



NORTHAMPTON
BOROUGH COUNCIL

CABINET AGENDA

Wednesday, 17 January 2018

The Jeffrey Room, St. Giles Square, Northampton,
NN1 1DE.

6:00 pm

Members of the Cabinet:

Councillor: Jonathan Nunn (Leader of the Council)

Councillor: Phil Larratt (Deputy Leader)

Councillors: Mike Hallam, Tim Hadland, Stephen Hibbert, Brandon Eldred and Anna King.

Interim Chief Executive

Simon Bovey

If you have any enquiries about this agenda please contact
democraticservices@northampton.gov.uk or 01604 837722

PORTFOLIOS OF CABINET MEMBERS

| CABINET MEMBER | TITLE |
|----------------------|---------------------------------------|
| Councillor J Nunn | Leader |
| Councillor P Larratt | Deputy Leader |
| Councillor M Hallam | Environment |
| Councillor B Eldred | Finance |
| Councillor T Hadland | Regeneration, Enterprise and Planning |
| Councillor S Hibbert | Housing and Wellbeing |
| Councillor A King | Community Engagement and Safety |

SPEAKING AT CABINET MEETINGS

Persons (other than Members) wishing to address Cabinet must register their intention to do so by 12 noon on the day of the meeting and may speak on any item on that meeting's agenda.

Registration can be by:

Telephone: (01604) 837722
(Fax 01604 838729)


In writing: Democratic Services Manager
The Guildhall, St Giles Square, Northampton NN1 1DE
For the attention of the Democratic Services Officer

By e-mail to democraticservices@northampton.gov.uk

Only thirty minutes in total will be allowed for addresses, so that if speakers each take three minutes no more than ten speakers will be heard. Each speaker will be allowed to speak for a maximum of three minutes at each meeting. Speakers will normally be heard in the order in which they registered to speak. However, the Chair of Cabinet may decide to depart from that order in the interest of hearing a greater diversity of views on an item, or hearing views on a greater number of items. The Chair of Cabinet may also decide to allow a greater number of addresses and a greater time slot subject still to the maximum three minutes per address for such addresses for items of special public interest.

Members who wish to address Cabinet shall notify the Chair prior to the commencement of the meeting and may speak on any item on that meeting's agenda. A maximum of thirty minutes in total will be allowed for addresses by Members unless the Chair exercises discretion to allow longer. The time these addresses take will not count towards the thirty minute period referred to above so as to prejudice any other persons who have registered their wish to speak.

KEY DECISIONS

 denotes the issue is a 'Key' decision:

- Any decision in relation to the Executive function* which results in the Council incurring expenditure which is, or the making of saving which are significant having regard to the Council's budget for the service or function to which the decision relates. For these purpose the minimum financial threshold will be £250,000;
- Where decisions are not likely to involve significant expenditure or savings but nevertheless are likely to be significant in terms of their effects on communities in two or more wards or electoral divisions; and
- For the purpose of interpretation a decision, which is ancillary or incidental to a Key decision, which had been previously taken by or on behalf of the Council shall not of itself be further deemed to be significant for the purpose of the definition.

NORTHAMPTON BOROUGH COUNCIL

CABINET

Your attendance is requested at a meeting to be held:
in The Jeffrey Room, St. Giles Square, Northampton, NN1 1DE.

on Wednesday, 17 January 2018

at 6:00 pm.

S Bovey
Interim Chief Executive

AGENDA

- 1. APOLOGIES**
- 2. MINUTES**
- 3. INTENTION TO HOLD PART OF THE MEETING IN PRIVATE IF NECESSARY**
- 4. DEPUTATIONS/PUBLIC ADDRESSES**
- 5. DECLARATIONS OF INTEREST**
- 6. ISSUES ARISING FROM OVERVIEW AND SCRUTINY COMMITTEES**

None


- 7. USE OF CIVIL PENALTIES TO FUND THE EXPANSION OF THE HOUSING ENFORCEMENT TEAM**

 Report of the Chief Executive (Copy herewith)

- 8. NON-IMMEDIATE ARTICLE 4 DIRECTIONS - HOUSES IN MULTIPLE OCCUPATION (HMO) IN FAR COTTON/ DELAPRE AND CLIFTONVILLE**

 Report of the Head of Planning (Copy herewith)

- 9. ENVIRONMENTAL SERVICES RE-PROVISION**

 Report of the Director of Customer and Communities (Copy herewith)

- 10. ST JAMES MILL LINK ROAD**

 Report of the Chief Executive (Copy herewith)

- 11. FINANCE MONITORING - PERIOD 8 2017/18**

 Report of the Chief Executive (Copy herewith)

- 12. EXCLUSION OF PUBLIC AND PRESS**

THE CHAIR TO MOVE:

“THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT.”

NORTHAMPTON BOROUGH COUNCIL

CABINET

Wednesday, 20 December 2017

PRESENT: Councillor Nunn (Chair); Councillor Larratt (Deputy Chair); Councillors Eldred, Hallam, Hibbert and King

1. APOLOGIES

Apologies were received from Councillor Hadland.

2. MINUTES

The minutes of the meeting held on the 6th December 2017 were agreed and signed by the Leader.

3. INTENTION TO HOLD PART OF THE MEETING IN PRIVATE

There were no items to be heard in private.

4. DEPUTATIONS/PUBLIC ADDRESSES

Mr Brian Hoare addressed Cabinet in respect of Item 8 – Draft General Fund Medium Term Financial Plan 2018/19 – 2022/23 and Draft Budget 2018/19 and referred to Appendix 6 and the special expenses. He commented that he did not consider there to be enough information contained within the appendix and questioned whether there would be an increase in special expenses. He reported that last year, his Council Tax had increased by 4% and the added increase incurred with special expenses equated to an unlawful increase. He noted that it appeared that these views were supported by the Department Communities and Local Government (DCLG). He further commented that he believed there to have been a lack of meaningful consultation on special expenses.

5. DECLARATIONS OF INTEREST

There were none.

6. ISSUES ARISING FROM OVERVIEW AND SCRUTINY COMMITTEES

There were none.

7. COUNCIL TAX BASE 2018- 2019

Councillor Beardsworth addressed Cabinet and thanked them for the proposal to reduce staff hours from 40 to 37 hours a week but raised concerns about the proposed increased car-parking charges for staff and questioned how this would affect the lowest paid staff.

Councillor Stone commented that the Government had just confirmed that Council Tax could be increased by 6% but questioned whether or not it was fair and right to do so. She recognised that there was a need for residents to collectively pay for services but noted her concern about the wage freeze and benefit sanctions that may affect individuals and questioned whether increased Council Tax would lead to an increase in poverty and how this would affect children.

Councillor Eldred, as the relevant Cabinet Member, submitted his report and explained that there would be an increase of £5 per year for Band D properties and explained that Borough Councils could only increase Council Tax by up to 3% and not 6%. He commented that they had frozen the Council Tax Reduction Scheme (CTS) and noted claims of CTRS had

decreased which demonstrated that there were fewer people in need of it. Councillor Eldred noted that the figures for the special expenses had been calculated and checked and that the information that was contained was open and transparent.

The Interim Chief Executive explained that Government announcements would need to be looked at for clarification.

RESOLVED:

1. That it be recommended to Council to approve the tax base for 2018/19 at 66,873.95 Band D equivalent properties and associated parish tax bases within this report.

| | 2017/18 | 2018/19 | Change |
|---|------------------|------------------|-----------------|
| Billing | 2,678.57 | 2,761.23 | 82.66 |
| Collingtree | 513.75 | 522.77 | 9.02 |
| Duston | 5,471.83 | 5,521.83 | 50.00 |
| Great Houghton | 288.21 | 290.30 | 2.10 |
| Hardingstone | 795.44 | 804.99 | 9.55 |
| Upton | 2,993.14 | 3,015.72 | 22.59 |
| Wootton, Wootton Fields & Simpson Manor | 2,940.72 | 2,958.24 | 17.51 |
| East Hunsbury | 3,408.98 | 3,462.75 | 53.77 |
| West Hunsbury | 1,645.76 | 1,650.38 | 4.61 |
| Hunsbury Meadow | 501.41 | 505.45 | 4.05 |
| Northampton (Unparished) | 44,471.48 | 45,380.28 | 908.81 |
| Total tax base | 65,709.29 | 66,873.95 | 1,164.66 |

2. That authority be delegated to the Section 151 Officer in consultation with the Cabinet Member for Finance to make any technical adjustments necessary arising out of the Local Government draft settlement which impacts on the tax base, and to confirm, and inform the relevant authorities, the estimated surplus/deficit on the Collection Fund and how much would be attributable to each council, including NBC, after the statutory date of the 15th January 2018.

8. DRAFT GENERAL FUND MEDIUM TERM FINANCIAL PLAN 2018/19 - 2022/23 AND DRAFT BUDGET 2018/19

Councillor Beardsworth questioned whether there was a business case for Vulcan Works and Horizon House. She commented special expenses had been introduced by Labour and reported that whilst it generated income for the Council, there was a need for fairness to be across the board. He commented that she appreciated the decrease in staff hours but increasing carpark charges hit not only staff but also adding expense to customers and residents using the Town Centre facilities.

Councillor B Markham commented that the proposed increase in Council Tax was as a result of recent Council Tax freezes and noted that the surge was partly due to the new Environmental Services contract, which would require extra funding in comparison to the current one. He stated that residents would feel a difference, especially during the time of economic uncertainty and further suggested that the financial problems experienced at the County Council were as a consequence of Conservative policies.

Councillor Stone expressed her gratitude at the detailed work that had been undertaken as part of the draft budget process. She expressed some concern with regards to value for

money and commented that there were efficiency savings and service cuts but that there was currently severe capacity issues and suggested that the administration needed to display a more entrepreneurial and bold approach in identifying areas to generate capital.

Councillor Birch commented that people were already suffering financial hardship and that community groups would lose out as a result of the proposed reduction in Community funding. She stated that the Community Groups had been providing a value for money service to valuable, and sometimes vulnerable, groups and that cuts to funding could lead to problems such as isolation and loneliness.

Councillor Haque commented that the administration should be working alongside the market traders more and that they should be giving them help rather than penalising them through proposed charges for Market rubbish collection and suggested that some traders would feel compelled to leave especially as their business could also be negatively affected by a potential decrease in footfall due to increased parking costs in some car parks and asked that consultation be carried out.

Councillor Nunn commented that the markets traders were not obliged to use the market rubbish collection service and noted that it was for traders who did not currently pay for commercial waste.

Councillor Larratt explained that the Conservative administration had worked with the market traders, specifically freezing their rents for 6 years when many other market holders in neighbouring boroughs had seen annual increase of 3%.

Councillor Eldred, as the relevant Cabinet Member, submitted a report and elaborated thereon. In response to questions asked he confirmed that they were not cutting funding and that the CEFAP would receive £1 million and money would continue to be invested in community groups. He further reported that the Vulcan Works business case was presented to Cabinet on the 6th December 2017. Councillor Eldred explained that the administration was looking at investment opportunities that would help to bridge the 5 year gap and noted that it was hoped that a £5 increase to a Band D property would not be noticed too much. He further noted that the new environmental services contract had to be paid for and that it would be of benefit to everyone and noted that there were few places where people could park for £2 per day in a public car park.

Councillor Eldred explained that the proposed Capital Programme included £1.4 million on Disabled Facilities Grants, Central Museum development, St James Mill Link Road and Leisure Centre improvements.

Councillor Larratt stated that he endorsed the comments made by Councillor Eldred and noted that he considered it to be a good proposed budget. He further commented that he would like to see the transfer of freehold land to parish councils as much as possible. He further stated that value for money was still being provided for parking but that people had abused the system and a simple charge of £2 per day would help to reduce the levels of abuse.

RESOLVED:

- 2.1 That the draft General Fund Revenue budget 2018/19, as summarised in Appendix 1 of the report for public consultation be approved.
- 2.2 That the proposed growth and savings options set out in Appendix 2 of the report for public consultation be approved.
- 2.3 That the proposed Council Tax increase for 2018/19 of £5 a year per Band D

property for public consultation be approved.

- 2.4 That the draft General Fund Capital Programme and Financing 2018/19 to 2022/23, as detailed in Appendix 4 of the report, for public consultation be approved.
- 2.5 That the proposed set aside of £10m of corporate earmarked reserves to fund Environmental Services vehicle provision be approved.
- 2.6 That the draft Capital Strategy as set out in Appendix 3 of the report, for consultation be approved.
- 2.7 That the draft Treasury Management Strategy for consultation be approved.

9. HOUSING REVENUE ACCOUNT (HRA) BUDGET, RENT SETTING - 2018/19 AND BUDGET PROJECTIONS 2019/20 TO 2022/23

Councillor Beardsworth addressed Cabinet and commented she was deeply concerned that the number of people in temporary accommodation over the Christmas period in the Borough alone was 369 and stated. She commented that the rate in which Council houses were being sold off as part of the 'Right to Buy' scheme in comparison with new build Council houses was not acceptable.

Councillor Nunn commented that he was sympathetic to her comments and reported that there were a few proposals relating to housing that would become more visible in the New Year.

Councillor B Markham noted that Horizon House would be very beneficial for Northampton Partnership Homes (NPH) and commented that there was a real need for secure places for those who were in temporary accommodation.

Councillor Eldred, as the relevant Cabinet Member, submitted his report and noted that it was undesirable for children to be housed in temporary accommodation and ongoing efforts were being made to reduce the numbers and progress had been made with to address the issue with NPH. He stated that the administration were committed to building 1000 new council homes over the next 10 years which would go some way in alleviating temporary accommodation. He further commented that the proposed budget included the reduction in rent for Council dwellings by 1% for the third consecutive year.

Councillor Hibbert, as the Cabinet Member for Housing, stated that recognised the hard work and progress made between NOP and the finance team in putting forward a very good capital programme.

Councillor Nunn thanked senior officers and Cabinet Members for their hard work during the difficult financial period.

RESOLVED:

1. That the draft Housing Revenue Account (HRA) budget including charges and rents as detailed in Appendices 1 and 4 of the report for public consultation be approved.
2. That the draft HRA Capital Programme and financing, as detailed in Appendix 2 of the report, for public consultation be approved.
3. That the draft Total Fees proposed for NPH to deliver the services in scope be noted.

The meeting concluded at 6.56pm

Appendices

1



NORTHAMPTON
BOROUGH COUNCIL

CABINET

Report Title

Use of civil penalties to fund the expansion of the Housing Enforcement Team

REPORT

AGENDA STATUS:

PUBLIC

| | |
|------------------------------------|----------------------------|
| Cabinet Meeting Date: | 17 January 2018 |
| Key Decision: | Yes |
| Within Policy: | Yes |
| Policy Document: | No |
| Directorate: | Chief Executive's |
| Accountable Cabinet Member: | Councillor Stephen Hibbert |
| Ward(s) | All |

1. Purpose

- 1.1** On 19 July 2017, Cabinet approved a Private Sector Housing Civil Penalties Policy that sets out how the Council will use the new powers it has been given (under the Housing and Planning Act 2016) to impose civil penalties of up to £30,000 per offence on individuals and organisations as an alternative to prosecution.
- 1.2** The purpose of this report is to ask Cabinet to consider and approve the Business Case for using the income that the Council expects to receive from civil penalties to fund the expansion of the Housing Enforcement Team.

2. Recommendations

- 2.1** It is **recommended** that Cabinet:
- (a) Approves the Business Case for using the income received from civil penalties to fund the expansion of the Housing Enforcement

Team (attached to this report as Appendix A);

- (b) Approves the expansion of the Housing Enforcement Team to include an additional 8 Officers (a Housing Enforcement Manager, a Tenancy Relations Officer, 4 Environmental Health Officers and 2 Intelligence Officers) as described in Option 2; and
- (c) Delegates to the Chief Executive, in consultation with the Chief Finance Officer and the Cabinet Members for Finance and Housing & Wellbeing, the authority to expand the Housing Enforcement Team by an additional 5 Officers (4 Environmental Health Officers and an Intelligence Officer), described in Option 4, subject to due diligence and the production of an updated Business Case.

3. Issues and Choices

3.1 Report Background

- 3.1.1 Northampton's private rented sector is thriving and, more than ever before, the demand for private rented accommodation is outstripping supply.
- 3.1.2 This high demand, together with the considerable profits that can be made from houses in multiple occupation (HMOs), has encouraged criminal, rogue and irresponsible landlords to flout the law and knowingly rent out accommodation that is overcrowded, in a poor state of repair, unsafe and/or unlicensed.
- 3.1.3 In common with other parts of the country, Northampton's private rented sector is being used to support criminal activity – such as money laundering, people trafficking, sexual exploitation and modern slavery – and this demands a robust, co-ordinated, intelligence-led response from the Council, the Police and other agencies.

Housing and Planning Act 2016

- 3.1.4 The Government has pledged to crack down on rogue landlords and has introduced a number of measures, under the Housing and Planning Act 2016, to help local authorities deal more robustly with offenders. These measures include:
 - **Civil penalties of up to £30,000** as an alternative to prosecution for certain offences, including failure to comply with an Improvement Notice or Overcrowding Notice, failure to licence a licensable HMO and failure to comply with the HMO Management Regulations;
 - **Extension of rent repayment orders** to cover illegal eviction, breach of a banning order, failure to comply with an Improvement Notice and certain other specified offences;
 - **Database of rogue landlords and property agents** who have been convicted of certain offences or received multiple civil penalties; and
 - **Banning orders** for the most serious and prolific offenders.

- 3.1.5 Although the maximum civil penalty that can be imposed per offence is £30,000, it is for the Council to determine the level of civil penalty.
- 3.1.6 The Government has made it clear that local housing authorities must always consider a rent repayment order after a civil penalty has been successfully imposed.
- 3.1.7 Rent repayment orders – made by the First Tier Tribunal and requiring a landlord to repay up to 12 months’ rent – can be granted to the tenant or the local housing authority. If the tenant paid the rent themselves, the rent must be repaid to the tenant. If the rent was paid through Housing Benefit or the housing element of Universal Credit, it must be repaid to the local housing authority.
- 3.1.8 Although local housing authorities are permitted to retain all of the income that they receive from civil penalties and rent repayment orders, they must pay to the Government any of the income that they fail to invest in private sector housing enforcement or services that support the private rented sector, such as a social lettings agency, rental deposit scheme or dedicated tenancy relations service.

Northampton’s intelligence-led approach

- 3.1.9 The same criminal standard of proof is required for a civil penalty as is required for a prosecution. This means that, before taking formal action, the Council must satisfy itself that, if the case was prosecuted in the magistrates’ court, there would be a realistic prospect of conviction.
- 3.1.10 To achieve a conviction in the magistrates’ court, the Council must be able to demonstrate beyond reasonable doubt that the offence has been committed. The same principle applies to civil penalties.
- 3.1.11 Northampton’s intelligence-led, targeted approach to housing enforcement – together with its expectation that all members of its Housing Enforcement Team will study for the Advanced Professional Certificate in Investigative Practice – means that the Council is well placed to competently detect and investigate possible offences and, where appropriate, to impose a civil penalty as an alternative to prosecution.
- 3.1.12 The Housing Enforcement Team’s collection and analysis of intelligence about the ownership, management, control and use of privately owned sites and buildings has enabled it to build up an accurate and comprehensive intelligence picture that identifies licensable HMOs operating without a licence, supports enforcement activity and provides evidence in support of criminal prosecutions and civil penalties.

Creating a level playing field for businesses

- 3.1.13 The Council’s ‘offender pays’ approach to housing enforcement – reflected in its Private Sector Housing Enforcement Policy and Fees & Charges Policy which encourage and reward good and responsible behaviour and impose penalties and sanctions for bad and irresponsible behaviour – is based on the principle that it should be the offender who pays for enforcement and that no-one who breaks the law should gain a financial advantage over someone who complies with it.
- 3.1.14 This approach addresses the needs of good and responsible landlords and managing agents who have asked the Council to create a level playing field by making it a lot more difficult for bad landlords to undercut them by breaking the law.

- 3.1.15 HMO licensing places an obligation on the owner or manager to notify the Council of the existence of a licensable HMO and affords the Council the opportunity to ensure that the HMO is managed by a 'fit and proper person', it is not overcrowded, its amenities are adequate for the number of occupants and it is safe and being managed in a manner that complies with the HMO Management Regulations.
- 3.1.16 As explained in the Business Case (see **Appendix A**), the Housing Enforcement Team's collection and analysis of intelligence has identified at least 492 properties that it knows or suspects are licensable HMOs and operating without a licence.

The purpose of the Business Case

- 3.1.17 The purpose of the Business Case is to explain how the Housing Enforcement Team is operating at the moment, why it needs to concentrate on the properties that pose the greatest risk and/or are owned or managed by the worst offenders, and why it is only able to make a limited impact on the behaviour and number of landlords and managing agents who are letting out substandard, unsafe and/or unlicensed homes.
- 3.1.18 As well as describing the benefits of increasing the size and capacity of the Housing Enforcement Team – in terms of improving standards in the private rented sector, dramatically reducing the number of licensable HMOs that are operating without a licence, and minimising the net cost of providing the housing enforcement service and social lettings agency – the Business Case also considers the uncertainties and risks associated with this approach.

3.2 Issues

- 3.2.1 The measures that the Government has introduced to tackle rogue landlords are well suited to the intelligence-led, 'offender pays' approach that the Council has introduced and championed during the last couple of years.
- 3.2.2 However, as the new powers given to local authorities are largely untested, it is essential that a realistic estimate is made of the amount of income that the Council might generate from civil penalties and rent repayment orders.

Assumptions made within the Business Case

- 3.2.3 It is difficult to estimate the amount of money that the Council is likely to generate in civil penalties, rent repayment orders and extra HMO licensing fees if the size of the Housing Enforcement Team is increased.
- 3.2.4 This is because there are so many variables, including the behaviour of landlords and managing agents, the judgments made by the First Tier Tribunals and, in the case of rent repayment orders, how the rent was paid.
- 3.2.5 The Business Case makes a series of assumptions about, for example, the number of civil penalties that each Officer may have the capacity to impose in a year, how many of those penalties are likely to be successful and what proportion of the civil penalty income is likely to be collected. All of these assumptions are designed to ensure that a prudent estimate is made of the income that may be generated.
- 3.2.6 Although the financial modelling in the Business Case assumes that the number of civil penalties that are imposed – and the amount of civil penalty income that is collected – will remain constant during the first 3 years, it is anticipated that the need

for housing enforcement action will reduce in the longer term, as landlords and managing agents become more compliant, especially with their licensing obligations.

- 3.2.7 The Business Case includes assumptions about the extra income that could be generated from rent repayment orders and HMO licensing fees as a consequence of the increased enforcement activity and landlords' behaviour change. These figures, however, have been deliberately omitted from the calculation of the annual income that the Housing Enforcement Team is expected to generate.
- 3.2.8 Similarly, the average size of the civil penalties quoted in the Business Case (categorised as 'complex', 'standard' and 'low-cost') are probably much lower than the average size of the civil penalties that will actually be imposed by the Housing Enforcement Team in accordance with the Council's Civil Penalties Policy.
- 3.2.9 Generally, the maximum civil penalties will be reserved for the worst offenders. The actual amount levied in any particular case will reflect the severity of the offence, take into account the landlord's previous record of offending and ensure that the penalty imposed removes any financial benefit gained from committing the offence.
- 3.2.10 This is because a civil penalty of up to £30,000 per offence can be imposed and, in some instances (especially those involving HMOs), there may be multiple offences and/or a civil penalty will be imposed on both the owner and the managing agent.

The size of the existing Housing Enforcement Team

- 3.2.11 The existing team comprises a part-time Senior Housing Standards Officer, three Housing Standards Officers and a Business Support Officer.
- 3.2.12 In order to increase management capacity and provide the team with the necessary expertise to prosecute offenders and improve the licensing arrangements for HMOs, a full-time Senior Housing Standards Officer was recruited on an agency basis to stabilise the situation and develop the team.
- 3.2.13 Additional support has also been provided, on a temporary agency basis, to support the processing of HMO licences. Some of this additional capacity has been used to collect and analyse intelligence and data for the team.

Increasing the capacity of the Housing Enforcement Team

- 3.2.14 It is a criminal offence if a person controlling or managing an HMO does not have the required licence or fails to comply with any condition attached to a licence.
- 3.2.15 Although there are currently 883 licensed HMOs in Northampton, the Housing Enforcement Team has identified another 492 properties that it knows or suspects are licensable HMOs and operating without an HMO licence.
- 3.2.16 The scale and nature of landlords' non-compliance with the law – especially in relation to HMO licensing and the HMO Management Regulations – is stark but not surprising. It reflects their confidence in avoiding prosecution.
- 3.2.17 For things to change, the Housing Enforcement Team needs to have the capacity to deliver a large-scale programme of investigations, interventions and enforcement. It is hoped that, as well as maximising the number of landlords and managing agents who are prosecuted or receive a civil penalty and/or rent repayment order, this will

encourage positive and sustained change in the behaviour of landlords and agents.

The structure of the Housing Enforcement Team

3.2.18 Although the Business Case demonstrates that the income received from civil penalties will be sufficient to fund an increase in the size of the Housing Enforcement Team, the structure of the team and the roles within it must be carefully considered:

- Unless the team contains enough Environmental Health Officers to make a significant impact on the higher risk, most problematic private rented accommodation, it is difficult to justify dedicating one or more of those Officers to tackling the large number of offenders who are operating a licensable HMO without a licence.
- Northampton's intelligence-led approach to tackling criminal, rogue and irresponsible landlords is reliant on the Council employing the required number of Intelligence Officers. Each Intelligence Officer has the capacity to support up to 4 full-time Housing Enforcement Officers (including the Tenancy Relations Officer) by providing them with comprehensive intelligence reports on premises, land, individuals and businesses.
- Although the Tenancy Relations Officer will spend a substantial amount of their time encouraging and supporting applications for rent repayment orders, s/he will also investigate allegations of retaliatory eviction, harassment and illegal eviction, provide evidence in support of criminal prosecutions and intervene to prevent homelessness.
- Any significant increase in the size of the team will require close and effective working between the Housing Enforcement Manager and the Private Sector Housing Manager who will need to share responsibility for managing, supporting and appraising the Officers.

3.3 Choices (Options)

3.3.1 The Business Case considers a series of Options, ranging from doing nothing to increasing the size of the Housing Enforcement Team by 15 Officers.

3.3.2 As the Housing Enforcement Team will require a Manager and a Tenancy Relations Officer, the main difference between the options is the number of Environmental Health Officers and Intelligence Officers that will be employed.

Doing nothing

3.3.3 Doing nothing is not recommended because it would result in either the functions of the full-time Senior Housing Standards Officer and the Intelligence Officer continuing to be undertaken by temporary, agency staff or the departure of the full-time Senior Housing Standards Officer and the Intelligence Officer. If the Council chooses to cover the roles with temporary, agency staff, this will have cost implications. If the Council chooses to reduce the size of the team, the smaller team (comprising a part-time Senior Housing Standards Officer, 3 Housing Standards Officers and a Business Support Officer) will only have sufficient capacity to manage HMO licensing, respond to housing complaints and prosecute or impose a civil penalty in a relatively small number of cases.

- 3.3.4 Expansion of the Housing Enforcement Team will enable the Council to increase its housing enforcement activity and use of civil penalties and rent repayment orders. It will also speed up the improvement of housing standards in Northampton's private rented sector and act as a bigger deterrent for those landlords and managing agents who knowingly rent out substandard, unlicensed unsafe and overcrowded housing.

Expansion of the Housing Enforcement Team

- 3.3.5 As explained in the Business Case, it is recommended that the Housing Enforcement Team is expanded to include an extra 13 staff (a Housing Enforcement Manager, 8 Environmental Health Officers, 3 Intelligence Officers and a Tenancy Relations Officer) but careful consideration is given to how quickly this should happen.
- 3.3.6 If the Council decides that fewer Officers should be appointed than the number proposed in the Business Case – at least initially – this will reduce the risk involved in the Council taking on additional staffing costs before it knows exactly how much extra income the additional Officers will be able to generate.
- 3.3.7 If the Council decides that more Environmental Health Officers should be appointed than the number proposed in the Business Case, it may prove very difficult to recruit the number of Officers approved.

Option 1

- 3.3.8 The Council could decide to simply replicate what is in place at the moment, but recruit a Housing Enforcement Manager and Intelligence Officer to avoid the need to employ those Officers on a temporary, agency basis.
- 3.3.9 If the Council chooses Option 1, the Housing Enforcement Team will continue to take as much enforcement action as possible but will struggle to make an impact on the standards in the private rented sector and the high number of licensable HMOs operating in Northampton without a licence. As a Tenancy Relations Officer would not be recruited, it will be unable to maximise the use of rent repayment orders.
- 3.3.10 A team of this size would only have the capacity to impose **around 60 civil penalties a year**. This is 165 less than the number of civil penalties that could be imposed by the size of team (Option 4) recommended in the Business Case.
- 3.3.11 Option 1 would benefit the Council financially because, even without any real increase in the size of the team, a Housing Enforcement Team of this size would generate a significant income from civil penalties and rent repayment orders that can be used to offset some of the operating costs of the team.
- 3.3.12 If Option 1 is chosen, this will result in an increase of approximately £113,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £240,000 per annum) could cover approximately 84% of the total annual operating costs during that period. The average annual deficit would be approximately £43,000, and this deficit will be covered from the existing Housing Enforcement budget.

Option 2

- 3.3.13 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 4 additional Environmental Health Officers

and 2 Intelligence Officers.

- 3.3.14 If this happens, the Housing Enforcement Team would have the capacity to impose **around 120 civil penalties a year**. This is 60 more than the number of civil penalties that could be imposed by the existing Enforcement Team (Option 1), but 105 less than the number that could be imposed by the size of team (Option 4) recommended in the Business Case.
- 3.3.15 If Option 2 is chosen, this will result in an increase of approximately £384,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £480,000 per annum) could cover approximately 82% of the total annual operating costs during that period. The average annual deficit would be approximately £99,000 and this deficit will be covered from the existing Housing Enforcement budget.

Option 3

- 3.3.16 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 6 additional Environmental Health Officers and 2 Intelligence Officers.
- 3.3.17 If this happens, the Housing Enforcement Team would have the capacity to impose **around 160 civil penalties a year**. This is 100 more than the number of civil penalties that could be imposed by the existing team (Option 1), but 85 less than the number that could be imposed by the size of team (Option 4) recommended in the Business Case.
- 3.3.18 If Option 3 is chosen, this will result in an increase of approximately £478,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £645,000 per annum) could cover approximately 99% of the total annual operating costs during that period. The average annual deficit would be approximately £5,000 and this deficit will be covered from the existing Housing Enforcement budget.

Option 4

- 3.3.19 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 8 additional Environmental Health Officers and 3 additional Intelligence Officers.
- 3.3.20 If this happens, the Housing Enforcement Team would have the capacity to impose **around 225 civil penalties a year**. This is 165 more than the number of civil penalties that could be imposed by the existing Enforcement Team (Option 1).
- 3.3.21 If Option 4 is chosen, this will result in an increase of approximately £628,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £795,000 per annum) could cover almost 100% of the total annual operating costs during that period. The average annual deficit would be approximately £1,000 and this deficit will be covered from the existing Housing Enforcement budget.

Option 5

- 3.3.22 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 10 additional Environmental Health Officers and 4 Intelligence Officers.
- 3.3.23 If this happens, the Housing Enforcement Team would have the capacity to impose **around 290 civil penalties a year**. This is 230 more than the number of civil penalties that can be imposed by the existing Housing Enforcement Team (Option 1), and 65 more than the number that could be imposed by the team (Option 4) recommended in this Business Case.
- 3.3.24 If Option 5 is chosen, this will result in an increase of approximately £750,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £952,000 per annum) could cover 100% of the total annual operating costs during that period. The annual surplus would be approximately £34,000.

Preferred Options

- 3.3.25 Although careful consideration needs to be given to the pace at which the Housing Enforcement Team is expanded, Option 4 is the preferred option because it will:
- Provide the Housing Enforcement Team with the extra capacity it requires to undertake the amount of enforcement action needed in the borough, reduce the number of licensable HMOs that are operating without a licence, and speed up the improvement of housing standards in the private rented sector
 - Assist the re-organisation of the Private Sector Housing Team and the creation of a dedicated Housing Enforcement Team that is made up of specialist investigators and is financed, in the main, from the income received from civil penalties
 - Fund a Tenancy Relations Officer who will investigate complaints of retaliatory eviction, harassment and illegal eviction, prevent homelessness and help tenants to apply for rent repayment orders
 - Demonstrate the Council's commitment to identifying and punishing offenders (especially those who are operating a licensable HMO without a licence) and charging offenders for enforcement
 - Challenge the complacency of landlords and managing agents who are letting out substandard, unlicensed, unsafe and overcrowded housing and are confident they will always avoid prosecution
 - Effect behaviour change, and nurture a culture of compliance, among landlords and managing agents operating in Northampton
- 3.3.26 In order to mitigate some of the financial risks involved in committing to the expansion of the Housing Enforcement Team described in Option 4 before it is known exactly how much extra income the bigger team will be able to generate in

civil penalties, rent repayment orders and HMO licensing fees, it is recommended that the Council expands the Housing Enforcement Team in two phases:

- During the first phase, the Housing Enforcement Team will appoint a Manager, a Tenancy Relations Officer, 4 additional Environmental Health Officers and 2 Intelligence Officers (see Option 2, above); and
- When the expanded Housing Enforcement Team has been in operation for long enough for the Council to have a better understanding of how much extra income could be generated by a bigger team (see Option 4, above), consideration will be given to the merits of expanding the team further to include another 4 Environmental Health Officers and an Intelligence Officer.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The proposed expansion of the Housing Enforcement Team will enable the Council to successfully implement the Private Sector Housing Civil Penalties Policy that Cabinet approved on 19 July 2017.

4.2 Resources and Risk

- 4.2.1 The Housing and Planning Act 2016 specifies that all of the income that a local authority receives from the imposition of civil penalties and the recovery of Housing Benefit through rent repayment orders can be retained by the local authority and spent on private sector housing enforcement, providing support for the private rented sector and funding the activities of a social lettings agency.
- 4.2.2 However, any income that a local authority receives from civil penalties and rent repayment orders but fails to spend in support of one of the activities listed above must be paid into a Central Government Universal Fund.
- 4.2.3 A comprehensive Business Case has been developed to demonstrate how the income that is received from civil penalties can be used to expand the size of the Housing Enforcement Team, increase enforcement activity and speed up the improvement of standards in the borough's private rented sector.
- 4.2.4 The principal risk is the fact that these new powers are largely untested and it is not yet known how much extra income the larger Housing Enforcement Team will generate in civil penalties, rent repayment orders and licensing fees. This risk, which could result in the Council incurring extra salary and redundancy costs, will be mitigated by the adoption of a 2-phased approach, described in Paragraph 3.3.27.
- 4.2.5 Another risk will be the Council's ability to successfully recruit to the additional posts that are funded from the extra income generated by civil penalties. Although the 2-phased approach (described in Paragraph 3.3.27) will make it easier for the Council to recruit the full complement of staff at the time they are needed, it is understood that the Private Sector Housing Manager is also seeking to mitigate this risk by promoting Northampton as a place for new Environmental Health Officers to learn how to tackle criminal, rogue and irresponsible landlords through robust enforcement action and effective use of civil penalties, repayment orders and innovative practice.

- 4.2.6 All new Officers will be expected to become skilled investigators and achieve the Advanced Professional Certificate in Investigative Practice within 3 months of joining the Council. This will equip them with the skills they will need to reduce the risk of the civil penalties being successfully appealed through the First-Tier Tribunal.
- 4.2.7 Another potential risk concerns the lack of certainty around the decisions that will be made by the First-Tier Tribunal when it considers an appeal against the imposition of a civil penalty or a request (from tenants or the local authority) for a rent repayment order. In both situations, an unfavourable outcome may affect the Council's income.
- 4.2.8 Although the First-Tier Tribunal has the power to quash, confirm, increase or reduce the civil penalty – and the civil penalties regime is currently untried and untested – the Government has made it clear that offenders must not derive any financial benefit from their offences and it has briefed the Tribunals on what is expected of them.
- 4.2.9 Another risk is that, if there is a substantial increase in the number of investigations, this is likely to result in a corresponding increase in the number of cases requiring legal advice and assistance. This may, in turn, put extra pressure on the existing staffing resources within the Council's Legal Services team.

4.3 Legal

- 4.3.1 Section 126 of The Housing and Planning Act 2016 allows financial penalties to be imposed as an alternative to prosecution for certain offences as set out in Schedule 9 of the Act. Schedule 9 in turn amends the Housing Act 2004 including providing a new Section 249A which has the financial penalties as an alternative to prosecution.
- 4.3.2 The details of the offences to which a civil penalty may be imposed are:
- **Section 30** – Failure to comply with an Improvement Notice
 - **Section 72** – Offences in relation to licensing of Houses in Multiple Occupation
 - **Section 95** – Offences in relation to licensing of houses under Part 3 of the Act
 - **Section 139** – Offences of contravention of an overcrowding notice
 - **Section 234** – Failure to comply with management regulations in respect of Houses in Multiple Occupation
- 4.3.3 Regulation 4 of the Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017 permits any local housing authority to apply any financial penalty recovered under section 249A of the Housing 2004 Act to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector. However, any surplus amounts recovered by way of financial penalty must be paid into the Consolidated Fund.
- 4.3.4 As per para 4.2.8 above, a substantial increase in the number of investigation is likely to result in a corresponding increase in the number of cases requiring legal advice and assistance. This may, in turn, put extra pressure on the existing staffing

resources within the Council's Legal Services team. At present there are two permanent solicitors and a paralegal dealing with all litigation and licensing matters for Northampton Borough Council. A significant increase in work may require additional resources for the legal team, either by hiring new lawyers or outsourcing some of that additional work.

4.4 Equality

- 4.4.1 A full Community Impact Assessment was completed during the development of the Private Sector Housing Civil Penalties Policy.
- 4.4.2 The Private Sector Housing Civil Penalties Policy will help improve housing conditions and the life chances of people with protected characteristics, including homeless people, people with disabilities and families with children. They will therefore have a positive impact on Equality and Diversity.
- 4.4.3 The proposed expansion of the Housing Enforcement Team is part of the Borough Council's commitment to improving communities and our town as a place to live. In implementing these improvements, the Council will have due regard to its Public Sector Duty and will continue to work to tackle discrimination and inequality and contribute to the development of a fairer society.

4.5 Consultees (Internal and External)

- 4.5.1 In April 2017, the Council hosted 3 focus groups to obtain the views of a wide range of stakeholders on the Council's proposals in relation to civil penalties. The groups were attended by Council Officers, the Northampton Student Landlords Network, the East Midlands landlord accreditation scheme, and local landlords and agents.
- 4.5.2 In June 2017, the Private Sector Housing Manager briefed a well-attended meeting of the town's Landlord Forum on the Council's proposals in relation to civil penalties.
- 4.5.3 Everyone who attended the focus groups, and the vast majority of the landlords and letting agents that attended the Landlord Forum, were extremely positive about the Council's plans for using its new powers under the Housing and Planning Act 2016.

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The proposed expansion of the Housing Enforcement Team will help to meet 3 of the priorities in the Corporate Plan:
 - **Safer Communities:** A larger Housing Enforcement Team will be able to take more enforcement action to tackle unsafe, substandard, badly managed housing and improve the standard of private rented housing.
 - **Housing for Everyone:** A larger Housing Enforcement Team will be able to tackle a much larger number of criminal, rogue and irresponsible landlords and managing agents. As well as improving the condition and management of private rented housing in Northampton, it will enforce tenants' rights and reduce the incidence of retaliatory eviction, harassment and illegal eviction.
- Working Hard and Spending your Money Wisely:** A larger Housing Enforcement Team will have the capacity to undertake more housing enforcement action and, as a consequence, accelerate the rate at

which Northampton's private rented sector is improved. As the team will generate income from civil penalties, rent repayment orders and HMO licensing fees, the expansion of the Housing Enforcement Team will have a cost neutral impact on the Council's finances and may also be able to contribute to the operating costs of other private sector housing functions, such as the social lettings agency.

4.6.2 The proposed expansion of the Housing Enforcement Team will also make a positive contribution to 2 of the 3 Business Development Priorities that support the Corporate Plan and help manage the Council's future financial challenges:

- **Empowering Communities:** A larger Housing Enforcement Team will have a higher profile and the capacity to take more enforcement action against those landlords and managing agents who are letting out accommodation that is unsafe, substandard, badly managed and/or operating without an HMO licence. This will provide tenants with the confidence to seek help at an early stage and, where appropriate, to work with the Council to apply for a rent repayment order.
- **Partnership Working:** A larger Housing Enforcement Team will have the capacity to work even more closely with the Police, Northamptonshire Fire & Rescue Service, Trading Standards and the UK Border Agency to disrupt criminal activity through joint working. As well as making best use of the resources available, this will deliver better outcomes and improve residents' housing, health and wellbeing.

Appendices

Appendix A – Business Case: 'Use of civil penalties to fund the expansion of the Housing Enforcement Team' (January 2018)

Background Papers

Community Impact Assessment

Civil Penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities (Department for Communities and Local Government) April 2017

Private Sector Housing Civil Penalties Policy
Private Sector Housing Enforcement Policy
Private Sector Housing Fees & Charges Policy

Phil Harris
Head of Housing and Wellbeing

USE OF CIVIL PENALTIES TO FUND THE EXPANSION OF THE HOUSING ENFORCEMENT TEAM

BUSINESS CASE

Phil Harris (Head of Housing & Wellbeing)
Debi Waite (Private Sector Housing Manager)

January 2018

1. INTRODUCTION

- 1.1 In Northampton, the private rented sector has doubled in size during the past ten years and now amounts to around 16,000 (18%) of the homes in the borough. For the first time in decades, there are now more people living in Northampton's private rented sector than are living in social rented housing.
- 1.2 With a growing student population, the creation of extra jobs by the Northampton Alive projects and Enterprise Zone and the difficulties that many people are now having in buying a home of their own, the borough has a very high demand for private rented accommodation, especially in the town.
- 1.3 Although Northampton has some excellent landlords and managing agents, it also has a large number of criminal, rogue and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard or unsafe.
- 1.4 In November 2014, the Council introduced an Additional HMO Licensing Scheme and issued an Article 4 Direction (removing permitted development rights) in parts of the town and, in February 2016 (when it became clear that hundreds of licensable HMOs were still operating without a licence, it introduced a new Housing Enforcement Policy and Fees & Charges Policy.
- 1.5 The new Housing Enforcement Policy and Fees & Charges Policy marked a fresh approach to housing enforcement in Northampton and were based on the principle that it should be the offender (rather than good landlords or local council tax payers) who pays for enforcement and no-one who breaks the law should gain a financial advantage over someone who complies with the law.
- 1.6 This approach enjoys widespread support from local landlords who want the Council to create a level playing field for landlords by making effective use of its powers and dealing robustly with offenders. It also supports the Council's efforts to deliver high quality, value for money services that improve people's lives, keep people safe and encourage positive behaviour change.

Housing and Planning Act 2016

- 1.7 The Government has pledged to crack down on rogue landlords and has introduced a number of measures, under the Housing and Planning Act 2016, to help local authorities deal more robustly with criminal, rogue and irresponsible landlords:
 - **Civil penalties of up to £30,000** as an alternative to prosecution for certain specified offences;
 - **Extension of rent repayment orders** to cover illegal eviction, breach of a banning order, failure to comply with an improvement notice and certain other specified offences;
 - **Database of rogue landlords and property agents** who have been convicted of certain offences or have received multiple civil penalties; and
 - **Banning orders** for the most serious and prolific offenders.

- 1.8 Civil penalties are intended to be used against landlords who are in breach of one or more of the sections of the Housing Act 2004 listed below:
- **Section 30** – Failure to comply with an Improvement Notice
 - **Section 72** – Offences in relation to licensing of Houses in Multiple Occupation
 - **Section 95** – Offences in relation to licensing of houses under Part 3 of the Act
 - **Section 139** – Offences of contravention of an overcrowding notice
 - **Section 234** – Failure to comply with management regulations in respect of Houses in Multiple Occupation
- 1.9 Rent repayment orders – made by the First Tier Tribunal and requiring a landlord to repay up to 12 months’ rent – were introduced under the Housing Act 2004 to cover situations where the landlord had failed to obtain a licence for a property that was required to be licensed. They were extended (under the Housing & Planning Act 2016) to include the following offences:
- Failure to comply with an Improvement Notice (under section 30 of the Housing Act 2004)
 - Failure to comply with a Prohibition Order (under section 32 of the Housing Act 2004)
 - Breach of a banning order made under section 21 of the Housing and Planning Act 2016 (due to be enacted in November 2017);
 - Using violence to secure entry to a property (under section 6 of the Criminal Law Act 1977)
 - Illegal eviction or harassment of the occupiers of a property (under section 1 of the Protection from Eviction Act 1977)
- 1.10 Rent repayment orders can be granted to either the tenant or the local housing authority. If the tenant paid the rent themselves, the rent must be repaid to the tenant. If rent was paid through Housing Benefit or the housing element of Universal Credit, it must be repaid to the local housing authority.
- 1.11 In addition to the offences listed in Paragraph 1.9, a rent repayment order can also be made against a landlord who has received a civil penalty.
- 1.12 Under the Housing & Planning Act 2016, local housing authorities are permitted to retain the income they receive from civil penalties and rent repayment orders, and to spend it on private sector housing enforcement and/or providing support for the private rented sector (through a social lettings agency or dedicated tenancy relations service, for example).

Private Sector Housing Civil Penalties Policy

- 1.13 On 19 July 2017, Cabinet approved changes to the Housing Enforcement Policy and Fees & Charges Policy. It also approved a Private Sector Housing Civil Penalties Policy that contains information about civil penalties and rent repayment orders, and how the Council is planning to use them.
- 1.14 Northampton's Civil Penalties Policy takes into account the statutory guidance that has been issued by the Government under Schedule 9 of the Housing and Planning Act 2016 and confirms that the following factors will be considered when determining the level of civil penalty that is imposed:
- The severity of the offence
 - The culpability and track record of the offender
 - The harm caused to the tenant
 - The punishment of the offender
 - Whether it will deter the offender from repeating the offence
 - Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence
- 1.15 In keeping with the key principle of ensuring that the costs of enforcement are borne by the offender (rather than by good, responsible landlords or local council tax payers), the costs associated with investigating, determining and applying a civil penalty will be reflected in the size of civil penalty imposed.

2. PURPOSE OF THE BUSINESS CASE

- 2.1 The Housing Enforcement Team's primary role is to improve standards in the private rented sector and ensure that all private rented housing is safe, is in a good state of repair, is well managed and is not overcrowded and that, if the property is a house in multiple occupation (HMO), it has a valid HMO licence (if it requires one) and complies with the HMO Management Regulations.
- 2.2 Although local housing authorities are permitted to retain all of the income that they receive from civil penalties and rent repayment orders, they must pay to the Government any of the income that they fail to spend on private sector housing enforcement or supporting the private rented sector.
- 2.3 The purpose of this Business Case is to explain how the Housing Enforcement Team operates at the moment, why it needs to concentrate on the properties that pose the greatest risk and are owned or managed by the worst offenders, and how the income from civil penalties and rent repayment orders can be used to fund the expansion of the Housing Enforcement Team, the appointment of a Tenancy Relations Officer and, perhaps, some of the operating costs of the social lettings agency, Guildhall Residential Lettings.
- 2.4 As well as describing the benefits of increasing the size and capacity of the Housing Enforcement Team – in terms of improving standards in the private rented sector, dramatically reducing the number of licensable HMOs that are operating without a licence, and minimising the net cost of providing the housing enforcement service and social lettings agency – this Business Case will also consider the uncertainties and risks associated with this approach.

Improving standards in the private rented sector

- 2.5 The Council is committed to dealing robustly with criminal, rogue and irresponsible landlords – including the owners and managers of unlicensed HMOs – and to making full and effective use of its enforcement powers and the provisions of the Housing & Planning Act 2016.
- 2.6 Northampton’s intelligence-led, risk-based, ‘offender pays’ approach is set out in its Private Sector Housing Enforcement Policy and Fees & Charges Policy which encourage and reward good and responsible behaviour and impose penalties and sanctions for bad and irresponsible behaviour.
- 2.7 In summary, the Council’s objective is to ensure that:
- All tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to their health and safety
 - All licensable houses in multiple occupation are licensed and all licensing conditions are met
 - All houses in multiple occupation are safe, well managed and comply with all relevant HMO Management Regulations
 - No privately owned property or land becomes a statutory nuisance to other land owners, or causes (directly or indirectly) an unacceptable risk to public health, safety or the environment.
- 2.8 To help achieve this objective, the Council has introduced a Fees & Charges Policy that is based on the following principles:
- The Council will enforce the law without imposing unnecessary burdens on responsible owners, landlords and occupiers
 - All fees and charges are based on what it costs the Council to license HMOs, take enforcement action and do works in default
 - The Council will charge a reduced HMO licence fee (by awarding an ‘early bird discount’) when the owner or landlord applies for, or renews, an HMO licence on time
 - Owners and landlords who fail to license their HMOs on time will be required to pay more for their HMO licence and, where they submit their application very late and/or the Council has reason to believe that its Officers will need to spend a lot of time monitoring and enforcing standards in that HMO, they will normally be issued with a shorter licence that lasts 3 or 4 years less than the usual 5 year HMO licence
 - Owners and landlords who are served with formal Notice(s) by the Council will be required to bear the full cost of enforcement

- 2.9 The Housing & Planning Act 2016 strengthens local authority powers to tackle criminal, rogue and irresponsible landlords with the introduction of Banning Orders, a tougher ‘fit and proper person’ test and civil penalties of up to £30,000, together with changes to rent repayment orders.
- 2.10 The introduction of civil penalties (which can be imposed as an alternative to prosecution) and the extension of rent repayment orders (to cover a range of offences, not just licensing) are extremely important because they afford the Council the opportunity to extend its reach over the private rented sector.
- 2.11 Guildhall Residential Lettings (the Council’s social lettings agency) is expected to play a pivotal role in improving standards in the private rented sector, bringing empty homes back into use, improving people’s access to private rented accommodation and preventing homelessness.
- 2.12 As the introduction of Banning Orders and a tougher ‘fit and proper person’ test is likely to increase the number of licensable HMOs that are not licensed and have no reasonable prospect of being licensed in the near future, the social lettings agency will help the Council exercise its power (under Part 4 of the Housing Act 2004) to take over control and management of the properties.
- 2.13 Where a landlord is unable to manage their property themselves, the social lettings agency will offer them a solution. Better outcomes will be achieved, of course, if the social lettings agency takes on the management of such properties, especially if there are tenants in occupation.

Ensuring that all homes are free of unacceptable hazards and risks to the occupants’ health and safety (HHSRS)

- 2.14 The Housing, Health and Safety Rating System (HHSRS) is set out in Part 1 of the Housing Act 2004. It is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s). There are two categories of possible hazards:
- **Category 1 hazards** represent a serious danger to health and the Council has a duty to take appropriate action to deal with these.
 - **Category 2 hazards** represent a lesser danger and, although it has no duty to take action, the Council will exercise its power to reduce category 2 hazards through appropriate action.
- 2.15 In most cases, the Council will follow a pre-formal process in which it will seek to work with landlords to reduce hazards. However, it will avoid actions that may encourage owners, landlords and agents to be non-compliant (such as carrying out costly works in default in situations where it may be difficult for the Council to recover its costs) and it will charge for any formal enforcement it takes in line with its Fees & Charges Policy.
- 2.16 An Improvement Notice may be served, requiring the landlord to carry out work to deal with any Category 1 or 2 hazards. The Notice will state what the

hazards are, what is causing them, what the landlord needs to do, the date when work should start and the when the work must be completed by.

2.17 A civil penalty can be imposed if an Improvement Notice is not complied with.

Ensuring that all licensable HMOs have a valid licence

2.18 In Northampton, there are many hundreds of Houses in Multiple Occupation: properties that are occupied by more than one household that share facilities.

2.19 As HMOs are higher risk than single family homes, the conditions, facilities and management are regulated. Some HMOs are subject to licensing:

- **Mandatory HMO Licensing** – An HMO licence is required (irrespective of where the HMO is situated in the borough) for HMOs that have 3 or more storeys and are occupied by 5 or more persons who are sharing facilities and comprise 2 or more households.
- **Additional HMO Licensing** – An HMO licence is required for HMOs that are situated in the Additional HMO area, have 2 storeys and are occupied by at least 3 persons who are sharing facilities and comprise 2 or more households. (In November 2014, an Additional HMO Licensing Scheme was introduced for an area that includes the wards of Abington, Briar Hill, Castle, Kingsley, Kingsthorpe, Obelisk, Phippsville, Semilong, Spring Park, St David's, Sunnyside and Trinity).

2.20 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options (including prosecution and the imposition of civil penalties) when dealing with unlicensed HMOs and breaches of the licence conditions.

2.21 Although there are currently 883 licensed HMOs in Northampton, the Housing Enforcement Team has identified another 492 properties that it suspects or knows are licensable HMOs and operating without an HMO licence:

Number of licensable HMOs that are believed to be operating in Northampton without an HMO licence

MANDATORY HMOs

At present, Northampton has **382** licensed Mandatory HMOs.

Based on all of the intelligence it has gathered, the Housing Enforcement Team has identified another **108** properties that it suspects or knows are licensable Mandatory HMOs and operating without an HMO licence:

- 23 are known Mandatory HMOs operating without a licence
- 85 are suspected Mandatory HMOs operating without a licence

ADDITIONAL HMOs

At present, Northampton has **501** licensed Additional HMOs.

Based on all of the intelligence it has gathered, the Housing Enforcement Team has identified another **384** properties that it suspects or knows are licensable Additional HMOs and operating without an HMO licence:

- 36 are known Additional HMOs operating without a licence
- 348 are suspected Additional HMOs operating without a licence

- 2.22 In addition to the 1,375 HMOs described in Paragraph 2.21, the owners and landlords of another **174** HMOs have provided the Housing Enforcement Team with declarations that, although their property is an HMO and occupied by people who do not form a single household, there are fewer occupants in it than are required for them to need an HMO licence.
- 2.23 It is reasonable to assume that at least some of these 174 declarations will be false or no longer reflect the true number of people living in the properties. This will add to the number of licensable HMOs operating without a licence.
- 2.24 On 6 April 2018, the **definition of Mandatory HMO** will be extended to include all HMOs that are occupied by at least 5 persons who do not form a single household, irrespective of the number of storeys in the HMO.
- 2.25 As hundreds of 2 storey HMOs – including a large number of HMOs that are located outside of the area covered by Northampton’s Additional HMO Licensing Scheme – will be affected by the new definition, the change will result in a significant increase in the number of unlicensed HMOs that will need to be licensed, as a Mandatory HMO, after 6 April 2018. The Council will be able to take enforcement action against anyone who fails to license, by the deadline of 6 October 2018, an HMO that is covered by the new definition.

Ensuring that all HMOs are safe, well managed and comply with all relevant HMO Management Regulations

- 2.26 All HMOs (irrespective of whether or not they are licensable) need to be safe, well managed and comply with all relevant HMO Management Regulations.
- 2.27 Where an HMO is being badly managed and/or is in a poor state of repair, the Housing Enforcement Team will undertake a HHSRS assessment (see Paragraph 2.14) to assess how likely it is that the condition of the property will cause an unacceptable hazard to the health of the occupant(s). If appropriate, an Improvement Notice will be served.
- 2.28 The HMO Management Regulations require the manager of the HMO to:
- Provide information to the occupier
 - Take safety measures
 - Maintain the water supply and drainage
 - Maintain the gas and electricity
 - Maintain the common parts, fixture, fittings and appliances
 - Maintain the living accommodation
 - Provide waste disposal facilities
- 2.29 A civil penalty can be imposed if an Improvement Notice is not complied with and/or there is a breach of the HMO Management Regulations.

Estimate of the number of HMOs (licensable and non-licensable) in Northampton that must be maintained in a good state of repair and comply with the law, including the HMO Management Regulations

| | | |
|---|---------------------|--|
| | 382 | (Licensed Mandatory HMOs) |
| + | 501 | (Licensed Additional HMOs) |
| + | 108 | (Unlicensed Mandatory HMOs – Suspected / Known) |
| + | 384 | (Unlicensed Additional HMOs – Suspected / Known) |
| + | 174 | (Known, non-licensable HMOs) |
| | <u>1,549</u> | |

Civil penalties may be imposed on the owners / landlords of any of these HMOs that are overcrowded, unlicensed, in a poor state of repair and/or do not comply with the HMO Management Regulations.

The extension of the definition of Mandatory HMO (to include HMOs that have less than 3 storeys) is expected to result in the Housing Enforcement Team being notified of even more HMOs in the borough.

3. PROJECT DESCRIPTION

Business need

- 3.1 Northampton's private rented sector is thriving and, more than ever before, the demand for private rented accommodation is outstripping supply.
- 3.2 This high demand, together with the considerable profits that can be made from houses in multiple occupation, has encouraged criminal, rogue and irresponsible landlords to flout the law and knowingly rent out accommodation that is overcrowded, in a poor state of repair, unsafe and/or unlicensed.
- 3.3 In common with other parts of the country, Northampton's private rented sector is being used to support criminal activity – such as money laundering, people trafficking, sexual exploitation and modern slavery – and the response from the Council, the Police, the Immigration Service and the other enforcement agencies needs to be intelligence-led, co-ordinated and robust.
- 3.4 There has also been a noticeable increase in the number of family homes that are being let to tenants who then sub-let them (with or without the knowledge of their landlord or managing agent) to large numbers of individuals.
- 3.5 As explained in Section 2 of this Business Case, the Council's collection and analysis of intelligence has highlighted the extent to which landlords and managing agents are failing to license their HMOs.
- 3.6 HMO licensing places an obligation on the owner or manager to notify the Council of the existence of a licensable HMO and affords the Council the opportunity to ensure that the HMO is managed by a 'fit and proper person', is not overcrowded and its amenities are adequate for the number of occupants.
- 3.7 Licensing also provides the Council with the opportunity to impose conditions on the owner or manager of the HMO in relation to the way in which it is managed, so as to avoid any nuisance or anti social behaviour. It also helps the Council to identify the density of HMOs in particular streets and areas.
- 3.8 The Housing Enforcement Team's priorities are:
 - To tackle criminal, rogue and irresponsible landlords and ensure that offenders (rather than good landlords or local council tax payers) pay for the cost of housing enforcement
 - To ensure that no-one who breaks the law gains a financial advantage over someone who complies with the law
 - To make best use of the income received from civil penalties, rent repayment orders and HMO licensing to fund the delivery of high quality, value for money services that improve people's lives, keep people safe, encourage positive behaviour change and cost little or nothing to the public purse.
 - To ensure that as many licensable HMOs as possible are licensed and comply with the HMO Management Regulations

4. GOALS AND SCOPE

- 4.1 The introduction of civil penalties (which can be imposed as an alternative to prosecution) and the extension of rent repayment orders (to cover a range of offences, not just licensing) are extremely important because they provide the Council with the opportunity to invest in private sector housing enforcement and support for the private rented sector.
- 4.2 As well as funding the expansion of the Housing Enforcement Team, the extra income generated by civil penalties and rent repayment orders could be used to fund other private sector housing services, such as a Tenancy Relations Officer, the operating costs of the social lettings agency and the cost of introducing an Additional HMO Licensing Scheme in Far Cotton and Delapre.

An intelligence-led approach to housing enforcement

- 4.3 Northampton's intelligence-led approach to tackling criminal, rogue and irresponsible landlords and managing agents – underpinned by a suite of policies relating to Private Sector Housing – has attracted a lot of interest from the DCLG, Home Office, CIH, CIEH, Tribunals Service and other councils.
- 4.4 The Housing Enforcement Team gathers, records, stores and analyses data and information relating to the ownership, management, control and use of privately owned sites and buildings in order to support housing enforcement activity, identify licensable HMOs that are operating without a licence and improve housing standards and community safety.
- 4.5 Strong and effective working relationships with a wide range of intelligence sources and enforcement agencies – including the Police, Immigration, Trading Standards, the Northamptonshire Fire & Rescue Service and the Gangmasters Licensing Authority – has helped the Housing Enforcement Team to build up an accurate and comprehensive intelligence picture that identifies potential suspects and criminality.
- 4.6 This approach ensures that Management is provided with all the information it needs to determine which cases should be authorised for investigation, and the Housing Enforcement Team is able to take appropriate, targeted action.

Same criminal standard of proof

- 4.7 The same criminal standard of proof is required for a civil penalty as is required for a prosecution. This means that, before taking formal action, the Council must satisfy itself that, if the case were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.
- 4.8 To achieve a conviction in the magistrates' court, the Council must be able to demonstrate beyond reasonable doubt that the offence has been committed. The same principle applies to civil penalties.
- 4.9 This is not a problem for the Council as robust procedures have been put in place to determine whether or not the criminal standard of proof has been met before a decision is made on whether enforcement action is appropriate.

Private Sector Housing Civil Penalties Policy

- 4.10 On 19 July 2017, Cabinet approved the Civil Penalties Policy, Housing Enforcement Policy and Fees & Charges Policy. A clear policy framework is already in place, therefore, that sets out how the Council will use civil penalties and rent repayment orders to achieve its strategic objectives.
- 4.11 The Civil Penalties Policy contains a detailed description of the factors that the Council will take into account when calculating the size of the civil penalty.
- 4.12 After all the other factors have been considered and applied, however, the Council must then ensure that the civil penalty that is set deprives the offender of the financial benefit they have gained from committing the offence.

The size and capacity of the existing Housing Enforcement Team

- 4.13 The existing team comprises a part-time Senior Housing Standards Officer, three Housing Standards Officers and a Business Support Officer.
- 4.14 In order to increase management capacity and provide the team with the necessary expertise to prosecute offenders and improve the licensing arrangements for HMOs, a full-time Senior Housing Standards Officer was recruited on an agency basis to stabilise the situation and develop the team.
- 4.15 Additional support has also been provided, on a temporary agency basis, to support the processing of HMO licences. Some of this additional capacity has been used to collect and analyse intelligence and data for the team.
- 4.16 If the Council decides to expand the Housing Enforcement Team, it will need to recruit a Housing Enforcement Manager and sufficient Intelligence Officers to ensure that the team has the capacity and expertise it requires without having to rely on temporary, agency staff to plug the gap.
- 4.17 At present, the three full-time Housing Standards Officers and part-time Senior Housing Standards Officer are spending just over half of their time on investigative enforcement work, one third of their time on HMO licensing and approximately 15% of their time responding to reactive housing complaints.
- 4.18 The three Housing Standards Officers and two Senior Housing Standards Officers are qualified Environmental Officers and have all participated in training for the Advanced Professional Certificate in Investigative Practice.
- 4.19 All members of the Housing Enforcement Team are working efficiently to prepare cases and support the successful prosecution of those cases in the Courts, the number of cases that can be tackled by the team is small compared to the number that require investigation and enforcement. The problem is compounded by the fact that the Courts are very busy and hearings are frequently postponed in order to accommodate other trials.

Capacity of the existing Housing Enforcement Team

As they spend just over half of their time on proactive enforcement, the 3 Housing Standards Officers and part-time Senior Housing Standards Officer will have the capacity (between them) to investigate offences and issue civil penalties for up to 60 cases a year. Based on a ratio of 1:2, this could comprise 20 complex cases and 40 standard cases.

Assuming that 75% of the 60 civil penalties that are imposed by the Council are successful (because they are either not contested by the offender or they are upheld, on appeal, by the First Tier Tribunal), this could amount to 15 complex cases and 30 standard cases each year.

- 4.20 Although the existing Housing Enforcement Team is working hard to tackle the worst offenders and deal with the most problematic properties – based on a risk assessment of the information gathered through intelligence – the reality is that it is only scratching the surface and only a relatively small proportion of offenders will be prosecuted or receive a civil penalty.
- 4.21 The 60 civil penalties a year that the Housing Enforcement Team has the capacity to impose represents just 12% of the 492 properties that are suspected or known to be licensable HMOs and operating without a licence.
- 4.22 Even if all of the Housing Enforcement Team’s attention is focused on HMOs (rather than the whole of Northampton’s private rented sector) this is unlikely to make much of an impact or encourage behaviour change.

Size of the civil penalties imposed

- 4.23 Northampton’s Private Sector Housing Civil Penalties Policy, approved in July 2017, contains a detailed description of the factors that the Council will take into account when calculating the size of the civil penalty.
- 4.24 After all the other factors have been considered and applied, however, the Council must then ensure that the civil penalty that is set deprives the offender of the financial benefit they have gained from committing the offence.
- 4.25 The size of civil penalty that is imposed by the Council will reflect the individual circumstances of each case and will often be much higher than the amounts quoted in the box below. However, the figures quoted below can help the Council to estimate the amount of income that might be generated from civil penalties, based on an assumed number and mix of civil penalties.

Examples of the size of the civil penalties that might be imposed

- **Low cost civil penalty (assumed average: £4,000)**
HMO licence is applied for late, and false information is provided on the application form and/or during interview under caution.
- **Standard civil penalty (assumed average: £5,000)**
HMO licence is applied for late, and management offences are identified and/or an improvement notice is not complied with.
- **Complex civil penalty (assumed average: £10,000)**
Premises are entered under warrant, numerous housing offences are found, there is dishonesty / deception and/or very high harm and culpability.

Civil penalty income generated by existing Housing Enforcement Team

- 4.26 Based on the assumptions described in Paragraphs 4.19 and 4.25, it is possible to estimate the annual civil penalty income that the existing Housing Enforcement Team (including 3 Housing Standards Officers and a part-time Senior Housing Standards Officer) might be able to generate:

Potential civil penalty income – existing Housing Enforcement Team

Assumptions

- 60 civil penalties are imposed (20 complex; 40 standard)
- 75% of the civil penalties imposed (15 complex; 30 standard) are successful because they are uncontested or are upheld on appeal
- 80% of the civil penalties that are successful are paid

Based on an average civil penalty of £10,000 for each complex case and £5,000 for each standard case – and a collection rate of 80% – the existing team could generate civil penalty income of around **£240,000 per annum**.

Help and advice to apply for a rent repayment order

- 4.27 A rent repayment order is an order made by the First Tier Tribunal, requiring a landlord to repay up to 12 months' rent.
- 4.28 The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a licensable HMO had failed to obtain a licence. However, under the Housing & Planning Act 2016, rent repayment orders were extended to cover a much wider range of offences (see Paragraph 1.9)
- 4.29 A rent repayment order can also be made against a landlord who has received a civil penalty for a housing offence, but only when there is no longer any prospect of the landlord appealing against that penalty.

The value of a rent repayment order

Although it is for the Tribunal to determine how much rent the landlord should repay, the following examples illustrate the amount of rent that a landlord might be required to repay to each tenant if ordered to repay £30 / £50 / £80 per week of the rent s/he received during the year:

- £30 x 52 = £1,560 (Between them, 4 tenants would receive £6,240)
- £50 x 52 = £2,600 (Between them, 4 tenants would receive £10,400)
- £80 x 52 = £4,160 (Between them, 4 tenants would receive £16,640)

If the rent has been paid by the tenant(s) from their own resources, the amount of rent specified in the order must be repaid to them.

If the rent has been paid through Housing Benefit or Universal Credit, the amount of rent specified in the order must be repaid to the Council.

- 4.30 When a civil penalty is imposed, the Council must consider a rent repayment order when there is no longer any prospect of the landlord appealing against that civil penalty. The Council will usually apply for an order to recover monies paid through Housing Benefit or the housing element of Universal Credit.
- 4.31 If the tenant has paid the rent themselves, the Council must offer them advice, guidance and support to help them apply for a rent repayment order.
- 4.32 The appointment of a Tenancy Relations Officer who has the skills and experience required to investigate tenants' complaints about harassment and illegal eviction (and ensure that rent repayment orders are always considered and applied for when the conditions are met) will meet this requirement.

Proposed expansion of the Housing Enforcement Team

- 4.33 In order to get a firm grip on the hundreds of owners / managers who are operating licensable HMOs without a licence, it is recommended that the Enforcement Team is expanded to include another 8 Environmental Health Officers, supported by 3 Intelligence Officers and a Tenancy Relations Officer.
- 4.34 The new, expanded Housing Enforcement Team will comprise the following:
- 1 Housing Enforcement Manager
 - 11½ Environmental Health Officers
 - 3 Intelligence Officers
 - 1 Tenancy Relations Officer
 - 1 Business Support Officer
- 4.35 The **Housing Enforcement Manager** will oversee all housing enforcement activity and develop, direct and manage the Housing Enforcement Service in a manner that makes best use of licensing, risk-based interventions and enforcement action to improve housing conditions, achieve a positive and sustained step change in the behaviour of landlords and ensure that, in the long term, the Service is fully funded from the income that is received in licensing fees, civil penalties and rent repayment orders.

- 4.36 The **Environmental Health Officers** will undertake a broad range of tasks relating to HMO licencing, private sector housing conditions and enforcement (including inspections, HHSRS assessments, investigations, interviews under caution, preparation of cases for enforcement, prosecutions and civil penalties) and respond to complaints about private sector housing.
- 4.37 The **Intelligence Officers** will work with a wide range of intelligence sources and enforcement agencies, gather and analyse information relating to the ownership, management, control and use of privately owned sites and buildings, build up an accurate and comprehensive intelligence picture, interview people under caution, identify licensable HMOs that are operating without a licence, support housing enforcement activity and provide evidence in support of criminal prosecutions and civil penalties.
- 4.38 The **Tenancy Relations Officer** will investigate allegations of harassment and illegal eviction, provide evidence in support of criminal prosecutions, intervene to prevent homelessness, and work with Revenues & Benefits, Legal Services and tenants to secure rent repayment orders where possible.
- 4.39 The **Business Support Officer** will administer the Council's online HMO licensing system, ensuring that it runs smoothly (for landlords, letting agents and the Council) and that all queries are dealt with quickly and efficiently.

Capacity of the new, expanded Housing Enforcement Team

It is recommended that the Housing Enforcement Team is expanded to include a Housing Enforcement Manager, 11½ Environmental Health Officers, 3 Intelligence Officers, a Tenancy Relations Officer and a Business Support Officer.

- 9½ Environmental Health Officers will spend 60% of their time on proactive housing enforcement, 30% of their time on HMO licencing and 10% of their time responding to reactive housing complaints. Between them, they will have the capacity to issue around 150 civil penalties a year. Based on a ratio of 1:2, this could amount to 50 complex cases and 100 standard cases.
- 2 Environmental Health Officers will spend 100% of their time on proactive housing enforcement, targeted at those who are operating a licensable HMO without a licence. Between them, they will have the capacity to issue around 60 civil penalties a year. Based on a ratio of 1:2, this could amount to 20 standard cases and 40 low-cost cases.
- The 3 Intelligence Officers will spend most of their time gathering, analysing, and managing data and information for the Environmental Health Officers, Tenancy Relations Officer and Managers. Between them, however, they will have the capacity to issue around 15 civil penalties a year. All of these will be low-cost civil penalties.

Assuming that 75% of the 225 civil penalties that are imposed by the Council are successful (because they are either not contested by the offender or they are upheld, on appeal, by the First Tier Tribunal), this could amount to 169 successful civil penalties each year.

- 4.40 Based on these figures, it is possible to estimate the annual civil penalty income that the expanded Housing Enforcement Team could generate:

Potential civil penalty income – expanded Housing Enforcement Team

Assumptions

- 225 civil penalties are imposed (50 complex; 120 standard; 55 low-cost)
- 75% of the penalties imposed (38 complex; 90 standard; 41 low-cost) are successful because they are uncontested or upheld on appeal
- 80% of the civil penalties that are successful are paid

Based on an average civil penalty of £10,000 for each complex case, £5000 for each standard case and £4,000 for each low-cost case – and a collection rate of 80% – the expanded team could generate civil penalty income of around **£795,000 per annum**.

Impact of housing enforcement activity on the Council's HMO fee income

- 4.41 In most instances – except where the HMO has already been sold – the successful imposition of a civil penalty for failing to license a licensable HMO will result in the offender licensing the HMO.
- 4.42 It is hoped also that, with all of the extra publicity about the expansion of the Housing Enforcement Team and its capacity to investigate hundreds of cases a year will encourage landlords to license their HMOs – especially those affected by the extension of the definition of Mandatory HMOs – voluntarily.
- 4.43 Each HMO that is licensed will generate fee income of at least £585 and, if it is licensed late, the initial fee will be at least £735. HMOs that are licensed more than 13 weeks late will be issued with a shorter licence (lasting only 1 or 2 years, rather than the usual 5 years) and, even if the landlord subsequently renews the HMO licence on time and qualifies for the 'early bird discount', they will be charged at least £535 to renew the HMO licence for 5 years.

Estimate of extra HMO fee income generated by enforcement action

Assumptions

- 75% (127) of the 169 civil penalties that are successfully imposed each year by the expanded Housing Enforcement Team relate to the failure to license a licensable HMO
- 80% (101) of the 127 unlicensed HMOs that are the subject of the successful imposition of a civil penalty because they are unlicensed are subsequently licensed late and are granted a shorter HMO licence lasting only 1 or 2 years
- 90% (90) of the 101 HMO licences applied for late are renewed on time when they expire after 1 or 2 years. The rest are renewed late.

Based on an initial HMO licence fee of £735 and a renewal fee of £535, the imposition of civil penalties could generate extra HMO fee income of **£89,400 per annum** in initial HMO licences and an extra **£60,700** when those licences are renewed during the following 2 years.

- 4.44 The above figures do not take into account the extra HMO fee income that will be generated indirectly – through behaviour change – as a consequence of the increased housing enforcement activity in Northampton.
- 4.45 It is hoped that, as offenders realise that their prospects of being caught and punished for operating a licensable HMO without a licence are much greater than before, many will decide to comply with their licensing obligations.
- 4.46 As explained in Section 2 of this Business Case and based on all of the intelligence it has gathered, the Housing Enforcement Team has identified 492 properties that it knows or suspects are licensable HMOs and operating without an HMO licence. Even if only one third (164) of these unlicensed HMOs are licensed late without the need for formal enforcement action, this will generate extra HMO fee income of at least **£120,000** in initial fees and at least **£87,700** when those licences are renewed during the following 2 years.
- 4.47 In April 2018, the number of licensable HMOs – and, of course, the number of licensable HMOs that are operating without a licence – will increase significantly when the Government extends the definition of Mandatory HMOs to include HMOs that have less than 3 storeys.

Impact of housing enforcement activity on rent repayment orders

- 4.48 When a civil penalty is successfully imposed, the Council will consider a rent repayment order. If the tenant has paid the rent themselves, the Council must offer them advice, guidance and support to help them apply for a rent repayment order. If the rent has been paid through Housing Benefit or the housing element of Universal Credit, the Council will normally seek recovery of the monies by making its own application for a rent repayment order.
- 4.49 The appointment of a Tenancy Relations Officer (who will be responsible for ensuring that rent repayment orders are always considered and applied for when the conditions are met) will meet this requirement.
- 4.50 Based on past experience, the Housing Enforcement Team anticipates that the vast majority of the civil penalties that are successfully imposed will relate to properties that are occupied by tenants (including students) who are meeting their rent from their own resources.

Estimate of potential income from rent repayment orders

Assumptions

- Rent repayment orders will be actively considered in the 169 cases a year that involve the successful imposition of civil penalties
- The tenants in two thirds (112) of the 169 properties that are the subject of a civil penalty will apply for a rent repayment order
- 75% (84) of the rent repayment order applications are successful
- Rent repayment orders, worth an average of £30 per week for 12 months, will be awarded to 250 tenants in 84 properties

Based on an average award of £1,560 (it could be much higher), the rent repaid to the 250 tenants would amount to around **£390,000 per annum**.

Although some of these monies might be paid to the Council (because the rent was paid through Housing Benefit or the housing element of Universal Credit) it is not possible to estimate how much this might be.

- 4.51 It is hoped that the opportunity to recover up to a year's rent – by obtaining a rent repayment order – will act as a powerful incentive for tenants who are living in unsafe, substandard and unlicensed accommodation to inform the Council and support the action it is taking to prosecute, or impose a civil penalty on, their landlord or managing agent.

Issues / Risks / Opportunities

- 4.52 The measures that the Government has introduced to tackle rogue landlords are ideally suited to the intelligence-led, 'offender pays' approach that the Council has introduced and championed during the last couple of years.
- 4.53 However, the new powers that the Government has given to local authorities are largely untested and it is essential that the Council gives careful consideration to the risks as well as the opportunities.

Issues

- 4.54 As explained throughout this Business Case, the scale and nature of landlords' non-compliance with the law – especially in relation to HMO licensing and the HMO Management Regulations – is stark but not surprising. It reflects their confidence in avoiding prosecution.
- 4.55 Although current staffing levels in the Housing Enforcement Team are insufficient to address the overwhelming number of licensable HMOs that are operating without a licence, the problem is compounded by the fact that, when resources are limited, the highest risk properties have to be the priority.
- 4.56 For things to change, the Housing Enforcement Team must be provided with the capacity it needs to deliver a large-scale programme of investigations, interventions and enforcement that substantially increases the number of landlords and managing agents that are prosecuted or receive a civil penalty and/or rent repayment order but also encourages positive and sustained change in the behaviour of landlords and letting agents in the borough.
- 4.57 Although the income received from civil penalties will be sufficient to fund a significant increase in the size of the Housing Enforcement Team, the structure of the team and the roles within it must be carefully considered:
- Unless the team contains enough Environmental Health Officers to make a significant impact on the higher risk, most problematic private rented accommodation, it is difficult to justify dedicating one or more of those Officers to tackling the large number of offenders who are operating a licensable HMO without an HMO licence.
 - Northampton's intelligence-led approach to tackling criminal, rogue and irresponsible landlords is reliant on the Council employing the required number of Intelligence Officers. Each Intelligence Officer has the capacity to support up to 4 full-time Housing Enforcement Officers (including the Tenancy Relations Officer) by providing them with comprehensive intelligence reports on premises, land, individuals, businesses and organisations.
 - Although the Tenancy Relations Officer will spend a substantial amount of their time encouraging and supporting applications for rent repayment orders, s/he will also investigate allegations of retaliatory

eviction, harassment and illegal eviction, provide evidence in support of criminal prosecutions and intervene to prevent homelessness.

- The significant increase in the size of the team will require close and effective working between the Housing Enforcement Manager and the Private Sector Housing Manager who will need to share responsibility for managing, supporting and appraising the Officers.

Risks

4.58 The risks and proposed mitigation are described in detail in Section 8 of this Business Case. However, the principal risks can be summarised as follows:

- The Council is being asked to appoint a significant number of additional Officers (as part of a larger Housing Enforcement Team) before it knows exactly how much extra income they will be able to generate in civil penalties, rent repayment orders and HMO fees
- The decisions that are made by the First Tier Tribunal in relation to civil penalties and rent repayment orders may be disappointing and result in civil penalties being quashed or reduced and applications for rent repayment orders being turned down
- The Council may find it difficult to recruit the large number of highly-skilled investigative enforcement officers (especially Environmental Health Officers) that it is going to need in order to apply this new area of legislation efficiently and protect its interests
- Even when the Council has successfully imposed a civil penalty, it may not always be able to collect all of the money
- Increased housing enforcement activity will place a huge demand on the Council's Legal Team for help and support in investigating offences, prosecuting offenders and defending civil penalty appeals
- The Council may be criticised for imposing excessively large civil penalties on landlords and managing agents

Opportunities

4.59 Although largely untested, the new powers the Government has given local authorities under the Housing & Planning Act 2016 will enable the Council to:

- Fund the expansion of the Private Sector Housing Team and provide it with the extra capacity it needs in order to increase the amount of enforcement action it undertakes, reduce the number of licensable HMOs that are operating without a licence, and speed up the improvement of housing standards in the private rented sector
- Assist the re-organisation of the Private Sector Housing Team and the creation of a dedicated Housing Enforcement Team that is made up of specialist investigators and is financed, in the main, from the income received from HMO fees, civil penalties and rent repayment orders
- Fund a Tenancy Relations Officer who will investigate complaints of retaliatory eviction, harassment and illegal eviction, prevent homelessness and help tenants to apply for rent repayment orders
- Demonstrate its commitment to tracking down and punishing offenders, especially those who are operating a licensable HMO without a licence, and charging offenders for enforcement

- Challenge the complacency of landlords and managing agents who are letting out substandard, unlicensed, unsafe and overcrowded housing and are confident they can always avoid prosecution
- Effect behaviour change, and nurture a culture of compliance, among landlords and managing agents operating in Northampton

5. HIGH LEVEL IMPACT

5.1 The proposed expansion of the Housing Enforcement Team will help to meet 3 of the priorities in the Corporate Plan:

- **Safer Communities:** A larger Housing Enforcement Team will be able to take more enforcement action to tackle unsafe, substandard, badly managed housing and improve the standard of private rented housing.
- **Housing for Everyone:** A larger Housing Enforcement Team will be able to tackle a much larger number of criminal, rogue and irresponsible landlords and managing agents. As well as improving the condition and management of private rented housing in Northampton, it will enforce tenants' rights and reduce the incidence of retaliatory eviction, harassment and illegal eviction.
- **Working Hard and Spending your Money Wisely:** A larger Housing Enforcement Team will have the capacity to undertake more housing enforcement action and, as a consequence, accelerate the rate at which Northampton's private rented sector is improved. As the team will generate income from civil penalties, rent repayment orders and HMO licensing fees, the expansion of the Housing Enforcement Team will have a cost neutral impact on the Council's finances and may also be able to contribute to the operating costs of other private sector housing functions, such as the social lettings agency.

5.2 The proposed expansion of the Housing Enforcement Team will also make a positive contribution to 2 of the 3 Business Development Priorities that support the Corporate Plan and help manage the Council's future financial challenges:

- **Empowering Communities:** A larger Housing Enforcement Team will have a higher profile and the capacity to take more enforcement action against those landlords and managing agents who are letting out accommodation that is unsafe, substandard, badly managed and/or operating without an HMO licence. This will provide tenants with the confidence to seek help at an early stage and, where appropriate, to work with the Council to apply for a rent repayment order.
- **Partnership Working:** A larger Housing Enforcement Team will have the capacity to work even more closely with the Police, Northamptonshire Fire & Rescue Service, Trading Standards and the UK Border Agency to disrupt criminal activity through joint working. As well as making best use of the resources available, this will deliver better outcomes and improve residents' housing, health and wellbeing.

6. ALTERNATIVE OPTIONS

- 6.1 Expansion of the Housing Enforcement Team will enable the Council to increase its housing enforcement activity and use of civil penalties and rent repayment orders. It will also speed up the improvement of housing standards in Northampton's private rented sector and act as a bigger deterrent for those landlords and managing agents who knowingly rent out substandard, unlicensed unsafe and overcrowded housing.
- 6.2 Although it is recommended that the Housing Enforcement Team is expanded to include an extra 13 staff (a Housing Enforcement Manager, 8 Environmental Health Officers, 3 Intelligence Officers and a Tenancy Relations Officer), the alternative options are as follows:
- Do nothing
 - Recruit a Housing Enforcement Manager and Intelligence Officer to replace the temporary, agency staff that are currently supporting the Housing Enforcement Team
 - Expand the Housing Enforcement Team, but with fewer Officers, initially, than the number recommended in this Business Case
 - Expand the Housing Enforcement Team but with more Officers than the number recommended in this Business Case
- 6.3 As the Housing Enforcement Team will require a Manager and a Tenancy Relations Officer, most of the options will involve the Council appointing more or less Officers than the 8 additional Environmental Health Officers and 3 Intelligence Officers in the recommended option (Option 4).
- 6.4 If the Council decides that fewer Officers should be appointed than the number proposed in the Business Case – at least initially – this will reduce the risk involved in the Council taking on additional staffing costs before it knows exactly how much extra income the additional Officers will be able to generate.
- 6.5 If the Council decides that more Environmental Health Officers should be appointed than the number proposed in the Business Case, it may prove very difficult to recruit the number of Officers approved.

Doing nothing

- 6.6 Doing nothing is not recommended because it would result in either the functions of the full-time Senior Housing Standards Officer and the Intelligence Officer continuing to be undertaken by temporary, agency staff or the loss of the full-time Senior Housing Standards Officer and the Intelligence Officer.
- 6.7 If the Council chooses to cover the roles with temporary, agency staff, this will have cost implications. If the Council chooses to reduce the size of the team, the smaller team (comprising a part-time Senior Housing Standards Officer, 3 Housing Standards Officers and a Business Support Officer) will only have sufficient capacity to manage HMO licensing, respond to housing complaints and prosecute or impose a civil penalty in a relatively small number of cases.

Option 1

- 6.8 The Council could decide to simply replicate what is in place at the moment, but recruit a Housing Enforcement Manager and Intelligence Officer to avoid the need to employ those Officers on a temporary, agency basis.
- 6.9 If the Council chooses Option 1, the Housing Enforcement Team will continue to take as much enforcement action as possible but will struggle to make an impact on the standards in the private rented sector and the high number of licensable HMOs operating in Northampton without a licence. As a Tenancy Relations Officer would not be recruited, the team will not have the capacity to maximise the use of rent repayment orders.
- 6.10 As explained in Paragraph 4.19, a team of this size will only have the capacity to impose **around 60 civil penalties a year**. This is 165 less than the number of civil penalties that could be imposed by the size of team that is recommended in this Business Case.
- 6.11 Option 1 would benefit the Council financially because, even without any real increase in the size of the team, a Housing Enforcement Team of this size would generate a significant income from civil penalties and rent repayment orders that can be used to offset some of the operating costs of the team.
- 6.12 The financial considerations are set out in Section 7 of this Business Case.

Option 2

- 6.13 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 4 additional Environmental Health Officers and 2 Intelligence Officers.
- 6.14 If this happens, the Housing Enforcement Team would have the capacity to impose **around 120 civil penalties a year**. This is 60 more than the number of civil penalties that can be imposed by the existing Housing Enforcement Team (Option 1), but 105 less than the number that could be imposed by the size of team (Option 4) recommended in this Business Case.
- 6.15 If Option 2 is chosen, the income generated from civil penalties (estimated at £480,000 per annum) could cover approximately 82% of the Housing Enforcement Team's annual operating costs over the next 3 years.
- 6.16 The financial considerations are set out in Section 7 of this Business Case.

Option 3

- 6.17 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 6 additional Environmental Health Officers and 2 Intelligence Officers.
- 6.18 If this happens, the Housing Enforcement Team would have the capacity to impose **around 160 civil penalties a year**. This is 100 more than the number of civil penalties that can be imposed by the existing Housing Enforcement Team (Option 1), but 85 less than the number that could be imposed by the team (Option 4) recommended in this Business Case.

6.19 If Option 3 is chosen, the income generated from civil penalties (estimated at £640,000 per annum) could cover approximately 99% of the Housing Enforcement Team's annual operating costs over the next 3 years. The average annual deficit would be approximately £5,000.

6.20 The financial considerations are set out in Section 7 of this Business Case.

Option 4 (The Preferred Option)

6.21 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 8 additional Environmental Health Officers and 3 additional Intelligence Officers.

6.22 If this happens, the Housing Enforcement Team would have the capacity to impose **around 225 civil penalties a year**. This is 165 more than the number of civil penalties that could be imposed by the existing Housing Enforcement Team (Option 1).

6.23 If Option 4 is chosen, the income generated from civil penalties (estimated at £795,000 per annum) could cover almost 100% of the Housing Enforcement Team's annual operating costs over the next 3 years. The average annual deficit would be less than £1,000.

6.24 The financial considerations are set out in Section 7 of this Business Case.

Option 5

6.25 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 10 additional Environmental Health Officers and 4 Intelligence Officers.

6.26 If this happens, the Housing Enforcement Team would have the capacity to impose **around 290 civil penalties a year**. This is 230 more than the number of civil penalties that can be imposed by the existing Housing Enforcement Team (Option 1), and 65 more than the number that could be imposed by the team (Option 4) recommended in this Business Case.

6.27 If Option 5 is chosen, the income generated from civil penalties (estimated at £952,000 per annum) could cover 100% of the Housing Enforcement Team's annual operating costs over the next 3 years. The average annual surplus would be approximately £34,000.

6.28 The financial considerations are set out in Section 7 of this Business Case.

7. FINANCIAL CONSIDERATIONS

A series of assumptions

7.1 As already explained, it is extremely difficult to quantify the amount of money that the Council is likely to generate in civil penalties, rent repayment orders and extra HMO licensing fees if the size of the Housing Enforcement Team is increased. This is because there are so many variables, including the behaviour of landlords and managing agents, the judgments made by Tribunals and, in the case of rent repayment orders, how the rent was paid.

- 7.2 Although this Business Case makes a series of assumptions – about, for example, the number of civil penalties that each Officer may be able to impose in a year, how many of those penalties will be successful and what proportion of the civil penalties imposed will be collected – all of them are intended to under-estimate the amount of income that may be generated.
- 7.3 The average size of the civil penalties quoted in this Business Case (categorised as ‘complex’, ‘standard’ and ‘low-cost’) are on the low side, as the maximum civil penalty is **up to £30,000 per offence** and the figures do not take into account the fact that, when dealing with HMOs in particular, there are likely to be multiple offences and the Council may, on occasions, impose a civil penalty on both the owner and the managing agent.
- 7.4 For illustrative purposes and completeness, this Business Case includes a number of assumptions about rent repayment orders and the extra HMO fees that it is hoped will be generated by the increased enforcement activity, landlords’ behaviour change and the new definition of Mandatory HMO. These figures have been omitted, however, from the calculation of the amount of income that the Housing Enforcement Team is likely to generate each year.

The collection of civil penalties

- 7.5 Where it is decided – on completion of appropriate enquiries – that a civil penalty should be imposed, the Housing Enforcement Team will issue a notice of intention, setting out details of the offence(s), how much the civil penalty will be and how it has determined the size of that penalty.
- 7.6 When a final notice is issued, the Housing Enforcement Team will send out an invoice, giving details of how and when to pay.
- 7.7 If the civil penalty is not appealed and the invoice is not paid within 28 days, the Council will apply to the Court for a finance order. All that the Council is required to do to prove the debt is to provide the court with a letter from the Chief Finance Officer, confirming that the invoice remains unpaid.
- 7.8 As the debt is property-related, robust enforcement action will be taken to recover all of the monies owed as soon as practicable. This will include the use of high court sheriffs and, where appropriate, legal action to enforce the sale of the landlord’s property to settle the debt.

Estimate of civil penalty income generated by the Housing Enforcement Team

- 7.9 The following tables illustrate the amount of civil penalty income that might be generated by the different sizes of Housing Enforcement Team:

OPTION 1 (REPLICATING THE EXISTING TEAM)

- 7.10 If the Council decided to replicate the existing team by replacing the temporary, agency staff with a Housing Enforcement Manager and an Intelligence Officer, the team’s annual operating costs are expected to be:

| OPTION 1 ANNUAL EXPENDITURE (OPERATING COSTS) | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|--|----------------|----------------|----------------|--------------|
| Employee costs (including on-costs) | £249,400 | £251,900 | £254,600 | £755,900 |

| | | | | |
|---|-----------------|-----------------|-----------------|-----------------|
| Team subscriptions (Law, Call Credit and intelligence database) | £ 7,800 | £ 7,800 | £ 7,800 | £ 23,400 |
| Interpreter and translation services | £ 15,000 | £ 15,000 | £ 15,000 | £ 45,000 |
| IT subscriptions | £ 800 | £ 800 | £ 800 | £ 2,400 |
| Training | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Furniture | £ 500 | £ 500 | £ 500 | £ 1,500 |
| Printing | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Photocopying | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Stationery / supplies | £ 1,600 | £ 1,600 | £ 1,600 | £ 4,800 |
| Postage | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Advertising and publicity | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Vehicle allowances | £ 500 | £ 500 | £ 500 | £ 1,500 |
| TOTAL | £280,600 | £283,100 | £285,800 | £849,500 |

- 7.11 Based on the assumptions set out in Paragraphs 4.19, 4.25 and 4.26 of this Business Case, this size of Housing Enforcement Team is expected to impose an average of 60 civil penalties a year and generate civil penalty income in the region of **£240,000 per annum**.

| OPTION 1 NET COST OF HOUSING ENFORCEMENT TEAM | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|---|-----------------|-----------------|-----------------|-----------------|
| Annual operating costs | £280,600 | £283,100 | £285,800 | £849,500 |
| Annual income that is likely to be generated from civil penalties | £240,000 | £240,000 | £240,000 | £720,000 |
| TOTAL | £ 40,600 | £ 43,100 | £ 45,800 | £129,500 |

PLEASE NOTE: The above figures do not take into account any other income that is generated through rent repayment orders and HMO licensing fees. The deficit will be covered from the existing Housing Enforcement budget.

OPTION 2 (EXPANDED TEAM)

- 7.12 If the Housing Enforcement Team is expanded (to comprise a Housing Enforcement Manager, 7½ Environmental Health Officers, 2 Intelligence Officers, a Tenancy Relations Officer and a Business Support Officer), the annual operating costs would be:

| OPTION 2 ANNUAL EXPENDITURE (OPERATING COSTS) | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|---|-----------------|------------------|------------------|-------------------|
| Employee costs (including on-costs) | £517,500 | £522,700 | £528,300 | £1,568,500 |
| Office hardware (furniture, computers, telephones, etc) | £ 12,000 | £ 0 | £ 0 | £ 12,000 |
| Surveying equipment (cameras, measures, damp meters, etc) | £ 1,700 | £ 0 | £ 0 | £ 1,700 |
| Investigatory equipment (NEAL machine, CDs, Pace notebooks and interpreter and subscription services) | £ 18,000 | £ 15,500 | £ 15,500 | £ 49,000 |
| Personal protective equipment (stab vests, hardhats, safety shoes, etc) | £ 1,600 | £ 0 | £ 0 | £ 1,600 |
| Initial training | £ 14,000 | £ 0 | £ 0 | £ 14,000 |
| Team subscriptions (Law, Call Credit and intelligence database) | £ 7,800 | £ 7,800 | £ 7,800 | £ 23,400 |
| IT subscriptions | £ 1,500 | £ 800 | £ 800 | £ 3,100 |
| Additional M3 licences | £ 1,500 | £ 0 | £ 0 | £ 1,500 |
| Additional M3 maintenance | £ 400 | £ 400 | £ 400 | £ 1,200 |
| Mobile phones | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Training | £ 2,000 | £ 2,000 | £ 2,000 | £ 6,000 |
| Furniture | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Printing | £ 2,000 | £ 2,000 | £ 2,000 | £ 6,000 |
| Photocopying | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Stationery / supplies | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Postage | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Advertising and publicity | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Vehicle allowances | £ 2,000 | £ 2,000 | £ 2,000 | £ 6,000 |
| TOTAL | £596,000 | £ 567,200 | £ 572,800 | £1,736,000 |

- 7.13 Based on the assumptions set out in Paragraphs 4.25 and 6.13 – 6.15 of this Business Case, the Housing Enforcement Team is expected to have the capacity to impose an average of 120 civil penalties a year. If 90 of these civil penalties (30 complex and 60 standard) are successful and the Council is able to collect 80% of the monies due, this will generate civil penalty income in the region of **£480,000 per annum**.

| OPTION 2 NET COST OF HOUSING ENFORCEMENT TEAM | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|---|----------------------|----------------|----------------|----------------------|
| Annual operating costs | £596,000 | £567,200 | £572,800 | £1,736,000 |
| Annual income that is likely to be generated from civil penalties | £480,000 | £480,000 | £480,000 | £1,440,000 |
| TOTAL | £ 116,000 | £87,200 | £92,800 | £ 296,000 |

PLEASE NOTE: The above figures do not take into account any other income that is generated through rent repayment orders and HMO licensing fees. The deficit will be covered from the existing Housing Enforcement budget.

OPTION 3 (EXPANDED TEAM)

- 7.14 If the Housing Enforcement Team is expanded (to comprise a Housing Enforcement Manager, 9½ Environmental Health Officers, 2 Intelligence Officers, a Tenancy Relations Officer and a Business Support Officer), the annual operating costs would be:

| OPTION 3 ANNUAL EXPENDITURE (OPERATING COSTS) | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|---|----------------|----------------|----------------|--------------|
| Employee costs (including on-costs) | £581,000 | £586,800 | £593,100 | £1,760,900 |
| Office hardware (furniture, computers, telephones, etc) | £ 18,000 | £ 0 | £ 0 | £ 18,000 |
| Surveying equipment (cameras, measures, damp meters, etc) | £ 2,200 | £ 0 | £ 0 | £ 2,200 |
| Investigatory equipment (NEAL machine, CDs, Pace notebooks and interpreter and subscription services) | £ 18,000 | £ 15,500 | £ 15,500 | £ 49,000 |
| Personal protective equipment (stab vests, hardhats, safety shoes, | £ 2,500 | £ 0 | £ 0 | £ 2,500 |

| | | | | |
|---|-----------------|------------------|------------------|-------------------|
| etc) | | | | |
| Initial training | £ 14,000 | £ 0 | £ 0 | £ 14,000 |
| Team subscriptions (Law, Call Credit and intelligence database) | £ 7,800 | £ 7,800 | £ 7,800 | £ 23,400 |
| IT subscriptions | £ 800 | £ 800 | £ 800 | £ 2,400 |
| Additional M3 licences | £ 1,500 | £ 0 | £ 0 | £ 1,500 |
| Additional M3 maintenance | £ 400 | £ 400 | £ 400 | £ 1,200 |
| Training | £ 2,000 | £ 2,000 | £ 2,000 | £ 6,000 |
| Mobile phones | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Furniture | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Printing | £ 2,000 | £ 2,000 | £ 2,000 | £ 6,000 |
| Photocopying | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Stationery / supplies | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Postage | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Advertising and publicity | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Vehicle allowances | £ 2,000 | £ 2,000 | £ 2,000 | £ 6,000 |
| TOTAL | £666,200 | £ 631,300 | £ 637,600 | £1,935,100 |

- 7.15 Based on the assumptions set out in Paragraphs 4.25 and 6.17 – 6.19 of this Business Case, the Housing Enforcement Team is expected to have the capacity to impose an average of 160 civil penalties a year. If 120 of these civil penalties (40 complex and 80 standard) are successful and the Council is able to collect 80% of the monies due, this will generate civil penalty income in the region of **£640,000 per annum**.

| OPTION 3 NET COST OF HOUSING ENFORCEMENT TEAM | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|---|---------------------|------------------|------------------|---------------------|
| Annual operating costs | £666,200 | £631,300 | £637,600 | £1,935,100 |
| Annual income that is likely to be generated from civil penalties | £640,000 | £640,000 | £640,000 | £1,920,000 |
| TOTAL | £ 26,200 | (£ 8,700) | (£ 2,400) | £ 15,100 |

PLEASE NOTE: The above figures do not take into account any other income that is generated through rent repayment orders and HMO licensing fees. Any deficit will be covered from the existing Housing Enforcement budget.

OPTION 4 (THE RECOMMENDED OPTION)

7.16 If the Housing Enforcement Team is expanded (to comprise a Housing Enforcement Manager, 11½ Environmental Health Officers, 3 Intelligence Officers, a Tenancy Relations Officer and a Business Support Officer), the operating costs would be:

| OPTION 4 ANNUAL EXPENDITURE (OPERATING COSTS) | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|---|----------------|----------------|----------------|--------------|
| Employee costs (including on-costs) | £701,200 | £708,200 | £715,800 | £2,125,200 |
| Office hardware (furniture, computers, telephones, etc) | £ 24,000 | £ 0 | £ 0 | £ 24,000 |
| Surveying equipment (cameras, measures, damp meters, etc) | £ 3,000 | £ 0 | £ 0 | £ 3,000 |
| Investigatory equipment (NEAL machine, CDs, Pace notebooks and interpreter and subscription services) | £ 23,000 | £ 21,000 | £ 21,000 | £ 65,000 |
| Personal protective equipment (stab vests, hardhats, safety shoes, etc) | £ 3,500 | £ 0 | £ 0 | £ 3,500 |
| Interpreter and translation services | £ 18,000 | £ 18,000 | £ 18,000 | £ 54,000 |
| Initial training | £ 14,000 | £ 0 | £ 0 | £ 14,000 |
| Team subscriptions (Law, Call Credit and intelligence database) | £ 7,800 | £ 7,800 | £ 7,800 | £ 23,400 |
| IT subscriptions | £ 1,500 | £ 1,500 | £ 1,500 | £ 4,500 |
| Additional M3 licences | £ 1,500 | £ 0 | £ 0 | £ 1,500 |
| Additional M3 maintenance | £ 400 | £ 400 | £ 400 | £ 1,200 |
| Mobile phones | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Training | £ 1,500 | £ 1,500 | £ 1,500 | £ 4,500 |
| Furniture | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Printing | £ 2,300 | £ 2,300 | £ 2,300 | £ 6,900 |
| Photocopying | £ 3,400 | £ 3,400 | £ 3,400 | £ 10,200 |

| | | | | |
|---------------------------|-----------------|------------------|------------------|-------------------|
| Stationery / supplies | £ 3,500 | £ 3,500 | £ 3,500 | £ 10,500 |
| Postage | £ 3,500 | £ 3,500 | £ 3,500 | £ 10,500 |
| Advertising and publicity | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Vehicle allowances | £ 2,800 | £ 2,800 | £ 2,800 | £ 8,400 |
| TOTAL | £819,900 | £ 778,900 | £ 786,500 | £2,385,300 |

- 7.17 Based on the assumptions set out in Paragraphs 4.25 and 4.33 – 4.40 of this Business Case, the Housing Enforcement Team is expected to have the capacity to impose an average of 225 civil penalties a year. If 169 of these civil penalties (38 complex, 90 standard and 41 low-cost) are successful and the Council is able to collect 80% of the monies due, this will generate civil penalty income in the region of **£795,000 per annum**.

| OPTION 4 NET COST OF HOUSING ENFORCEMENT TEAM | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|---|-----------------|------------------|------------------|--------------|
| Annual operating costs | £819,900 | £778,900 | £786,500 | £2,385,300 |
| Annual income that is likely to be generated from civil penalties | £795,000 | £795,000 | £795,000 | £2,385,000 |
| TOTAL | £ 24,900 | (£16,100) | (£ 8,500) | £ 300 |

PLEASE NOTE: The above figures do not take into account any other income that is generated through rent repayment orders and HMO licensing fees. Any deficit will be covered from the existing Housing Enforcement budget.

OPTION 5 (EXPANDED TEAM)

- 7.18 If the Housing Enforcement Team is expanded (to comprise a Housing Enforcement Manager, 13½ Environmental Health Officers, 4 Intelligence Officers, a Tenancy Relations Officer and a Business Support Officer), the annual operating costs would be:

| OPTION 5 ANNUAL EXPENDITURE (OPERATING COSTS) | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|--|----------------|----------------|----------------|--------------|
| Employee costs (including on-costs) | £833,400 | £841,700 | £850,800 | £2,525,900 |
| Office hardware (furniture, computers, telephones, etc) | £ 28,000 | £ 0 | £ 0 | £ 28,000 |

| | | | | |
|---|-----------------|-----------------|------------------|-------------------|
| Surveying equipment (cameras, measures, damp meters, etc) | £ 4,000 | £ 0 | £ 0 | £ 4,000 |
| Investigatory equipment (NEAL machine, CDs, Pace notebooks and interpreter and subscription services) | £ 25,000 | £ 21,000 | £ 21,000 | £ 67,000 |
| Personal protective equipment (stab vests, hardhats, safety shoes, etc) | £ 4,200 | £ 0 | £ 0 | £ 4,200 |
| Initial training | £ 14,000 | £ 0 | £ 0 | £ 14,000 |
| Team subscriptions (Law, Call Credit and intelligence database) | £ 7,800 | £ 7,800 | £ 7,800 | £ 23,400 |
| IT subscriptions | £ 1,500 | £ 1,500 | £ 1,500 | £ 4,500 |
| Additional M3 licences | £ 1,500 | £ 0 | £ 0 | £ 1,500 |
| Additional M3 maintenance | £ 400 | £ 400 | £ 400 | £ 1,200 |
| Mobile phones | £ 1,500 | £ 1,500 | £ 1,500 | £ 4,500 |
| Training | £ 2,000 | £ 2,000 | £ 2,000 | £ 6,000 |
| Furniture | £ 1,000 | £ 1,000 | £ 1,000 | £ 3,000 |
| Printing | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Photocopying | £ 4,000 | £ 4,000 | £ 4,000 | £ 12,000 |
| Stationery / supplies | £ 4,000 | £ 4,000 | £ 4,000 | £ 12,000 |
| Postage | £ 4,000 | £ 4,000 | £ 4,000 | £ 12,000 |
| Advertising and publicity | £ 3,000 | £ 3,000 | £ 3,000 | £ 9,000 |
| Vehicle allowances | £ 3,600 | £ 3,600 | £ 3,600 | £ 10,800 |
| TOTAL | £945,900 | £898,500 | £ 907,600 | £2,752,000 |

7.19 Based on the assumptions set out in Paragraphs 4.25 and 6.25 – 6.27 of this Business Case, the Housing Enforcement Team is expected to have the capacity to impose an average of 290 civil penalties a year. If 218 of these civil penalties (38 complex, 90 standard and 90 low-cost) are successful and the Council is able to collect 80% of the monies due, this will generate civil penalty income in the region of **£952,000 per annum**.

| OPTION 5 NET COST OF HOUSING ENFORCEMENT TEAM | 2018/19 | 2019/20 | 2020/21 | TOTAL |
|--|----------------|----------------|----------------|--------------|
| Annual operating costs | £945,900 | £898,500 | £907,600 | £2,752,000 |
| Annual income that is | £952,000 | £952,000 | £952,000 | |

| | | | | |
|---|------------------|------------------|------------------|-------------------|
| likely to be generated from civil penalties | | | | £2,856,000 |
| TOTAL | (£ 6,100) | (£53,500) | (£44,400) | (£104,000) |

PLEASE NOTE: The above figures do not take into account any other income that is generated through rent repayment orders and HMO licensing fees.

8. RISKS AND MITIGATION

| Risk | Mitigation | Residual Risk |
|--|--|---------------|
| The Council is being asked to fund the expansion of the Housing Enforcement Team before it knows exactly how much extra income the bigger team will be able to generate in civil penalties, rent repayment orders and HMO licensing fees | <p>A comprehensive business case has been produced, providing an overview of the changes to the regulatory framework affecting private sector housing, the number of licensable HMOs that are believed to be operating in Northampton without a licence, and the community benefits to be achieved by increasing the amount of housing enforcement activity.</p> <p>Realistic estimates have been made of the size and number of civil penalties that the Housing Enforcement Team is likely to be able to impose and collect in a year.</p> <p>Although the Business Case includes estimates of the amount of money that might be generated in rent repayment orders and extra HMO licensing fees, these figures have not been taken into account in the projection of the Housing Enforcement Team's income over the next three years.</p> <p>When Cabinet considers the Business Case on 17/01/2018, it will be recommended to approve a 2-stage expansion of the Housing Enforcement</p> | |

| | | |
|---|--|--|
| | Team, starting with Option 2. | |
| The decisions made by the First Tier Tribunal in relation to civil penalties and rent repayment orders may be disappointing and result in civil penalties being quashed or reduced and applications for rent repayment orders being turned down | <p>The government has made it very clear that offenders must not benefit financially from their offending. This is why the maximum civil penalty has been set at £30,000 per offence and rent repayment orders have been extended to cover a wider range of housing offences.</p> <p>The government has also assured local authorities that Tribunals have been fully briefed on the impact and expectation of civil penalties.</p> <p>Northampton's Private Sector Housing Civil Penalties Policy (which was approved by Cabinet on 19/07/17) is comprehensive, clear, equitable and defensible.</p> <p>Offences will be investigated by well-trained investigators, and the civil penalties that are imposed will not only be fully justified but will also be robustly and competently defended in the First Tier Tribunal.</p> <p>The Council's Private Sector Housing Manager has a good working relationship with the President of the Tribunals Service and is part of a DCLG / Home Office rogue landlords working group and the Local Government Association's private sector housing group, so is well placed to provide feedback on the performance and decisions of the First Tier Tribunal.</p> <p>The Business Case assumes that only 75% of the civil penalties imposed will be successful.</p> | |
| Recruitment of a large team of highly-skilled | All Job Descriptions have | |

| | | |
|--|---|--|
| <p>investigative enforcement officers (especially Environmental Health Officers) who have the skills, qualities and experience required to apply the new legislation and protect the Council's interests</p> | <p>been written and evaluated, and the posts will be advertised as widely as possible after Cabinet has considered the Business Case on 17/01/18.</p> <p>A rigorous recruitment and training process will ensure that all of the Officers who are recruited are able to achieve the Advanced Professional Certificate in Investigative Practice within 3 months of them taking up post.</p> | |
| <p>Even when the Council has successfully imposed a civil penalty, it may not always be able to collect all of the money</p> | <p>Robust procedures are being put in place to ensure that, when a civil penalty is successfully imposed, it is collected as quickly and efficiently as possible.</p> <p>The Business Case assumes that 80% of the money that is owed in civil penalties will be collected from offenders.</p> | |
| <p>Increased housing enforcement activity and/or the need to deal with a higher than expected number of civil penalty appeals will place an unmanageable demand on the Council's Legal Service.</p> | <p>Additional staffing resources will be brought in if the Council's Legal Service is unable to meet the demand.</p> | |
| <p>Risk to the Council's reputation</p> | <p>The Council's 'offender pays' approach to tackling criminal, rogue and irresponsible landlords is popular with politicians, members of the public and most landlords and managing agents.</p> <p>The Housing Enforcement Team has clear objectives, and its operational activity and performance will be closely monitored in order to identify potential issues early.</p> | |

Appendices



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

| | |
|---------------------|---|
| Report Title | CONFIRMATION OF NON-IMMEDIATE ARTICLE 4 DIRECTIONS IN FAR COTTON/ DELAPRE AND CLIFTONVILLE |
|---------------------|---|

AGENDA STATUS: PUBLIC

| | |
|------------------------------------|---------------------------------------|
| Cabinet Meeting Date: | 17 January 2018 |
| Key Decision: | YES |
| Within Policy: | YES |
| Policy Document: | YES |
| Directorate: | Regeneration, Enterprise and Planning |
| Accountable Cabinet Member: | Councillor Tim Hadland |
| Ward(s) | Delapre and Briar Hill/ Rushmere |

1. Purpose

- 1.1 To seek confirmation of the Non-Immediate Article 4 Directions for Far Cotton/ Delapre and Cliftonville.

2. Recommendations

- 2.1 That Cabinet resolves to confirm the Non-Immediate Article 4 Directions for Far Cotton/Delapre and Cliftonville (as shown on Map 1 and 2) made on 29th June 2017, to withdraw permitted development rights for the change of use from buildings used as Dwellinghouses (Use Class C3) to Houses in Multiple Occupation (HMOs) (Use Class C4) with effect from 29th September 2018.

3. Issues and Choices

3.1 Report Background

- 3.1.1 On 15 March 2017, Cabinet resolved to make Article 4 Directions (Immediate and Non-Immediate) to withdraw permitted development rights for the change of use from Class C3 dwellinghouses to Class C4 houses in multiple occupation in areas within Far Cotton, Delapre and Cliftonville. This is because evidence obtained showed that the growth and concentrations of HMOs in these areas need to be managed.
- 3.1.2 In 2010, the Town and Country Planning (Use Classes) Order 1987 (Use Classes Order) was amended which created a new use class for small houses in multiple occupation, Use Class C4 (HMO) and amended Use Class C3 (dwellinghouse). Class C4 (HMO) covers small shared dwellinghouses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities. Planning permission would normally be required for change of use where there is a likelihood that it will create a material change. However, change of use from C3 to C4 is a permitted development by virtue of Schedule 2 of the General Permitted Development Order 2015 (GPDO). This means that people can convert their properties from dwellinghouses to HMOs for 3 to 6 unrelated people without the need for planning approval.
- 3.1.3 A Justification Report accompanied the Cabinet report on the 15 March 2017. The report outlined the general problems experienced by local authorities, including Northampton Borough, associated with concentrations of HMOs. These problems include noise, unacceptable amenity space standards and negative impacts on the physical environment and street scene. Findings from Private Sector Housing, in terms of confirmed HMOs in the area, were presented. Also highlighted were the potential impacts of the University of Northampton moving into its new campus location in the town centre.
- 3.1.4 It was resolved that two different Directions were to be issued. An Immediate Direction was to be issued in parts of Far Cotton because evidence showed that the concentration of HMOs were increasing in this area and required immediate management. This Immediate Direction came into effect on the 6 April 2017 and was confirmed on the 7 July 2017, following consultation. This means that planning permission will be permanently required for change of use from C3 to C4 and the Council will determine all applications in accordance with the Development Plan and relevant policy guidance. It was made clear that in issuing the Direction, it does not mean that planning permission will be refused. It means that the Council is able to ensure that demand is met but at the same time make sure that this is balanced against the wellbeing of residents living next door and close to the HMOs.
- 3.1.5 The remaining areas of Far Cotton and Delapre, and parts of Cliftonville, were considered to be suitable for the making of Non-Immediate Article 4 Directions. Evidence showed that at the time of the investigation, there were some, but not a significant amount, of HMOs within the area. Combined with their close proximity to the new University location, it was considered that a Non-Immediate Direction would be more appropriate because there was no immediate threat to these areas. Non-Immediate Directions can be confirmed

after consultation takes place. Therefore, it comes into force only after it is confirmed.

3.2 Issues

Consultation on the Non-Immediate Article 4 Direction in Far Cotton/ Delapre and Cliftonville

- 3.2.1 Members noted that when a Non-Immediate Direction is issued, the Council has up to 2 years from the date of the consultation to confirm the Directions. The Direction will expire after the 2 year deadline. At Cabinet in March 2017, Members resolved that the Non-Immediate Directions will come into effect 12 months after consultation.
- 3.2.2 Public consultation on the Non-Immediate Article 4 for Far Cotton/ Delapre and parts of Cliftonville took place between 28 September and 27 October 2017. Letters were sent to statutory consultees including the Crown, the County Council and Highway Authority; and to relevant organisations and associations such as National Landlords Association, Northampton Landlords Association, Residents Association, the Parish Council, the Police and the Fire Service. Legal notices were placed in the local newspaper (Northampton's Chronicle and Echo) and on site at 4 locations in Far Cotton/ Delapre and 2 locations in Cliftonville.
- 3.2.3 Members were informed that all representations received during consultation must be taken into account before the Direction is confirmed. No responses were received during this consultation period.
- 3.2.4 The Secretary of State was also consulted. They had no comments to make.

Confirmation of the Non-Immediate Directions

- 3.2.5 The consultation on the Non-Immediate Directions took place on the 28 September 2017 for four weeks. If Members agree to confirm the Directions, they will come into effect on the 29 September 2018.
- 3.2.6 This report therefore seeks confirmation of the Non-Immediate Directions so that they will become permanent.

3.3 Choices (Options)

3.3.1 Option1: Confirm the Non-Immediate Article 4 Directions (Recommended)

- 3.3.2 Confirm both of the Non-Immediate Article 4 Directions, therefore removing permanently the permitted development rights for change of use from Use Class C3 Dwellinghouses to C4 Houses in Multiple Occupation, in parts of Far Cotton/ Delapre and Cliftonville. This means that the Directions will come into effect on the 29 September 2018.
- 3.3.3 Once the Directions come into effect, planning permission will be required before a property can be used as a HMO for 3 to 6 unrelated people, giving the Council an opportunity to consider a proposal in more detail. All planning applications will be determined in accordance with the Development Plan and policy guidance. No fee will currently be required for these applications.

- 3.3.4 Concentrations of HMOs will continue to be managed in these areas which will have increasing pressure for HMOs particularly once the new University of Northampton formally opens to new intakes in its town centre location in September 2018. The local amenity and well-being of residents and adjoining occupiers will be considered as part of the planning application process.
- 3.3.5 There will be additional staff time required to deal with the additional planning applications.
- 3.3.6 Option 2: Do Nothing**
- 3.3.7 The two Non-Immediate Article 4 Directions can only come into force on 29 September 2018 if confirmed by the Council before that date. If the Article 4 Directions are not confirmed, landlords and property owners can continue to convert their properties from dwellinghouses to HMOs for 3 – 6 unrelated people who share basic facilities without the need for planning permission.
- 3.3.8 This could escalate the problems associated with the concentrations of HMOs. Given the issues and impacts associated with HMOs, this option is not recommended.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The confirmation of the Non-Immediate Article 4 Directions does not completely remove the issues associated with HMO concentrations. It would result in a permanent requirement to apply planning permission for a change of use from C3 to C4. It does not mean that planning permission will be refused. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The current Development Plan comprises the West Northamptonshire Joint Core Strategy (Local Plan Part 1), the Northampton Central Area Action Plan, Neighbourhood Plans and Supplementary Planning Documents. In addition, the Council also published an Interim Planning Policy Statement of Houses in Multiple Occupation, which provides a range of principles including acceptable thresholds for HMO concentrations. The Council is also in the process of preparing its Northampton Local Plan Part 2, which will replace all remaining saved policies and update relevant Central Area Action Plan policies.

4.2 Resources and Risk

- 4.2.1 There will continue to be resourcing implications principally in terms of staff time that would otherwise be used on existing projects/ day to day work for the Council's Planning Service. The Development Management team has and will continue to deal with planning applications that would not have otherwise required planning permission and no fee can currently be levied for these applications.
- 4.2.2 There will be ongoing implications for the Council's Planning Enforcement team in respect of monitoring/ evidence gathering and enforcement action as well as additional mapping services from the Planning Policy team. This will need to be supported by the Private Sector Housing team in terms of evidence gathering and providing information on licensing.

4.3 Legal

- 4.3.1 The making of these Directions require due legal process to be followed as prescribed by Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015.
- 4.3.2 Legal support and advice will be required to confirm the Directions.
- 4.3.3 No compensation for the withdrawal of the permitted development rights is payable if the Local Planning Authority gives notice of the withdrawal between 12 months and 24 months in advance.

4.4 Equality and Health

- 4.4.1 The Article 4 Directions (Immediate and Non-Immediate) were the subject of a Community Impact Assessment. The Assessment identified no negative impacts for any equality group but identified positive impacts for all including contributing towards health improvements. There remains a need for good quality affordable accommodation for students and those who share living accommodation in Northampton. The confirmation of the Non-Immediate Article 4 Directions means that the Council could ensure that new HMOs are of a high standard. The Council could also make sure that they would not lead to any unacceptable impact on neighbour amenity of other interest of acknowledged importance in the interests of all members of the community.
- 4.4.2 The confirmation of the Non-Immediate Article 4 Directions will remove permitted development rights permanently. This means that the occupiers/owners of all dwellinghouses in the areas affected will require planning permission for the change of use from C3 dwellinghouses to C4 houses in multiple occupation.

4.5 Consultees (Internal and External)

- 4.5.1 The Council consulted a range of consultees including statutory consultees, national and local landlords associations, residents associations and all Councillors. Information about the Directions and how people can respond were posted on the Council's website. Legal Notices were placed in 4 locations in Far Cotton and Delapre and 2 locations in Cliftonville and site visits were undertaken weekly to ensure that the Notices were still on site. The Legal Notices remained on site for 6 weeks. The Notices were also advertised in the Northampton Chronicle & Echo (Thursday 28 September edition) and on the Council's website. The Secretary of State was also consulted.

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The confirmation of the Non-Immediate Article 4 Directions as recommended would introduce controls which would be exercised through the planning application process and associated planning enforcement process to help deliver safer communities; help those that need it to have a safe and secure home; and to ensure a clean and attractive town for residents and visitors.

4.7 Other Implications

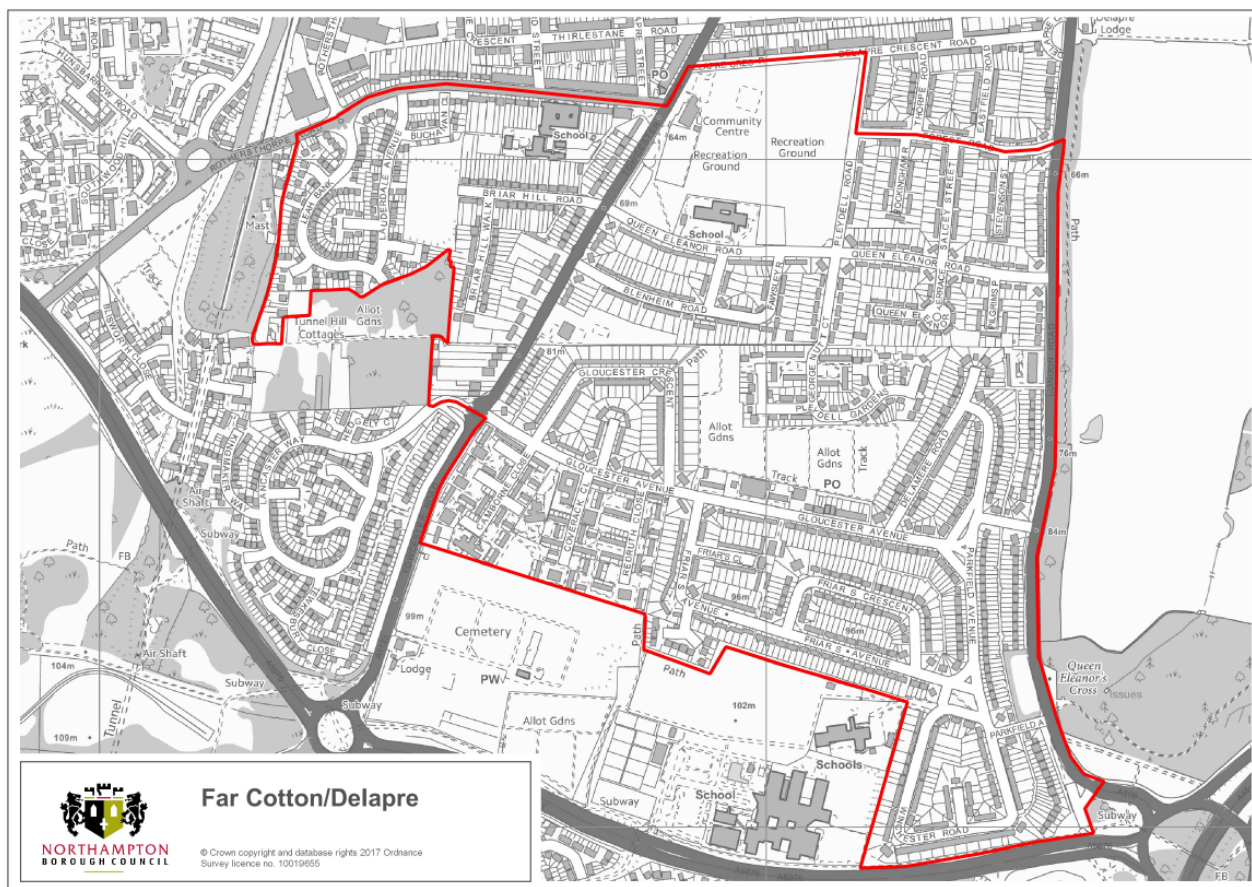
- 4.7.1 None.

5. Background Papers

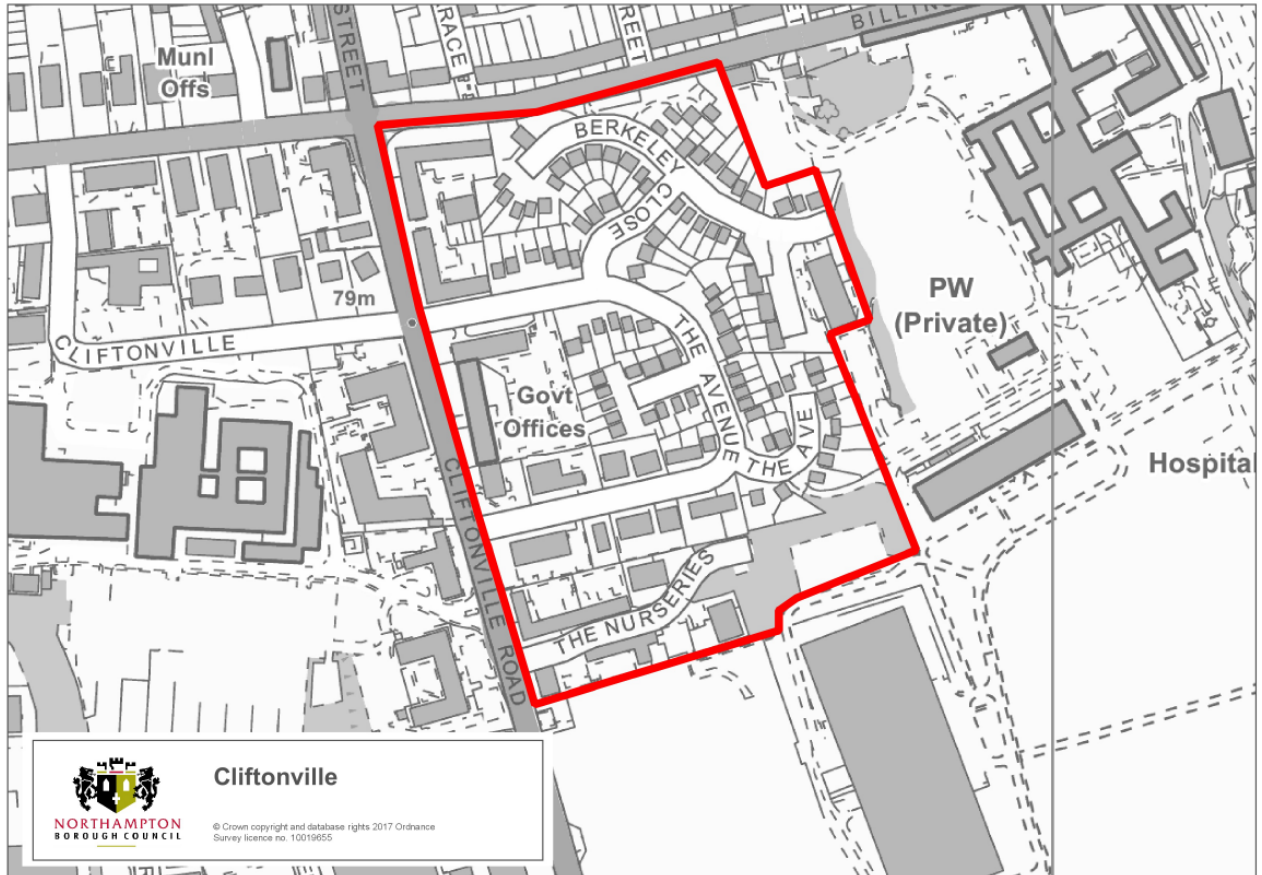
- 5.1 National Planning Practice Guidance (2014)
- 5.2 Cabinet Report on Article 4 Direction for Houses in Multiple Occupation (March 2017)
- 5.3 Justification Report to Cabinet Report (March 2017)
- 5.4 Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
- 5.5 The Town and Country Planning (Compensation) (England) Regulations 2015
- 5.6 Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- 5.7 Town and Country Planning (Use Classes) Order 1987 (as amended)

Peter Baguley
Head of Planning
(Extension 8921)

Map 1:
Boundary of the Non-Immediate Article 4 Direction in Far Cotton and Delapre



Map 2:
Boundary of the Non-Immediate Article 4 Direction in Cliftonville



Appendices

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NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

| | |
|---------------------|---|
| Report Title | Environmental Services Re-provision – Contract Award |
|---------------------|---|

AGENDA STATUS: Public

| | |
|------------------------------------|-------------------------------|
| Cabinet Meeting Date: | 17 th January 2018 |
| Key Decision: | Yes |
| Within Policy: | Yes |
| Policy Document: | No |
| Directorate: | Customers and Communities |
| Accountable Cabinet Member: | Councillor Mike Hallam |
| Ward(s) | All wards |

1. Purpose

- 1.1 To seek agreement of Cabinet to award the environmental services contract to the Preferred Bidder, Bidder B, for a period of 10 years.

2. Recommendations

That Cabinet:

- 2.1 Subject to confirmation of commitments after the Alcatel standstill period, appoints Bidder B as the Preferred Bidder and agrees to award the Environmental Services Contract for a period of 10 years, at a price of £97,697,867 (not including indexation /inflation), with an option to extend by mutual agreement for up to a further 10 years, subject to satisfactory performance of the contract and Cabinet approval nearer that time.

- 2.2 Further to recommendation 2.1, delegates to the Director of Customers and Communities, in consultation with the Cabinet Member for Environment, authority to do all that is reasonably required, necessary and appropriate to implement Cabinet's decision to award the contract to the Preferred Bidder and to achieve successful completion of the environmental services procurement process, including:
- Agreeing terms and entering into leases, in line with the Preferred Bidder's property, vehicle, equipment and container proposals
 - Providing final approval and execution of the contract following confirmation of commitments.
- 2.3 In accordance with the advice of the Council's Chief Finance Officer, approves expenditure of £11.938m into the capital programme, funded by borrowing with up to £10m of the Minimum Revenue and interest charges being offset by the use of existing reserves for the vehicles, equipment and containers that will be used to provide the new environmental services contract.
- 2.4 In accordance with the advice of the Council's advisors, agrees that the Council will pay for the cost of bringing the facilities up to standard at the Council owned Westbridge Depot, at the price provided for this work by the Preferred Bidder of £450,038, this sum to be included for in the Capital programme for 2018-19.
- 2.5 Notes the impact on the revenue budget of this contract is £11.128m for 2018/19 which has been factored into the budget to be approved by Council in February 2018.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Council's current environmental services contract expires on 3 June 2018.
- 3.1.2 Environmental services refers to waste, recycling, grounds maintenance, street cleansing and other ancillary services.
- 3.1.3 At a meeting of Cabinet on 16th November 2016, it was decided to again outsource the full range of environmental services.
- 3.1.4 At a subsequent meeting of Cabinet on 11th January 2017, the key principles of the procurement strategy for the re-provision of environmental services were agreed and the business case was approved.
- 3.1.5 The purpose of this business case was to establish whether the procurement project was:
- Desirable, taking into account the cost/risk/benefits balance
 - Viable, in terms of the project's ability to deliver the product

- Achievable, by determining whether the product will provide the benefits

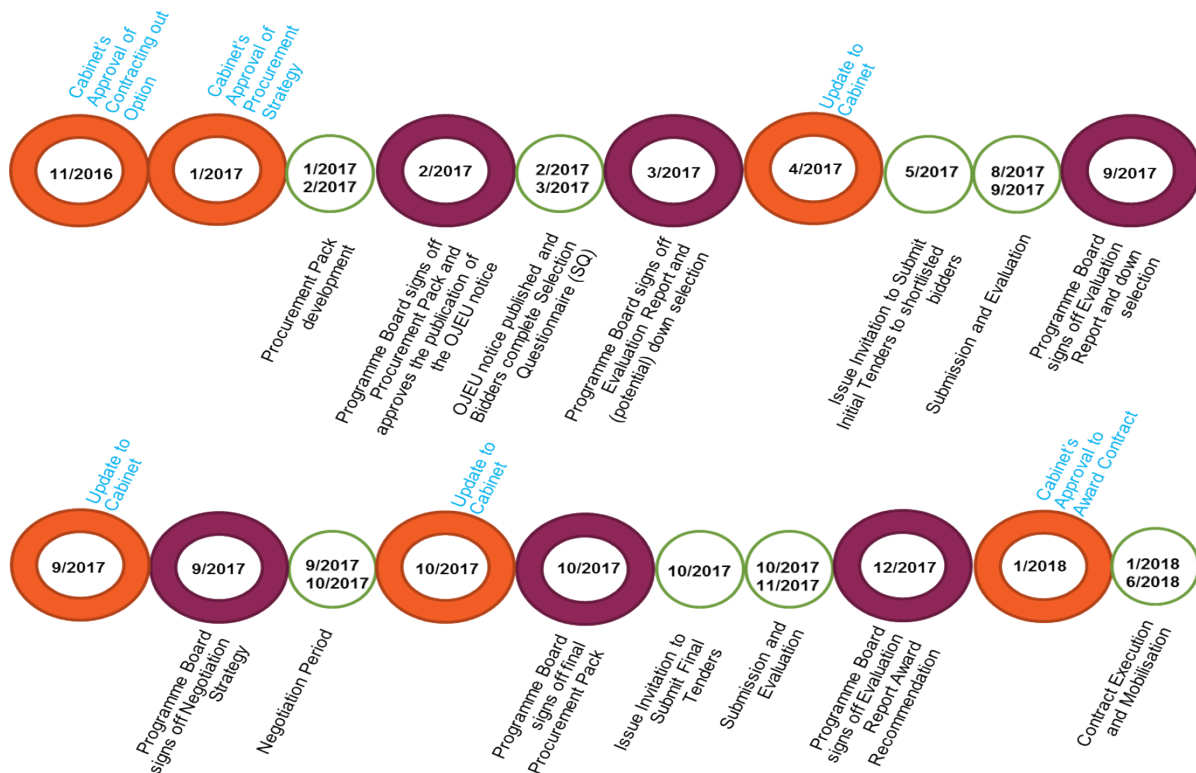
3.1.6 The business case provided a reference document that the programme board utilised to ensure that the project had clear definition, direction and that it provided evidence of what we were seeking to achieve.

3.1.7 As well as approving the overall business case in January 2017, Cabinet gave its approval to a number of specific matters set out in the business case, as follows:

- Environmental services (waste, recycling, grounds maintenance, street cleansing and other ancillary services) were to be procured as a single lot.
- The contract length to be 10 years, plus extension provisions up to a further 10 years.
- Competitive Procedure with Negotiation to be used as the procurement procedure.
- An outcome based services specification to be developed and negotiation with bidders to be undertaken on strategic aspects of service subject to the outcome of the Initial Tender stage.

3.1.8 The procurement timetable was set out in the business Case. The major implementation timescales are outlined in figure 1.

Figure1: Major Project's Implementation Timescales



3.1.9 Table 1 sets out the Tier 1 level of the contract award criteria.

3.1.10 In order to have the best possible chance of achieving both good quality and affordable environmental services from the procurement process, it was agreed that price and quality criteria were to be given the same weighting.

Table 1: Tier 1 Level of Contract Award Criteria

| Tier 1 Criteria | Weighting to apply at ISIT | Weighting to apply at ISFT |
|-----------------|----------------------------|----------------------------|
| Price | 50% | 50% |
| Quality | 50% | 50% |

3.1.11 In April 2017, Cabinet was advised that in response to the OJEU notice and Selection Questionnaire issued on 13th February 2017, nine responses were received and evaluated, leading to the five highest scoring bidders being invited to submit initial tenders.

3.1.12 Also in April 2017, in response to the extensive public consultation that had taken place, Cabinet agreed that the following requirements for service design be included in the service specification:

- Fortnightly co-mingled dry recycling collection service
- Free green waste collection service
- Kitchen food waste collection service

3.1.13 ISIT stage started on 8th May 2017 and completed on 8th September 2017. Of the five bidders invited to submit initial tenders, two submitted initial tenders.

3.1.14 Although the council reserved the right to award the contract on the basis of the initial tenders, it decided not to and instead entered negotiations with the two bidders who submitted initial tenders so that bidders could improve the content of their submissions.

3.1.15 At the conclusion of the negotiation period, the Council informed the remaining bidders of the changes to the documentation based on the negotiation sessions and invited both bidders to submit final tenders by setting a common deadline for the submissions.

3.1.16 The Final Tender submissions were received by the deadline of 4pm on 17th November 2017. Following a very robust process of evaluation and moderation, the Preferred Bidder was identified by applying the award criteria, leading to the recommendation set out in this report to award the environmental services contract to Bidder B.

3.2 Choices (Options)

- 3.2.1 Cabinet can only choose to award or not award the contract to the Preferred Bidder. These are the only two options available to Cabinet at this late stage in the process. If Cabinet chooses not to award the contract to Bidder B, the existing contract would end on 3 June 2018 and no contract arrangements would be in place as a replacement.
- 3.2.2 Cabinet is advised that a very robust process has been followed to identify the Preferred Bidder using the published evaluation criteria and methodology and Cabinet can be confident in the process that has been undertaken and the recommendations that have flowed from it to determine that Bidder B's Final Tender submission represents the most economically advantageous tender and is capable of meeting the council's requirements.
- 3.2.3 Cabinet is strongly advised to approve the recommendations of this report as the risks of not doing so are substantial in terms of statutory functions, cost, service delivery and reputation.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 There are no policy implications directly arising from this report.

4.2 Resources and Risk

Financial Implications

Costs of new contract

- 4.2.1 Both bidders priced for a new contract to either be inclusive or exclusive of the cost of Vehicles, Equipment and Containers to be used to deliver the services. This approach has enabled the Council to evaluate the option of using its own sources of funding for the purchase of these assets instead of the bidders cost of capital.
- 4.2.2 If the environmental services contract is awarded to the Preferred Bidder, and the costs of assets are included, the total price of the new service will be £114.22m, an annual price of £13.235m (a standard annual payment of £11.221m plus start-up costs of £2.014m) in year 1 and annual prices of £11.221m to be paid in years 2 to 10. Years 2 to 10 prices do not include indexation, for example to cover the cost increases or decreases for fuel inflation, or pay awards etc. These will be determined on an annual basis and added to the annual price for that year.
- 4.2.3 Table 2 reflects the overall budget impact before taking account of the asset funding saving. These amounts do not include indexation

Table 2

| Budget Impact | 2018/19 £k | 2019/20 £k | 2020/21 £k | 2021/22 £k | 2022/23£ k |
|----------------|---------------|---------------|---------------|---------------|---------------|
| Base Budget | 7,145 | 7,095 | 7,095 | 7,095 | 7,095 |
| Net Increase | 5,313 | 4,126 | 4,126 | 4,126 | 4,126 |
| Revised Budget | 12,458 | 11,221 | 11,221 | 11,221 | 11,221 |

The revised budget shown in Table 2 of £12.458m covers the following elements set out in Table 3.

Table 3

| Price Element | Annual Price £k | Cost £k |
|---------------------------------------|--------------------|------------|
| Existing Contractor (2 months) | 7,145 | 1,191 |
| New Contractor - Standard (10 months) | 11,221 | 9,253 |
| New Contractor - Start Up | 2,014 | 2,014 |
| Total Cost 2018/19 | | 12,458 |

- 4.2.4 However if, in accordance with the recommendation of this report, the environmental services contract is awarded to the Preferred Bidder, and the costs of assets are not included, the total price, of the new service will be £97.698m, an annual price of £11.569m (a standard annual payment of £9.570m plus start-up costs of £1.999m) in year 1 and annual prices of £9.570m to be paid in years 2 to 10. As before years 2 to 10 prices do not include for indexation.
- 4.2.5 The price increase has been reflected in the draft budget for 2018-19 and subsequent years based on the assumption that the Preferred Bidder is approved and the Council fund separately the cost of the assets. Table 6 reflects the overall budget impact after asset funding savings.

Table 4

| Budget Impact | 2018/19 £k | 2019/20 £k | 2020/21 £k | 2021/22 £k | 2022/23 £k |
|------------------------|---------------|---------------|---------------|---------------|---------------|
| Revised Budget | 12,458 | 11,221 | 11,221 | 11,221 | 11,221 |
| Capital Funding Saving | 1,330 | 387 | 391 | 400 | 408 |
| Revised Budget | 11,128 | 10,834 | 10,830 | 10,821 | 10,813 |

The revised budgets shown in Table 4 cover the following pricing elements shown in Table 5.

Table 5

| Price Element | 2018/19 £k | 2019/20 £k | 2020/21 £k | 2021/22 £k | 2022/23 £k |
|------------------------------|---------------|---------------|---------------|---------------|---------------|
| Existing Contractor * | 1,191 | 0 | 0 | 0 | 0 |
| New Contractor – Standard ** | 7,892 | 9,570 | 9,570 | 9,570 | 9,570 |
| New Contractor – Start Up | 1,999 | 0 | 0 | 0 | 0 |
| MRP | 0 | 1,194 | 1,194 | 1,194 | 1,194 |
| Interest | 46 | 70 | 66 | 57 | 49 |
| Total Cost | 11,128 | 10,834 | 10,830 | 10,821 | 10,813 |

* Represents 2 months cost

** Represents 10 months cost

Capital implications and funding of assets

- 4.2.6 At the meeting on 15th November 2017 Cabinet approved that the Chief Financial Officer in consultation with the Cabinet Member for Finance determine the optimum value for money method of financing assets that is to be used in providing the Environmental Services Re-provision Contract throughout the period of its operation. The Council engaged external expert advice to assess the optimum value for money method of financing assets.
- 4.2.7 In accordance with the advice of the Council's CFO, it is proposed that expenditure of £11.938m be included in the capital programme. It is proposed that the funding for all of this expenditure be borrowing which would incur interest charges and require the Council to make a statutory Minimum Revenue Provision (MRP) for the total amount borrowed – the MRP charge would be spread over the useful lives of the assets. However, as the Council currently has healthy reserves, it is proposed that up to £10m of the MRP and interest charges to the General Fund be offset by the use of existing reserves. The use of the reserves would follow the same spend profile as the required MRP charge. This would ensure that the use of reserves is spread over the contract and allow sufficient flexibility should the financial environment change for the Council over the period.
- 4.2.8 In addition to the cost of the service, the Council will pay for the cost of bringing the facilities up to standard at the Council owned Westbridge Depot. The Preferred Bidder has provided a price of £450,038 for this work. The refurbishment undertaken will enhance the Westbridge Depot and is to be included within the capital programme for 2018-19. The work is to be undertaken by the Preferred Bidder in conjunction with the Council at the start of the contract.
- 4.2.9 As previously stated in the report to Cabinet on 15th November 2017, whilst both Bidders A and B have included within their pricing the cost of providing dedicated assets, it is currently common practice for contract specifications within this sector to require bidders to detail the assets (including costs) that they would employ in the performance of the contract.
- 4.2.10 As it can often be better value for money for the Council to provide these assets and therefore to fund them as it can have better access to cheaper borrowing (e.g. from Public Works Loan Board (PWLB) or to fund from reserves, these options have also been considered.

4.2.11 Cabinet on 15th November 2017 gave delegated power to the Chief Financial Officer in consultation with the Cabinet Member for Finance to determine the optimum value for money method of financing the assets.

Re-provision Programme

4.2.12 The cost of the re-provision programme to date is £455k and is expected to rise to £537k by the conclusion of the project.

Risk

4.2.13 A risk register has been developed to ensure effective risk management throughout the procurement process. Risks are being managed via expert advice from technical and professional experts and some mitigations have been put in place.

4.2.14 Furthermore, to help to ensure the robustness of the procurement process going forward, Overview and Scrutiny Committee (O&S) established a working group to scrutinise the process through to contract award and beyond. In its report to Cabinet of 18th October, 2017, O&S advised Cabinet that they had found the procurement process to be robust.

4.2.15 As part of the new arrangements a 50:50 share of the risk and reward for the processing and resale of recycled materials collected has been agreed between the Council and the Preferred Bidder. As resale prices and volumes collected of these materials can go up and down a mechanism in line with current industry standards has been agreed by the Council and the Preferred Bidder to ascertain any financial gain/or loss. The Council has provided within its general reserves an amount to cover such a loss should it arise.

Internal Audit

4.2.16 PwC, the council's internal auditors, have reviewed the governance and risk management processes that were put in place to deliver the council's procurement process.

4.2.17 The review was undertaken by way of an ongoing assessment of the delivery of the environmental service re-provisioning project and considered activities undertaken by the council in respect of project governance and risk management. PwC confirmed that their observations were satisfactorily addressed.

4.2.18 PwC found that the project's governance and risk management processes were operated effectively and the governance relationships and project management controls put in place were robust.

4.3 Legal

4.3.1 A procurement process of this type, size and scope is legally complex. Expert legal advice has been sought throughout the process and this has been reflected in the council's approach to the key aspects of the reported procurement process.

4.4 Equality and Health

- 4.4.1 An equality impact assessment was undertaken as part of the commissioning options review process, considered by cabinet on 16th November 2016.
- 4.4.2 That EIA has now been reviewed to reflect the recommendations set out in this report and will continue to be reviewed and updated throughout the mobilisation phase of the project.
- 4.4.3 The Preferred Bidder has had full regard to equality and health implications when submitting their final tender and a community impact assessment has been undertaken.

4.5 Consultees (Internal and External)

- 4.5.1 A community engagement framework was developed to ensure stakeholders were fully involved in the environmental services re-provision process.
- 4.5.2 The community engagement framework was drawn from a broad range of stakeholder groups, including resident associations, parish councils, friends groups, park management committees, partner agencies, ward councillors and staff.
- 4.5.3 As well as consultation undertaken via the community engagement framework, an Ipsos MORI survey was commissioned. The survey entailed 1,000 interviews with residents from across Northampton which sought their views on various aspects of environmental services.
- 4.5.4 All consultation was analysed and summarised. The consultation report (Community Engagement and Consultation on Re-Provision of Environmental Services) is a background paper to this report and is available on the council's website.
- 4.5.5 Conclusions drawn from the consultation were used to inform key aspects of service design, namely
 - Fortnightly co-mingled dry recycling collection service
 - Free green waste collection service
 - Kitchen food waste collection service
- 4.5.6 Consultation outcomes also provided some very clear messages about local priorities and desired service standards and have been made available to bidders in the data room to assist them in developing their tenders.

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The proposals in this report will help to deliver the following corporate plan priorities:

- A clean and attractive town for residents and visitors
- Enhancing and encouraging participation
- Delivering quality modern services

Background Papers

Environmental Services Re-provision – Selection of Service Delivery Option, Cabinet Report, 16th November 2016

Eunomia – Commissioning Options Review, October 2016 (partly exempt for commercial reasons)

Environmental Services Re-provision – Procurement Process, Cabinet Report, 11th January 2017

Community Engagement and Consultation on Re-Provision of Environmental Services

Selection Questionnaire Evaluation Report, March 2017 (restricted access)

Environmental Services Re-provision – Procurement Process, Cabinet Report, 12th April 2017

Environmental Services Re-provision – Progress Report, Cabinet Report, 19th July 2017

E Overview and Scrutiny – Environmental Services Working Group, Cabinet Report 18th October 2017

Environmental Services Re-provision Contract – Capital Asset Financing, Cabinet Report, 15th November 2017

ISFT Evaluation Report, December 2017 (restricted access)

Financing of Assets Report, December 2017

Julie Seddon, Director of Customers and Communities

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Appendix 1



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

| | |
|---------------------|--|
| Report Title | Northampton Waterside Enterprise Zone: Proposed St. James Mill Link Road. |
|---------------------|--|

AGENDA STATUS: **Public**

| | |
|------------------------------------|------------------------------------|
| Cabinet Meeting Date: | 17 th January 2018 |
| Key Decision: | YES |
| Within Policy: | YES |
| Policy Document: | NO |
| Directorate: | Regeneration Enterprise & Planning |
| Accountable Cabinet Member: | Cllr Tim Hadland |
| Ward(s) | Castle & St James |

1. Purpose

- 1.1 Cabinet is requested to consider this report and to give approval for the purchase of a parcel of land owned by Network Rail and to design a new section of road that would connect St James Mill Road to Towcester Road at the B&Q roundabout, which it is intended would become public highway upon completion.

2. Recommendations

That Cabinet:

- 2.1 Authorises the appointment of KierWSP (the County Council's approved highways contractor) to prepare and finalise the scheme design, inclusive of site clearance, intrusive site investigations, production of estimated costs, and to submit a planning application when appropriate.
- 2.2 Notes the informal consultation that has taken place with those business that may be directly affected by the proposed new link road and notes that further consultation will be undertaken as a part of the proposed planning application process.

- 2.3 Notes and welcomes the award of Local Growth Fund II and Growing Places Funding from SEMLEP, and the agreement to further support the scheme through the use of Enterprise Zone Business Rates Uplift.
- 2.4 Authorises the expenditure of up to £600,000 for site clearance, site investigations, design work and the purchase of a small parcel of land from Network Rail that the route of the proposed link road would traverse.
- 2.5 Approves appropriate provision for this scheme in the capital programme over the period 2017/18 – 2019/20 inclusive, and the allocation of £600,000 into the Capital Programme from the Development Pool.
- 2.6 Authorises the Chief Executive, acting in consultation with the Cabinet Member for Regeneration Enterprise & Planning, the Borough Secretary & Monitoring Officer and the Chief Finance Officer, to purchase, on terms to be agreed, a small parcel of land required for this scheme from Network Rail.
- 2.7 Authorises the Borough Secretary & Monitoring Officer to arrange the preparation and execution of such contractual and other legal documents as are necessary to give effect to the above recommendations.
- 2.8 Authorises the Chief Executive to submit a further progress report to Cabinet when appropriate.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The proposed St James Mill Link Road, which derives support from both SEMLEP's Economic Strategy for the South East Midlands (2017), Northampton Borough Council's Corporate Plan (2015) and from Northampton Borough Council's Economic Regeneration Strategy (2008), would comprise a new section of public highway that would connect St James Mill Link Road to Towcester Road at the B&Q roundabout (see Plan at Appendix 1).
- 3.1.2 This would provide new links to light industrial businesses south of the Weedon Road and St James Road which would also reduce journey times and traffic congestion on the Inner Ring Road (A4500 St James Road). In essence the proposed scheme would provide significantly improved accessibility to, and throughout, the Northampton Waterside Enterprise Zone.
- 3.1.3 Northamptonshire County Council have, as part of a wider highways infrastructure assessment, undertaken an exercise to model the impact that the proposed new section of road would have on traffic movement around the Enterprise Zone and Northampton as a whole using their VISSIM Model. Following discussion of this with the County Council it is understood that minor modifications may need to be made at three junctions on the wider highway to facilitate localised traffic flow.

3.1.4 In general terms the proposed new scheme would:

- Improve accessibility throughout the Enterprise Zone;
- Unlock additional land that would border the proposed Link Road for industrial development (B1/B2 Use);
- Demonstrate public sector commitment to creating even better trading conditions for existing and future businesses within the Enterprise Zone;
- Unlock a key local inhibitor to growth in what is a regionally significant employment area;
- Provide rear-access improvements to a number of existing businesses;
- Provide some traffic congestion relief on the Inner Ring Road to the town;
- Assist with the dispersal of fans following football and rugby matches.

3.1.5 It is difficult to be definitive about the precise timescales at this stage but this will clearer once the County Council have completed the necessary design work. Very broadly, it may be possible to have the scheme completed sometime in the period between March and December 2019, but this cannot be guaranteed at this point.

3.2 Issues

3.2.1 At its 8th October 2014 meeting, Cabinet received a report on the Northampton Waterside Enterprise Zone, and amongst other things, this detailed Enterprise Zone pipeline projects over the period 2015 -2020. The proposed St James Mill Link Road was, and is, one of these projects. It has however not able to progress towards implementation until recently because Network Rail had to do some technical work to establish that it did not need the area of land that the Council would propose to purchase, for train-run-off should that be needed in the event of train experiencing brake-failure further up the line. This required careful technical assessment, given that any alternative solution had to be proven as being sound before being adopted, given the requirement to promote public safety at all times.

3.2.1 Approximately three quarters of the length of the proposed link road crosses an area of land that was historically used for land-fill; this lies to the west of the now disused railway-line.

3.2.3 Environment Agency records indicate that the input dates were between February 1983 and February 1984. The 'what's in my backyard' feature on the Environment Agency website says that the landfill site is likely to have received inert waste. Beyond that historical maps indicate that it is possible that there has been more than one episode of land filling at the site, with one taking place in the 1960's.

3.2.4 A report prepared for the Council by Peter Brett Associates in 2012, based on a desk study, site walkover and qualitative risk assessment, identified the on

and off site contaminants of possible concern over the wider site which the link road crosses to be inorganics, metals, hydrocarbons, semi-volatile organic compounds, volatile organic compounds, and landfill gas (methane and carbon dioxide).

- 3.2.5 This concluded that although pollutant linkages had been identified, the estimated risks for the identified pollution linkages were low, moderate low and moderate as a worst case, but said that these risks could potentially be higher during a temporary construction phase. What this means in practice is that these risks are capable of being managed but that the appropriate measures will have to be incorporated in the design and construction of the proposed new link road with a view to ensuring that no new receptors are created.
- 3.2.6 A later report was prepared by Applied Geology for an area of land to the south and south west of the line of the proposed link road, and this indicated, in summary, that development was possible within an acceptable risk envelope. This area of land was subsequently developed for industrial premises.
- 3.2.7 Cabinet should be clear that the area of land to be purchased from Network Rail would not be built over, save to enable vehicular/pedestrian passage, improved access to the rear of some existing business premises and to enable Network Rail to access their remaining heavy-rail track-bed, if required.

3.3 Choices (Options)

Cabinet could decide to:

- 3.3.1 Not design the proposed link road and purchase the land from Network Rail. This is the least cost option, although LGF II and Growing Places Funding would be lost. If Cabinet decided to exercise this choice then none of the benefits arising from the eventual construction of the proposed link road would be realised and this would be to the detriment of the Enterprise Zone. This is not recommended.
- 3.3.2 Seek to tender the design work using a traditional approach outside of the County Council's approved highways framework/contractual arrangements. Again this is an option that could be exercised, although it would take longer and incur additional cost as the County Council would reasonably need to supervise any external consultants to ensure that the new link road was designed to fully adoptable standards. This is not recommended.
- 3.3.3 Take all appropriate steps to design the link road and purchase the Network Rail land with a view to enabling the construction of the link road, which would help to make the Enterprise Zone more accessible, afford the opportunity to open up land-locked areas for development and provide some congestion relief for town centre users and on match days. This option is recommended.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The Council's adopted Economic Regeneration Strategy 2008 -2026, which aims to create the right environment to attract diverse and entrepreneurial business to invest in Northampton, would seem to lend support to the construction of the proposed link road within the Enterprise Zone in a number of ways:

Policy T6 Support Road Developments

This says that 'development should be planned in partnership with the County Council to ensure that road systems are adequate'. This is precisely what is envisaged with respect to the proposed link road.

Policy E10 Industrial Growth Space

This says that 'key industries, including motor sport and shoes, need to be promoted to ensure development and growth space is available'. Some firms within this part of the Enterprise Zone will clearly benefit from the proposed construction of the link road, whilst other areas of land may be opened-up for subsequent development.

- 4.1.2 More recently, towards the end of 2017, SEMLEP published 'South East Midlands -Where Innovation Meets Growth', which is the strategic economic plan for the South East Midlands. This aims to ensure that the economy of the South East Midlands not only continues to thrive, but also contributes to the success of UK plc.

- 4.1.3 Amongst other things the strategic economic plan supports a number of local transport schemes and it states that:

'Work to enable the St James Mill Link Road, which will enable improved traffic flow and further development of the Northampton Waterside Enterprise Zone, was endorsed by the Prime Minister in April 2017'.

4.2 Resources and Risk

Finance

- 4.2.1 The County Council originally estimated that the potential construction cost of the scheme would be approximately £1.5 million, although more recently they have said that the cost could be higher than this. The final estimated cost will, however, be informed by detailed design work which has yet to be completed. The current budget for design, land-purchase and construction stands at £2.0 million. There is therefore a risk that the cost could exceed the current budget and this represents a moderate to moderate/high financial risk. A further report will therefore be submitted to Cabinet once the land purchase and design work have been completed; in the meantime this will be funded from the £600k of LGF II grant already approved by SEMLEP.

- 4.2.2 Should Cabinet eventually be minded to approve the construction of the link road then the County Council's contractor would be appointed to deliver the scheme. In the meantime the County Council will, of course, need to be provided with sufficient funds to pay for the design work.
- 4.2.3 It is intended that the scheme will be funded by an LGF II grant of £600k, a Growing Places Fund loan of £400k (to be repaid through Business Rates Uplift) and additional £1.0m from Northampton Waterside Enterprise Zone Business Rates Uplift, as approved by the Northampton Waterside Enterprise Zone Board and SEMLEP.
- 4.2.4 Cabinet will be aware that the use of Business Rates Uplift (BRU) is predicated on returns that will be achieved from new development across the Enterprise Zone over time. There will be a timing lag between when costs are incurred and the realisation of business rates uplift; this time-lag could be as much as a period of eight years. This means that the Council may incur bridging finance of up to approximately £1m.
- 4.2.5 Should these returns not materialise, or not materialise to the extent envisaged, then the Council could be in a position whereby it would in effect be using its own funding to repay both the £400k Growing Places Fund loan and the additional £1m of BRU, plus interest, from its own funds. In any event the Council would be cash-flowing any funding allocated to this scheme from BRU. At the present time this is considered to represent a low/moderate risk.
- 4.2.3 The Council will need to ensure appropriate provision to fund this scheme continues to be included within its Capital Programme. A total estimated cost of £2m has already been included within the capital programme, £0.6m of which is in the approved programme with a further £1.4m held in the development pool awaiting the outcome of the detailed design works/costs.
- 4.2.4 If the proposed link road is built to adoptable standards, and this is the intention, then the County Council, as the local highways authority, would maintain it in future years. If this was not the case then the Borough Council would have responsibility for maintenance.

Proposed Land Purchase

- 4.2.5 As set out elsewhere in this report, the Council intends to purchase a relatively small area of land from Network Rail which is required for part of the proposed new highway. Before this can happen, Network Rail need to grant an LC 7 consent; this was originally anticipated to be achieved in September 2017, but for reasons which are not entirely clear, this has been subject to some slippage and is now programmed for the end of January 2018. Cabinet needs to be aware that further slippage could present programming issues relating to the timely progression of the scheme, so until this issue has been resolved this must be considered to be an area of risk.

Environmental

- 4.2.6 Part of the proposed link road would be built over a former landfill site. The detailed design, particularly around the foundation and drainage solution will need to take account of this. There is, however, no suggestion that an appropriate technical approach cannot be devised.
- 4.2.7 For completeness, Cabinet should also note that although the area of land that it is intended to purchase from Network Rail is relatively small, Network Rail will expect the Council to indemnify it against any claims arising from historic or current contamination. This is a standard condition that Network Rail apply.
- 4.2.8 Appropriate consultation should therefore be anticipated with the Council's designated Contaminated Land Officer and the Environment Agency, as necessary and preferably before the submission of any planning application.
- 4.2.9 The proposed scheme will require planning consent and an application will be submitted at the appropriate time. Northampton Borough Council's Planning Committee will determine that application. Whilst it is hoped that the recommendation will be positive, this cannot and should not, be assumed at this stage. So there will be a risk of a potentially unfavourable determination until the Planning Committee has actually considered the application. This is considered to represent a moderate risk at this time.

4.3 Legal

- 4.3.1 The report recommends that the Council purchases a parcel of land needed to implement the scheme from Network Rail. At the time of writing however, Network Rail have not yet obtained an internal consent (LC 7 Consent) to enable the sale to take place. The latest estimate provided by Network Rail is that this consent will be obtained by the end of January 2018.
- 4.3.2 Notwithstanding this, Heads of Terms are currently being negotiated with a view to advancing the matter and these will form the basis of a subsequent sale and purchase agreement.
- 4.3.3 The report also recommends that the County Council's Highways contractor, KierWSP, which has already been subject to a full procurement exercise, should be used for scheme design and construction. This would seem to be entirely appropriate as it is intended that the proposed new section of link road would become public highway and it therefore needs to be built to adoptable standards.
- 4.3.4 The scheme is being partly funded by Local Growth Fund Round II and Growing Places Funding. These come with conditions and outputs that will need to be observed. Failure to meet the specified requirements could result in a part or the whole of the provided funding to be repaid, or repaid early.

4.4 Equality and Health

- 4.4.1 An Equalities Impact Assessment will be finalised when the design work has been completed. Clearly, attention will be focused on ensuring that the new section of highway can be used safely by all groups within the community.

4.5 Consultees (Internal and External)

- 4.5.1 A range of bodies and organisations have been consulted on the proposed scheme. These include Network Rail, Northamptonshire County Council, KierWSP – the County Council’s Highways Contractor, Northampton Borough Council in its capacity as Local Planning Authority, SEMLEP and firms that would be directly affected by the proposed scheme. Further statutory consultation will take place as part of the planning process following the submission of a planning application.

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The proposed construction of the St James Mill Link Road would directly help to deliver Priority 1 – Northampton Alive – A Vibrant Town. In particular it would revitalise our infrastructure to support economic growth, where the proposed St James Mill Link Road is specifically identified as a scheme, as well as more generally contributing to the Northampton Waterside Enterprise Zone – capitalising-on our town’s clear strengths – its central location, diverse economy and appetite for success.

4.7 Other Implications

- 4.7.1 None identified.

5. Background Papers

South East Midlands: Where Innovation Fuels Growth, SEMLEP, 2017.

Northampton Borough Corporate Plan, Northampton Borough Council, 2015.

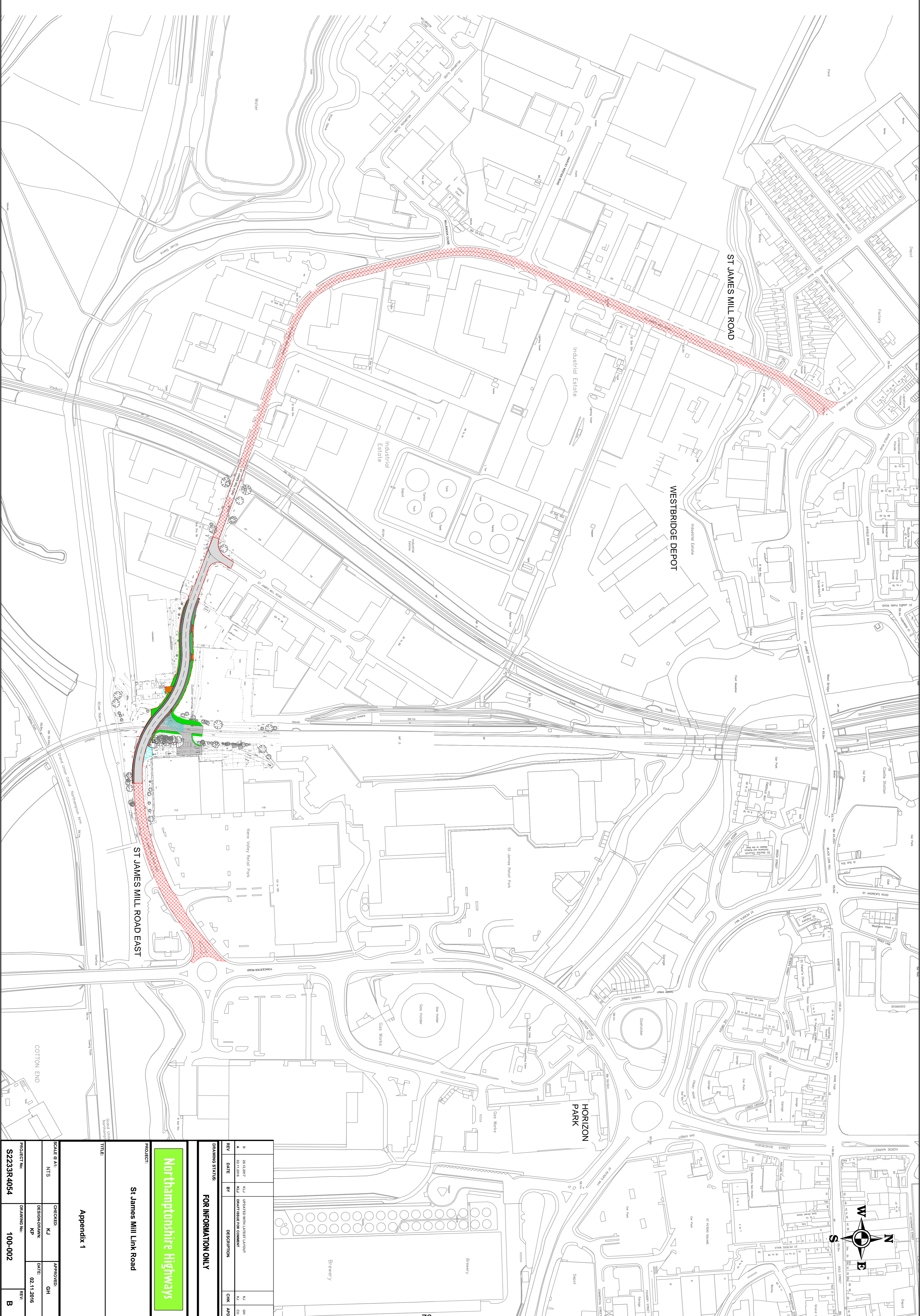
Northampton Waterside Enterprise Zone, Report to Cabinet, 8th October, 2014.

Report on Ground Investigation for Land off St James Mill Link Road, Northampton, Applied Geology, March 2014.

Land at St James Mill Link Road, Phase 1 ground Condition Assessment (Contamination), Peter Brett Associates, February 2012

Northampton’s Economic Regeneration Strategy 2008 -2026, Northampton Borough Council, 2008.

Simon Bovey
Chief Executive
01604 837726



| | | | | | |
|-------------------------------|--|----------------------------|--|---------------------|--|
| SCALE @ A1: | | CHECKED: KJ | | APPROVER: GH | |
| M1S | | DESIGN/DRAWN: KP | | DATE: 02.11.2016 | |
| PROJECT No: S2233R4054 | | DRAWING No: 100-002 | | REV: B | |

TITLE: Appendix 1

PROJECT: St James Mill Link Road

FOR INFORMATION ONLY

| REV | DATE | BY | DESCRIPTION | CHK | APP |
|-----|------------|----|----------------------------|-----|-----|
| B | 20.12.2017 | KJ | UPDATED WITH LATEST LAYOUT | KJ | GH |
| A | 02.11.2016 | KJ | DRAWN/ISSUE FOR COMMENT | KJ | GH |

Appendices:
0



CABINET REPORT

| | |
|---------------------|---|
| Report Title | Finance Monitoring to 30 November 2017 |
|---------------------|---|

AGENDA STATUS: PUBLIC

| | |
|------------------------------------|------------------|
| Cabinet Meeting Date: | 17 January 2018 |
| Key Decision: | YES |
| Within Policy: | YES |
| Policy Document: | NO |
| Directorate: | Management Board |
| Accountable Cabinet Member: | Cllr B Eldred |
| Ward(s) | N/A |

1 Purpose

- 1.1 The purpose of this report is to assist Cabinet in monitoring the delivery of the Corporate Plan within the agreed capital and revenue budgets for the General Fund (GF) and Housing Revenue Account (HRA).
- 1.2 To inform Cabinet of the latest forecast outturn position for the Council's capital programme for 2017-18 and changes to the Programme approved under delegated powers.
- 1.3 During the course of this financial year regular monitoring reports will be provided to Cabinet, detailing the latest forecasts for revenue and capital and additionally focusing on key financial issues on a cyclical basis.

2 Recommendations

- 2.1 That Cabinet reviews the contents of the report and identifies actions to be taken to address any issues arising from it.
- 2.2 That Cabinet approve the release of HRA capital reserves to cover the committed final expenditure for 6 dwellings at Upton Place (paragraph 3.6.2.2 refers)

3 Issues and Choices

3.1 Report Background

3.1.1 The monitoring report to Cabinet in September included an update on the financial pressures facing the Housing and Wellbeing service area and the mitigating actions being taken to address these pressures. This report provides an update on this volatile area of the Council's budget, as well as providing updated forecasts as at the end of November 2017 for all revenue and capital budgets.

3.2 Business Rates Localisation – 100% Retention Pilot

3.2.1 Cabinet on 18th October approved the submission to CLG of a bid by Northamptonshire local authorities to become a business rates retention pilot. This bid was duly submitted by the deadline, but unfortunately Northamptonshire was unsuccessful in its bid.

3.3 Key Financial Indicators

| Dashboard Indicator Description | Variation from Budget | |
|---------------------------------|-----------------------|-------------------------|
| | General Fund | Housing Revenue Account |
| | £000 | £000 |
| Controllable Budgets | (487) | (615) |
| Debt Financing and Recharges | (42) | 81 |
| Total | (529) | (534) |

3.4 General Fund Revenue Budget (Blue)

3.4.1 Overall forecast expenditure is £529K (1.7%) below budget. The following table summarises the variations from budget for the General Fund.

| Service Area | £000 |
|---------------------------------------|--------------|
| Regeneration, Enterprise and Planning | 94 |
| Housing | 217 |
| Borough Secretary | (18) |
| Director of Customers & Communities | (779) |
| Corporate | 0 |
| Controllable Total | (487) |
| Debt Financing | (42) |
| General Fund Total | (529) |

3.4.1.1 Regeneration, Enterprise and Planning

Forecast overspend mainly due to additional expenditure on temporary/interim staff (£210K), additional audit costs regarding property valuation queries (£25k)

and additional expenditure in relation to works on Delapre Abbey, Hunsbury Hill car park, Queen Eleanor cross and bridge inspections (£58k). These are offset slightly by savings related to vacant posts (£70k) and a reduction in costs relating to Planning Appeals (£170k).

3.4.1.2 Head of Housing and Wellbeing

Forecast overspend due to the vacancy/sickness target forecast not being met (£133k), extra expenditure on the Homelessness Prevention fund (£23k), lower anticipated licencing income (£50k) and withdrawal of Probation Service contribution (£18k). These are slightly offset by savings on employees in the Homelessness team.

Homelessness and Temporary Accommodation – During the last couple of years, there has been a sharp rise in the number of households applying to the Council for assistance under the homelessness legislation. This has increased the Council's use of temporary accommodation (especially Bed & Breakfast accommodation) and, because only part of the cost of temporary accommodation can be recovered from the Government through Housing Benefit Subsidy, this has resulted in a large overspend.

Although the shortage of affordable rented housing has prevented homeless households (especially families with children) from moving out of temporary accommodation as quickly as they have done in the past, the action plan that the Head of Housing and Wellbeing has implemented to relieve the pressure on the Homelessness Service and improve the living conditions of households living in temporary accommodation is making a difference.

Between the end of August 2017 and the end of December 2017, the number of outstanding homelessness decisions was reduced from 205 to 66, the average caseload of the Homelessness Officers was reduced from 50 to 18, and the waiting time for a non-emergency appointment with a Homelessness Officer was reduced from 4 weeks to less than 3 days. During the same period, the number of households living in Bed & Breakfast was reduced by 31% and the number of households living in temporary accommodation outside the borough was reduced by 57%.

The situation has been helped by the amount of self-contained, supplier-managed temporary accommodation that the Council has procured in Northampton. Although this is purchased at a nightly rate, it provides better accommodation and is less expensive (and attracts a higher rate of Housing Benefit) than Bed & Breakfast.

This area remains a significant area of risk and will therefore be further scrutinised. Updates will be provided to future meetings.

3.4.1.3 Director of Customers and Communities

Forecast large underspend mainly reflecting additional deductions made through the Environmental Services Contract and a refund of pension costs (£794k), as well as revised Car Parking Income figures (£99k) and vacant posts across different areas. This is offset slightly by a forecast overspend in the Bus Station

area due to higher spend on utilities and security as well reduced income in Markets due to a reduced number of traders.

- 3.4.2 Where applicable Budget Managers are working to mitigate the pressures on their services and bring forecasts back in line with budgets.
- 3.4.3 Particular focus will be given to monitoring areas of known high risk where expenditure and income is demand-led, i.e. homelessness, car parking income and development control income.

3.5 Controllable HRA Revenue Budget (Blue)

- 3.5.1 The forecast underspend position on HRA controllable budgets of £615k results from a number of different favourable variances. These include £255k additional income due to reduced void levels and a £90k reduction in the forecast Bad Debt Provision. Additional savings relate to staff vacancy savings within NPH £340k in General Management and Special services.
- 3.5.2 HRA Debt Financing forecast at £81k above budget due to lower opening balances than budgeted, and lower estimated average rate of interest assumed on investments (0.60% compared to 0.77% budgeted)
- 3.5.3 The forecast underspend position is reflected in the forecast contribution requirement from reserves to ensure that minimum working balance of £5m is maintained. The forecast contribution from reserves is lower by £534k.

3.6 Capital Programme

3.6.1 General Fund Capital Programme

- 3.6.1.1 The General Fund Approved Capital Programme budget stands at £23.6m including the carry forwards from 2016/17 and the additional funding for Delapre Abbey approved by Cabinet in June. No significant underspends or overspends are currently forecast. A number of schemes are forecast to require significant carry forwards to 2018/19, including £7.4m in relation to the Vulcan Works, £4.9m re the Central Museum and £1m in relation to St Peters Waterside. A detailed report on the latest position in relation to the Vulcan Works was presented to Cabinet in December.
- 3.6.1.2 As part of the 2017/18 budget process enhanced governance of the capital programme was approved, in order to ensure that cost estimates are robust before schemes are commenced. This included the creation of a “Development Pool” in which schemes remain until the costs and phasing of the scheme is firmed up. This will help to reduce the level of over and underspends and carry forwards in the capital programme. As at the end of November two schemes remained in the Development Pool, with a total estimated value of £2.1m. Most significant of these is £2m earmarked for the St James Mill Link Road. None will be commenced until a fully costed business case is produced and agreed.
- 3.6.1.3 The financing of the capital programme assumes that around £5m of capital receipts will be received during 2017/18. Just under £1.4m has been received to date and it is therefore imperative that no new schemes are added to the capital programme unless a clear and certain funding source is identified.
- 3.6.1.4 Funding for Disabled Facilities Grants is partly covered by central government funding through the Better Care Fund. The full 2017/18 allocation of £1.198m has

been passported by the County Council to the Borough, and an additional £120k has been allocated directly from DCLG. The remainder of the £1.475m expenditure on DFGs is funded from the Borough Council's own resources.

- 3.6.1.5 Any further additions to the capital programme, including further strategic property purchases, will be subject to the development of a robust business case. In line with Financial Regulations, any proposed additions to the programme greater than £250k and/or requiring additional funding from Council resources, will be brought to Cabinet for approval.

3.6.2 HRA Capital Programme

- 3.6.2.1 The approved HRA Capital Programme for 2017/18 stands at £35.64m, including the carry forward of £275k from 2016/17, additional budget of £500k approved by October Cabinet for Buy backs or spot purchases and a realignment of Capital IT budget to Revenue in period 6 of £150k. The forecasts to date show no significant underspends or overspends. Project carry forwards to 2018/2019 are forecast at £881k to date.

- 3.6.2.2 **141 Right to Buy Receipts** – The 2017/18 capital programme includes a number of NPH managed schemes that are budgeted to deliver additionality to the HRA stock and meet the required spend levels needed to fully use the retained 141 RtB receipts as per the 2012 agreement the Council has with government. For quarter 1 and for quarter 2 NPH have delivered on these projects which ensures that no 141 RtB receipts have to be repaid to Treasury. Cabinet on the 18th October 2017 approved the creation of a budget for Buy backs/ Spot Purchases of £500k to help mitigate the risks around timing of delivery of existing projects in the final 2 quarters of the year. Officers are currently delivering on the purchase of six properties at Princess Marina at 55% of open market value which will fully spend this budget. In addition to this final payment was made in Quarter 2 for the purchase of 6 properties at Upton Place of £272k to which Cabinet budget approval was made in 2016/2017. As part of the outturn process this budget was not identified as required carry forward and subsequently the funds were put into the capital reserves. Cabinet are asked to approve release from reserves of the £272k to cover this committed transaction.

3.7 Choices (Options)

- 3.7.1 Cabinet is asked to note the reported financial position and agree the recommendations. There are no alternative options, other than not to agree the recommendations.

4 Implications (including financial)

4.1 Policy

- 4.1.1 The Council agreed a balanced budget for the Capital Programme and Revenue Budgets for both the General Fund and the HRA in February 2017. Delivery of the budget is monitored through the budget monitoring framework.

4.2 Resources and Risk

4.2.1 This report informs the Cabinet of the forecast outturn positions for capital and revenue, for both the General Fund and HRA, as at the end of July 2017. It also highlights the key risks identified to date in delivering those budgets and where performance measures are significantly over or under performing.

4.2.2 All schemes included in the capital programme, or put forward for approval, are fully funded, either through borrowing, internal resources or external funding arrangements.

4.3 Legal

4.3.1 There are no direct legal implications arising from this report.

4.4 Equality and Health

4.4.1 There are no direct equalities implications arising from this report.

4.4.2 A full Community/Equalities Impact Analysis has been completed for the 2017/18 Budget and is available on the Council website.

4.5 Consultees (Internal and External)

4.5.1 Heads of Service, Budget Managers and Management Board are consulted as part of the budget monitoring process on a monthly basis.

4.6 How the Proposals Deliver Priority Outcomes

4.6.1 Performance monitoring (including financial monitoring) by exception and using it to improve performance is good practice in terms of efficient and effective management. It contributes directly to the priorities of sustaining “effective and prudent financial management” and being “an agile, transparent organisation with good governance”.

4.7 Other Implications

4.7.1 There are no other implications arising from this report.

5 Background Papers

5.1 Cabinet and Council Budget and Capital Programme Reports February 2017

Glenn Hammons, Section 151 Officer, 01604 366521