



OVERVIEW AND SCRUTINY COMMITTEE

Notice of a Meeting, to be held in the Council Chamber - Ashford Borough Council on Tuesday, 24th July, 2018 at 7.00 pm.

The Members of the Overview and Scrutiny Committee are:-

Councillor Chilton (Chairman)
Councillor Michael (Vice-Chairman)

Cllrs. Bartlett, Buchanan, Burgess, Dehnel, Farrell, Feacey, Knowles, Krause, Mrs Martin, Miss Martin

Agenda

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| 1. | Apologies/Substitutes | |
| | To receive Notification of Substitutes in accordance with Procedure Rule 1.2 (iii) | |
| 2. | Declarations of Interest | 1 - 2 |
| | To declare any interests which fall under the following categories, as explained on the attached document: | |
| | a) Disclosable Pecuniary Interests (DPI) | |
| | b) Other Significant Interests | |
| | c) Voluntary Announcements of Other Interests | |
| | See Agenda Item 2 for further details | |
| 3. | Minutes | 3 - 10 |
| | To approve the Minutes of the Meeting of this Committee held on the 26 th June 2018 | |
| 4. | Future Reviews & Report Tracker and Topic Selection Flowchart | 11 - 18 |
| 5. | Chilmington Management Organisation Report | 19 - 32 |

Following the 2018/2019 budget scrutiny process, the Committee endorsed the Task Group's recommendation, that the Committee receive an overview of the CMO model in comparison to a 'traditional' resident management company and its potential application for other developments.

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Declarations of Interest (see also “Advice to Members” below)

- (a) **Disclosable Pecuniary Interests (DPI)** under the Localism Act 2011, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares a DPI in relation to any item will need to leave the meeting for that item (unless a relevant Dispensation has been granted).

- (b) **Other Significant Interests (OSI)** under the Kent Code of Conduct as adopted by the Council on 19 July 2012, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares an OSI in relation to any item will need to leave the meeting before the debate and vote on that item (unless a relevant Dispensation has been granted). However, prior to leaving, the Member may address the Committee in the same way that a member of the public may do so.

- (c) **Voluntary Announcements of Other Interests** not required to be disclosed under (a) and (b), i.e. announcements made for transparency reasons alone, such as:

- Membership of outside bodies that have made representations on agenda items, or
- Where a Member knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position.

[Note: an effect on the financial position of a Member, relative, close associate, employer, etc; OR an application made by a Member, relative, close associate, employer, etc, would both probably constitute either an OSI or in some cases a DPI].

Advice to Members on Declarations of Interest:

- (a) Government Guidance on DPI is available in DCLG’s Guide for Councillors, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5962/2193362.pdf
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, and a copy can be found in the Constitution at <http://www.ashford.gov.uk/part-5---codes-and-protocols>
- (c) If any Councillor has any doubt about the existence or nature of any DPI or OSI which he/she may have in any item on this agenda, he/she should seek advice from the Corporate Director (Law and Governance) and Monitoring Officer or from other Solicitors in Legal and Democratic Services as early as possible, and in advance of the Meeting.

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Overview and Scrutiny Committee

Minutes of a Meeting of the Overview and Scrutiny Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **26th June 2018**.

Present:

Cllr. Chilton (Chairman);
Cllr. Michael (Vice-Chairman);

Cllrs. Bartlett, Buchanan, Dehnel, Mrs Dyer, Farrell, Feacey, Knowles, Miss Martin, Mrs Martin, Sims.

In accordance with Procedure Rule 1.2 (iii) Councillors Sims and Mrs Dyer attended as Substitute Members for Cllrs. Burgess and Krause.

Apologies:

Cllrs. Burgess, Krause, Shorter.

Also Present:

Cllr. Pickering - Porfolio Holder for Human Resources and Customer Services.

Director of Finance & Economy, Senior Revenues & Benefits Officer & Welfare Reform Partnership HUB Manager, Head of HR and Customer Services, Human Resources Manager, Member Services and Ombudsman Complaints Officer, Senior Policy and Scrutiny Officer.

Development Worker – Together Canterbury
CEO – Kent Savers Credit Union
Board Director and Treasurer – Kent Savers Credit Union

67 Declarations of Interest

Cllr. Feacey made a Voluntary Announcement as he was Chairman of the Ashford Volunteers Bureau.

68 Minutes

Resolved:

That the Minutes of the Meeting of this Committee held on the 22nd May 2018 be approved and confirmed as a correct record.

69 Tenterden Community Hub Presentation

The Development Worker from Together Canterbury gave a presentation which covered:

- Other projects involving Together Canterbury;
- Reasons why Credit Unions could make a difference;
- Debt action chart indicating credit scores against loan amounts and availability of credit assistance;
- Connecting Canterbury branches;
- Tenterden Community Hub and links to Credit Unions.

The Chairman thanked the Development Worker for the presentation and opened up the item for discussion, during which the following points were raised:

- A Member asked about the relationship between Tenterden Community Hub and Ashford Borough Council, and how the Council could assist. The Development Worker responded that local churches had strong relationships with the Council and were getting the necessary support. Sometimes a small cash injection was needed to get projects off the ground, typically in the region of a few hundred pounds.
- There was a question about the proportion of users on welfare against those in employment. The Development Worker said that it varied according to location. In some areas 100% of users were unemployed, but in others many users were in employment.
- A Member asked about the impact of Universal Credit and the role of Christians Against Poverty. The Development Worker explained that the biggest challenge with regard to Universal Credit was the transition period. It was important for communities to provide support and advice during this transition period. Christians Against Poverty was based in Bradford and outposts were run in conjunction with local churches. The service was offered to those in need, including home visits, and was funded by the local churches.
- There was a question about the percentage of users requesting help with loans against those wishing to invest into Credit Unions. The Development Worker said that this varied greatly between different areas. In some areas the main activity involved investment into Credit Unions, while elsewhere the main focus might be loans.
- A Member asked about defaults on loans, and whether this was a concern during the transition to Universal Credit. The Development Worker said that it was important to manage the level at which defaults occurred and it was likely that there would be a higher default rate when working with more disadvantaged users. Financial education, courses and training were part of the solution to assist users to move away from debt and become more able to manage their own finances.
- In response to a question about the Universal Credit transition period, the Development Worker said that the Government and local offices reported that the majority of users transferred with no problem, but 2% had more problematic lives and struggled with the Universal Credit system. It was important to create partnerships with local housing associations and DWP Partnership Managers so as many bases were covered as possible.

Resolved

That the presentation be received and noted.

70 Kent Savers Presentation

The CEO from Kent Savers Credit Union gave a presentation which covered:

- Services offered by Kent Savers, including savings, loans and online/alternative bank accounts;
- Background to Kent Savers, including membership, loans and interest rates and performance;
- Future plans;
- Working with Ashford Borough Council;
- Financial support.

The CEO and Treasurer outlined details of the savings accounts and loans available through the Credit Union, highlighting the flexibility offered through being able to save and relatively low interest rates (up to 42.6% APR) that offered a preferable alternative to borrowing from payday lenders at rates frequently in excess of 1000% APR.

Information was also presented on an alternative bank account which could be used by Credit Union members regardless of their credit score or financial history . Through the Credit Union's Engage Classic Account members received a debit card which could be used for in person and online payments and cash withdrawals from their Credit Union account. The account did not allow holders to go overdrawn and could be set up for standing orders and BACS payments.

The CEO outlined the current state of the Credit Union, noting that the union was in a financially strong position but had had limitations placed on the amount of lending it could offer. An increase in bad debts had temporarily constrained their ability to make large loans, but with an increase in small loans made and repaid on time this position could be reversed.

A number of services were in development to widen the offer of the Credit Union, including the setting up of a payroll deduction programme with an increasing number of councils and local employers; investing in the Credit Union's website and a mobile app to allow 24/7 access; working within schools to support financial literacy and provide 'Junior Savers' options and the operation of an online homewares shop as an alternative to high interest rent-to-buy and white good leasing options.

The CEO spoke about ways in which the Council and Kent Savers Credit Union could work together, highlighting promotion of the Credit Union and its services and the setting up of a housing crisis loan fund within the Credit Union. Underwritten by the Council, the housing crisis loan fund could form a key component of the personalised housing plans required under the new Homelessness Reduction Act, and through the provision of a ring-fenced fund for Ashford residents, loans could be issued at the Council's discretion through using the existing Kent Savers administration set up.

The Treasurer noted the financial position of the Credit Union, noting that capital support was necessary to maintain a 3% capital to assets ratio and ideally achieve a 5% ratio. The preferred instrument for support was a long term (5 years plus) subordinated loan with interest waived, with Kent, Swale, Tunbridge Wells, Maidstone, Bexley and Canterbury Councils supporting the Credit Union in this way.

The Chairman thanked the CEO and Treasurer for the presentation and opened up the item for discussion, during which the following points were raised:

- A Member suggested that a cash withdrawal charge of 75p for the debit card administered by the Credit Union was high, given that cardholders may have low balances within their accounts. The CEO responded that the charges were compensated for by discounts offered. In addition, cash could be withdrawn at various points, such as supermarkets, where there would be no charge.
- There was a question about the business objective of Kent Savers. The CEO said that Kent Savers aspired to be a fair credit lender with affordable credit, and that any resident of Kent, Medway and the London Borough of Bexley could be a member. The organisation was the only Credit Union covering the entirety of Kent and would offer loans to anyone who was eligible, for any legal purpose. At present there were 216 members of Kent Savers who were Ashford residents (equivalent to 5% of the total membership of the Credit Union), with a total of £316,000 loaned out to these members.
- A Member asked what happened where users had no credit history. The CEO explained that the user was unlikely to get a loan immediately, but would be encouraged to demonstrate over a period of six months that they could make regular payments.
- A Member referred to the Committee's prior consideration of the Council's preparations for the introduction of the Homelessness Reduction Act, noting that this had been the starting point for the Committee's interest in learning more about Credit Unions and suggested that particular consideration should be given to working with the Credit Union on homelessness matters.

Resolved

That

- (i) **The Overview and Scrutiny Committee recommend that Cabinet instruct Officers to work with Kent Savers to establish a working relationship and identify ways in which the Council and Kent Savers can work together with particular reference to homelessness prevention and relief.**
- (ii) **The Overview and Scrutiny Committee recommend that the Council contribute a subordinated loan of £10,000 to Kent Savers to support**

their work.

71 Universal Credit Update

The Director for Finance and Economy introduced this item. He said the organisation had made preparations for the arrival of Universal Credit, and these had been monitored by the Welfare Reform Task Group. A report had also previously been submitted to Members.

The Chairman opened up this item for discussion and the following points were raised:

- A Member asked about the impact that the introduction of Universal Credit would have on claimants and on the volume of work for the Council. The Senior Revenues & Benefits Officer & Welfare Reform Partnership HUB Manager responded that the full Universal Credit scheme went on line last week for first time claimants only, or those who had a change in circumstances. This meant that there was no major impact on the Council's Officers at present and would not be for the future as this 'slow trickle' effect would run until 2023.
- A Member noted that the Council had not accepted funding from the Department of Works and Pensions (DWP) and asked who was undertaking the extra administration and whether the Council was funding the Citizens' Advice Bureau to undertake that work. The Director of Finance and Economy said that the DWP had offered to fund local authorities to provide personal budgeting support and assisted digital support. Previously the Council had taken advantage of this funding. However, the Council had declined to take further funding because it was concerned about the ability to manage the level of demand for these services. The Job Centre Plus would now provide digital support and self-help via personal computers within their branch.
- A Member said it was important that residents had somewhere to go to access these services. The Director of Finance and Economy confirmed that the DWP had no plans to continue financing the roll out of Universal Credit in the long term.
- A Member said that residents within her Ashford Ward had been referred to the Folkestone Job Centre, and she asked why they had been put into that catchment area. The Senior Revenues & Benefits Officer & Welfare Reform Partnership HUB Manager responded that Folkestone had gone live three weeks before Ashford and 6000 Ashford properties had been placed under the Folkestone catchment. Concerns had been raised with the DWP, and the Council had now been assured that the residents within this postcode could receive assistance via the Ashford Job Centre. The Member concerned said that she was disappointed that she was the Ward Member for those residents and she had not been made aware of this issue.

- A Member asked whether Officers were confident that the Council could cope with the roll out of the new system. The Director of Finance and Economy responded that the majority of the administration was undertaken by the DWP and not the Council, and that the workload for Ashford would actually lighten as case numbers were transferred to DWP over a period of time.
- There was a question about what services were available through the Council. The Senior Revenues & Benefits Officer & Welfare Reform Partnership HUB Manager responded that the Welfare Intervention Officers would help any Ashford resident, offering budgeting support, referral to Citizens' Advice Bureau and Christians Against Poverty. Assistance from the DWP was limited to assistance and digital support for Universal Credit users only.

Resolved

That the report be received and noted. An update report would be submitted to the Overview and Scrutiny Committee in January 2019.

72 Sickness/Absence 2017/18 Report

The Portfolio Holder for Human Resources and Customer Services introduced the report. He noted that the report demonstrated a good balance between sensible support for unwell employees and continued good management of sickness levels. The sickness averages were in line with national levels, and, although slightly higher than last year, still remained lower than many of the Council's counterparts. It was clear that the Council continued to be supportive of mental health issues and maintained its commitment to this important condition. Absence was distributed evenly across the organisation, with no single service experiencing a disproportionate or unexplained level of absenteeism. A third of employees had had 100% attendance and this was a very positive position.

The Chairman opened up this item for discussion and the following points were raised:

- Members expressed concern about the apparent increase in sickness absence between 2016/17 and 2017/18. The Human Resources Manager confirmed that there was a typo error in the report, and that the figure of 969.73 actually referred to the difference between the sickness absence for 2017/18 and 2018/19. She confirmed that the figure for 2018/19 was 3,495. Members were concerned about the increase in sickness absence over the last year. The Human Resources Manager explained that the general increase in absenteeism across the Council was in line with national averages and trends. She added that the number of days was distributed amongst an increased number of employees.
- A Member asked about the industrial injury/accident at work figure. The Human Resources Manager explained that this related to injuries sustained by an employee falling off a bicycle. In response to a further question, she

confirmed that staff who were required to use a bicycle as part of their duties had undertaken cycle proficiency training.

- A Member noted that one third of the workforce had 100% attendance rate. She asked whether there were any incentives or rewards, and whether it was always the same staff who achieved 100% attendance. The Human Resources Manager said that bonuses for 100% attendance generally carried problems and could be seen as discrimination in some circumstances. She said some people simply enjoyed better health than others.
- In answer to a question about the ill-health provision for staff, the Human Resources Manager said that the Council offered enhanced staff support for all kinds of ill-health. The Wellbeing Strategy covered issues such as nutrition, leisure and recreation as well as supportive ill-health intervention.
- A Member said he considered the number of absence days to be exceedingly high. He questioned whether there was a higher absence rate amongst part-time staff. He noted that if the workforce was reducing and more part-time roles were being created, there would be higher pressure on remaining employees. The Head of HR and Customer Services said that there had actually been an increased full-time equivalent head count. Part-time staff provided resilience and took advantage of the opportunity for flexible working. This often helped with child care arrangements, which could prevent absenteeism related to that issue. A Member asked for it to be recorded that the Council valued full-time and part-time workers equally. The Portfolio Holder for HR and Customer Services said that figures had been far worse in the past and that it would be interesting to see if there was an improvement next year. Managers had received a lot of training with regard to staff ill-health and absence and it was hoped this would percolate through the authority and be reflected in future absence figures.
- A Member commended Officers for a sound report and approach. She said that Members' questions and comments were not intended as criticism, but more at looking at how to avoid problems occurring. She considered that it was not appropriate to discuss trends, but focus should be on figures instead, and whether there was something that should be done differently.
- A Member asked if the next report could include the total number of employees as well as the number of full time equivalents.

Resolved

That the report be received and noted. A further report would be submitted to the Overview and Scrutiny Committee in one year's time.

73 Future Reviews and Report Tracker and Topic Selection

A Member requested that an item be added to the Tracker: the performance of the communal toilet scheme. This was agreed by Members.

A Member referred to the consideration of the Trading and Enterprise Board and A Better Choice For Property Ltd held at the previous Committee meeting and felt that there were outstanding questions regarding the property company which required further scrutiny. The Member requested that this be considered further at a future meeting of the Committee. This was agreed by Members.

Post meeting note: The Annual General Meeting of A Better Choice for Property Ltd will be held on the 21st of August with the company's auditors in attendance. All members were invited to attend this meeting should they wish to hear more about the performance and audit of the property company.

A Member noted that the Committee's recommendations in regard to the Council's Commercial Investments had been neither accepted nor rejected at the previous Cabinet meeting, but had instead been placed on effective hold pending an assessment of the costs involved. It was noted by Members that a response to the Committee's recommendations was required and the Chairman advised that if a definitive response was not forthcoming in a reasonable timeframe, he would raise the matter with the Leader.

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Overview and Scrutiny Committee

Report Tracker – 24 July 2018

| Report Title | Date due to O&S | Reporting Service | Scope of what is to be scrutinised |
|---------------------------------------------------------------------------|-------------------|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Resident Management Companies and the Chilmington Management Organisation | 24 July 2018 | CMO | Following discussions raised during scrutiny of the 2018/19 draft budget, the Committee requested an overview of the Chilmington Management Organisation model in comparison to a 'traditional' resident management company; and the wider potential application of the CMO model. |
| A Better Choice for Property Ltd | 28 August 2018 | Finance and IT; Corporate Property and Projects | <i>To be determined</i> |
| Quarter 1 2018/19 performance | 25 September 2018 | Corporate Policy, Economic Development and Communications | Information and analysis of performance against key performance indicators for the council for quarter 1 of 2018/19. |
| Scrutiny of the draft 2019/20 budget (Medium Term Financial Plan) | 25 September 2018 | Finance and IT | A summary of the Budget Scrutiny process and summary of the Medium Term Financial Plan will be presented to the Committee for Members to identify any overarching budgetary risks for consideration by the Budget Scrutiny Task Group. |
| Update on Implementation of Air Quality Strategy | 25 September 2018 | Corporate Policy, Economic Development and Communications | An update on the implementation of the council's Air Quality Strategy arising from the adopted Air Quality recommendations. |
| Housing Statement | 23 October 2018 | Housing/ Corporate Policy, Economic Development and Communications | An overview of the council's Housing Statement (reported to the Committee in October 2017) following consultation. |
| Quarter 2 2018/19 performance | 23 October 2018 | Corporate Policy, Economic Development and Communications | Information and analysis of performance against key performance indicators for the council for quarter 2 of 2018/19. |

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| Kent Fire and Rescue Service | 27 November 2018 | | Kent Fire and Rescue Service to be asked to attend and present on their capacity and resources in light of a lack of voluntary support. |
| Universal Credit roll-out progress | 22 January 2019 | Finance and IT | An update for Members on the early impacts and outputs of the wider Universal Credit roll-out in the borough. |
| Budget Scrutiny Task Group - Final report | 22 January 2019 | Corporate Policy, Economic Development and Communications/ Finance and IT | Presentation of the findings of the Budget Scrutiny Task Group for discussion and approval by the Committee. |
| Community Safety Partnership and Safeguarding updates | 26 February 2019 | Community Safety and Wellbeing/ Housing | Annual updates to the Committee on the work of the Community Safety Partnership and the council's work on safeguarding adults and children at risk. |
| Quarter 3 2018/19 performance | 26 February 2019 | Corporate Policy, Economic Development and Communications | Information and analysis of performance against key performance indicators for the council for quarter 3 of 2018/19. |
| Town centre framework | 26 March 2019 | Corporate Policy, Economic Development and Communications | Following discussions raised during scrutiny of the 2018/19 draft budget, the Committee has requested a report on the town centre placemaking framework |
| Void properties | 23 April 2019 | Housing | Following discussions raised during scrutiny of the 2018/19 draft budget, the Committee has requested a report on work undertaken to address void properties in the PSL sector. |
| Broadband provision and planning | 23 April 2019 | Corporate Policy, Economic Development and Communications/ Planning and Development | Following discussions raised during scrutiny of the 2018/19 draft budget, the Committee has requested a report on the council's work on delivering high-speed broadband to new and existing properties within the borough. |
| Overview and Scrutiny Annual Report and 2019/20 Work Programme | 28 May 2019 | Corporate Policy, Economic Development and Communications | The council's Constitution requires the O&S Committee to make an annual report to full Council. This report will summarise the Committee's work over the past year and detail its work programme for 2019/20. |
| Quarter 4 2018/19 performance | 28 May 2019 | Corporate Policy, Economic Development and Communications | Information and analysis of performance against key performance indicators for the council for quarter 4 of 2018/19. |

Items to be scheduled

| | | | |
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| Community Toilet Scheme performance | | Environment and Land Management | The Committee would like an overview of the performance of the Community Toilet Scheme. |
| Aspire performance | | Environment and Land Management | The Committee would like an overview of the performance and development of Aspire Landscape Management. |
| Staff Resources – Legal & Democratic and Planning & Development | | | Requested to be considered by the Budget Scrutiny Task Group |

Recommendation Tracker

Report

Findings of the Air Quality Task Group – Cabinet minute 330/2/18 refers

| Recommendations | Accepted/ Rejected | Response | Implementation responsibility | Status |
|--------------------------------------------------------------------------------------------------------------------------|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|---------|
| That the recommendations within the attached report be adopted as the basis for an Air Quality Strategy for the Borough. | Accepted | An action plan and strategy encompassing the agreed recommendations is currently in preparation and will shortly be submitted to Management Team for approval. An update report will be presented to the Overview and Scrutiny Committee in September 2018 | Management Team | Ongoing |

Report

Commercial Investment – Cabinet minute 38/6/18 refers

| Recommendations | Accepted/ Rejected | Response | Implementation responsibility | Status |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------|
| Financial Reports including Red Book valuations are prepared annually in accordance with UK GAAP for management purposes. The output to include normal commercial property metrics and risk registers, such as estimated rental value and covenant strength of tenants. | | Cabinet considered this recommendation at its meeting of 14 June 2018 and advised that it was minded not to adopt at this stage to allow for further examination of implications and costs, before consideration is given to whether they can be adopted. | | |
| A framework document should be prepared setting out social value yield and return targets for the Council's Property Strategy. | | Cabinet considered this recommendation at its meeting of 14 June 2018 and advised that it was minded not to adopt at this stage to allow for further examination of implications and costs, before consideration is given to whether they can be adopted. | | |
| A clear list of investment and social worth objectives to be included for each investment and reported on annually. | | Cabinet considered this recommendation at its meeting of 14 June 2018 and advised that it was minded not to adopt at this stage to allow for further examination of implications and costs, before consideration is given to whether they can be adopted. | | |

Report

A Better Choice for Property Ltd

| Recommendations | Accepted/ Rejected | Response | Implementation responsibility | Status |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------|
| The six monthly updates to TEB should include a table setting out affordable social rented property, local needs housing and specific accommodation for vulnerable people provided by the property company | | Cabinet considered this recommendation at its meeting of 12 July 2018 and noted that none of these elements were provided by the property company and that this was not the purpose for setting it up. Cabinet resolved that it would note the recommendation for further examination and report back to the Chairman of the Overview and Scrutiny Committee in due course. | | |

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| TEB's right to appoint or remove Directors of the company is no longer subject to approval by the Leader. | | Cabinet considered this recommendation at its meeting of 12 July 2018 and resolved that it would note the recommendation for further examination and report back to the Chairman of the Overview and Scrutiny Committee in due course. | | |
| An experienced non-executive Director be appointed to the property company to minimise the risk of governance failings | | Cabinet considered this recommendation at its meeting of 12 July 2018 and resolved that it would note the recommendation for further examination and report back to the Chairman of the Overview and Scrutiny Committee in due course. | | |
| A firm be appointed to carry out a review of the tax affairs of the property company and address whether the UK Corporate Interest Restriction rules apply to the property company as it is 'grouped' with the Council and whether the Criminal Finances Act 2017 could apply to councillors. | | Cabinet considered this recommendation at its meeting of 12 July 2018 and resolved that it would note the recommendation for further examination and report back to the Chairman of the Overview and Scrutiny Committee in due course. | | |
| The financial regulations of the company are changed to ensure that a Director can no longer act singularly to purchase property. | | Cabinet considered this recommendation at its meeting of 12 July 2018 and resolved that it would note the recommendation for further examination and report back to the Chairman of the Overview and Scrutiny Committee in due course. | | |

Report

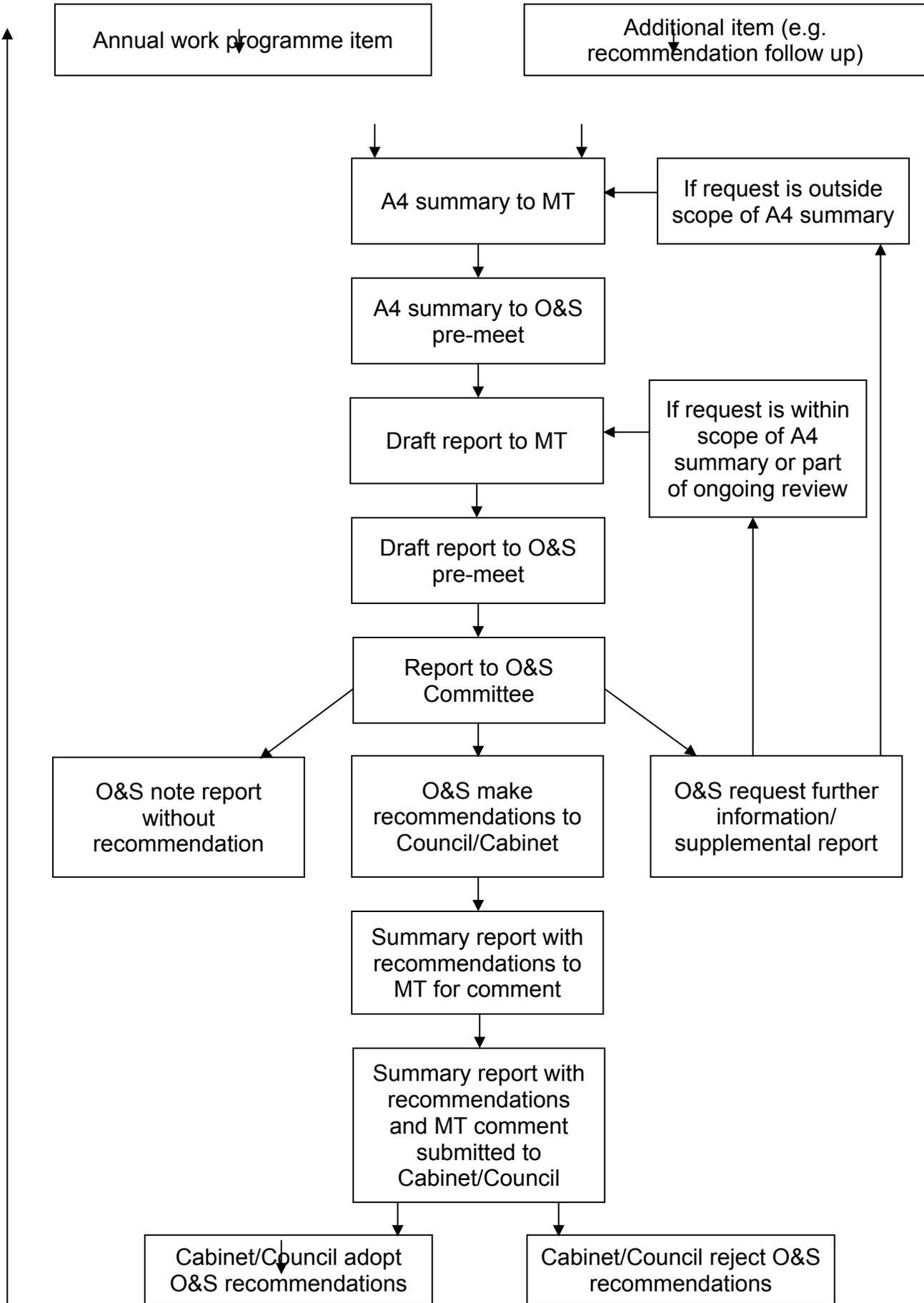
Kent Savers

| Recommendations | Accepted/ Rejected | Response | Implementation responsibility | Status |
|-----------------|-----------------------|----------|----------------------------------|--------|
|-----------------|-----------------------|----------|----------------------------------|--------|

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| <p>The Cabinet instruct officers to work with Kent Savers to establish a working relationship and identify ways in which the council and Kent Savers can work together with particular reference to homelessness prevention and relief.</p> | | | | |
| <p>The council contribute a subordinated loan of £10,000 to Kent Savers to support their work.</p> | | | | |

O&S Reporting flowchart

O&S Tracker records Committee forward plan and recommendations made



Recommendations referred to MT via O&S Tracker for assignment and updating

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Agenda Item No:



ASHFORD
BOROUGH COUNCIL

Report to Overview and Scrutiny Committee

Resident Management Companies and the Chilmington Green Management Organisation (CMO)

The Overview and Scrutiny Committee is asked:

1. To consider the report and determine any comments and recommendations to be made.
-

Date of O&S meeting: 24 July 2018

Chair of O&S Committee: Cllr Chilton

Relevant Portfolio(s): Planning (Cllr Clokie), Finance and IT (Cllr Shorter), Culture (Cllr Bennett)

Summary: Following the 2018/2019 budget scrutiny process, the Committee endorsed the Task Group's recommendation, that the Committee receive an overview of the CMO model in comparison to a 'traditional' resident management company and its potential application for other developments. This report aims to explain:

- the policy history and justification for a community management model
- how the model compares to community management examples elsewhere in the country
- how the model compares to the private management model typically created by housing developers
- the Government's leasehold and service charge reforms and how these may impact
- wider application and the Local Plan 2030

Exempt from Publication: NO

Background Papers: None

Contact: Paul.Naylor@ashford.gov.uk – Tel: (01233) 330436

Report Title: Resident Management Companies and the Chilmington Green Management Organisation (CMO)

Introduction

1. This report is brought to the Committee in response to a request made earlier in the year. The Committee asked that it consider an overview of the planned Chilmington (Green) Community Management Organisation model (CMO) in comparison to a 'traditional' resident management company (private companies created by housing developers), and the wider application of the CMO model.
2. Accordingly, the report explains the planning policy for community management at Chilmington Green, how it compares to other community management models elsewhere, how it compares to the private management model, and how the Government's current leasehold and service charge reforms may affect the model. Finally, the report addresses the position of future application, where the Committee is asked to note how the Local Plan 2030 covers this point. Note, that in terms of considering any comments and recommendations from the Committee, these are likely to need the consideration of the Planning Policy Task Group.
3. This report is to be considered by the Management Team prior to the Committee. Any further advice or recommendations will be tabled or circulated before the meeting.

Background

The planning policy position for community management at Chilmington Green

4. As with strategic planning of this development generally, there is a lengthy history to the formation of the council's policy position for community management at Chilmington Green. This culminated in approval by the Council of the Chilmington Green Area Action Plan in 2012 and its adoption by the Planning Inspectorate in July 2013. Prior to the Council's approval, the policy development period took about two years. This included research, visits to and analysis of other developments' models, and internal and public consultations.
5. The Chilmington Green Area Action Plan (AAP) provides a policy framework to deliver a major urban extension to Ashford of up to 5,750 homes and 1,000 jobs, over a period of twenty-five years or so. It covers policies on several topics, such as community infrastructure, transport improvements, ecology and what character the different parts of the site should have.

6. Chapter 8 of the AAP specifically addressed community development. An extract is reproduced below. Please note, that Chapter 8 sits as part of a suite of aims for Chilmington Green all geared to deliver higher quality and sustainability for a development of this scale.

Extract from Chapter 8 of the Chilmington Green AAP – Developing the Community

- 8.4 *However, a built form and physical design are not, in themselves, enough to ensure that a strong and sustainable community is delivered at Chilmington Green. For example, how any facilities and uses are maintained and managed over time will be crucial in developing a quality sense of place, and in turn help generate sustained community involvement at Chilmington Green. Therefore finding a suitable governance arrangement will be vital to deliver a sustainable community here.*
- 8.5 *One option would be to use the existing parish councils, and ask them to take a lead community role in the running of any facilities, uses or space delivered at Chilmington Green. However, using such 'traditional' arrangements is complicated by the fact that the AAP boundary covers three parish council areas (Great Chart with Singleton, Kingsnorth and Shadoxhurst). As Chilmington Green evolves, so will the capacity to sustain a healthy community, but with a wider range of facilities comes a more demanding management and maintenance role. It is likely that Chilmington Green, once substantially developed, will be sufficient in size to create a parish council in its own right.*
- 8.6 *In light of these complexities, the council is exploring a range of possible solutions. One of these is the promotion of a community development trust type arrangement at Chilmington Green, in the form of an independent not for profit organisation, which would aim to bring social, economic and environmental benefits to the community. It would be a community-led organisation, with an approach that encourages and supports people taking responsibility for their own communities. Such a trust would work alongside the existing parish councils – each body having a set of related but clearly distinguished roles and responsibilities.*

7. Drivers for this approach, and the AAP position generally were led by ambitions for:
- Higher quality of the physical built environment and spatial planning,
 - Sound planning of the requirements for an appropriate level of community infrastructure (roads, schools, shops, community facilities and services)
 - A sustainable level of local employment opportunities,
 - An integrated and vibrant community, where collective action generates strong community passion and well-being.
 - Viable long-term community-focused (ultimately led) stewardship of community assets, and overcoming the problems associated with some private residential management arrangements.
8. Though not to be a 'garden city' as such, the AAP principles had much in common with the Garden City principles founded on the original ethos of places such as Letchworth and Welwyn Garden City. At the time these

principles were heralded by Government as the foundations for future larger-scale developments.

9. Supporting the Council's AAP was a supplementary planning document (SPD) then dealing with Public Greenspaces and the Water Environment (2012). This SPD stated preferences for the Council not to adopt new public open spaces associated with larger-scale development, and where alternative arrangements would be secured.

The Chilmington Green Outline Planning Application and the Section 106

10. Ten months on from AAP approval in 2013, the developers submitted their outline application for the whole development area, following a long period of discussion with planning colleagues and others. After much local and formal consultation, including agreeing the Heads of Terms for a Section 106 Agreement, the application was considered and approved at a special meeting of the Planning Committee in October 2014. Approval was made subject to the completion of a Section 106 Agreement. Given the scale and complexity of the development and the required legal agreements, the process leading to its signing took over two years to complete.
11. Within this period, all the principles and draft legal documents for the planned community management organisation were negotiated and concluded.
12. From a community perspective and excluding schools provision and roads, the capital value of community infrastructure required is over £24 million (April 2014 prices). Further, to support a new community management organisation, the developers agreed a significant cash endowment to provide subsidy during the first half of the development period, plus the provision of built commercial floor-space for endowment to the CMO. Legal documents securing suitable governance of the CMO were also agreed, and are based on the principle of a not-for-profit organisation (as a company limited by guarantee) with the assumption it assumes charitable status. This new organisation would have places for resident trustees, as well as new residents having the opportunity to be 'members' of the company. The governance arrangement is such that there is no one party with an overall control of voting rights; this was deliberate following lessons learned from some other examples researched.

Comparisons with Other Community Management Examples

13. Community focused management of new (and in some cases existing) housing developments and related community infrastructure, is not a new concept by any means. As mentioned in the background, the council undertook a considerable amount of research looking at several examples from up and down the country.
14. Current thinking largely traces its origins to the urban planning principles of Ebenezer Howard, who established both the Letchworth and Welwyn Garden Cities of the early 20th Century. From this 'Garden City movement' evolved the Town and Country Planning Association (or TCPA as it still known) and

the New Towns Act. Many cities and urban extensions worldwide are based on these early principles. The Council's research included a member and officer visit to Letchworth to meet with those responsible for running its management organisation.

15. Other, and more recent development examples that featured in the council's research are listed in the following table:

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| New Ash Green, near Dartford, Kent | A large 1950/60s designed scheme with a complex system of community governance founded on principles coupling together an 'umbrella community organisation' (like a senate) with 'neighbourhood community management'. All households contribute service charges. Scheme governance is complex however, in this particular case. A lesson learned. |
| Kings Hill, West Malling, Kent | A large quality development blending commercial and residential – a joint venture between KCC and Liberty Developments (US based). At present a privately managed development, but which will be transferred to full resident control on completion. Residents contribute service charges. |
| Graylingwell, Chichester, West Sussex | A former hospital site on the edge of the city centre now comprising residential houses and apartments. A joint venture involving developers, an RSL and the former regional development agency. Management of the landscaped environment is through a private management company created by the developers, and community management through the Chichester Development Trust. Residents contribute service charges to the former and contributions to the latter. There was provision for a resident trustee, but some resistance from the developers at the time to implement this. Another lesson learned for the Chilmington Green CMO. |
| Chatham Maritime Trust/St Mary's Island | CMT is responsible for the large commercial and residential elements of the former Chatham Dockyards. The |

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| | <p>residential component, St Mary's Island has a planned resident population of c 5,000. Its arrangements are similar to the planned arrangements for Chilmington Green, involving resident representation on a trust also comprising the developer and local stakeholders. Similarly, residents contribute towards costs through an estate rentcharge, as planned for Chilmington Green. On a lesser scale than CG, the trust owns and manages community assets. Being a long-established stewardship arrangement, this example provided several pointers for the CG proposals.</p> |
| <p>Cambourne, South Cambridgeshire</p> | <p>This large development near to Cambridge lies within the former Cambridge/M11 formal growth area. Its ideals have similarities to CG. Long-term stewardship is with a new parish council that owns and manages much of the community infrastructure. The lead representative at the PC was of great assistance to officers and members over a number of visits. From an early point in the CG discussions and negotiations with CG developers, the option of a parish council taking the stewardship role in a similar way was discounted.</p> |
| <p>Elsa Park, Bourne, Lincolnshire</p> | <p>A development of about 2,000 units. Similar community management principles to CG, through the Elsa Park Trust, with Kier the developers providing proactive support. Residents contribute a service charge to the trust.</p> |
| <p>Manor and Castle Development Trust, Sheffield</p> | <p>Uniquely, this trust was first created to manage a major SRB programme spanning deprived areas of Sheffield. This balanced trust covering community, local stakeholders and private interests, is responsible for a managing former social housing infrastructure, coupled with a former farm and a substantial new commercial office and flexible workspace building,</p> |

| | |
|--|------------------------------------------------------------------------------------------------------------------------------------|
| | endowed to help underpin the trust's operations (another lesson learned for CG). Local residents contribute towards service costs. |
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- 16. Our fieldwork research was greatly assisted by 'Locality', the specialist community trust organisation and their members and consultants. Locality is partly government sponsored and has membership covering over 600 community trusts.

Comparisons to the private management company model (PMCo)

Overview of PMCos

- 17. The Committee has referred to this approach as the 'traditional' resident management company model. Its use is widespread and longstanding, and typically is the arrangement for managing apartment blocks where communal areas, common services, and replacement requirements (to the building fabric, lifts etc.) are the norm. Increasingly, private management companies have been created for the long-term management of residential developments more generally, with a significant proportion of Ashford's housing development under this type of arrangement. Where this model is used, reasonable contributions towards the costs of common services are required from residents through either a 'service charge deed' or an 'estate rentcharge deed'.
- 18. Unfortunately, there is no hard data available to determine how much of Ashford's housing development is subject to this type of arrangement. From sample surveys undertaken, we know it is significant. Various, over the years members have become more involved in listening to residents' concerns about some of the poorer performing management companies, and the difficulty residents have in influencing improvements. Overcoming this issue was major factor in our consideration of the principles for Chilmington Green (CG).
- 19. Developers may choose to prefer the traditional PMCo approach when seeking planning permission, or be required to consider implementing a private management model if the local authority has a policy of not adopting community spaces. As stated above, it is usually implemented in cases where flatted accommodation is built and leasehold interests granted. PMCos do not normally take on the responsibility for public highway (though there are some exceptions), as public highway is usually built to standards where a highway authority would adopt. Accesses, and associated landscaping to private courtyards serving flatted accommodation, and parts of cul-de-sacs are highway types that are more typically the responsibility of PMCos.
- 20. At a recent meeting with Barratt Homes, they stated the PMCo approach had become 'normal' over the past ten years for this developer to choose, or be required to create. CG is usual to them in this respect.

21. On the one hand, a PMCo is a simple concept, where land is retained by the developer and the function of managing common services and subsequent repairs etc., is managed by a specially created company (the managing agent). On the other hand, these companies should operate to comply with reasonably complex arrangements that are partly statutory, and partly 'voluntary'. As yet, there is no mandatory regulatory environment that covers all types of private residential management companies and all aspects of their operation.
22. Where developers elect to create this arrangement, usually this is done by setting up a development specific PMCo. The developer may then procure a 'managing agent' to handle all aspects covering the company's responsibilities. In some cases, such as Barratt Homes, the management company is a specialist arm of the developer company.
23. Once a company (usually a private limited company) is created, it must comply with all Companies Act requirements and standard accounting practices, with particular regard to compliance with service charge regulations, and accounting requirements for sinking/reserve funds.
24. Where leasehold properties are involved, typically the case for flats, the PMCo and its managing agent must comply with the relevant law and supporting regulations set out in the Leasehold and Tenant Acts, as amended by the Commonhold and Leasehold Reform Act 2002, and other subsequent regulations, including those specific to service charges.
24. A non-mandatory code¹ for managing agents, approved by the then Secretary of State, was created by the Royal Institute of Chartered Surveyors in 2016, and endorsed by the Association of Residential Managing Agents (ARMA). The Code applies only to residential leasehold properties in England. It covers all lengths of leases and statutory tenancies where variable service charges are payable. The Code does not apply where the landlord is a public sector authority, or a registered social landlord (for other regulatory arrangements apply), but it does apply where a public sector authority or registered social landlord is an agent managing for a private sector owner.
25. Any breach of the Code does not result in a criminal offence or civil liability. However, where a resident seeks remedy through the courts or a tribunal (for example, unreasonable levels of charges, poor performance, or the absence of consultation on specific management matters) the Code could be used for evidential purposes, and where the court or tribunal would be expected to view a breach as a serious matter.
26. ARMA is a national organisation set up to represent residential managing agents (of all sizes). It is worth noting that the residential leasehold sector is unregulated. Anyone can set up as a managing agent and start collecting service charges without the relevant qualifications or experience. This is why ARMA introduced its 'Consumer Charter and Standards' in 2015 aimed at

¹ Code of Practice - Service charge residential management Code and additional advice to landlords, leaseholders and agents – 3rd Edition, RICS, June 2016

consumer protection and best practice in all areas of residential leasehold management. ARMA, in conjunction with a separate body that represents retirement homes managing agents, produced a guidance note for residents living in leasehold properties of how best to implement the statutory 'Right to Manage' (RTM). The RTM is a legal right for residents who may seek to take on the management responsibility through their own resident management company.

27. It will be noted that leaseholders are offered more safeguards than freeholders who are subject to service charge arrangements. Leaseholders have a legal right of redress through to the First Tier Tribunal, this is not currently available to freeholders paying service charges, but see paragraph 39 onwards.
28. PMCos will typically manage and enforce house-builders' covenants.

The CMO is not to be a Private Management Company

29. Due to concerns members had about some PMCos locally, and the desire to strengthen residents' position for the future, one key objective for the council was to build a resident-focused management operation for CG designed with certain safeguards. These safeguards concerned:
 - Rights for residents to appoint resident trustees/directors to the CMO Board
 - Residents' ability to inform and input to the work and development of the CMO
 - No single party should operate control over the CMO Board
 - An increasing number of resident trustees as the development proceeds in time
 - Reasonable service charges/estate rentcharges would be levied, with confidence that increases in charges would be managed within reasonable levels.
 - Where quality (in all its aspects) is maintained
30. As will be seen from earlier sections in this report, the design of the CG CMO has been informed by better practice observed elsewhere, and of lessons learned from elsewhere where unintended consequences arose.
31. The CMO will be a private (not-for-profit) company (registered at Companies House), with company Objects that define the company as a trust. The Company's Objects and its Area of Benefit are to be limited to undertaking its activities for the benefit of the development area and its residents. The intention is for the CMO then to seek charitable registration, giving it the full status of a registered charity. Registration serves to provide further safeguards.
32. The Board governance arrangement is equally balanced in terms of voting rights for directors with 50% rights allocated each to developers and non-developers' nominated directors. Note, that as for any company or trust board

the directors must exercise their decision-making with the best interests of the company/trust in mind. There is to be no casting vote for the chair of the Board. Key parties to the CMO concept: the Borough Council, the developers, and the CMO itself will enter into a contractual agreement where certain material matters may require the consent of these parties before the CMO Board may take a decision. This provides further safeguards. Residents will see an increase in the number of resident trustees to a maximum of five by the end of the development period, though the voting balance would remain unchanged. Once the development is complete, the intention is to change the balance so as to provide resident trustees with control.

33. In addition to the Board and Annual General Meetings, a network of resident consultative forums is intended, to help ensure residents are informed and consulted. Strong communication with residents is a feature of the CMO's plans.
34. Residents will be required to contribute to the reasonable costs of the CMO's responsibilities (but only those associated with managing the landscaped environment, and replacement provisions for community assets) through an estate rentcharge. At all times, the level of estate rentcharges levied must be reasonable and fully justified, and would be expected to include contributions to sinking (reserve) funds for future liabilities. In accordance with the Council's outline planning consent, the principle of a 'cap' for an estate rentcharge maximum was subsequently agreed in detail. This limits annual increases in the cap to the increase to inflation. This is intended to provide some greater certainty for residents. PMCos do not typically adopt this arrangement; hence charges can be subject to greater volatility. Please note that residents' contributions are not planned as the only source of income to the CMO. Unlike PMCos typically, the CMO will have a significant operational cash endowment payable over about ten years, it will have the benefit of an endowed commercial estate from which to derive income, and will have the benefit of service user fees (or alternatively operator management fees) for its community amenities, all in due course.
35. Quality aspects feature as a key objective for the CMO; its importance is underlined in commitments to maintain to approved (through planning) specifications and plans, for the longer term. Material departures from approved plans would be a matter safeguarded through the contractual arrangement previously mentioned.
36. The CMO, however, will not take on the enforcement of house-builders' covenants, or other conditions imposed through planning agreements. Responsibility for this type of enforcement will remain with the developers and the Borough Council respectively.
37. In summary, the CMO arrangement has governance and procedural safeguards designed that are intended to overcome the real and perceived weakness of the PMCo model. Particularly where this model is operated without fully observing the RICS Code of Practice, and where residents may be lacking in awareness of their statutory rights.

38. However, the CG model cannot deal with the issues that may be affecting residents with the operation of some existing PMCos. Last autumn, however, the Government decided to act and seek to improve levels of performance and accountability to residents. Last summer it launched a public consultation called 'Tackling unfair practices in the leasehold market'. This is the subject of the next section.

Government's leasehold and service charge reforms

39. Through a public consultation, the Government stated a clear intention of tackling unfair practice in the leasehold market, but also addressing an un-level playing field in terms of the legal rights to redress, between service charge and ground rent paying leaseholders and freeholders. The Council submitted comments to the consultation, generally supporting the government's proposed reforms, pointing out also the advantages of the Council's CMO concept, being in large part designed to strengthen residents' position.
40. A summary of the then Secretary of State's announcement last December, following the consultation is reproduced below:

Communities Secretary, Sajid Javid said:

It's unacceptable for home buyers to be exploited through unnecessary leaseholds, unjustifiable charges and onerous ground rent terms.

It's clear from the overwhelming response from the public that real action is needed to end these feudal practices. That's why the measures this government is now putting in place will help create a system that actually works for consumers.

Measures to be introduced include:

- *legislating to prevent the sale of new build leasehold houses except where necessary such as shared ownership*
- *making certain that ground rents on new long leases – for both houses and flats – are set at zero*
- *working with the Law Commission to support existing leaseholders and make the process of purchasing a freehold or extending a lease much easier, faster and cheaper*
- *providing leaseholders with clear support on the various routes to redress available to them*
- *a wider internal review of the support and advice to leaseholders to make sure it is fit for purpose in this new legislative and regulatory environment*
- *making sure freeholders have equivalent rights to leaseholders to challenge unfair service charges*

41. A further announcement to include more detail on the reforms is expected before the summer recess. Generally, the intended reforms are to be welcomed.
42. It is widely expected that the Code of Practice governing leasehold managing agents, is extended to freeholders paying service charges or estate rentcharges. Further, it is expected that service charge paying freeholders will be given access to the First Tier Tribunal.
43. At present the CG developers and council officers are assuming the reforms will cover the CMO, though it is by no means certain. Whether exempt or not, the CMO is designed to provide stronger safeguards. Its operational practices will seek parity, as far as is practicable, with the current residential leasehold Code of Practice and relevant service charge regulations. Implementing the reforms for the CMO will mean additional administration, although the CMO is likely to commission this specialist administrative support from an experienced company in the field.

Wider application? The Local Plan 2030 - Governance of Public Community Space and Facilities

44. Our new local plan addresses the potential for further consideration of alternative management arrangements through the inclusion of infrastructure Implementation Policy (IMP4). This policy, concerning future governance arrangements states:

"Proposals that will deliver substantial community space and facilities are required to be supported by a governance strategy which will need to be agreed with the Council. This strategy will need to set out what facilities are to be delivered and by when, and how they will be managed over time to an acceptable standard. Proposals which adopt a community stewardship model of governance will be supported. Should a private management company model be promoted, then it will need to be established and run in a way that is affordable, gives the residents a key governance role and is focused towards the management of the facilities to be delivered by the development. Where the Council takes on an adoption role, financial contributions will be secured from the developer towards the maintenance of facilities for at least a ten year period."
45. IMP4 is supported by a full justification, which can be found in the full Local Plan document (the Local Plan is now at post-hearing stage). Note, that IMP4 has not drawn any comment from the Planning Inspectorate.
46. The key phrase in the policy is *'proposals that will deliver substantial...'* Hence, alternative management (or long term stewardship) arrangements of the CMO type or a version of, may be considered appropriate only on larger scale developments. There is no definition of 'substantial' or what might be larger-scale.

47. Once the Local Plan is adopted it would be possible for its detailed implications and planning conditions to be developed and approved as a Supplementary Planning Document (or SPD). The construction of an SPD would permit further debate and consultation on the detail including, potentially, and appropriate tightening of policy arrangements for developments that are not 'substantial'. This might include considering the scope for added tests to be applied where developers more generally promote private management company arrangements.

Conclusion

48. There is a long history to the planning, negotiation and now implementation of the CG CMO. With first occupations expected later next spring, the remaining months are geared to completing the preparatory work and for the new company/trust to be operationally ready by that time.
49. It is a bespoke arrangement, designed to balance the interests of various parties, and importantly provide a clear focus for its resources to be entirely devoted for the benefit of its future residents. Many aspects of its design are built on other examples, such as Chatham Maritime/St Mary Island and Elsea Park in Lincolnshire. Its values and principles originate from the early Garden City principles.
50. It is also designed to secure stronger rights of influence for residents, the future 'members' of the trust. Ultimately, it is a trust intended for control by the residents.
51. Its governance and operational principles are designed along the same lines as most of the best practice guidance for residential management companies, though with the added intention the CMO is a charitable trust its potential regulation goes even further.
52. As a bespoke arrangement, it may not be entirely suitable for replication in a similar form to other larger-scale developments. One thing the research found was that the various cases studies examined had differences to suit local circumstances.
53. However, the principle of independent community management, or stronger influence, increasingly is being examined and potentially adopted elsewhere. This is particularly the case for larger-scale developments. Our new Local Plan, once fully adopted, includes a policy on this topic and provides the scope, therefore for further and detailed consideration to its possible future application.
54. Finally, the Government has acted to tackle some of the issues of unfair practices in the leasehold market and, of relevance to CG, to strengthen the legal rights of service charge paying freeholders. This is to be welcomed generally.

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