified under paragraph (1)(e) must not be less than 28 days beginning with the day on which the penalty charge notice is served.

Review of penalty charge notice

10.—(1) Paragraph (2) applies if, within the period specified under regulation 9(1)(e), the landlord serves a notice on the local housing authority requesting a review.

(2) The local housing authority must—

- (a) consider any representations made by the landlord;
- (b) decide whether to confirm, vary or withdraw the penalty charge notice; and
- (c) serve notice of its decision to the landlord.

(3) A notice under paragraph (2)(c) confirming or varying the penalty charge notice must also state the effect of regulation 11.

Appeals

11.—(1) A landlord who is served with a notice under regulation 10(2)(c) confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the local housing authority's decision.

(2) The grounds for appeal are that—

- (a) the decision to confirm or vary the penalty charge notice was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the amount of the penalty charge is unreasonable;
- (d) the decision was unreasonable for any other reason.

(3) Where a landlord appeals to the First-tier Tribunal, the operation of the penalty charge notice is suspended until the appeal is finally determined or withdrawn.

(4) The Tribunal may quash, confirm or vary the penalty charge notice, but may not increase the amount of the penalty charge.

Recovery of penalty charge

12.—(1) The local housing authority may recover the penalty charge on the order of a court, as if payable under a court order.

(2) Proceedings for the recovery of the penalty charge may not be started before the end of the period specified under regulation 9(1)(e).

(3) Paragraph (4) applies if, within that period, the landlord gives notice to the local housing authority that the landlord wishes the authority to review the penalty charge notice.

(4) Proceedings for the recovery of the penalty charge may not be started—

(a) before the end of the period within which the landlord may appeal to the First-tier Tribunal against the local housing authority's decision on review; and

(b) where the landlord so appeals, before the end of the period of 28 days beginning with the day on which the appeal is finally determined or withdrawn.

(5) In proceedings for the recovery of the penalty charge a certificate which is—

(a) signed by the local housing authority's chief finance officer (within the meaning of section 5 of the Local Government and Housing Act 1989(a)), and

(b) states that the penalty charge has not been received by a date specified in that certificate, is conclusive evidence of that fact, and a certificate to that effect and purporting to be signed is to be treated as being signed, unless the contrary is proved.

(6) Sums received by a local housing authority under a penalty charge may be used by the authority for any of its functions.

Information to be published by local housing authority

13.—(1) A local housing authority must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.

(2) A local housing authority may revise its statement of principles and, where it does so, it must publish the revised statement.

(3) In determining the amount of a penalty charge, a local housing authority must have regard to the statement of principles which was most recently prepared and published at the time when the breach in question occurred.

PART 5

Notices

Service of notices

14.—(1) Any notice served on a landlord under these Regulations must be in writing and may be amended, suspended or revoked in writing at any time.

(2) A notice is to be taken to be served on a landlord on—

(a) the day it is given to the landlord in person;

(b) the second business day after it is sent by first class post to the landlord's last known address;

(c) the day it is delivered by hand to the landlord's last known address; or

(d) where the landlord has provided the local housing authority with an email address at which the landlord is content to accept service, the day it is sent by email to that address.

(3) The reference in paragraph (2)(b) and (c) to the landlord's last known address includes a reference to the address last provided by the landlord in accordance with section 48 of the Landlord and Tenant Act 1987(b) to a tenant of the landlord.

(4) If the name or address of any landlord on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be taken to be served

(a) 1989 c. 42; amendments have been made to section 5 but they are not relevant to these Regulations.

(b) 1987 c. 31; amendments have been made to section 48 but they are not relevant to these Regulations.

on the day it is conspicuously affixed to a building or object on the premises to which the notice relates.

(5) In paragraph (2)(b) “business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday, or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(a).

PART 6

Licences under Parts 2 and 3 of the Housing Act 2004

Amendments to Schedule 4 to the Housing Act 2004

15.—(1) In paragraph 1 of Schedule 4 to the Housing Act 2004 (licences under parts 2 and 3: mandatory conditions)—

(a) in sub-paragraph (4)—

(i) before paragraph (a) insert—

“(za) where the house is in England—

(i) to ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation, and

(ii) to keep each such alarm in proper working order;”;

(ii) in paragraph (a), at the beginning insert “where the house is in Wales,”

(iii) in paragraph (b), at the beginning insert “in either case;”;

(b) after sub-paragraph (4) insert—

“(4A) Where the house is in England, conditions requiring the licence holder—

(a) to ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance;

(b) to keep any such alarm in proper working order; and

(c) to supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm.”; and

(c) after sub-paragraph (5) insert—

“(6) In sub-paragraph (4A) “room” includes a hall or landing.

(7) For the purposes of sub-paragraphs (4) and (4A), a bathroom or lavatory is to be treated as a room used as living accommodation.”

(2) The amendments made by paragraph (1) apply only to licences granted or renewed on or after 1st October 2015.

Signed by authority of the Secretary of State for Communities and Local Government

Brandon Lewis
Minister of State

17th September 2015

Department for Communities and Local Government

(a) 1971 c. 80.

SCHEDULE

Regulation 2

Excluded tenancies

Shared accommodation with landlord or landlord's family

1.—(1) A tenancy under the terms of which the occupier shares any accommodation with the landlord or a member of the landlord's family.

(2) For the purposes of this paragraph—

- (a) an occupier shares accommodation with another person if the occupier has the use of an amenity in common with that person (whether or not also in common with others);
- (b) “amenity” includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access;
- (c) a person is a member of the same family as another person if—
 - (i) those persons live as a couple;
 - (ii) one of them is the relative of the other; or
 - (iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple;
- (d) “couple” means two people who are married to, or civil partners of, each other or who live together as if they are a married couple or civil partners;
- (e) “relative” means parent, grandparent, child, grandchild, brother, sister, aunt, nephew, niece or cousin;
- (f) a relationship of the half-blood is to be treated as a relationship of the whole blood; and
- (g) a stepchild of a person is to be treated as that person's child.

Long leases

2.—(1) A tenancy that—

- (a) is a long lease; or
- (b) grants a right of occupation for a term of 7 years or more.

(2) In this paragraph “long lease” means a lease which is a long lease for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993^(a) or which, in the case of a shared ownership lease (within the meaning given by section 7(7) of that Act), would be such a lease if the tenant's total share (within the meaning given by that section) were 100 per cent.

(3) A tenancy does not grant a right of occupation for a term of 7 years or more if the agreement can be terminated at the option of a party before the end of 7 years from the commencement of the term.

Student halls of residence

3.—(1) A tenancy that grants a right of occupation in a building which—

- (a) is used wholly or mainly for the accommodation of students, and
- (b) is a hall of residence.

(2) In this paragraph “student” has the same meaning as in paragraph 4 of Schedule 1 to the Local Government Finance Act 1992^(b).

(a) 1993 c. 28.

(b) 1992 c. 14.

Hostels and refuges

- 4.—(1) A tenancy that grants a right of occupation of accommodation in a hostel or refuge.
- (2) In this paragraph “hostel” means a building which satisfies the following two conditions.
- (3) The first condition is that the building is used for providing to persons generally, or to a class of persons—
- (a) residential accommodation otherwise than in separate and self contained premises; and
 - (b) board or facilities for the preparation of food adequate to the needs of those persons (or both).
- (4) The second condition is that either of the following applies in relation to the building—
- (a) it is managed by a private registered provider of social housing;
 - (b) it is not operated on a commercial basis and its costs of operation are provided wholly or in part by a government department or agency, or by a local authority;
 - (c) it is managed by a voluntary organisation or charity.
- (5) In this paragraph “refuge” means a building which satisfies the second condition in subparagraph (4) and is used wholly or mainly for providing accommodation to persons who have been subject to any incident, or pattern of incidents, of—
- (a) controlling, coercive or threatening behaviour;
 - (b) physical violence;
 - (c) abuse of any other description (whether physical or mental in nature); or
 - (d) threats of any such violence or abuse.
- (6) In this paragraph “government department” includes any body or authority exercising statutory functions on behalf of the Crown.
- (7) In this paragraph “voluntary organisation” means a body, other than a public or local authority, whose activities are not carried on for profit.

Care homes

- 5.—(1) A tenancy that grants a right of occupation in a care home.
- (2) In this paragraph “care home” has the meaning given in section 3 of the Care Standards Act 2000(a).

Hospitals and hospices

- 6.—(1) A tenancy that grants a right of occupation of accommodation in a hospital or hospice.
- (2) In this paragraph “hospital” has the meaning given in section 275 of the National Health Service Act 2006(b).
- (3) In this paragraph “hospice” means an establishment other than a hospital whose primary function is the provision of palliative care to persons resident there who are suffering from a progressive disease in its final stages.

Other accommodation relating to healthcare provision

- 7.—(1) A tenancy—
- (a) under which accommodation is provided to a person as a result of a duty imposed on a relevant NHS body by an enactment; and
 - (b) which is not excluded by another provision of this Schedule.

(a) 2000 c. 14. Section 3 was amended by the Health and Social Care Act 2008 (c.14), Schedule 5, Part 1, paragraphs 1, 4(1), (2) and (3).

(b) 2006 c. 41; amendments have been made to section 275 but they are not relevant to these Regulations.

(2) In this paragraph “relevant NHS body” means—

- (a) a clinical commissioning group; or
- (b) the National Health Service Commissioning Board.

(3) In this paragraph “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978(a).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose duties on certain landlords of residential premises in respect of smoke and carbon monoxide alarms. The duties do not apply to a landlord who is a registered provider of social housing. The Regulations require local housing authorities to enforce the requirements.

Part 1 sets out preliminary matters and defines terms used in the Regulations. In particular, a “specified tenancy” is defined as a tenancy (including a licence, lease, sub-lease and sub-tenancy) of residential premises in England which grants one or more persons the right to occupy all or part of the premises as their only or main residence, provides for the payment of rent and is not of a description mentioned in the Schedule.

Part 2 sets out the requirements on a “relevant landlord”.

Regulation 3 describes who is a “relevant landlord” for the purposes of these Regulations.

Regulation 4(1) requires a relevant landlord in respect of a specified tenancy to ensure that, during any period when the premises are occupied under the tenancy, a smoke alarm is equipped on every storey and a carbon monoxide alarm is equipped in any room which contains a solid fuel-burning combustion appliance. The landlord also has to ensure that any such alarm is in proper working order at the start of a new tenancy.

Part 3 places enforcement duties on local housing authorities. Where a local housing authority has reasonable grounds to believe a landlord is in breach of a duty under regulation 4(1), the authority must serve a remedial notice on the landlord (regulation 5). Regulation 6(1) makes it a duty to comply with a remedial notice. If the landlord fails to do so, the authority must arrange for remedial action to be taken at the premises (regulation 7).

Part 4 provides for a local housing authority to impose a penalty charge on a landlord who fails to comply with a remedial notice in breach of the duty under regulation 6(1). Regulations 8, 9 and 10 set out the procedure to be followed in imposing a penalty charge. A penalty charge notice must be served on the landlord. A landlord may give written notice requesting that the local housing authority review the penalty charge notice.

Regulation 11 provides for a right of appeal to the First-tier Tribunal against a local authority’s decision on review. The process for bringing an appeal is governed by the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (SI 2009/1976).

Regulation 12 provides for the enforcement of a penalty charge.

Regulation 13 requires a local housing authority to publish a statement of principles which it must have regard to in determining the amount of a penalty charge.

Part 5 contains provision about the serving of notices on landlords under these Regulations.

Part 6 makes amendments to paragraph 1 of Schedule 4 to the Housing Act 2004. These have the effect of introducing new and revised conditions, in respect of smoke and carbon monoxide alarms, which must be included in a licence under Part 2 or 3 of that Act of a house in England.

(a) 1978 c. 30.

Two regulatory impact assessments have been prepared in relation to these Regulations (one relating to smoke alarms and the other relating to carbon monoxide alarms). The assessments will be placed in the Library of each House of Parliament and made available on www.gov.uk. Copies may be obtained from the Department for Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

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£6.00

UK201509176 09/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/1693>

ISBN 978-0-11-113933-2



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The Smoke and Carbon Monoxide Alarm (England) Regulations 2015**Statement of principles for determining financial penalties****Rushmoor Borough Council adopted 1st March 2016****1. Introduction**

The Smoke and Carbon Monoxide Alarm (England) Regulations came in to force on 1st October 2015. The purpose of these regulations is to encourage landlords to ensure that their tenants are living in safe homes with a system of early warning in the event of a fire or carbon monoxide leak.

Regulation 13 requires all local authorities to publish a statement of principles that will be applied when exercising its powers under Regulation 8. Regulation 8 provides that the Council may impose a financial penalty (the Penalty Charge) on a landlord for non-compliance with a Remedial Notice, which is in breach of the landlords duty under Regulation 6(1). This statement will be reviewed by the Council on a bi-annual basis and the levels of Penalty Charge will increase annually in accordance with the Retail Prices Index.

2. Imposition of a Penalty Charge

The Council will apply the principles in this statement, in deciding whether or not to exercise its discretion to impose a Penalty Charge, and in determining the amount of any such penalty charge, if it is satisfied that, on the balance of probabilities, the landlord has failed to comply with a Remedial Notice served upon the landlord under Regulation 5. In deciding whether to impose any Penalty Charge, the Council will have regard to whether the landlord had any reasonable excuse for non-compliance with the Remedial Notice. If the Council considers that there was no reasonable excuse then the Council will determine the amount of such Penalty Charge in accordance with the principles set out in paragraph 7 of this statement. Failure to organise a contractor within the 28 day period or financial difficulties shall not amount to reasonable excuse. The landlord shall provide such details as are required by the Council, within 7 days of request, in the event that he claims that he has a reasonable excuse for failing to comply with the terms of a Remedial Notice.

3. Procedure for imposing a financial penalty

If the Council decides that it is appropriate to serve a Penalty Charge Notice(PCN) then the PCN must be served within six weeks from the date that the Council is satisfied that the landlord has failed to comply with the Remedial Notice in discharging his duty under Regulation 6(1).

The Penalty Charge Notice will comply with Regulation 9 which requires the Council to state:

- the reason for imposing the Penalty Charge
- the premises to which the Penalty Charge relates
- the details of the number and type of alarms installed at the premises by the Council
- the amount of Penalty Charge
- the details of how to pay the Penalty Charge
- the date by which the Penalty Charge must be paid
- details of the appeal/review process and who to send it to
- details of any discount for payment within 14 days of service of the PCN

4. Council's duty to consider a request for a review of the PCN

The Council has a duty to review a Penalty Charge upon written request from the landlord, which must be received within 28 days of service of the PCN. This review will be undertaken in accordance with the Council's Scheme of Delegation. Once the Council has considered the representations of the landlord and the review has been completed, the Council must serve a Notice of its decision whether to confirm, vary or withdraw the Penalty Charge Notice. This Notice will also state the effect of Regulation 11, which allows for a further appeal by the landlord to the First-Tier Tribunal against the Council's decision

5. Appeal to First-Tier Tribunal

The landlord may appeal the decision issued by the Council to the First-Tier Tribunal.

The appeal can be made on the following grounds:

- The decision to confirm or vary the Penalty Charge was based on a factual error
- The decision was wrong in law
- The amount of Penalty Charge is unreasonable
- The decision was unreasonable for any other reason

Once an appeal has been lodged, the operation of the Penalty Charge Notice is suspended until the appeal is determined or withdrawn.

The final decision lies with the First-Tier Tribunal who may quash, confirm or vary the Penalty Charge Notice, but not increase the amount payable.

6. Payment of Penalty Charge Notice

The Penalty Charge Notice must be paid within 28 days of it being served or it may be suspended in the event of an appeal until the appeal has been determined.

The Penalty Charge can be paid by cheque or card at the Council Offices or be paid by card over the telephone.

If the Penalty Charge is not paid, the Council may recover the amount through a court order in accordance with Regulation 12.

The Council may use the payment of the Penalty Charge to discharge any of its functions.

7. Determination of the level of the Penalty Charge

The purpose of imposing a financial penalty for non-compliance with a landlords duty as set out in a Remedial Notice is two-fold. Firstly, as a punitive measure to encourage landlords to ensure the safety of their tenants by:

- Changing landlords behaviour
- Deterring non-compliance with the Regulations
- Ensuring that the penalty reflects the severity of the potential harmful outcomes

Secondly, to reflect the cost to the Council for administering and carrying out the remedial works contributing to reimbursing the Council for the cost of:

- Taking remedial action under Regulation 7 to ensure the provisions of any Remedial Notice are complied with
- procuring contractors, as authorised persons, to carry out the installation of the required alarms
- the cost of the alarms and their installation by authorised persons

The initial penalty charge for a first breach by a landlord of the requirements of any Remedial Notice shall be set at £1,000 to reflect the above principles. The Council will offer the following reduction on the initial penalty charge:-

- a 25% reduction provided the Penalty Charge is paid within 14 days (£750 Penalty Charge).

The Penalty Charge for each subsequent breach of the requirements of any Remedial Notice by a landlord will then increase on a sliding scale, as shown in the table below. The maximum penalty charge for an offence is £5,000.

Breach	Penalty Charge
First Offence	£1,000 reduced to £750.00 if paid within fourteen days
Second Offence	£2,000
Third Offence	£3,000
Fourth Offence	£4,000
Fifth and subsequent Offences	£5,000 per offence

Statement of Principles Agreed – 1st March 2016

Date of Statement of Principles Review – 1st March 2018

Hilary Smith

Private Sector Housing Manager

Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Statutory Instrument 1693

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Agenda Item No. 3

Cabinet
1 March 2016

**Head of Community and Environmental
Services Report No. COMM1603**

Osborne Road Recreation Ground - basketball court upgrade

Introduction

- This paper seeks a variation of £36,000 to the 2016/17 capital programme to upgrade the basketball court at the Osborne Road Recreation Ground.
- The basketball posts erected in 1991 are well used by local children and young people, but the facility is nearing the end of its life. The upgrade will include relaying the surface, painting the court and provision of new posts. This will be completed prior to the summer holiday.

Strategic Objectives

- The provision of the basketball court, which is free to use, encourages children and young people to lead lifestyles that are more active, increases personal development and supports social integration.

Financial Implications

- The project will be funded by £19,600 awarded by the Sitatust and £16,400 from developers contributions allocated to the basketball court upgrade. Courts are very low maintenance (under £200 pa) and this will be covered in existing budgets.

Recommendation

- Cabinet to approve a variation of £36,000 to the 2016/17 capital programme to upgrade the basketball court.

Peter Amies
Head of Community

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AGENDA ITEM NO. 4

Cabinet
1 March 2016

**Head of Community and Environmental
 Services Report No. COMM1604**

Farnborough Airport - Community Environmental Fund

Introduction

- This paper seeks approval to award grants from the Farnborough Airport Community Environmental Fund to assist local projects.
- The Cabinet Member for Environment has considered three applications and has made award recommendations for all (Appendix A).

▪ Community Youth Work Service (Surrey CC)	£1,350
▪ Farnborough Street Residents' Association	£2,000
▪ Rushmoor Voluntary Services – Blooming Marvellous	£5,000
Total	£8,350

- The Community Environmental Fund is currently £70,374. Taking the three applications recommended in this paper totalling £8,350 would leave £62,024 available for allocation.
- The guidelines for allocating the funds are attached in Appendix B

Recommendation

- Cabinet is recommended to approve the awards totalling £8,350 in Appendix A

Peter Amies – Head of Community and Environmental Services

Contact – Alison Nicholls – Grants and Administration Officer
 Tel 01252 398766 email alison.nicholls@rushmoor.go.uk

Environment Fund applicant bid	
Name & address of Applicant	Community Youth Work Service (CYWS – Surrey CC) Frimley Green Youth Centre
Grant requested (Total cost of project)	£1,350 (£1,350) £250 – tools including lawnmower £440 – shed/outside lighting/benches £300 – Gardener/landscaper £150 – overalls/gloves £210 – top soil/pots/bin/grow bags etc
Purpose of grant	<p>Youth gardening project at Frimley Green for Club Shout (a Special Education Needs and Disability group for vulnerable young people aged 11 – 25). The young people have identified this area to redevelop to make it more welcoming and to able to grow their own food.</p> <p>The project will enable the young people to work together and learn about the environment and the production of food. The produce will be used as a resource for all 5 youth groups across Frimley Green Youth Centre to cook with. In addition, the produce can be offered to supply local food fairs and summer events, and be offered to local residents and community groups, as part of young people giving back to their local community.</p>
Previous grants from this fund	None
Distance from centre of runway (within 5 kilometres (3 miles))	Yes
Other sources of funding for this project	None, but they are looking into landfill funding
Accounts	Income - £1.8m) Expenditure - £2m) Surrey CC Balances - £199k)
Additional Info	<p>Club Shout runs once a week and is attended by 20 young people from Surrey, Berkshire and Farnborough.</p> <p>The project will be carried out and led by young people with the support of youth workers and a gardener. It will take place once a week during Spring and Summer 2016. The plan is to continue the project once the resources are in place.</p> <p>The tools will be available to other local groups in the vicinity of Frimley Green Youth Centre and local residents by contacting the youth centre.</p>
Aim of organisation/group	Aim of CYWS is for all young people to be able to achieve employability, with the following outcomes: Young people are equipped with the skills to join the workforce; are resilient and safe; overcome barriers to employability; make informed decisions and are active members of their communities.
Application recommendation	£1,350

Environment Fund applicant bid

Environment Fund applicant bid	
Name & address of Applicant	Farnborough Street Residents' Association (FSRA)
Grant requested (Total cost of project)	£2,000 (£16,300)
Purpose of grant	Heritage Street Furniture Restoration of Farnborough Street - Purchase and installation of: 6 Heritage style lamp posts = £13,200 1 Finger signpost = £3,100 (funded by TAG)
Previous grants from this fund	None
Distance from centre of runway (within 5 kilometres (3 miles))	Yes
Other sources of funding for this project	<u>Secured:</u> (£11,590) £11,160 – Corporate sponsorship £430 – FSRA <u>Unsecured:</u> (£3,200) £1,000 – Persimmon Housing £2,200 – Awards for All
Accounts	Income - £11,942 Expenditure - £311 Balances - £11,631
Additional Info	By installing heritage style street furniture, some of Farnborough Street's heritage will be restored and recognised in keeping with other conservation areas in Hampshire. It will provide a welcoming environment to the thousands of people accessing the street/town via Farnborough North Station. The project will only go ahead if full funding is obtained and the aim is for completion before the 2016 Air Show. The Finger signpost will be installed by Hampshire Highways Department to their specifications and standards. Southern and Scottish Electricity (SSE) will install the lamp posts. RBC have arranged for the installation of a community noticeboard in the street, a Farnborough Aviation sign and an additional litter bin at the station entrance, and a dog litter bin (to be installed). Long term plans are to support Farnborough North station improvements.
Aim of organisation/group	FSRA was formed in 2013 to work in partnership with the local community to protect and preserve the historic heart of Farnborough town. There are currently 31 members. Farnborough Street is now a designated conservation area. Aims are to: <ul style="list-style-type: none"> • Represent the community that uses Farnborough Street and in doing so serve the wider community of Farnborough town residents and businesses • Enhance the environment for residents and street users • Protect the historic base of the street • Monitor local developments, ensuring that they are sympathetic to the street's values and standards
Application recommendation	£2,000

Environment Fund applicant bid

Name & address of Applicant	Rushmoor Voluntary Services (RVS)
Grant requested (Total cost of project)	£5,000 (£27,640)
Purpose of grant	Towards the cost of the Blooming Marvellous project working with 28 residents in Rushmoor suffering with/recovering from mental illness. The grant will provide opportunities for clients to work on the allotment, tend gardens of elderly and disabled residents, improve community open areas and participate in a training programme to gain new skills and/or accreditations.
Previous grants from this fund	2013 - £6,000 (towards cost of Blooming Marvellous project)
Distance from centre of runway (within 5 kilometres (3 miles))	Yes
Other sources of funding for this project	£20,000 – Broadhurst Welcome Home Ltd £2,600 – RVS Donations from private garden improvements (£757 has been donated since April 2015 & ploughed back into project)
Accounts	Income - £599k (£278k is restricted) Expenditure - £566k (£283k is restricted) Balances - £427k (£34k is restricted)
Additional Info	The project is achieving three key outcomes: improving health and wellbeing, and quality of life; and making a positive contribution. This year the project is due to complete 60 private garden improvements (free of charge with some donations made). Six of the volunteers have found employment as a result of skills learnt on the project; eight volunteers have been introduced to further training and 43 sessions have been completed on community open spaces. The project is dependent on external funds.
Aim of organisation/group	RVS supports voluntary organisations and local people, and champions volunteering in the borough. RVS also manages Rushmoor Dial a Ride, RVS Home Help and Blooming Marvellous.
Application recommendation	£5,000

Guidelines

- The Community Environmental Fund commenced in 2001. It is levied by Farnborough Airport on business aviation movements at a rate of £2 per aircraft movement and £5 per aircraft movement where the aircraft is a Boeing business jet or an Airbus A310 corporate jet.
- The fund is available to groups and organisations under the following criteria: -
 - Located within 5 kilometres (3 miles) from the centre of Farnborough Airport (taken to be halfway down the main runway)
 - Within this 5 kilometre radius, is demonstrably and regularly affected by aircrafts travelling to and from Farnborough Airport
 - Will result in the improvement or provision of an outdoor facility or area that is accessible to the public and able to be enjoyed by the community as a whole
 - Is a community or environment based bid, projects may include: -
 - Green or open spaces
 - Natural habitats
 - Environmental improvements or outdoor play
 - Community projects with an emphasis on improving the local environment or outdoor education

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**CABINET
1ST MARCH 2016**

**CHIEF EXECUTIVE'S
REPORT NO. CEX1601**

**APPOINTMENT OF CORPORATE DIRECTOR
APPROACH AND NEXT STEPS**

1. INTRODUCTION

1.1 David Quirk, one of Rushmoor's Corporate Directors, retired on 29th February having completed 28 years at Rushmoor. Over the last couple of months, I have been considering the future of the post in the context of

- the current senior management structure, given it was only introduced in April 2015
- the emerging financial challenges facing the Council in the light of the Autumn Statement and provisional financial settlement
- the challenging agenda facing the Council to achieve its priorities and maintain services to the local community

1.2 Having examined the issues, given these parameters, a proposed approach has been developed which I believe provides the best way forward for the Council.

2. BACKGROUND

2.1 Over the past 10 years a number of changes have been made to the Council's organisational structure which has seen it streamlined and more aligned with the Council's priorities. The process has seen a reduction in services and changes in roles and responsibilities of the senior management team. The current structure which is less than a year old is based around the following principles:

- the need for the Council to secure financial sustainability through its 8 Point Plan and through organisational development to create the conditions in which the change we need can happen
- a structure that enables the Council to deliver its core services whilst also delivering on its priorities
- the need to ensure an effective and robust interface with elected members which enables a high level of community leadership and provides the support Members need

- ensure the Council's Corporate Directors are able to focus on the key strategic issues facing the Borough and areas where the Council needs to develop and deliver corporate priorities
- provide the conditions for Heads of Service, senior managers and staff to be given the freedom and tools not only to continue to deliver high quality services but also to innovate and address the challenges that face the Council
- enable services to be delivered to a high standard and with a high degree of efficiency and customer focus

2.2 The current structure is attached. The main changes embedded within the structure relate to:

- ensuring the Corporate Directors take ownership and drive forward key strategic areas of work, such as service transformation and regeneration and the overall Corporate Plan through the Directors' Management Board.
- removal of more direct lines of management for heads of service who have been expected to work with less direction from Corporate Directors enabling them to take greater responsibility for service decisions, innovation and service delivery.
- reducing the number of services by one and some rationalisation of teams, whilst expecting heads of service to examine further the structures within services in the context of the 8 Point Plan objectives, in particular channel shift and service transformation.

2.3 Whilst the new structure is still bedding in, it is working effectively to the new principles. This has been shown in the way that the Directors' Management Board is working strategically and in the way that Heads of Service are showing leadership within services. Progress is also being made with the key themes in the Council's organisational development programme.

2.4 However, it is important to recognise that the Council faces considerable challenges over the medium term with major uncertainties in Government funding, a range of priorities to invest in the Borough and to make significant reductions in expenditure/increase in income to achieve financial sustainability.

2.5 Therefore, it is important for the Council to retain a robust management structure providing leadership, professionalism and expertise in order that it can reconcile the need to deliver its priorities whilst keeping its expenditure rigorously under control.

3. PROPOSED APPROACH

3.1 Having examined these factors in detail, it is my clear view that the basic organisational structure of having a Directors' Management Board of a Chief Executive and two Corporate Directors supported by a Heads of Service should be retained. Mr Quirk currently holds the role of Deputy Chief Executive, which operates in the absence of the Chief Executive. This is an important function and it is now proposed to appoint Mr Ian Harrison, the other Corporate Director, to the role.

3.2 Given the issues raised in para 2.4, I believe it is important that the Council retains two corporate director posts and now proceeds to fill the vacant post. I believe that this post could be filled through internal advertisement because:

- there is a pressing need to make service cost reductions and this approach should enable the Council to save the cost of a senior management post
- the Council has encouraged an approach of developing its senior staff from within the organisation and the approach demonstrates the Council's commitment to this
- there are appropriately qualified and experienced potential candidates within the organisation.

4. PROCESS FOR APPOINTMENT

4.1 Whilst the appointment will be restricted to internal staff, it is still the intention to undertake a thorough and transparent recruitment process in accordance with the Council's current Officer Employment Rules. The process would be as follows:

- Consultation with the Leader, Cabinet Member for Corporate Services, the Chairman of the Licensing and General Purposes Committee, and Group Leaders followed by confirmation of the approach by the Cabinet.
- Chief Executive to agree the role profile and the post is advertised internally.
- Initial discussion of applications by the Chief Executive and Corporate Director to draw up a shortlist of applicants (if necessary) and make the arrangements for interviews.
- Interview process with appointment by a Member panel consisting of:

- Chairman of the Licensing and General Purposes Committee
- Cabinet Member for Corporate Services
- Cr Frank Rust
- Cr Dave Bell
- Leader of the Council

Standing Deputies are allowed.

- Confirmation of appointment of Corporate Director by the Licensing and General Purposes Committee.

4.2 Depending on who the successful candidate is, a review of the service structure is likely to be necessary, following the appointment. One of the features of the current structure is that Heads of Service are expected to be flexible and adaptable and, if a Head of Service is appointed, there would be the potential for the reallocation of functions enabling a further reduction in the managerial overhead. It is proposed that these consequential changes will be made in consultation with the Leader of the Council and the Cabinet Member for Corporate Services.

5. **FINANCIAL IMPLICATIONS**

5.1 At this stage it is difficult to assess the savings resulting from the appointment. The costs (including on costs) of the Corporate Director's post is approximately £103,000 and the potential saving on a Head of Service post is approximately £82,000. Were the appointment not to be a Head of Service the saving will be less, although it is then likely that there would be fewer consequential changes to services.

5.2 As part of the process, the Council will need to consider whether any further changes will need to be made within services to assist it to deliver its objectives. There may be some cost implications of this.

6. **CONCLUSIONS**

6.1 Given the challenges facing the Council over the medium term, it is important that it is in a strong position to address them. A strong, effective management structure is essential to ensure the Council delivers its priorities as it works towards sustainability. The existing structure has been a significant step forward and I believe that retaining it will be in the best interests of the Council. I also feel that the Council has a number of suitable candidates from within its existing establishment.

6.2 Once the appointment process has been completed, a further report will be made to the Cabinet on the consequential structural issues, if necessary.

7. RECOMMENDATIONS

7.1 The Cabinet is asked to:

- (i) approve the appointment of Ian Harrison to the Deputy Chief Executive role with effect from 1st March, 2016;
- (ii) endorse the proposed approach for the retention of the Corporate Director post and the process for recruitment set out in this Report; and
- (iii) authorise the Chief Executive to agree any consequential changes to the organisational structure resulting from the appointment, in consultation with the Leader of the Council and the Cabinet Member for Corporate Services.

Andrew Lloyd
Chief Executive

CHIEF EXECUTIVE

DIRECTORS MANAGEMENT BOARD
Chief Executive and two Corporate Directors

Head of Democratic and Customer Services

Solicitor to the Council

Head of Strategy, Engagement and Organisation Development

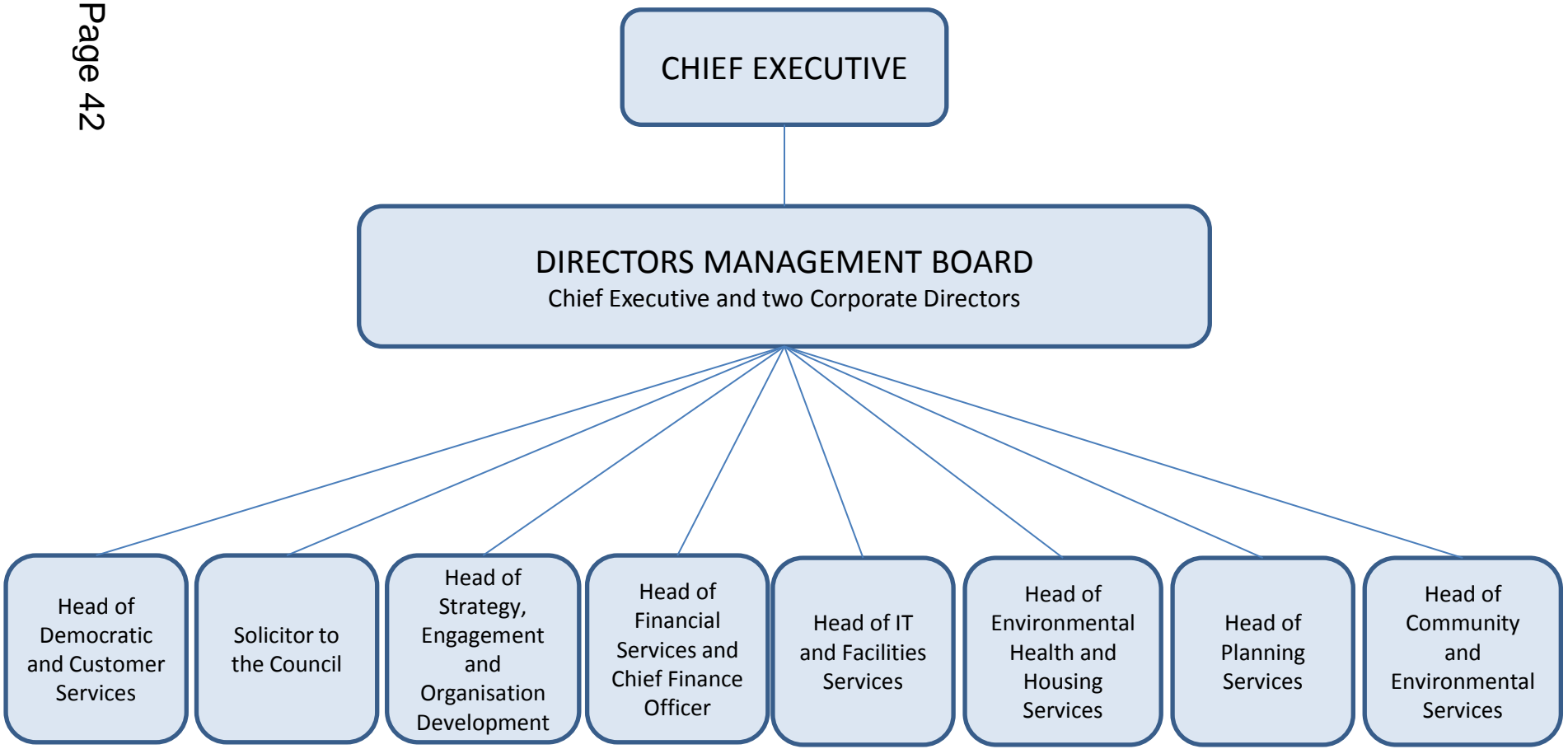
Head of Financial Services and Chief Finance Officer

Head of IT and Facilities Services

Head of Environmental Health and Housing Services

Head of Planning Services

Head of Community and Environmental Services



CHIEF EXECUTIVE

DIRECTORS MANAGEMENT BOARD
Chief Executive and two Corporate Directors

Head of Democratic and Customer Services

Solicitor to the Council

Head of Strategy, Engagement and Organisation Development

Head of Financial Services and Chief Finance Officer

Head of IT and Facilities Services

Head of Environmental Health and Housing Services

Head of Planning Services

Head of Community and Environmental Services

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**CABINET
1 MARCH 2016**

AGENDA ITEM NO. 6

**DIRECTORATE OF COMMUNITY AND ENVIRONMENT
ENVIRONMENTAL HEALTH & HOUSING
REPORT NO. EHH1606**

DELEGATION OF AUTHORITY – BUSINESS SUPPORT CONTRACTS

PURPOSE

- To seek Cabinet approval for the Council to enter in to contracts to the value of up to £10,000 providing regulatory advice and support to businesses.

BACKGROUND

- With the outlook for public services continuing to look challenging, the Council's 8 Point Plan seeks to provide for a sustainable financial future. Within this, the Income Generation strand provides the opportunity to explore the commercialisation of some Council services, whilst continuing to serve the Council's purpose.
- Recently the Food/Health and Safety team, on behalf of the Council, has explored commercial opportunities arising from business regulatory support and advice. Officers will continue to provide advice and support to businesses in the Borough around regulatory matters, but increasingly businesses are seeking extended advice and support which offers the opportunity for cost recovery.
- The Council are seeking to enter into voluntary arrangements by contract with businesses who are willing to contribute to the costs of the additional advice and support provided to them. This work can be undertaken under the "spare capacity rule" and is a shadowing activity to assess whether a trading arrangement should be entered into in the future.
- This pilot work has been considered by the Council's Internal Audit team who have reviewed the arrangements for ensuring that the regulatory roles of the Council are not compromised. Effectively, a "glass wall" will be assured between adviser and regulator functions, similar to that already provided for in the Council's Licensing functions. In order to provide the basis for these business agreements, a contract arrangement has been developed.

LEGAL IMPLICATIONS

- The general power of competence under the Localism Act 2011 gives the Council power to enter into such arrangements to provide discretionary services on a cost recovery basis.

FINANCIAL IMPLICATIONS

- The service will be provided within existing resources with the potential to recover up to £10,000 of officer time in the first year pilot.

RECOMMENDATION

- It is recommended that Cabinet authorises the Head of Environmental Health and Housing to enter into contracts up to the value of £10,000 to provide regulatory advice to businesses.

QAMER YASIN
HEAD OF ENVIRONMENTAL HEALTH AND HOUSING

Contact: Colin Alborough, Environmental Health Manager
(01252 398169) email: colin.alborough@rushmoor.gov.uk

AGENDA ITEM NO. [8](#)

CABINET
1st March 2015

SOLICITOR TO THE COUNCIL
EXEMPT REPORT NO. LEG1602

NO. 12 ARTHUR STREET, ALDERSHOT - UPDATE**PURPOSE**

The purpose of this report is to update on the progress of the project to convert 12 Arthur Street and to seek approval for funding to undertake the conversion works.

BACKGROUND

On the 1st September 2015 cabinet approved a proposal for the conversion of 12 Arthur Street, the former Relate premises, to 3 residential flats. The Solicitor to the Council was given authority to submit a planning application and to go to tender for the conversion works. A small budget of £8000 was given to enable the architect working on the scheme to draw up schematic plans to show the feasibility of the conversion. These plans have been prepared and show a scheme for 2 x 2bed flats and 1 x1 bed flat.

Planning

It has been established that planning permission is required as the Relate offices were used for counselling purposes and thus the conversion will be change of use from D1 (non-residential institution) to C3 (dwelling houses). Initial meetings with the planning management service has indicated that planning permission will be recommended subject to SPA contributions and parking being provided in accordance with standards. It is proposed to provide one parking place on the frontage and it is thought that two places will need to be provided off site rather than on street with residential parking permits.

Conversion Works

The previous Cabinet Report outlined a draft budget for limited conversion works at £90,000. However, further inspection by the architect has shown that a complete overhaul of the electrics, plumbing and heating is required for the conversion works to take place, as well as the reconfigurations of several rooms and reconstruction of several walls that are not up to the required standards for residential. The services are in a poor state of repair, and since this is a residential development all risks should be eliminated as far as possible. The works have not yet been tendered but an indicative figure of £260,000 has been given.

The value of the flats as converted in the previous Cabinet Report were given as between £140,000 and £150,000. Having had plans prepared and being able to create 2 two beds flats and 1 one bed flat, the revised values are £215,000 for a 2 bed flat and £175,000 for the one bed flat thus the increased costs of the conversion works (up to £170,000 more subject to tender) is likely to be met by the increased in value from between the previously given £420,000- £450,000 to £605,000.

Returns for each option

The Cabinet previously made no decision whether the converted flats should be sold or rented but deferred the decision to the Solicitor to the Council in consultation with the Cabinet Member for Corporate Services so that the decision could be taken when further works had progressed towards the establishment of a housing company to overcome the trading issue and any HRA / Right to Buy issues. Work has now been commissioned from Arlington Close looking at their recommended company structure and officers will be considering the report received. It is proposed that no decision be taken as to whether to sell the conversion or rent the flats until the works have been completed but this report updates the projected returns for both options.

The cost of converting the ground and 1st floor offices into 2x 2 bedroom flats, and refurbishing the 2nd and 3rd floor 1 bedroom duplex would require a budget of £260,000- see Table 3 below

Conversion with rental

Table 2 below shows that 12 Arthur Street can be expected to achieve a total income of £28,000 per annum as per the attached table. This will result in a potential rate of return of 9.4% upon the capital required for the conversion. This is a much higher rate of return than is expected in the current market conditions.

Conversion and Disposal

This involves undertaking the works and disposing of the flats.

The method to generate the highest capital receipt would be to dispose of the long leaseholds of the apartments with a ground rent of £150 P.A per apartment and then the remaining freehold. Based on the current market RBC would expect a capital receipt of £550,000, including agent fees.

This would result in a profit in the region of £280,000.

Table 1 below shows the Market Value of the premises once all the conversion work has been completed.

Market Value

Based on the comparable properties available

Assuming Long Leasehold

Section	Market Value
1 Bed Duplex	£175,000
2 Bed Flat	£215,000
2 Bed Flat	£215,000
TOTAL	£605,000

Market Value of remaining freehold of 12 Arthur Street
 Assuming Long Leaseholds are on a ground rent of £150 p.a
 Using an All Risk Yield of 5% £9,000
 Total Market Value assuming complete disposal:

£614,000

Table 2 shows the market rent that can be achieved through privately renting the flats at 12 Arthur Street following conversion

Market Rent

Based on the comparables available (see Market Rent tab).

Section	Market Rent
1 Bed Duplex	£8,340
2 Bed Flat	£10,200
2 Bed Flat	£10,200
TOTAL	£28,740

Table 3 shows the estimated total construction works that is required to bring the premises to an acceptable residential standard.

Construction & Refurbishment Costs	
Works Required	Cost
Preliminary conversion costs:	£96,250
Part E budget costs:	£30,000
Rewire	£15,000
Adjust plumbing:	£15,000
kitchens and bathroom	£36,000
Adjust utility meters:	£15,000
TOTAL	£207,250
Plus 10% fees 15% Contingency	£51,812
SAY	£260,000

Table 4 is the viability assessment of both options

Viability Assessment	
Disposal:	
Market Value	£614,000
Minus 10% Agent Fees	£61,400
SPA Contribution	£10,672
Conversion Cost	£260,000
DEVELOPER'S PROFIT	£281,928
PERCENTAGE	46%
Private Rented Scheme:	
Market Rent	£28,740
Minus 15% Agent Fees	£4311
Conversion Cost	£260,000
RATE OF RETURN	9.40%

The rental option will have a payback period at this rate of return in 9 years once fully let.

RECOMMENDATION

That Cabinet

- Approve a variation to the Capital Works programme of £260,000 to allow for the conversion works to be tendered and the build contract awarded.
- Delegate authority to the Head of Financial Services, in consultation with the Cabinet Member for Corporate Services, to approve an increase in the Capital Works Programme, subject to the scheme delivering a rate of return of at least 7%, should the tender process exceed £260,000

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**RUSHMOOR BOROUGH COUNCIL
RECORD OF EXECUTIVE DECISION**



Decision taken by individual Cabinet Member/Officer (delete as appropriate)

(All sections must be completed (mark "N/A" as applicable))

DECISION MAKER

Andrew Lloyd, Chief Executive

DECISION AND THE REASON(S) FOR IT

Urgency Para 3(6) Part 3 of the Constitution Exempt LGA 1972 Sch. 12A para 3 – relates to business affairs of the Council

To sell the two plots of land on the access road to rear of 61/71 Queensmead and Kingsmead Shopping Centre Farnborough shown edged and hatched red on the attached plan to St Modwen's for £40,000 and to grant a right of way for all purposes over the land edged and hatched green on the plan.

The sale seeks to regularise the current public use of this access way. The land is not adopted as public highway and the delay in achieving adoption is likely to prejudice the disposal of land at Queensmead. The council as landlord of Kingsmead shopping centre will give consent to St Modwens granting public highway rights over these areas to ensure public access is maintained. St Modwens or their successor in title will be responsible for the management of these areas.

The council's surveyor is content that the transfer price represents best value for the council

Reason for Urgency

To enable the sale of land at Queensmead to proceed.

DATE DECISION TAKEN

17th February 2016

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

(Those examined by officers and generated by consultation, etc)

Not to sell the land- this would create problems for St Modwens in selling disposing of their interest in Queensmead and could affect their ability to proceed with phase 3 of the redevelopment of the kingsmead shopping centre

ANY CONFLICTS OF INTERESTS DECLARED

(conflict of interests of any executive member who is consulted by the officer which relates to the decision. A note of dispensation should be attached).

None

Signed _____

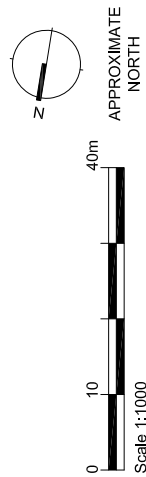
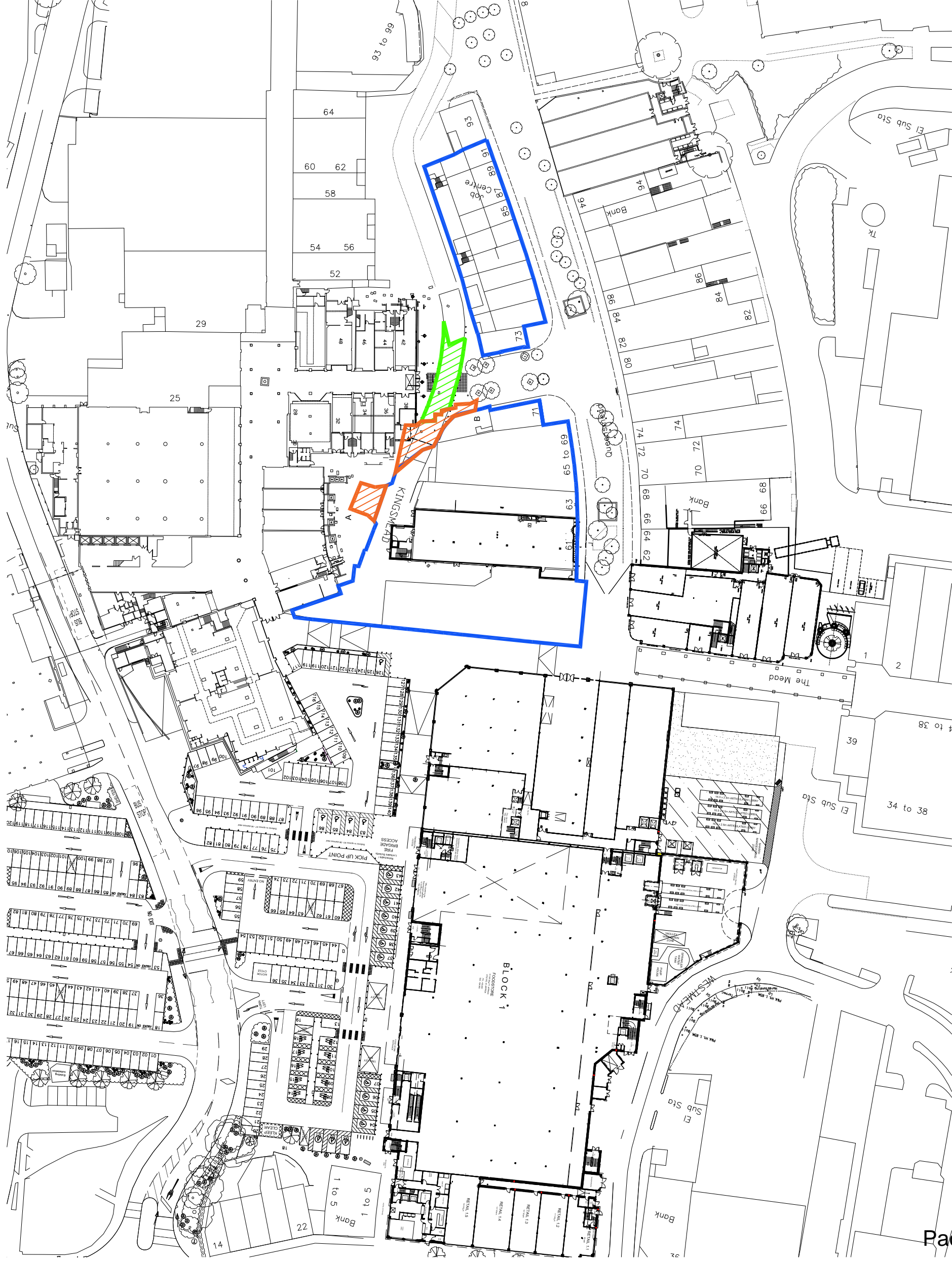
(Decision Maker)

Signed _____

(Cabinet Member Consultee where applicable)

Designation: Cabinet Member for Corporate Services

Please send completed form to Chris Todd, Democratic and Customer Services



NOTE: All figures are approximate and have been measured and expressed in a manner as defined by the current edition of the RICS/SIVA Code of Measuring Practice. Figures relate to the current stage of the project and any development decisions to be made on the basis of this information should include due allowance for the increases and decreases inherent in the design and building processes. Reproduced from Ordnance Survey mapping under Licence Numbers AR152376 & 100020449

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**RUSHMOOR BOROUGH COUNCIL
RECORD OF EXECUTIVE DECISION**



Decision taken by individual Cabinet Member/Officer (delete as appropriate)

(All sections must be completed (mark "N/A" as applicable))

DECISION MAKER *(Name and designation)*

Andrew Lloyd Chief Executive

DECISION AND THE REASON(S) FOR IT

URGENCY DECISION PURSUANT TO paragraph 3(6) of Part 3 (Responsibility for Functions) of the Constitution

exempt decision (under the Local Government Act 1972 Schedule 12A Para 3

Decision

To dispose of the freehold of land and buildings on the north west side of Westmead, Farnborough and 8 and 9 Solartron Road (title number HP699483) for £500,000 subject to the payment of the councils reasonable legal costs

Reason

In May 2014 cabinet agreed (with the receiver of the Nationwide Building Society) to accept a surrender of the 2 long leases on this land and to acquire the freehold of Pyramid House making the council the freehold owner of the entire site. The council was then to grant a 150 year lease of the site to a holding company to enable the development of the whole site. The council was to receive a ground rent of £1000 for the first 10 years of the new lease and thereafter the higher of the sum of £35,000 or 2.5% of the rent received.

Subsequent to this, the debt was sold, and in December 2015 the same receiver was appointed to act for the new owner of the debt. The new owner of the debt has secured a development partner who intends to implement planning permission 14/00016/FUL for the erection of two retail warehouse buildings, to be subdivided into up to five units.

During the course of discussion on the terms of the lease a difficulty arose as to whether it was appropriate for the rent to be an index-linked figure over the 150 year term, with the receiver resisting this and the council being keen to ensure that the £35,000 did not depreciate in value. The receiver, in an effort to find a compromise then offered the council the below alternative options:-

1. Proceed with the terms already agreed i.e. the higher of 2.50% of net income or £35,000 per annum Base Rent
OR
2. An RPI/CPI index-linked (upwards and downwards) Base Rent of £35,000 per annum

OR

3. 2.50% of the net income plus an RPI/CPI index linked Base Rent of £1,000 per annum

OR

4. Purchase of the Councils freehold reversionary interests at £500,000 (based on £35,000 per annum at 6.5% yield less acquisition costs).

Given that

- for a period of 10 years from the date of occupation the rental receipt will only be £1,000 with the increased rental being 10 years or more away ;and
- that there is to be the new freedom for the council to spend capital receipts from asset sales to fund services, provided they are applied to the revenue costs of reform projects,

Option 4, being the sale of the council's reversionary interest, is the best decision for the council at this point in time. Option 4 is also the best value for the freehold sale of the land

Reason for urgency

The receiver has a need to conclude the deal with the development partner and failure to achieve this in a timely manner could jeopardise the deal with the development partner proceeding. This would extend the risk of the site remaining vacant and derelict to the detriment of the borough whilst a further development partner is sought.

DATE DECISION TAKEN

17th February 2016

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

(Those examined by officers and generated by consultation, etc)

Options 1- 3 above.

Option 1 does not protect the value of the rental income

Option 2 provides for an indexed linked rent on £35,000 but without any share in the rental income from the development

Option 3 represents a risk depending on the level of income achieved from the lettings with £1.5M rental needing to be generated for the council to receive 2.5% of the net rental income.

ANY CONFLICTS OF INTERESTS DECLARED

(conflict of interests of any executive member who is consulted by the officer which relates to the decision. A note of dispensation should be attached).

None

Signed _____

(Decision Maker)

Signed _____

(Cabinet Member Consultee where applicable)

Designation: Cabinet Member for Corporate Services

Please send completed form to Chris Todd, Democratic and Customer Services

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