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Contact Officer:

John Armstrong,
Democratic Services and Elections Manager

11 November 2020

Dear Councillor

Your attendance is requested at a meeting of the **CORPORATE GOVERNANCE AND STANDARDS COMMITTEE** to be held via Microsoft Teams on **THURSDAY, 19 NOVEMBER 2020 at 7.00 pm.**

Yours faithfully

James Whiteman
Managing Director

MEMBERS OF THE COMMITTEE

Chairman: Councillor Nigel Manning
Vice-Chairman: Councillor Deborah Seabrook

Councillor Liz Hogger	Maria Angel MBE
Councillor Ramsey Nagaty	Murray Litvak
Councillor George Potter	Julia Osborn
Councillor John Redpath	Ian Symes
Councillor James Walsh	Tim Wolfenden

*Independent member

^ Parish member

Authorised Substitute Members:

Councillor Jon Askew	Councillor Masuk Miah
Councillor Ruth Brothwell	Councillor Marsha Moseley
Councillor Colin Cross	Councillor Susan Parker
Councillor Andrew Gomm	Councillor Jo Randall
Councillor Angela Gunning	Councillor Tony Rooth
Councillor Tom Hunt	Councillor Catherine Young

WEBCASTING NOTICE

This meeting will be recorded for live and/or subsequent broadcast on the Council's website in accordance with the Council's capacity in performing a task in the public interest and in line with the Openness of Local Government Bodies Regulations 2014. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

If you have any queries regarding webcasting of meetings, please contact Committee Services.

QUORUM 3



THE COUNCIL'S STRATEGIC FRAMEWORK

Vision – for the borough

For Guildford to be a town and rural borough that is the most desirable place to live, work and visit in South East England. A centre for education, healthcare, innovative cutting-edge businesses, high quality retail and wellbeing. A county town set in a vibrant rural environment, which balances the needs of urban and rural communities alike. Known for our outstanding urban planning and design, and with infrastructure that will properly cope with our needs.

Three fundamental themes and nine strategic priorities that support our vision:

- | | |
|---------------------|--|
| Place-making | Delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes |
| | Making travel in Guildford and across the borough easier |
| | Regenerating and improving Guildford town centre and other urban areas |
| Community | Supporting older, more vulnerable and less advantaged people in our community |
| | Protecting our environment |
| | Enhancing sporting, cultural, community, and recreational facilities |
| Innovation | Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need |
| | Creating smart places infrastructure across Guildford |
| | Using innovation, technology and new ways of working to improve value for money and efficiency in Council services |

Values for our residents

- We will strive to be the best Council.
- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

AGENDA

ITEM

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

2 LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS

In accordance with the local Code of Conduct, a councillor is required to disclose at the meeting any disclosable pecuniary interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must also withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, you must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

Councillors are further invited to disclose any non-pecuniary interest which may be relevant to any matter on this agenda, in the interests of transparency, and to confirm that it will not affect their objectivity in relation to that matter.

3 MINUTES (Pages 5 - 10)

To confirm the minutes of the meeting of the Corporate Governance and Standards Committee held on 24 September 2020.

4 SUMMARY OF INTERNAL AUDIT REPORTS - 1 MAY 2020 - 31 OCTOBER 2020 (Pages 11 - 44)

5 PLANNING APPEALS MONITORING REPORT (Pages 45 - 54)

6 WORK PROGRAMME (Pages 55 - 64)

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CORPORATE GOVERNANCE AND STANDARDS COMMITTEE

24 September 2020

- * Councillor Nigel Manning (Chairman)
- * Councillor Deborah Seabrook (Vice-Chairman)
 - * Councillor Liz Hogger
- * Councillor Ramsey Nagaty
- * Councillor George Potter
- * Councillor John Redpath
- * Councillor James Walsh

Independent Members:

- *Mrs Maria Angel MBE
- *Mr Murray Litvak

Parish Members:

- *Ms Julia Osborn
- *Mr Ian Symes
- *Mr Tim Wolfenden

*Present

Councillors Tim Anderson and Joss Bigmore were also in attendance.

CGS20 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

There were no apologies for absence.

CGS21 LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS

There were no disclosures of interest.

CGS22 MINUTES

The minutes of the meeting held on the 30 July 2020 were approved as a correct record.

CGS23 DATA PROTECTION AND INFORMATION SECURITY UPDATE REPORT

The Committee considered a report from the Information Governance Officer that provided an update on developments in data protection and information security within the council since the last report of March 2020. The report covered governance successes, information assurance successes and plans for the coming six months. The Lead Councillor with portfolio responsibility for governance noted that threats to cyber security were becoming increasingly sophisticated and it was important to maintain vigilance.

There was a discussion concerning the necessity for the Council to redact photographs forming a part of the planning appeal process. It was suggested that this was not required under GDPR. Officers would look into this and an email in response would be circulated to members of the Committee.

It was noted there would be new GDPR training available soon for all staff. The Committee suggested such training should be regularly updated and run more frequently. The matter would be raised at the next Information Risk Group meeting.

The Committee

RESOLVED: That the update report be noted.

CGS24 FINANCIAL MONITORING 2020-21 PERIOD 4 (APRIL TO JULY 2020)

The Committee considered a report summarising the projected outturn position for the Council's general fund revenue account, based on actual and accrued data for the period April to July 2020.

Officers had projected an increase in net expenditure on the general fund revenue account of £12,308,497 which, in the majority of cases, was a result of the impact of Covid-19.

Covid-19 had impacted on the Council in several ways including the inability to maintain income levels at those budgeted for in February 2020. The direct expenditure incurred by the Council in the current financial year stood at £948,881 (2019-20 £250,769) with support from the Government of £1,954,748. The Government support received was intended to cover both the direct and indirect costs of the Covid-19 pandemic.

The indirect costs of Covid-19 were reflected in the services forecasting. As the pandemic continued, estimates for losses in income and increased costs had been made with the best information available, and these were subject to change as the year progressed.

The Committee noted that the Council, at its meeting on 5 May 2020, had approved an emergency budget to deal with the impact of Covid-19 should government support fall short of the final costs of the pandemic. The Government had since announced further support for local authorities and figures would be updated to reflect this support once the detail had been received.

There had been a reduction (£351,107) in the statutory Minimum Revenue Provision (MRP) charge to the general fund to make provision for the repayment of past capital debt reflecting a re-profiling of capital schemes.

A surplus on the Housing Revenue Account would enable a projected transfer of £8.53 million to the new build reserve and £2.5 million to the reserve for future capital at year-end. The transfer was projected to be £97,384 higher than budgeted assumption and reflected modest variations in repair and maintenance expenditure and staffing costs.

Progress was being made against significant capital projects on the approved programme as outlined in the report. The Council expected to spend £135.808 million on its capital schemes by the end of the financial year. The expenditure was higher than it had been for many years and demonstrated progress in delivering the Council's capital programme.

The Council's underlying need to borrow to finance the capital programme was expected to be £116.110 million by 31 March 2021, against an estimated position of £125.956 million. The lower underlying need to borrow was a result of slippage on both the approved and provisional capital programmes as detailed in the report.

The Council held £131.5 million of investments and £275.2 million of external borrowing at 31 July 2020, which included £192.7 million of HRA loans. Officers confirmed that the Council had complied with its Prudential indicators in the period, which had been set in February 2020 as part of the Council's Capital Strategy.

There was a query regarding the breach of an investment limit (referred to in para 6.16 of the report). It was explained that the council held a lot of liquidity at the time of the breach due in its current account to essential Covid-19 expenditure and for this reason there was a cashflow issue for a day or two.

The meeting heard that Future Guildford was an 'invest to save' project and was funded from reserves and so showed as a variance.

It was noted that the Capital Expenditure Plan ran up to £36 million. It was explained that the underlying need to borrow did not necessarily mean that this borrowing should come from an

external source. Capital had to be shown as reserves. It could be expected that a smaller amount of perhaps £40-50 million could be externalised and this had been included in the Medium-Term Financial Plan. The capital programme was currently being reviewed due to Covid-19 and would feature in the next report.

The Committee

RESOLVED: That the results of the Council's financial monitoring for the period April to July 2020, be noted.

Reason:

To allow the Committee to undertake its role in relation to scrutinising the Council's finances.

CGS25 REVIEW OF EXECUTIVE ADVISORY BOARDS

The Committee considered a report setting out the recommendations of the Joint Executive Advisory Board on 9 July 2020 arising from its consideration of the most recent review of the functions and effectiveness of the Executive Advisory Boards (EABs).

The Committee, having noted that the Acting Leader of the Council had endorsed the recommendations and had called for a further review in 12 months' time

RESOLVED: That the following recommendations to the Council (6 October 2020) be supported:

- (1) That the concept of retaining two EABs, each meeting on alternate months with the flexibility to have a balanced inter-changeable remit as appropriate to the agenda items, without the risk of losing topic continuity and expertise, and possibly ahead of Executive meetings to offer a pre-decision opportunity to make recommendations, be agreed.
- (2) That the remit of EABs be realigned to reflect the Executive portfolios and Directorates of the Council and that, accordingly, the Place-Making and Innovation EAB be renamed as the Strategy and Resources EAB and the Community EAB be renamed the Service Delivery EAB.
- (3) That the existing Joint EAB arrangement be continued and implemented when significant and wide-ranging agenda items, such as budgetary matters, are under consideration.
- (4) That closer two-way working between the Executive and EABs, including an expectation that relevant Lead Councillors (or other Executive members in the absence of the relevant Lead Councillor) proactively attend EAB meetings and EAB Chairmen and / or Vice-Chairmen attend Executive meetings to elaborate on advice given and to receive feedback, be established and adopted.
- (5) That a clear formalised procedure of reporting EAB advice and views to the Executive and EABs receiving Executive feedback be adopted.
- (6) That, in addition to exploring relevant Forward Plan items and Corporate Plan priorities, the EABs have free range to select their own review topics on which to advise the Executive, including the establishment of task groups where considered necessary (and subject to available resources).
- (7) That the EABs receive items sufficiently in advance of determination by the Executive in order to have the opportunity to advise on, and influence, its decisions from a broader knowledge base.

Agenda item number: 3

- (8) That the Democratic Services and Elections Manager be authorised to make appropriate amendments to the Constitution to give effect to the above recommendations.

Reason:

To introduce a more efficient and effective EAB configuration and contribution.

CGS26 REVIEW OF PROTOCOL ON COUNCILLOR / OFFICER RELATIONS

Arising from a number of concerns raised by councillors in relation to ethical standards and transparency, on 19 November 2019 this Committee agreed to set up a cross-party task group with a wide remit to consider, review and make recommendations on these matters (see minute CGS34).

Part of the task group's remit was to review the Protocol on Councillor/Officer Relations. Although, the Protocol was not a statutory document, it sat alongside the Code of Conduct for Councillors and the Staff Code of Conduct in the Constitution and set out guidance for councillors and officers on their respective roles and expected conduct in their relationship with one another.

The Chairman of the Task Group provided an overview of the draft protocol which had undergone a complete rewrite. It was proposed that the document should remain a regular point of reference for councillors and officers alike. It was also proposed that should form the basis of workshops and training to foster good working relationships.

There followed a discussion covering the need for new councillors to receive training covering the councillor/officer working relationship and it was noted that this training had been prepared following the Borough elections in 2019, but due to circumstances had not yet been delivered.

A query regarding the wording on paragraph 10.1 in the draft protocol covering the process to be followed when a dispute arises in connection with the disclosure of confidential information, would be checked and the Committee members emailed following the meeting.

Following the formation of the new Conservative Independent group, the Committee noted that Councillor David Bilbe had been nominated to join the Task Group.

The Committee

RESOLVED:

- (1) That the draft revised Protocol on Councillor/Officer Relations, as set out in Appendix 2 to the report submitted to the Committee, be submitted to Full Council for adoption.
- (2) That the Council be asked to agree that the Protocol should be reviewed at least every four years at the same time as the Council reviews its codes of conduct for councillors and staff.
- (3) That the appointment of Councillor David Bilbe as the Conservative Independent Group's representative on the Task Group for 2020-21 be confirmed.

Reason:

To ensure that properly reviewed and up to date guidance is made available to councillors and officers.

CGS27 ANNUAL REPORT ON COUNCILLOR TRAINING AND DEVELOPMENT

The Committee considered the annual report from the Councillor Development Steering Group.

It was noted that since the last annual report, the Council had successfully been re-accredited with the South East Employers Charter for Elected Member Development on 15 January 2020.

The Assessment Team had been impressed with the structure in place for member development and support.

It was further noted that the coronavirus pandemic had changed the way in which the Council was able to offer training and development opportunities for councillors and staff. As with council and committee meetings, the councillor training sessions previously held in the Council Chamber had, of necessity, changed to virtual sessions using online platforms such as Microsoft Teams.

The Committee discussed a recent Planning training session provided by an external provider where it had not been possible to ask questions at any point. It was felt that there should be opportunities to ask questions and to have a concluding discussion before the session closed.

It was suggested the Councillor Code of Conduct should be a subject of training session for members in future.

Following the formation of the new Conservative Independent group, the Committee noted that the Conservative group was no longer represented on the Steering Group. Accordingly, the Conservative group had nominated Councillor Jo Randall to join the Steering Group.

The Committee

RESOLVED:

- (1) That the valuable work being undertaken by the Councillor Development Steering Group in developing a clear structured plan for councillor development that responds both to the Council's corporate priorities and councillors' individual training needs, be noted.
- (2) That the appointment of Councillor Jo Randall as the Conservative group representative on the Steering Group for 2020-21 be confirmed.

Reasons:

- To recognise the important and ongoing work of the Councillor Development Steering Group.
- To ensure that all political groups on the Council are represented on the Steering Group

CGS28 WORK PROGRAMME

The Committee considered its updated 12 month rolling work programme and

RESOLVED:

- (1) That the updated 12 month rolling work programme, as set out in Appendix 1 to the report submitted to the Committee, be approved.
- (2) That an additional formal meeting of the Committee be convened on Monday 30 November 2020 at 7pm.

Reasons:

- To allow the Committee to maintain and update its work programme.
- To enable the Committee to sign off the audited Statement of Accounts for 2019-20.

The meeting finished at 8.40 pm

Signed

Date

Chairman

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Corporate Governance and Standards Committee Report

Report of Audit and Business Improvement Manager

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Date: 19 November 2020

Summary of Internal Audit Reports - 1 May 2020 – 31 October 2020

Recommendation

The Committee is requested to note the summary of audit reports for the period 1 May 2020 to 31 October 2020 and note the recommendations arising from the governance reports.

Reason for Recommendation:

To ensure an adequate level of audit coverage.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

1.1. To present a summary of audit work for the period 1 May 2020 to 31 October 2020.

2. Strategic Priorities

2.1. The audit of Council services supports the priority of providing efficient, cost effective and relevant quality public services that give the community value for money.

3. Summary of Audit Reports – 1 May 2020 to 31 October 2020

3.1. The Audit Plan for 2020-21 is now being delivered by Neil Hewitson from KPMG who is the Council's internal audit manager for the next 3 years. A copy of their audit report for the period May to October 2020 is attached as **Appendix 1**. The number of planned reports that were carried out in the first six months was significantly affected by the Covid 19 restrictions brought in by the Government, but we are now beginning to get back on track.

3.2. There were, however, two governance reviews which were due in March 2020 which were delayed until after lockdown in August and they are attached as appendices 2 and 3.

4. Burchatts Farm Barn Governance Review

- 4.1 A review of the process to let Burchatts Farm Barn was commissioned at the end of 2019-20. The work was carried out by KPMG who are the Council's contracted internal auditors. The leasing of Burchatts Farm Barn has been a contentious issue and the scope of the review was to look at whether we had followed due process and what lessons can be learned for the future.
- 4.2 The review included speaking to staff, councillors and external parties. It was clear in responses from officers that they felt that they had followed the required procedures for obtaining best consideration and best value for this asset. There was no indication or direction at that stage that specific consideration or preference should be given to a particular type of user.
- 4.3 The review, a copy of which is attached as **Appendix 2**, identified areas for improvement in governance and transparency. In particular, it highlights the need to have clear policies and procedures when dealing with community assets. This is a fundamental issue and it is suggested that if the Council wishes to support the provision of assets for community led organisations we need a clearly defined Community Strategy. This would involve assessing community need in each local area within the borough and specifying the types of organisation the Council wants to support and the level of financial and other contributions it is willing to make. This would provide clear and transparent direction on what assets and in which locations the Council wants to support.

5. North Downs Housing Governance Review

- 5.1 North Downs Housing Ltd was set up to enable the Council to provide homes across a range of tenures other than social rent and aims to tackle the shortage of affordable homes in the Borough. It is a separate limited company and as such has its own Board of Directors and governance arrangements. The review carried out by KPMG, a copy of which is attached as **Appendix 3**, identified the following areas for improvement:
- Establish consistent performance management, monitoring and reporting structures
 - Establish clear terms of reference with defined roles and responsibilities for the North Downs Housing Ltd and GBC Holdings Ltd Boards.
 - Establish robust monitoring and action tracking of decisions agreed by the Board.
- 5.2 The recommendations have been agreed.

6. Background Papers

None

7. Appendices

Appendix 1: Internal Audit Progress Report (November 2020)
Appendix 2: Burchatts Farm Barn Internal Audit Review
Appendix 3: North Downs Housing Ltd: Governance Review



Progress Report

Guildford Borough Council
Internal Audit 2020-21

—

19 November 2020

Internal Audit Progress Report - November 2020

Appendix 1

We are delighted to be working with Guildford Borough Council as your internal auditors. We have been proud to have worked closely with the Council previously in our capacity as co-sourced internal audit professionals. For 2020/21, we have shifted to providing a fully outsourced internal audit service and the Head of Internal Audit, responsible for the delivery of the 2020/21 operational plan is Neil Hewitson. Anna Hill, is the engagement manager. Neil and Anna will attend Corporate Governance Standards Committee meetings, and provide updates on the progress of our work and presentation of our findings.

The purpose of this report is to provide a summary of internal audit work for the period 1 May 2020 to 31 October 2020. Ahead of the Corporate Governance and Standards Committee on 19 November 2020 we have...

- Had introductory and progress meetings with the Chair of the Corporate Governance and Standards Committee and the Resources Director;
- Completed our planned 2019/20 reviews of Cyber Security, North Downs Housing and Burchatts Farm Barn. In accordance with the co-sourced internal audit arrangements in place at the Council for 2019/20 we provided our reports to the in-house Head of Internal Audit;
- Completed our planned 2020/21 reviews of Payroll and Treasury Management. The outcome of these reviews are presented in section two and have been presented to the Corporate Management Team;
- Commenced fieldwork for our 2020/21 reviews of Income and Accounts Receivable and Expenditure and Accounts Payable; and
- Agreed terms of references for our 2020/21 reviews of Local Risk Management and Performance Management.

Ahead of the next meeting of the Corporate Governance and Standards Committee on 14 January 2021 we will...

- Complete our 2020/21 reviews of Income and Accounts Receivable, Expenditure and Accounts Payable, Local Risk Management and Performance Management; and
- Agree terms of references for our remaining 2020/21 reviews: Capital Management; Follow-up Reviews; Key Learnings from COVID-19; and
- Commence planning for 2021/22 and start preparing our draft 2020/21 Annual Report and Head of Internal Audit opinion

Status of our 2020/21 internal audit programme

#	Review	CGSC	Assurance rating given	Status
2020/21 Reviews				
1	Treasury Management	November 2020	Partial assurance with improvements required	Complete
2	Payroll	November 2020	Significant assurance with minor improvement opportunities	Complete
3	Income & Accounts Receivable	January 2021	TBC	Fieldwork in progress
4	Expenditure & accounts payable	January 2021	TBC	Fieldwork in progress
5	Performance Monitoring KPI 1	January 2021	TBC	Fieldwork commencing in December 2020.
6	Performance Monitoring KPI 2	January 2021	TBC	Fieldwork commencing in December 2020.
7	Performance Monitoring KPI 3	January 2021	TBC	Fieldwork commencing in December 2020.
8	Local Risk Management	January 2021	TBC	Fieldwork commencing in December 2020.
9	Capital Management	March 2021	TBC	Not yet due
10	Follow up Reviews	March 2021	TBC	Not yet due
11	Key Learnings from Covid-19	March 2021	TBC	Not yet due

Summary of reviews – November 2020 Appendix 1

Summary of completed 2020/21 reviews:

Report	Recommendations				Key Findings
	High	Medium	Low	Total	
Treasury Management	0	3	0	3	<p>We reviewed the operation of treasury management controls and provide partial assurance with improvements required (AMBER RED), which is below Management’s forecast, and is driven by the limited resilience and robustness of monthly bank reconciliations and weaknesses in the governance processes around the Treasury Management Policy.</p> <p>The monthly control of reconciling treasury balances to the bank statement has been impacted by the transition to BusinessWorld, as well as resourcing constraints. The new BusinessWorld process should be established and implemented as a priority. Additionally, there is only one member of staff familiar with the detailed processes for completing monthly bank reconciliations, including the running of various reports and performing sub-reconciliations. There is a single point of failure risk in the process and there is a need to build resilience and train additional staff to support this process.</p> <p>Our review of the processes for undertaking investments and borrowings found that they were well designed with authorisation limits, criteria for transactions and approved counterparties formally defined. The Council utilises external treasury advisors to assist with identifying qualifying transactions. The use of brokers is spread to diversify risk. Our testing of investments and borrowings found that they had been undertaken in line with policy and that they had been considered when developing cash flow forecasts, thus ensuring that they were sufficiently accurate to aid decision-making. With the introduction of remote working arrangements in March 2020, paper authorisation forms were replaced by email authorisations or digital stamps and we found that controls continued to operate effectively as a result.</p> <p>We reviewed the appropriateness of access rights regarding the online banking system and bank mandate. We found that authorisation rights were provided to appropriate members of Finance with sufficient capabilities to make decisions. Segregation of duties is embedded in all levels of authorisation to ensure that appropriate transactions are entered into.</p> <p>The process for supplying different services with petty cash top ups from the central float is robust. The use of the petty cash floats has been increasingly limited and the Council is considering eliminating the use physical cash floats entirely to reduce the administration burden and to encourage the use of the standard accounts payables processes should funding be required.</p>

Summary of reviews – November 2020

Appendix 1

Report	Recommendations			Total	Key issues
	High	Medium	Low		
Payroll	0	3	3	6	<p>We reviewed the design and operating effectiveness of payroll controls and provide significant assurance with minor improvement opportunities (AMBER GREEN), which is in line with Management’s expectations.</p> <p>The Council has experienced many changes due to COVID, organisational restructuring and new system updates. In July 2020, payroll migrated operating systems, changing from Selima to Business World. Due to the organisational changes, there is a need for the Council to draft updated policy and procedure documents. We reviewed the starters, leavers and amendments processes and found them to be well designed. The new joiner process could be improved by introducing a form detailing all essential information about the joiner in a single document.</p> <p>The Council has responded to remote working by quickly adapting from paper based controls to emails and electronic authorisations. From our review of the process, payroll BACS reports are required to be approved and signed off by HR, however there is no evidence to confirm approval of BACS reports since the start of remote working arrangements in March 2020. It is important that all process controls continue to operate effectively in the new working environment and we recommend that BACS reports are signed electronically to clearly evidence that they have been reviewed appropriately.</p> <p>Our testing of leavers identified that leavers forms could not be provided for majority of the staff sampled. One of the overpayments sampled was due to the leaving date of a past employee not being communicated to HR in a timely manner. Timely completion of leaver forms should be mandatory to ensure that leavers are processed prior to pay-runs.</p> <p>Establishment Control Forms (ECF) are required in specific circumstances including creating a new post, amending an existing post, recruiting to a post, making a change to salary and extensions to fixed term contracts. From our testing, we were unable to obtain evidence for eight amendments to confirm that they had been appropriately reviewed and authorised before being implemented. We were provided with system screenshots to evidence that changes had been made appropriately, however, we were unable to determine whether segregation of duties happened whereby the amendments made were authorised by a separate individual. The Council should consider using the ECF approval control more widely to ensure that amendments and changes to all staff data are approved.</p> <p>We reviewed the process and controls for recovering overpayments and found them to be appropriately designed and operating effectively.</p>



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Burchatts Farm Barn

Assurance rating:



October 2020 **DRAFT**

Guildford Borough Council
Internal Audit 2019-20

The contacts at KPMG in connection with this report are:

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Status of report	
Discussion draft issued	7 October 2020
Management responses received	TBC
Final report issued	TBC
Presented to Corporate Governance and Standards Committee	19 November 2020

Distribution	
To (for action):	CC (for information):
— James Whiteman – Managing Director	— Mark Appleton – Property & Asset Manager
— Joan Poole – Head of Internal Audit	— Marieke van der Reijden – Head of Asset Management

This report is provided pursuant to the terms of our engagement letter dated 12 April 2018. Nothing in this report constitutes a valuation or legal advice. We have not verified the reliability or accuracy of any information obtained in the course of our work, other than in the limited circumstances set out in our engagement letter. This report is for the sole benefit of Guildford Borough Council. In preparing this report we have not taken into account the interests, needs or circumstances of anyone apart from Guildford Borough Council, even though we may have been aware that others might read this report. This report is not suitable to be relied on by any party wishing to acquire rights against KPMG LLP (other than Guildford Borough Council) for any purpose or in any context. Any party other than Guildford Borough Council that obtains access to this report or a copy (under the Freedom of Information Act 2000, the Freedom of Information (Scotland) Act 2002, through Guildford Borough Council’s Publication Scheme or otherwise) and chooses to rely on this report (or any part of it) does so at its own risk. To the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability in respect of this report to any party other than Guildford Borough Council. Any disclosure of this report beyond what is permitted under our engagement letter may prejudice substantially our commercial interests. A request for our consent to any such wider disclosure may result in our agreement to these disclosure restrictions being lifted in part. If Guildford Borough Council receives a request for disclosure of the product of our work or this report under the Freedom of Information Act 2000 or the Freedom of Information (Scotland) Act 2002, having regard to these actionable disclosure restrictions Guildford Borough Council should let us know and should not make a disclosure in response to any such request without first consulting KPMG LLP and taking into account any representations that KPMG LLP might make.

Conclusion

We reviewed the process followed in respect of the disposal of assets with community value, using Burchatts Farm Barn as a case study, and have assigned an overall assurance rating of '**Partial assurance with improvements required**' (**AMBER RED**). This rating is lower than management's forecast and is driven by the lack of clear and comprehensive procedures and controls over the disposal of assets that have value to the community.

Through discussions with the Property & Asset Manager, review of relevant documentation and further research, we determined the project timeline for the disposal of Burchatts Farm Barn and have considered the lessons which can be learned by the Council going forward.

The Council put in place a robust Asset Management Strategy and Framework in 2014 that outlines that value to the community should be considered alongside financial viability when making decisions about the future of assets, but the document has not been reviewed or updated since its creation and is not representative of current Council operations. We found there to be no consistent procedures, policies or governance structures in place for the disposal of Community Assets. The Council recently introduced a new procedure for assessing less than best consideration disposals where a minimum of market rent has been offered, but in the case study of Burchatts Farm Barn, we found there to be a lack of consistency regarding how the Council was measuring the merit of potential lessees. There is a need to increase the transparency of the tender process to demonstrate robust governance in Council decision-making.

In the case of Burchatts Farm Barn, we found governance to be inconsistent and ineffective. The Council was unable to provide sufficient documentation to evidence when key decisions were made and by whom, and there was no clear trail of information to evidence effective decision making. Although the business case was found to have been approved, some of the information it included was found to be inaccurate, and there is no evidence that alternatives to commercial leasing were considered until five years after the Council first commissioned a market report for leasing. There was no evidence that the Council monitored, assessed or reported of cost or benefits realised. The Council should formalise stages for considering and presenting alternatives as part of the decision making process and these alternatives should be reported to appropriately in the governance structure.

The Council discharged its legal responsibility by notifying the community of the proposed disposal in an advert in the local newspaper. This occurred after a tenant had been already been selected. No objections were received, yet at the lessee's planning application stage 86 written objections were submitted. Using such channels of communication means that information may not reach a sufficiently wide or diverse audience and we recommend that the Council broadens the range of communication channels it uses to notify and engage with the public regarding proposed asset disposals.

Objectives

The objectives of our review were:

Objective	Description of work undertaken
Objective One Design of controls and associated governance	We reviewed the design of controls and governance around decision-making related to the use of community assets at the Council. This included: <ul style="list-style-type: none"> the preparation, scrutiny and approval of business cases; consideration of alternative options; mechanisms for stakeholder consultation and seeking agreement to proceed; process to review, monitor and report on costs; assessing, monitoring and reporting benefits realised; and processes followed to market identified properties.
Objective Two Compliance	We reviewed the available information for Burchatts Farm Barn to assess the level of compliance with Council policy and procedures as identified through Objective One above. This included how change management controls operated when amendments relating to the use of the community asset were identified, reviewed and approved.
Objective Three Learning	Following review of available documentation we considered whether there is learning for the Council which can be established and applied to other community assets going forward.

Areas of good practice

- ✓ A bid for funding was approved by the Budget Council that included relevant financial information and documented consideration of risks, legal requirements, local issues and the impact on the environment and community to disposing of Burchatts Farm Barn.
- ✓ The Council followed a process to appoint a commercial real estate agency with local market knowledge to produce a market report for Burchatts Farm Barn.
- ✓ The Council discharged its legal responsibility by notifying the community of the proposed disposal.

Areas for improvement

- There are no consistently applied policies, procedures, controls or governance structures in place for the disposal of assets with community value (**Recommendation One**).
- The Council discharged its legal responsibility to inform residents of its intention to dispose of open space in the case of Burchatts Farm Barn by publishing an advertisement in a local newspaper for two issues and received no objections, yet at the lessee’s planning application stage 86 written objections were submitted, suggesting that the advertisement did not reach the appropriate audience (**Recommendation Two**).
- The options note presented to Councillors about the future of Burchatts Farm Barn included inaccurate financial information as it included income and expenditure relating to Burchatts Farm Cottages, which are separate assets. The net position was presented as £7K or 20% erroneously adverse in 2016/17, and £4K or 5% erroneously favourable in 2015/16 (**Recommendation Three**).
- The Council only considered alternatives to commercial leasing of Burchatts Farm Barn after the lease had been offered to a tenant, meaning consideration of the alternatives included potential adverse consequences to the Council if it withdrew from the arrangement. (**Recommendation Four**).
- Decision making around awarding leases is inconsistent and there is a lack of clarity about the extent to which community value is considered by the Council as a criteria (**Recommendation Five**).
- The Council has not been able to provide documentation from the Executive or the Property Review Group to evidence who and when key decisions were made throughout the process of disposing of Burchatts Farm Barn (**Recommendation Six**).

We also raised a low priority recommendation relating to the reviewing and reissuing of the Asset Management Strategy and Framework, which is robust but is no longer representative of current Council operations.

Recommendations

We summarise below the recommendations raised as a result of our review:

	High	Medium	Low	Total
Made	1	5	1	7
Accepted	TBC	TBC	TBC	TBC

Acknowledgement

We thank the staff involved in this review who helped us complete our work.

This section summarises the recommendations that we have identified as a result of this review. We have attached a risk rating to these recommendations as per the following table:

Risk rating for recommendations raised		
<p>1 High priority (one): A significant weakness in the system or process which is putting you at serious risk of not achieving your strategic aims and objectives. In particular: significant adverse impact on reputation; non-compliance with key statutory requirements; or substantially raising the likelihood that any of the Council's strategic risks will occur. Require immediate attention.</p>	<p>2 Medium priority (two): A potentially significant or medium level weakness in the system or process which could put you at risk of not achieving your strategic aims and objectives. In particular, having the potential for adverse impact on the Council's reputation or for raising the likelihood of the Council's strategic risks occurring.</p>	<p>3 Low priority (three): Recommendations which could improve the efficiency and/or effectiveness of the system or process but which are not vital to achieving the Council's strategic aims and objectives. These are generally issues of good practice that the auditors consider would achieve better outcomes.</p>

#	Risk	Recommendation	Action, owner and deadline
1	1	<p>Asset disposal policy and associated procedures</p> <p>There are no consistently applied policies, procedures, controls or governance structures in place for the disposal of Community Assets. The Council has a duty to consider legal, financial, social, cultural and historical factors when disposing of assets in its portfolio.</p> <p>There is a risk that the Council is inconsistent in its approach to disposing of assets and that staff are unclear about responsibilities and obligations. Procedures need to be standardised and approved to increase transparency.</p> <p>We recommend that the Council produces an asset disposal policy that details:</p> <ul style="list-style-type: none"> the circumstances where asset disposal will be proposed; the factors that will be considered; how the public will be notified or consulted; the procedures to be followed; and the responsible officers. <p>The policy should be approved and reviewed regularly at the appropriate point in the governance structure.</p>	<p>[Agreed / not agreed TBC]</p> <p>[Action to be taken: TBC]</p> <p>[Job title: TBC]</p> <p>[Deadline TBC]</p>

Recommendations (cont.)

Appendix 2

#	Risk	Recommendation	Action, owner and deadline
2	2	<p>External communication</p> <p>The public was notified of the proposed disposal of Burchatts Farm Barn in an advert in the local newspaper after a tenant had been selected. No objections were received, yet at the lessee’s planning application stage, 86 written objections were submitted. Using limited channels of communication means that information may not reach a sufficiently wide or diverse audience.</p> <p>We recommend that the Council broadens the range of communication channels it uses to notify the public of proposed asset disposals in addition to using the local paper and Council website. The Council could consider options including social media, direct contact with regular users, immediate neighbours and leaders of residents’ associations and community groups and putting posters in community notice boards.</p>	<p>[Agreed / not agreed TBC]</p> <p>[Action to be taken: TBC]</p> <p>[Job title: TBC]</p> <p>[Deadline TBC]</p>
3	2	<p>Review of accuracy of information</p> <p>A Summary Property Report regarding options for the future use of Burchatts Farm Barn was presented to Councillors in October 2019. The report included an income and expenditure summary for the three preceding years. The information included income and expenditure for Burchatts Farm Cottages, which are separate assets that should not have been considered in the decision on the future of the Barn. The net position was presented as £7K or 20% erroneously adverse in 2016/17, and £4K or 5% erroneously favourable in 2015/16.</p> <p>The figures in the Bid for Funding imply that £40-70K in annual running costs would be saved should the property be let, but as the figures include salary and administrative recharges this does not represent genuine savings. The Bid for Funding also contained administrative errors where the project start date was after the project end date. There is a risk that Councillors could make decisions about the future use of properties based on inaccurate information.</p> <p>We recommend that the Summary Property Reports and Bids for Funding are reviewed for accuracy before distribution.</p>	<p>[Agreed / not agreed TBC]</p> <p>[Action to be taken: TBC]</p> <p>[Job title: TBC]</p> <p>[Deadline TBC]</p>

#	Risk	Recommendation	Action, owner and deadline
4	2	<p>Sequence of decision making</p> <p>The first evidence that the Council considered and received alternatives to commercial leasing of Burchatts Farm Barn was in the Summary Property Report presented to Councillors in October 2019. As the lease had been offered to a potential tenant in 2018, consideration of the alternatives to commercial leasing included potential adverse consequences for the Council if it withdrew from the arrangement.</p> <p>We recommend that the Council formalises stages for considering and presenting alternatives as part of the decision making process. The alternatives should be formally presented at the appropriate point in the governance structure before any decision is made.</p>	<p>[Agreed / not agreed TBC]</p> <p>[Action to be taken: TBC]</p> <p>[Job title: TBC]</p> <p>[Deadline TBC]</p>
5	2	<p>Scorecard for selecting lessees</p> <p>In the case of Burchatts Barn Farm, bids were rejected in 2018 for reasons that were inconsistent with the selection of the doctor's surgery in 2017 (e.g. repurposing residential unit, high car parking needs, conditional FRI lease). There is confusion among residents and businesses who made unsuccessful bids for the lease about why it was awarded to the current tenant, and there is a lack of clarity about the extent to which community value was considered by the Council. There is a need to increase the transparency of the tender process to demonstrate robust governance in Council decision making.</p> <p>We recommend that the Council formalises a system for assessing bids against set criteria, for example through a scorecard system, to increase consistency, transparency and repeatability of decision making.</p>	<p>[Agreed / not agreed TBC]</p> <p>[Action to be taken: TBC]</p> <p>[Job title: TBC]</p> <p>[Deadline TBC]</p>
6	2	<p>Completeness of meeting records</p> <p>We reviewed minutes of the Property Review Group and were unable to establish if, how and when key decisions were made in the case of Burchatts Farm Barn.</p> <p>We recommend that the Property Review Group minutes should include more detail when decisions are made, and that minutes are reviewed by the chair after the meeting for accuracy.</p>	<p>[Agreed / not agreed TBC]</p> <p>[Action to be taken: TBC]</p> <p>[Job title: TBC]</p> <p>[Deadline TBC]</p>
7	3	<p>Asset Management Strategy and Framework</p> <p>The Council created an Asset Management Strategy and Framework in 2014 that was approved by the Executive in January 2015, but the document has not been formally reviewed or updated since.</p> <p>We recommend that the Council reviews and revises the policy, circulates it to relevant staff, and sets regular review dates for the future.</p>	<p>[Agreed / not agreed TBC]</p> <p>[Action to be taken: TBC]</p> <p>[Job title: TBC]</p> <p>[Deadline TBC]</p>

We held discussions with management to determine the processes and associated controls for the disposal of assets with community value. There are no consistent procedures, policies or governance structures in place (**Recommendation One**). As such, we have been unable to test the design of such controls per Objective One of this review.

Through discussions with the Property & Asset Manager, a review of relevant documentation and further research, we have determined the project timeline for the disposal of Burchatts Farm Barn. We have evaluated the effectiveness of the Council's governance and operations with regards to the disposal of assets with community value, and provided commentary to inform our recommendations.

Project timeline

January 2014

- The Lead Councillor for Asset Management sets a strategic priority to improve the return of assets.
- The Property Review Group identifies assets that were not making a return.
- The Property & Asset Manager appoints commercial real estate agency Owen Shipp to quote for the work to market Burchatts Barn Farm and produce a preliminary market report.

March 2017

- Burchatts Farm Barn closes for public hire.
- The Council issues a press release announcing that expressions of interest for the lease are being invited to Owen Shipp.
- Owen Shipp markets Burchatts Farm Barn on their website for six weeks and formal written expressions of interest are invited.

May / June 2017

- Owen Shipp provide a Schedule of Expression of Interest detailing twelve interested parties.
- The Property Review Group decided that the preferred option is to proceed with the offer from the doctor's surgery.

August 2017

The Council's Director of Environment and the Parks & Landscape Manager submit a Bid for Funding to the Chief Finance Officer.

November 2017

The Executive recommend that the Council approves the growth and savings bids including the Bid for Funding for the leasing of Burchatts Farm Barn.

February 2018

The Budget Council approve the budget which includes the Bid for Funding for the leasing of Burchatts Farm Barn.

KPMG commentary

- The Council has not been able to provide documentation from the Executive or the Property Review Group to evidence the original decision to approach the commercial real estate agency in 2014 (**Recommendation Six**).
- ✓ The Council appointed a commercial real estate agency with local market knowledge to produce a market report for the asset.
- Almost three years passed between the market report and the marketing of the property, during which time market conditions changed. A new market report was not commissioned.
- The Council is unable to confirm when the property closed to public hire as historic booking data has been deleted due to data protection.
- The Council has not been able to provide documentation from the Executive or the Property Review Group to evidence the decisions to stop taking booking for public hire, and to instruct the commercial real estate agency to market the property in 2017 (**Recommendation Six**).
- The Council notified the community that the asset was closing for public hire at the same time that the lease was marketed with the estate agency. There was no opportunity for the community to put forward non-commercial alternatives before the property was commercially marketed (**Recommendation Two**).
- The Council did not offer an information pack, criteria or guidance to businesses submitting expressions of interest detailing factors that would be considered in determining selection of the lessee (**Recommendation Five**).
- ✓ The Bid for Funding included relevant financial information and consideration of risks, legal requirements, local issues and the impact on the environment and community, and was approved by the Budget Council before an Agreement to Lease was signed.
- The income and cost information in the Bid for Funding includes recharges and allocated costs (**Recommendation Three**).

Project timeline (cont.)**September 2018**

- The doctor's surgery renege on their offer due to NHS funding complications.
- Owen Shipp markets Burchatts Farm Barn for six weeks on their website and formal written expressions of interest are invited again.

October/November 2018

- Owen Shipp provide a Schedule of Expression of Interest detailing another nine interested parties.
- The Property Review Group decide that the preferred option is to proceed with the offer from the chiropractor.

December 2018

The Property & Asset Manager produces a briefing note for the Executive explaining the decision to offer the lease of Burchatts Farm Barn to the chiropractor.

January 2019

- The Council posted an advert in local paper The Surrey Advertiser notifying the community that they intended to dispose of open space under Local Government Act 1972. The advert ran for two weeks, no objections were received.
- Guildford Chiropractic Centre submit a planning application to the Council to change the use from D2 (assembly and leisure) to D1 (non-residential institution) and internal alterations.

February 2019

In a meeting of the Council, a Councillor questions the Lead Councillor for Finance and Asset Management on the propriety of leasing Burchatts Farm Barn to Guildford Chiropractic Centre.

October 2019

The Property Surveyor and Property & Asset Manager produce an options note on the future of Burchatts Farm Barn:

- Option 1 – proceed with 10-year lease to Guildford Chiropractic Centre
- Option 2 – offer the building as a private hire venue again
- Option 3 – investigate alternative management structures/ownership such as a charitable trust

The Property Review Group decide to proceed with Option 1 subject to a successful planning appeal.

KPMG commentary (cont.)

- The Council has not been able to provide documentation from the Property Review Group to evidence the decision to offer the lease to the doctors' surgery in 2017 (**Recommendation Six**).
- Bids were rejected in 2018 for reasons that were inconsistent with the selection of the doctor's surgery in 2017 (e.g. repurposing residential unit, high car parking needs, conditional FRI lease (**Recommendation Five**)).
- The Council has not been able to provide documentation from the Property Review Group to evidence the decision to offer the lease to the chiropractic clinic (**Recommendation Six**).
- The Council has not been able to provide documentation to evidence that Councillors discussed or responded to the briefing note (**Recommendation Six**).
- ✓ The Council discharged its legal responsibility by notifying the community of the proposed disposal.
- The Council notified the community that they intended to dispose of an Open Space through a small advert via one channel. The notice was not posted on display boards or social media, and no contact was made with regular hirers, immediate neighbours, residents' associations or local groups. Only a small subset of the community had an opportunity to notify the Council of valid objections (**Recommendation Two**).
- We acknowledge that there members of the Council changed following the May 2019 election and that this may have had some bearing on the process.
- The first evidence that the Council considered alternatives to commercial leasing of the property was in the Summary Property Report presented to Councillors in 2019. As the lease had already been offered to a potential tenant, potential reputational damage to the Council had to be considered if they withdrew from the arrangement in favour of an alternative to commercial leasing (**Recommendation Four**).
- The Summary Property Report included a income and expenditure summary for the three preceding years. It erroneously included income and expenditure for Burchatts Farm Cottages, which are separate assets that should not have been considered in the decision on the future of the Barn (**Recommendation Three**).

Project timeline (cont.)

March 2019

Guildford Chiropractic Centre's planning application is refused following objections from 3 amenity groups/residents associations, 86 letters of objection and 44 letters in support.

January 2020

Guildford Chiropractic Centre's appeal of the original planning application refusal is successful.

June 2020

Agreement to Lease signed with Guildford Chiropractic Centre contingent on completion of Landlord's Works.

August 2020

Landlord Works completed and Guildford Chiropractic Centre sign lease.

KPMG commentary (cont.)

- The Council has not been able to provide documentation to evidence that Councillors discussed or responded to the options note (**Recommendation Six**).
- The majority of objections to the chiropractic clinic's planning application took issue with the Council's selection of the lessee rather than the change to D1 use (**Recommendation Two**).
- ✓ The Council are confident that they received the best possible consideration for the lease.

Summary of KPMG findings

We identified a range of significant issues relating to the disposal of Burchatts Farm Barn:

- The options note was presented to Councillors after the lease had been offered to the chiropractic clinic, meaning potential reputational damage had to be considered if the Council withdrew from the arrangement in favour of an alternative to commercial leasing (**Recommendation Four**). The financial information included in key decision making documents was inaccurate (**Recommendation Three**), and the Council has not been able to provide documentation to evidence key decisions (**Recommendation Six**).
- Residents raised objections about the choice of lessee at the planning application stage, when the lease had already been offered to the chiropractic clinic. If the Council had advertised the intention to dispose of the asset more widely, and had provided interested parties with the criteria for lessee selection, the process would have been more transparent and objections could have been addressed at a more appropriate time (**Recommendation Two**).
- The Council selected the bid that offered the highest consideration, but the Council did not offer an information pack, criteria or guidance to businesses submitting expressions of interest detailing factors that would be considered in determining selection of the lessee (**Recommendations Five**). We note that the Council have recently introduced a new procedure for assessing less than best consideration disposals where a minimum of market rent has been offered.

We have raised recommendations to improve the governance, accuracy and transparency of decisions relating to the disposal of assets.

Lessons learned

Below we set out the lessons which could be learned by the Council in advance of embarking on future change of use projects or disposals of Community Assets. We have grouped these into themes.

Governance

It was noted that the financial figures referred to in the publicly-available Bid For Funding included unexpectedly high annual costs of £40-70K for the running of Burchatts Farm Barn. The Bid for Funding was not sufficiently specific in showing what these costs relate to and substantiating the financial saving claims made. (**Recommendation Three**).

Residents provided other examples of local buildings with community, historic or heritage value that had been proposed for closure or repurposing by the Council in the last five years. Residents are not clear on asset management strategies, and as such there is concern that there is a lack of consistency and transparency between the process and treatment of assets (**Recommendations One and Seven**).

Design

Local residents and community groups made suggestions about alternative management structures for Burchatts Farm Barn, including holding it in a charitable trust on a long lease. These alternatives were considered after the lease had been offered to a tenant, meaning the 'cons' list for this option included reputational damage to the Council for withdrawing from the current arrangement (**Recommendation Four**).

There was a bid by a number of local businesses and a community group at the advertised guide rent, and it appears that some of these groups were not clear that consideration was the primary factor to be considered by the Council. Some groups expected that value to the community or not needing to change the use of the building would be valued more in the selection process. Whilst we are aware that the Council has recently introduced a new procedure for assessing less than best consideration disposals where a minimum of market rent has been offered, there remains a need for the Council to show consistency and transparency and provide the criteria for selection to all interested parties (**Recommendations Five**).

Value for money

Per the Council's Asset Management Strategy and Framework that was approved by the Executive in January 2015, the Council should measure the benefit of continuing the current use of the community asset for its social value to the community and the current financial situation should be assessed against opportunity cost or market rent. This is a robust policy that, if brought back into operational practice, would address the concerns of many stakeholders who have recommended that the management of community and heritage assets should be separated from commercial assets so that they can be assessed for their community value as well as their ability to generate income (**Recommendations One and Seven**).

Residents and community groups did not feel consulted on the matter of Burchatts Farm Barn. The newspaper advert was not seen widely enough and as such residents felt there was no due process for them to suggest alternatives to commercial leasing or to object to the Council's plans. The lessee's planning application received 86 written objections, and it would be better if these objections could have been made directly to the Council at a more appropriate time and in a more appropriate forum. The Council should make use of more communication tools such as social media accounts and informing local residents' groups (**Recommendation Two**).

Staff involvement and documents reviewed

We held discussions with the following individuals as part of the review:

Name	Role
Councillor Maddy Redpath	Holy Trinity Ward Councillor – Guildford Borough Council
Joan Poole	Head of Internal Audit – Guildford Borough Council
Marieke van der Reijden	Head of Asset Management – Guildford Borough Council
Mark Appleton	Property & Asset Manager – Guildford Borough Council
Paul Stacey	Parks & Landscape Manager – Guildford Borough Council
Gavin Morgan	Founder and Chair – Guildford Heritage Forum
Gordon Bridger	Alderman and Former Mayor of Guildford

We reviewed the following documentation during our testing:

- Minutes and papers from meetings relating to decision making around Burchatts Farm Barn;
- Bid for Funding to support letting of Burchatts Farm Barn;
- Spreadsheet of cost monitoring performed prior to letting; and
- Evidence of marketing of property;
- Schedules of expressions of interest;
- Press releases relevant to Burchatts Farm Barn; and
- Lease and licence for the letting of Burchatts Farm Barn to the Guildford Chiropractic Centre.



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North Downs Housing: Governance



Guildford Borough Council
Internal Audit 2019-20

—
DRAFT October 2020

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Status of report

Discussion draft issued	15 October 2020
Management responses received	TBC
Final report issued	TBC
Presented to Corporate Governance and Standards Committee	19 November 2020

Distribution

To (for action):	CC (for information):
— Siobhan Rumble, Landlord Services Manager	— Claire Morris, Resources Director
— Ian Doyle, Service Delivery Director	

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Section One

Executive Summary

Conclusion

We reviewed the design and effectiveness of the governance arrangements used by the Council to manage North Downs Housing Ltd. ('NDH') and provided "partial assurance with improvements required" (**AMBER RED**). This is below management's expectations and is driven by the lack of consistent and regular performance management between the Council and the subsidiary as well as there being no formalised and approved terms of references for the NDH Board or the GBC Holdings Board .

We reviewed the governance arrangements at NDH and at the Council and how they relate to the management of NDH. Per Management there was a recent request for a presentation for an operational update on NDH to the Council's Overview and Scrutiny Committee. Our review of Committee meeting minutes supported this, showing that the presentation was made and there was subsequent discussion and challenge. This reporting is ad hoc and there is no formal mechanism for NDH to report on performance to the Council. The Council does not have a structure to ensure regular and consistent monitoring. Whilst NDH is a standalone entity, as the parent, the Council should be sighted of the financial, strategic and operational performance of the subsidiary and we recommend that formal reporting structures are established.

At NDH there are regular board meetings, key areas of discussion and appropriate attendance from key stakeholders. There are no established terms of references for the NDH Board or the Guildford Borough Council Holdings Ltd. ('GBC Holdings') Board to clearly set out the roles and responsibilities of the committees, including the information that is required to be reported and discussed at these meetings. This needs to be codified, formally approved and adhered to.

The NDH Board meets regularly every two months with agendas and minutes prepared for each meeting. These meetings are attended by appropriate individuals such as NDH Directors, the Landlord Services Manager, Lead Specialist Finance and Legal. We noted robust discussion and challenge around each agenda item, including operational updates on properties. Actions are identified and assigned a responsible individual, however there is no standalone action tracker which is monitored to ensure that actions are being adequately responded to and we recommend that a formal action tracker is implemented including detail on responsible individuals and due dates. Additionally we found from our review of the reports that go to regular Board meetings that there is an overlap in the information provided in the financial monitoring report and the operational update report provided by the Landlord Services Manager. This information includes specific property details such as purchase price and monthly rents. We also found that the operational update pulls this information from the Orchard housing management system whereas the financial monitoring report takes the data from the ledger. Information compiled and presented at the NDH board meetings should be clearly defined to ensure there is no duplication in reporting.

Objectives

The objectives of our work were:

Objective	Description of work to undertake
Objective One Design of governance arrangements	We reviewed the governance arrangements used by the Council to manage North Downs Housing Ltd and assessed whether they are sufficient to monitor the subsidiary's performance. To do this we reviewed: <ul style="list-style-type: none"> • The structure and responsibilities of committees, including reporting lines into committees; • The methods used to monitor subsidiary performance; • How actions are identified and monitored through to implementation; and • How issues are identified and escalated appropriately.
Objective Two Effectiveness of arrangements	We reviewed committee minutes and other supporting documentation to assess the effectiveness of how governance arrangements are operating. We considered whether information provided is sufficient, timely and appropriate to enable decision making relevant to the subsidiary's operation and performance.

Executive Summary

Areas of good practice

- ✓ The NDH Board meets regularly every two months with agendas and meeting minutes prepared for each meeting. These meetings are attended by appropriate individuals such as NDH Directors, the Landlord Services Manager, Lead Specialist Finance and Legal.
- ✓ We found that the Landlord Services Manager regularly presents at the NDH board meetings, providing an update on the operational aspects of NDH including a detailed spreadsheet showing properties purchased, with purchase price, % yield and properties in the pipeline.
- ✓ A detailed update was given to the Council's Overview and Scrutiny Committee at the July 2020 meeting; there was a robust discussion and questions from committee members.

Areas for improvement

- There is no formal mechanism for NDH to report on performance to the Council. The Council does not have a structure in place to ensure regular and consistent monitoring of NDH's performance. **(Recommendation One)**.
- We found that there are no established terms of references for the NDH Board or the GBC Holdings Board which clearly set out the roles and responsibilities of the committees. **(Recommendation Two)**.
- Whilst actions are identified at NDH board meetings, we found that there is no action tracker in place that ensures actions are assigned a due date, risk rating and are appropriately monitored and tracked. **(Recommendation Three)**.

We have also raised one low priority rating relating to the duplication of reporting to the NDH Board.

Recommendations

We summarise below the recommendations raised as a result of our review:

	High	Medium	Low	Total
Made	1	2	1	4
Accepted	TBC	TBC	TBC	TBC

Acknowledgement

We thank the staff involved in this review who helped us complete our work.

Section Two

Recommendations

This section summarises the recommendations that we have identified as a result of this review. We have attached a risk rating to these recommendations as per the following table:

Risk rating for recommendations raised		
<p>1 High priority (one): A significant weakness in the system or process which is putting you at serious risk of not achieving your strategic aims and objectives. In particular: significant adverse impact on reputation; non-compliance with key statutory requirements; or substantially raising the likelihood that any of the Council's strategic risks will occur. Any recommendations in this category would require immediate attention.</p>	<p>2 Medium priority (two): A potentially significant or medium level weakness in the system or process which could put you at risk of not achieving your strategic aims and objectives. In particular, having the potential for adverse impact on the Council's reputation or for raising the likelihood of the Council's strategic risks occurring.</p>	<p>3 Low priority (three): Recommendations which could improve the efficiency and/or effectiveness of the system or process but which are not vital to achieving the Council's strategic aims and objectives. These are generally issues of good practice that the auditors consider would achieve better outcomes.</p>

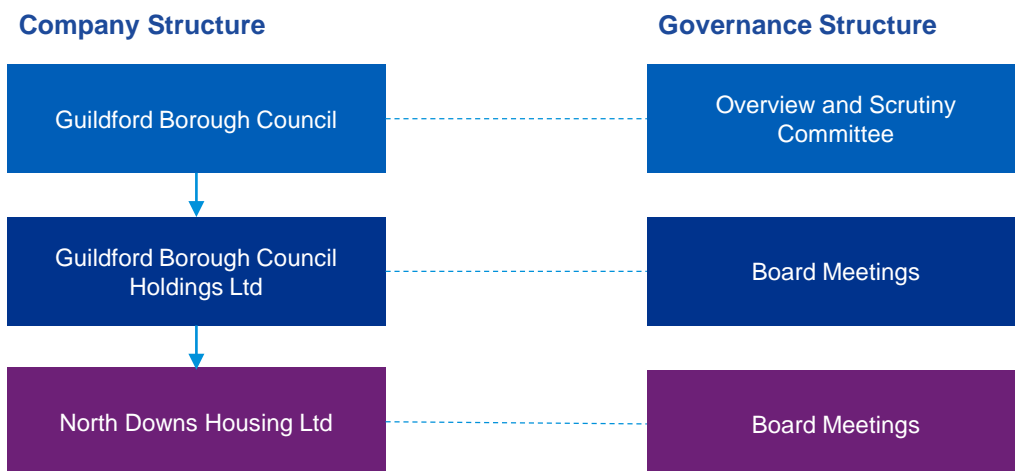
#	Risk	Recommendation	Action, owner and deadline
1	1	<p>Terms of reference</p> <p>There are no formalised and approved terms of references for the NDH Board or the GBC Holdings Board which clearly set out the roles and responsibilities of the committees, including the information that is required to be reported and discussed at these meetings.</p> <p>We recommend that formal set of terms of references are established and approved for both the NDH Board and GBC Holdings Board. These documents should clearly state the frequency of meetings, roles and responsibilities for individuals presenting and attending meetings, individuals required for a quorum and the regular agenda items required to be discussed.</p>	<p>Agreed / Not agreed</p> <p>Response:</p> <p>Responsible Officer:</p> <p>Due date:</p>
2	2	<p>Governance around performance reporting</p> <p>There is no regularised mechanism for NDH to report on performance to the Council. The Council does not have a structure in place to ensure regular and consistent monitoring of NDH's performance. There was reporting on NDH performance at the July 2020 Overview and Scrutiny Committee, however this reporting is ad hoc.</p> <p>Whilst NDH is a standalone entity, as the effective parent in the company structure, the Council should be sighted of the financial, strategic and operational performance of the subsidiary.</p> <p>Formal reporting structures should be established to ensure that the Council is receiving regular updates on NDH performance and that the Committee's role and responsibility in terms of oversight of NDH performance is formalised per its terms of reference.</p>	<p>Agreed / Not agreed</p> <p>Response:</p> <p>Responsible Officer:</p> <p>Due date:</p>

Recommendations

#	Risk	Recommendation	Action, owner and deadline
3	2	<p>Action tracking and reporting</p> <p>From our review of NDH board minutes, we found that actions are identified and assigned to a responsible individual, however there is no action tracker which is monitored to ensure that actions are being adequately responded to.</p> <p>We found from review of chronological meeting minutes that it is not easily identifiable as to whether or not previously agreed actions had been addressed sufficiently at the next meeting. Without assurance that actions are being implemented, there is a risk that these actions remain unresolved.</p> <p>We recommend that a formal action tracker is implemented including detail on responsible individuals and due dates. Additionally, actions should be priority rated to ensure that highest propriety actions are being adequately monitored. The action tracker should be a standing agenda item for discussion at each NDH board meeting.</p>	<p>Agreed / Not agreed</p> <p>Response:</p> <p>Responsible Officer:</p> <p>Due date:</p>
4	3	<p>Reporting on NDH performance to Board Meetings</p> <p>There is an overlap in the information provided in the financial monitoring report and the operational update report provided by the Landlord Services Manager. This information includes specific property details such as purchase price and monthly rents. The operational update pulls this information from Orchard whereas the financial monitoring report takes the data from the ledger.</p> <p>We recommend that the information compiled and presented at the NDH board meetings by both the finance lead specialist and landlord services manager should be clearly defined to ensure that there is no duplication in reporting.</p>	<p>Agreed / Not agreed</p> <p>Response:</p> <p>Responsible Officer:</p> <p>Due date:</p>

Design of Governance arrangements

We reviewed the governance structures at the Council and North Downs Housing Ltd (NDH). We show this below in a graphic with the company structure for context; NDH is owed by Guildford Borough Council Holdings, which in turn is owned by Guildford Borough Council. We present the governance arrangements relevant to NDH with respect to the organisation they are aligned to.



Governance Feature	KPMG commentary
Overview and Scrutiny Committee	<ul style="list-style-type: none"> Through discussions with management and review of Council committee meeting minutes, we found that there is no regular and formal mechanism within the governance arrangements at the Council to effectively monitor NDH's performance. NDH was discussed at a recent meeting of the Overview and Scrutiny Committee, however this was an ad-hoc request and not a regular reporting slot at this committee. (Recommendation Two).
GBC Holdings Board meetings	<ul style="list-style-type: none"> ✓ The schedule of these meetings mirrors that of the NDH board meetings; they take place following each NDH meeting every two months. ✓ Meetings provide the GBC Holdings Board with an operational update on NDH. This includes the same information reported at the NDH Board meetings.
NDH Board Meetings	<ul style="list-style-type: none"> ✓ These meetings take place every two months with attendance from NDH Directors, Landlord Services Manager, Finance and Legal. ✓ The Landlord Services Manager will present at each meeting. They provide a detailed, live report that shows the operational progress of NDH. This includes, properties purchased, properties let, % yield, properties in the pipeline among many other operational details relating to the day-to-day running of NDH. ✓ The Finance Lead Specialist attends each meeting and presents a financial monitoring report. This includes projections for the year, annual report, budget and other financial information such as pay and transfer of money between GBC, GBC Holdings and NDH. <ul style="list-style-type: none"> Whilst the Landlord Services manager will report against a target rental yield (4.5%), there are no formally monitored KPIs, objectives or goals that are regularly monitored against at these or any other meetings. (Recommendation Two). The Council Solicitor has started to attend these meetings however they do not regularly and formally present information or reports. The governance requirements from their role are therefore unclear and not formally defined. (Recommendation One).

Effectiveness of Governance Arrangements

We reviewed agendas, minutes, terms of reference, reports and any other relevant information from the meetings highlighted in Appendix One to determine the effectiveness of governance arrangements identified.

Meeting	KPMG commentary
<p>Overview and Scrutiny Committee</p>	<ul style="list-style-type: none"> ✓ We reviewed the report on NDH made to this Committee and understood the nature of this report and presentation through discussions with the Landlord Services manager. The report clearly sets out its purpose alongside background information on NDH including its original business plan, objectives, financial assumptions and progress to date. There is also a presentation summarising this information. ✓ These meeting minutes show a detailed discussion with robust challenge from the Committee with questions around stability during COVID-19, funding mechanism via GBC Holdings and tenant management. <ul style="list-style-type: none"> ▪ The meeting minutes note that the Committee will support the four objectives of NDH, as set out in the 2016 business plan. The reporting to the Committee is not regular and is done on an adhoc basis. There is no formal monitoring against these objectives, embedded within the formal reporting structures between the Council and NDH. (Recommendation Two). ▪ We also note from review of the meeting minutes that the Chair of Directors of NDH offered to provide future updates on the company to the committee but we note that it has not been implemented as a regular item in the next meeting agenda. (Recommendation Two).
<p>GBC Holdings Board Meeting</p>	<ul style="list-style-type: none"> ✓ We have reviewed recent meeting agendas and minutes which show meetings were held subsequent to the NDH meetings as expected. The information reported on following the NDH Board meetings mirrors the information provided at those meetings. ▪ We have not been able to evidence that there is a terms of reference in place for these meetings. Therefore there is a lack of clarity around regular agenda items and the roles and responsibilities of individuals as well as the outcomes from these meetings. (Recommendation One).
<p>NDH Board Meeting <i>(continued overleaf)</i></p>	<ul style="list-style-type: none"> ✓ We have reviewed meeting minutes for 2019/20 and note that they are held broadly every two months as expected. <ul style="list-style-type: none"> ▪ We have not been able to obtain evidence that there is a formal terms of reference document in place for these meetings. This leads to an uncertainty in terms of the formal requirements of these meetings as well as a lack of clarity around the roles and responsibilities of individuals attending and presenting. (Recommendation One). ✓ Each of the meetings held over this time period had an agenda that contained all of the detail expected from a board meeting agenda: apologies, minutes of the previous meeting, declarations of interest, AOB and discussion of future meeting dates. ✓ Agendas also consistently contained points around areas pertinent to NDH: company accounts, share issues, potential development opportunities, resources, business plan, etc. ✓ We have reviewed a copy of a recent financial monitoring report that the Lead Finance Specialist provides before the meetings. This includes an overview of financial information relating to NDH such as the loan schedule for the borrowings between GBC and NDH, corporate overheads and property valuations. This detail ensures the relevant information is available to all board meetings. <ul style="list-style-type: none"> ▪ We were unable to obtain consistent evidence of discussion of the financial monitoring report in the meeting minutes and it is not clear whether this report is not being consistently presented to meetings and discussed in detail. (Recommendation One).

Effectiveness of Governance Arrangements

Meeting	KPMG commentary
<p>NDH Board Meeting <i>(continued)</i></p>	<ul style="list-style-type: none"> ✓ We have reviewed the most recent report on NDH properties prepared by the Landlord Services Manager. This shows purchased properties with detail such as purchase price, monthly rent, % yields and status (let/void). This also includes similar information for properties under offer. The data in this spreadsheet ensures meeting attendees have up to date and detailed information. ✓ Our review of the meeting minutes found that the spreadsheet on properties is regularly discussed at each meeting under the heading 'updates on property acquisitions' with detailed discussion around monthly incomes, rental arrears and the market in general. ▪ From a review and comparison of the operational update provided by the Landlord Services manager and the financial monitoring report from finance, we found that there is an overlap in the information provided here. This information includes specific property details such as purchase price and monthly rents. We also note that the operational update pulls this information from the Orchard housing management system whereas the financial monitoring report takes the data from the ledger. (Recommendation Four). ▪ From review of minutes we have obtained evidence that actions are identified through discussions of the agenda items. However, we found that these are not consistently followed up and do not have due dates and risk ratings attached. We also note that there is no standalone action tracker. (Recommendation Three).

Staff involvement and documents reviewed

We held discussions with the following staff as part of the review:

Name	Job title
Claire Morris	Resource Director
Ian Doyle	Service Delivery Director
Siobhan Rumble	Landlord Services Manager
Beejal Soni	Contracts, Projects and Procurement Lawyer
Andrea Carr	Democratic Services Officer
Victoria Worsfold	Lead Specialist (Finance)
Jude Aihie	Senior Specialist (Financial Reporting)

During our testing, we reviewed the following documents:

- Overview and Scrutiny Committee Meeting minutes and agendas
- NDH Board meeting minutes and agendas
- GBC Holdings board meeting minutes and agendas
- Financial monitoring reports
- Operational report from Landlord Services Manager
- Report on NDH to Overview and Scrutiny Committee
- NDH business plan



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Corporate and Governance Standards Committee Report

Ward(s) affected: All Wards

Report of Director of Service Delivery

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Date: 19 November 2020

Planning appeals monitoring report

Executive Summary

The purpose of this report is to provide a factual overview of Planning Committee decisions and appeals data for two calendar years, 2019 and 2020 to date. The data focuses, as requested, by the chairman of this committee on Planning Committee member overturns, which overturns ended up at appeal and whether any costs were sought and awarded. The report also looks at general appeals data for each year and the number and type of appeals received each year. The report also identifies costs both for and against the Council and, where the costs have been settled it identifies the 'costs' involved. These may well be from different years as sometimes the agreement on the final costs settlement can take a long time to resolve and can often involve a costs draughtsman should the expectations of both parties be far apart. The report also highlights the high success rate the Development Management team has had at appeal in both 2019 and 2020.

Recommendation to Committee

That the Committee notes the contents of the report

Reason for Recommendation:

To enable the Committee to monitor the Councils performance on planning appeals

Is the report (or part of it) exempt from publication? No

1 Purpose of Report

- 1.1 The purpose of this note is to advise of planning appeals data and associated costs over two calendar years (2019 and 2020 to date) as requested by the Chairman, Councillor Nigel Manning who has asked for this data to be put before the Committee and periodically thereafter.

Introduction

- 1.2 The report author and Chairman of the Planning Committee and the Lead Legal Specialist were asked to attend a Group Leaders meeting on 15 July 2020 to discuss various aspects around an earlier Planning Committee meeting. Arising from that discussion, the Chairman of the Corporate Governance and Standards Committee (Cllr Manning), suggested, (and James Whiteman agreed) that the Corporate Governance and Standards Committee should receive (in Councillor Manning’s words):

“a quarterly report on Planning appeals relating to officer recommended refusals and committee overturn refusals including the costs awarded against GBC and the hidden/not reported officer and external advisor costs, perhaps with say the last 12/18 months figures for comparison purposes. This would highlight what bad decisions have cost the Council, the need for additional training with specific case studies, and perhaps (in the fullness of time) a test that those wishing to sit on the Planning committee need to take before being allowed”.

2 Strategic Priorities

- 2.1 All the strategies priorities have some relevance to this topic; however, the most relevant relates to value for residents in decision making as matters that subsequently end up at appeal can attract costs either for or against the Council. Further there is always a cost identified with defending a refusal of planning permission that ends up at appeal. This can be countered by the fact that we sometimes utilise the services of a ‘costs draughtsman’, should the costs be substantial, and agreement is unlikely to be reached. This initiative often provides better value for money and a better outcome for the Council.

3 Background

- 3.1 To provide a comparison it is considered best to look in some detail at two calendar years, 2019 and 2020.

2019

- 3.2 There were 13 Planning Committee meetings in 2019, which processed and decided on 73 planning applications of varying complexity. Of these 73 applications, 15 officer recommendations were overturned by the Planning Committee. These were mostly from approval to refusal but also vice versa. A more detailed look at the overturned applications is set out in the table below:

Application number	Site address	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
18/P/1595	Land East of St Johns Close	Approve	Refused	Appeal allowed	Yes	No
18/P/01982	Yaldens Cottage, Tongham	Approve	Refused	No appeal		

Application number	Site address	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
18/P/1642	Land at Tilthams Garage	Approve	Refused	No appeal		
18/P/2387	Boxgrove, 144 London Rd	Approve	Refused	Appeal allowed	No	
19/P/00178	Burchatts Farm	Approve	Refused	Appeal allowed	Yes	No
19/P/00179	Burchatts Farm	Approve	Refused	Appeal allowed	Yes	No
18/P/2011	Land North of Harewood Rd	Approve	Refused	Appeal dismissed	Yes	No
18/P/01950	Land East of White Lane	Approve	Refused	Appeal allowed	No	
19/P/00362	Holy Trinity Church	Refuse	Approved	No appeal		
18/P/02240	Land rear of Christmas Hill, Shalford	Approve	Refused	Appeal dismissed	No	
19/P/0566	Sherwood, East Horsley	Approve	Refused	Appeal dismissed	No	
19/P/1039	14A Tangier Road, Guildford	Approve	Refused	Appeal allowed	No	
19/P/01234	Land South of Champney	Approve	Refused	Appeal allowed	No	
19/P/1429	Whistlers Farm, Guildford	Refuse	Approved	No appeal		
19/P/1796	17 Romans Close, Guildford	Approve	Refused	Appeal lodged; no decision		

Observations on Planning Committee data for 2019

- 3.3 There is no overall theme or picture when breaking down the member overturn cases. The range of application type and reasons for refusal are broad; going from a household extension to housing mix to general housing to enclosure of public open space for a residential curtilage.
- 3.4 The number of appeals allowed (in respect of these member overturns) is high and close to 50%, and when you remove member overturns that have not gone to appeal, the percentage figure is higher still. It is noticeable from this data that no 'award of costs' was agreed in respect of these specific overturned cases where costs were sought.

General appeals performance and costs awards in respect of decisions received in 2019

These are as follows:

- Number of appeal decisions: 116
- Number of appeals dismissed: 80
- Number of appeals allowed: 27
- Number of appeals withdrawn: 5
- No further action: 2
- Mixed appeal decisions: 2
- The percentage of appeals dismissed: 72%

Observations on general appeal data for 2019

- 3.5 Officers' appeal success for 2019 was strong and significantly better than our performance in 2018 where our overall performance was at a 50% success rate. The change in our fortune in 2019 was down to targeted scrutiny of all refusals and really questioning whether some recommendations for refusal could ultimately be sustained at appeal. This was reflected in the overall appeal decisions coming through, and with a dismissal rate at 72% it is evident that the Development Management officers were striking a better balance between approvals and refusals.
- 3.6 A further consideration was the adoption of the Local Plan. Having a five-year housing supply now in place, which helped in overall decision making.
- 3.7 The main method of appeal submission received remained written representations, with a handful of Hearings and fewer still Public Inquiries. In 2019 we received 123 appeals, 119 of which were written representations, three hearings and one public inquiry.

Costs 2019

- 3.8 Turning to costs we had awards against us and for us. These are the ones recorded in 2019. It is worth noting that the actual cost claims may have been received in a different calendar year as these matters can sometimes take a significant time to resolve and agree.

Against the Council

- Plot 23 RSCH Hearing - Full award of costs against the Council; settled and agreed at £54,000
- The Bungalow, Send Hill - Partial award against the Council – Not agreed. Potentially headed for detailed assessment due to lack of agreement on quantum to be paid.

For the Council

- Land at Ash Manor – Late withdrawal of Public Inquiry – Partial award of costs - settled at £17, 636

- Lynwood Nurseries, Westwood Lane, Normandy – Full award of costs, not yet settled or monies received. The legal services team registered the debt with the Council's debtors' team in December, the final amount being £4,555.50
- 257 Guildford Road – Full award of costs – settled at £600

Observations on costs

- 3.9 It is worth noting that there were additional costs associated with the plot 23 RSCH Hearing in that we employed a barrister to support our case as the appellants used a barrister. We also received detailed highways modelling advice from an external transport consultant. As there are so few Hearings and Public Inquiries; the cost to the Council attributed to 'written representations' appeals comes down in the main to officer time and administrative time. It is only when appeals are subject to a Hearing or Public Inquiry that the costs associated with these types of appeals can become prohibitive and expensive.
- 3.10 It is also worth further noting that in 2019, the Council spent a significant amount of monies on defending their delegated refusal of an application for student housing and associated uses on land at 1-5 The Quadrant and the Casino night club in Guildford. This was a public Inquiry with multiple witnesses and barristers and ended when the appellants decided to withdraw the appeal part way through the Inquiry. We lodged a costs claim for a full award of costs against the appellants, but the Planning Inspector declined the request. We sought barrister advice at the time whether this costs decision letter should be challenged. The advice received was not to pursue the matter further.

2020

- 3.11 There have been 11 Planning Committee meetings so far in 2020 as well as two cancelled meetings at the start of the Covid 19 pandemic.
- 3.12 To date and including the 7 October meeting, Planning Committee determined 46 planning applications of varying complexity. Of these 46 cases, 10 were overturned by the Committee. These were mostly from approval to refusal but also vice versa. A more detailed look at the overturned applications shows the following.

Application number	Site address	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
19/P/00721	Land off Send Hill, Send	Approve	Refuse	Appeal lodged	Too early	
19/P/01980	Land of Westwood Lane, Normandy	Approve	Refuse	No appeal yet		
20/P/0446	Meadow Cottage,	Refuse	Approve	No appeal		

Application number	Site address	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
	Horsley					
19/P/2102	Manor Farm, Tongham (reserved matters)	Approve	Refuse	Appeal lodged	Appellants advise they will seek costs	
19/P/1003	Land at Heath Drive, Send	Approve	Refused if they could have	Appeal against non-determination	Too early	Unknown
20/P/01011	Land at Heath Drive, Send	Approve	Refused	No appeal lodged yet	Too early	
20/P/00511	1 Ash Lodge Close, Ash	Approve	Refused	No appeal lodged yet	Too early	
20/P/0534	Weekwood Copse	Approve	Refused	No appeal lodged yet	Too early	
20/P/01166	The Lodge, Barn End, West Horsley	Approve	Refused	No appeal lodged yet	Too early	
20/P/01216	Land off Field Way, Send	Approve	Refused	No appeal lodged yet	Too early	

Observations on Planning Committee data for 2020

- 3.13 There are fewer overturns so far in 2020, but then we had to cancel two committee meetings and rely on virtual meetings. Less business throughput has been achieved when compared to our normal (non pandemic) committee process. Out of the ten overturns listed, the one that stands out is the reserved matters refusal at Manor Farm Tongham. As officers, we need to ensure that the reasons for refusal are defended robustly, as the appellants will almost certainly engage the use of a barrister and have made it clear to the Council that they will be seeking full costs against the Council once more having successfully won a substantial award of costs at appeal at the outline stage. Our team will consist of a barrister, planning consultant and a separate expert witness on sustainability. Should we lose the appeal and suffer an award of costs against us, the costs to the Council overall could be quite significant. The actual figure cannot be quantified at this stage, as witnesses have yet to be appointed and contracts agreed.
- 3.14 It is considered that the data contained in the 2020 table is very current and up to date and therefore the outcomes of nearly all the cases is not known. It is

suggested that the matter is reviewed further in, say, 12 months' time when the outcomes and any awards of costs should be known. The member overturn decisions have not had an impact on appeal decisions identified to date for 2020, as it is simply too soon

Appeals performance and costs awards in respect of decisions received in 2020 (data up to 29 October 2020)

These are as follows:

- Number of appeal decisions: 74
- Number of appeals dismissed: 60
- Number of appeals allowed: 11
- Number of appeals withdrawn: 1
- No further action: 0
- Mixed appeal decisions: 2
- The percentage of appeals dismissed: 81%

Observations on general appeal data for 2020

- 3.15 The appeals success rate in 2020 is probably the best the report author can recall and suggests overall that, as a department, we are targeting our refusal of applications correctly; with over 80% of cases being upheld at appeal.
- 3.16 It is worth noting that in 2020 we were unhappy with two appeal decisions that we received that were both allowed. We challenged both decisions by way of judicial review as we felt that both inspectors had erred in law. The Secretary of State conceded the first one, and the appeal was re-considered once more and was dismissed; on the second case the Secretary of State conceded again, and the appeal should be re-considered shortly. We successfully recovered our costs on the first judicial review, and we are hopeful that we will recover our full costs in respect of the second one.
- 3.17 As in 2019, the main method of appeal submission received in 2020 remain written representations. In 2020, we have received 62 appeals to date and there have been no Public Inquiries or Hearings received; although we are pretty certain that the reserved matters Manor Farm, Tongham appeal will be a hearing. In addition, the second application for student accommodation at the Quadrant in Bridge Street Guildford (that was refused recently) has been appealed and the appellants' team has requested a Public Inquiry for a second time.

Costs 2020

Against the Council

- Kings Yard, Burrows Lane, Shere - Full award of costs against the Council. Appellants are seeking £3,744. The matter has yet to be settled.
- 31 Millmead Terrace, Guildford - Full award of costs against the Council. The costs decision notice was only received on 30 September 2020 and therefore the matter will not be agreed and settled for several months yet.

- Unit 5 Guildford Business Park. Partial award of costs against the Council. The matter has yet to be settled

For the Council

- Kailyaird House, Vicarage Lane, Send - Full award of costs in favour of the Council. Decision received first week of October. The amount may take several months to settle and agree.

Observations on costs

- 3.18 The Kailyaird House appeal decision and costs decision only came through very recently and because this was a repetitive application for a similar sized new dwelling the Inspector found in the Council's favour.
- 3.19 It should be noted that these three cases are not found on the main table above. The reason being is that Kings Yard was not specifically a member overturn but had conditions re-imposed that the applicant did not find favour with and challenged by way of appeal. Millmead Terrace was a delegated refusal and was not considered by Committee. Kailyaird House was recommended for refusal by officers but was automatically heard by committee as it had a significant number of letters in support of it
- 3.20 It is probably worth pointing out that in the last two years the team leaders have encouraged officers to seek award of costs more frequently than in the past which has been a positive move for the section.

Additional training for members and substitutes sitting on the Planning Committee

- 3.21 The request for the report by Councillor Manning referred to training for Committee members around this subject area. It is worth noting that since the Group Leaders' meeting there have been two training sessions organised by our in-house legal team and provided by a QC and junior barrister from Frances Tailor Buildings. The first session was on 'probity in planning' and second and more relevant session was entitled 'decision making in planning and appeals training'. The report author attended both these sessions and although there was no question and answer session, both were well attended by Councillors and were well received.
- 3.22 We also fully expect further training ideas to come forward from the Local Government Association Peer Review exercise.

Local Government Association Peer Review of the Councils Planning Committee

- 3.23 It is worth mentioning that towards the end of 2019, the Managing Director agreed that a 'critical friend' peer review of the Council's Planning Committee should be undertaken. This was set to happen in March but was delayed by the Covid pandemic. The Peer Review took place in the first week of November and the team will report back by the first week of December with recommendations. The peer review team will look at multiple aspects around the operation of the

Committee, and will interview many individuals, councillors, officers and third parties as part of the peer review. It's not an audit but a process to learn from other authorities and to put in place good practice. The contents of this report will be shared with the review group as it will help them better understand the detailed workings of the Planning Committee, the outcomes at appeal and associated costs.

4 Consultations

- 4.1 This report arose from a discussion at a Group Leaders' session post Planning Committee in June/July this year. The report has been reported to Management team and their observations incorporated. It has also been shared with our portfolio holder, Councillor Caroline Reeves. The report has also been shared with our accountant and with the Head of Human Resources. The report has also been shared with the LGA Peer Review Group to assist with their Peer Review that began on 2 November.

5. Key Risks

- 5.1 The key risk in this area of planning work are considered as follows:
- Reputational; should we lose a significant number of appeals and have costs regularly awarded against us
 - Failure to meet government targets. Falling below the government's rolling 'two year' threshold for appeal outcomes. If the Council falls below the bar there is a possibility we could be designated as a 'standards' authority. (In August 2017, the Department for Communities and Local Government published some Experimental Statistics on the Quality performance measure for major and non-major applications in preparation for the process of potential designation of Local Planning Authorities (LPAs) that are losing more than 10% of all major applications (district and county matters separately) received at appeal or 10% of all non-major applications received at appeal over a two year period). This process and data interrogation continue to happen, to date, and is an ongoing process.
 - Financial; particularly in the current climate. Should we have many awards of costs against us this will clearly put undue and further financial pressure on the Council.

6. Financial Implications

- 6.1 The financial implications can of course be significant when it comes to planning appeals. The main costs are in defending decisions at appeal. These can become expensive if we have to put together an external team to defend the Council's decision making.
- 6.2 The other area to highlight is awards of costs both for and against the Council in appeal situations. These can be associated with all types of appeals and can be significant in amounts sought and settled. The most significant costs are normally attributed to either Hearings or Public Inquiries.

7. Legal Implications

- 7.1 There are no direct legal implications associated with the report. We work closely with our colleagues in the Legal Team in appeal situations and particularly in respect of instruction for barristers when undertaking Public Inquiries and sometimes Hearings. The legal team also provide instructions to costs draughtsman in the event that costs sought by appellants are seen as unreasonably high and we do not agree with the sum being sought.

8. Human Resource Implications

- 8.1 No HR implications apply for this report and no specific comments from the head of HR when assessing this report.

9. Equality and Diversity Implications

- 9.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report

10. Climate Change/Sustainability Implications

- 10.1 No climate change implications directly apply to the appeals data and costs data.

11. Summary of Options

- 11.1 To note the data and observations made in this report and to advise on any actions to take forward from hereon.

12. Conclusion

- 12.1 The overall picture for appeal decisions in 2019 and 2020 is a relatively healthy one. The number of overturned items that end up at appeal and are allowed is high for 2019 and it is too early to consider the 10 overturns thus far in 2020. It is recommended that following a 12-month gap, the situation is reviewed once more to see the outcomes of appeal data both at officer delegated level and planning committee decisions to see what further patterns emerge.

13. Background Papers

None

14. Appendices

None

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Resources

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Date: 19 November 2020

Corporate Governance and Standards Committee – 12 month rolling Work Programme

Recommendation

That the Committee considers and approves its updated 12 month rolling work programme, as detailed in Appendix 1 to this report.

Reason for recommendation:

To allow the Committee to maintain and update its work programme.

Is the report (or part of it) exempt from publication? No

1. Purpose of report

1.1 The draft work programme attached as Appendix 1 sets out the items scheduled to be considered by this Committee at its meetings over the next 12 months.

2. Draft work programme

2.1 The draft work programme for the Corporate Governance and Standards Committee is set out in Appendix 1 to this report. The timing of the reports contained in the work programme is subject to change, in consultation with the chairman. The items to be considered include decisions to be made by the Executive and/or full Council, with consideration of any comments or recommendations made by this Committee.

3. Financial Implications

3.1 There are no financial implications arising directly from this report.

4. Legal Implications

4.1 There are no legal implications arising directly from this report.

5. Human Resource Implications

5.1 There are no human resources implications arising directly from this report.

6. Background Papers

- Guildford Borough Council Forward Plan
- Corporate Management Team Forward Plan

7. Appendices

Appendix 1: Corporate Governance and Standards Committee 12 month rolling work programme

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

26 November 2020 (Special Meeting)

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
2019-20 Audit Findings Report: Year ended 31 March 2020	To note the external auditor's findings and management's response in the Action Plan	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
2019-20 Audited Statement of Accounts	To approve the 2019-20 Statement of Accounts	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Financial Monitoring 2020-21: Period 6 (April to October 2020)	To note the results of the Council's financial monitoring for the period April to October 2020	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

14 January 2021

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Annual Audit Letter 2019-20	To review the letter and make any comments to the Executive as appropriate.	Corporate Governance and Standards Committee Executive: 26 January 2021	Claire Morris 01483 444827
Capital and investment strategy (2021-22 to 2024-25)	To comment on various recommendations to the Executive and Council	Corporate Governance and Standards Committee Executive: 26 January 2021 Council: 10 February 2021	Victoria Worsfold 01483 444834
Financial Monitoring 2020-21 Period 8 (April to November 2020)	To note the results of the Council's financial monitoring for the period April to November 2020	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Annual report of the Monitoring Officer regarding misconduct allegations	(1) To note the cases dealt with; and (2) To advise the Monitoring Officer of any areas of concern upon which they would like further information and/or further work carried out.	Corporate Governance and Standards Committee	Sarah White 01483 444069
Equalities Scheme Action Plan	Annual monitoring report on the implementation of the actions in the Equalities Scheme action plan approved in January 2018	Corporate Governance and Standards Committee	Francesca Smith 01483 444014
Gender Pay Gap Report 2021-22	To note the Council's gender pay gap report	Corporate Governance and Standards Committee	Francesca Smith 01483 444014
Freedom of Information Compliance - Annual Report 2020	To consider the annual report for 2020 on the Council's performance in dealing with Freedom of Information requests.	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072
Reviews of various corporate governance related matters.	To consider proposals from the task group in respect of reviews of various corporate governance related matters including: <ul style="list-style-type: none"> • the effectiveness of internal communications, between officers and councillors; • proposals to promote transparency, and effective communications and reporting, including the Council's Communications Protocol 	Corporate Governance and Standards Committee Executive: 26 January 2021 Council: 10 February 2021	John Armstrong 01483 444102 Diane Owens 01483 444027
Corporate Performance Monitoring	To receive a quarterly setting out the Council's performance against its Key Performance Indicators	Corporate Governance and Standards Committee	Steve Benbough 01483 444052

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

25 March 2021

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Discussions with those charged with governance	To agree the Committee's response to the external auditor's audit plan	Corporate Governance and Standards Committee	Claire Morris 01483 444827
Annual Governance Statement 2020-21	To adopt the Council's Annual Governance Statement 2020-21	Executive: 20 April 2021	John Armstrong 01483 444102
The Council's Constitution	To review and update Financial Procedure Rules and Procurement Procedure Rules	Corporate Governance and Standards Committee Council: 13 April 2021	Victoria Worsfold 01483 444834 Faye Gould 01483 444120
Audit Report on the Certification of Financial Claims and Returns 2019-20: Housing Benefit Subsidy and Pooling Housing Capital Receipts	To note the position regarding the certification of financial claims and returns for 2019-20	Corporate Governance and Standards Committee	Belinda Hayden 01483 444867
External Audit Plan and Audit Update 2020-21	To approve the external audit plan for 2020-21, and to note the content of the External Auditor's update report and make any appropriate comments.	Corporate Governance and Standards Committee	Claire Morris 01483 444827
Data Protection and Information Security Update Report	To consider a six-monthly update on compliance with statutory requirements	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072
Financial Monitoring 2020-21 Period 10 (April 2020 to January 2021)	To note the results of the Council's financial monitoring for the period April 2020 to January 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

June 2021

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Capital and Investment outturn report 2020-21	To submit any comments to the Executive when it considers this matter in June 2021.	Executive: June 2021 Council: July 2021	Victoria Worsfold 01483 444834
Revenue Outturn Report 2020-21	To note the Draft Statement of Accounts 2019-20, and to make any comments to officers in advance of the audit.	Executive: June 2021	Victoria Worsfold 01483 444834
Housing Revenue Account Final Accounts 2020-21	To submit any comments to the Executive when it considers this matter in June 2021.	Executive: June 2021	Victoria Worsfold 01483 444834
External Audit 2021-22 Fee Letter	To consider the planned audit fee	Corporate Governance and Standards Committee	Claire Morris 01483 444827
Internal Audit Plan 2021-22	To consider the internal audit plan for 2021-22	Corporate Governance and Standards Committee	Joan Poole 01483 444854
Review of Task Groups reporting to the Committee	To review the work carried out by the task groups over the past 12 months and work to be carried put in the next 12 months and appoint councillors to the groups	Corporate Governance and Standards Committee	John Armstrong 01483 444102
Planning Appeals	To monitor the Council's performance at appeals against refusal of planning permission by the Planning Committee (both in respect of officer recommendations for refusal and Committee overturns) including, where appeals are upheld, details of costs awarded against the Council and other associated legal/external adviser costs.	Corporate Governance and Standards Committee	Tim Dawes 01483 444650

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

July 2021

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
2020-21 Audit Findings Report: Year ended 31 March 2021	To note the external auditor's findings and management's response in the Action Plan	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
2020-21 Audited Statement of Accounts	To approve the 2020-21 Statement of Accounts	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Financial Monitoring 2021-22 Period 2 (April/May 2021)	To note the results of the Council's financial monitoring for the period April/May 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Summary of Internal Audit Reports October 2020 – March 2021	To consider the summary of internal audit reports for the period October 2020 to March 2021, including an update on complaints to the Local Government Ombudsman for that period	Corporate Governance and Standards Committee	Joan Poole 01483 444854
Freedom of Information Compliance update	To consider the update report on the Council's performance in dealing with Freedom of Information requests (January to June 2021)	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

September 2021

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Financial Monitoring 2021-22 Period 4 (April to July 2021)	To note the results of the Council's financial monitoring for the period April to July 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Councillor Training and Development Update	To consider a report from the Councillors' Development Steering Group relating to councillor training and development	Corporate Governance and Standards Committee	Sophie Butcher 01483 444056
Data Protection and Information Security Update Report	To consider a six monthly update on compliance with statutory requirements	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

November 2021

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Financial Monitoring 2021-22: Period 6 (April to October 2021)	To note the results of the Council's financial monitoring for the period April to October 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Summary of internal audit reports (April to September 2021)	To consider the summary of internal audit reports and progress on the internal audit plan for April to September 2021, including update on complaints to the Local Government Ombudsman for that period.	Corporate Governance and Standards Committee	Joan Poole 01483 444854
Planning Appeals	To monitor the Council's performance at appeals against refusal of planning permission by the Planning Committee (both in respect of officer recommendations for refusal and Committee overturns) including, where appeals are upheld, details of costs awarded against the Council and other associated legal/external adviser costs.	Corporate Governance and Standards Committee	Tim Dawes 01483 444650
Corporate Performance Monitoring	To receive a quarterly setting out the Council's performance against its Key Performance Indicators	Corporate Governance and Standards Committee	Steve Benbough 01483 444052

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