



## CABINET

Notice of a Meeting, to be held in the Council Chamber - Ashford Borough Council on Thursday, 11th July, 2019 at 7.00 pm.

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The Members of the Cabinet are:-

Councillor Clarkson – Leader of the Council  
Councillor Bartlett – Deputy Leader and Portfolio Holder for Legal and Democracy  
Councillor Barrett – Portfolio Holder for Housing  
Councillor Bell – Portfolio Holder for Finance and IT  
Councillor Buchanan – Portfolio Holder for Environment and Land Management  
Councillor Clokie – Portfolio Holder for Regeneration and Corporate Property  
Councillor Feacey – Portfolio Holder for Culture, Tourism and Leisure  
Councillor Gideon – Portfolio Holder for Community Safety and Wellbeing  
Councillor Pickering – Portfolio Holder for Human Resources and Customer Services  
Councillor Shorter – Portfolio Holder for Planning and Development

### Agenda

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DS  
4 July 2019

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# Agenda Item 2

## 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 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 alone, such as:

- Membership of amenity societies, Town/Community/Parish Councils, residents' groups or other outside bodies that have expressed views or made representations, but the Member was not involved in compiling or making those views/representations, 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: Where an item would be likely to affect the financial position of a Member, relative, close associate, employer, etc.; OR where an item is an application made by a Member, relative, close associate, employer, etc., there is likely to be an OSI or in some cases a DPI. ALSO, holding a committee position/office within an amenity society or other outside body, or having any involvement in compiling/making views/representations by such a body, may give rise to a perception of bias and require the Member to take no part in any motion or vote.]

### **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](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 alongside the Council's Good Practice Protocol for Councillors dealing with Planning Matters. See <https://www.ashford.gov.uk/media/2098/z-word5-democratic-services-constitution-2019-constitution-of-abc-may-2019-part-5.pdf>
- (c) Where a Member declares a committee position or office within, or membership of, an outside body that has expressed views or made representations, this will be taken as a statement that the Member was not involved in compiling or making them and has retained an open mind on the item(s) in question. If this is not the case, the situation must be explained.

**If any Member has any doubt about any interest which he/she may have in any item on this agenda, he/she should seek advice from the Director of Law and Governance and Monitoring Officer, or from other Solicitors in Legal and Democracy as early as possible, and in advance of the Meeting.**

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## **Cabinet**

Minutes of a Meeting of the Cabinet held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **13<sup>th</sup> June 2019**.

### **Present:**

Cllr. Clarkson (Chairman);  
Cllr. Bartlett (Vice-Chairman);

Cllrs. Barrett, Bell, Buchanan, Clokie, Feacey, Gideon, Pickering, Shorter.

### **Apologies:**

Cllrs. Forest, Link.

### **Also Present:**

Cllrs. Anckorn, Mrs Bell, Burgess, Campkin, Chilton, Harman, Iliffe, Mulholland, Ovenden, Spain, Sparks, Ward, Wright.

Chief Executive, Director of Law and Governance, Director of Finance and Economy, Head of HR and Customer Services, Head of Corporate Property and Projects, Head of Finance and IT, Head of Legal and Democracy, Head of Community Safety and Wellbeing, Head of Culture, Head of Environment and Land Management, Head of Corporate Policy, Economic Development and Communications, Head of Planning and Development, Head of Housing, Communications and Marketing Manager, Tourism and Heritage Manager, Senior Accountant (LF), Senior Accountant (MH), Senior Policy and Scrutiny Officer, Heritage Development Officer, Member Services Manager (Operational).

## **32 Minutes**

### **Resolved:**

**That the Minutes of the Meeting of the Cabinet held on the 11<sup>th</sup> April 2019 be approved and confirmed as a correct record.**

## **33 Leader's Announcements**

The Leader said he was delighted to note that Jo James, Chief Executive of the Kent Invicta Chamber of Commerce, had been awarded an OBE in the Queen's Birthday Honours List. She was a great friend of Ashford and did an enormous amount of work in assisting and improving the economy of, and tourism in, Kent. He had already taken the opportunity to congratulate her and considered that the honour was richly deserved.

## **34 Financial Outturn 2018/19**

The report presented the outturn revenue position for the General Fund and the Housing Revenue Account for the 2018/19 financial year. It also presented the capital outturn for capital works and how these had been financed, reserve transfers and a treasury management update. The Cabinet's last update in February, based on the third quarter position, had forecast a General Fund deficit of £104,000. Since then there had been a slightly improved position through the last quarter, with a final outturn position of £72,000. The Portfolio Holder introduced the report and drew attention to the tabled paper which reported some minor adjustments to the figures. He also thanked the staff who worked so hard on compiling the reports and his predecessor as Portfolio Holder, Councillor Shorter.

Both the Portfolio Holder and the Leader drew attention to the creation of an Economic Risk Fund which had now been significantly increased to £2.7m. It was considered that this demonstrated the resilience of the Council's treasury management arrangements, which were a vital part of allowing the Authority to be independent of Government Grant and to be able to continue offering the lowest Council Tax in Kent.

### **Resolved:**

- That**
- (i) the financial outturn for 2018/19 be noted.**
  - (ii) the Annual Treasury Management position and the strategic treasury management review, shown at Appendix B to the report, be noted.**
  - (iii) the increase in the Coachworks budget from £850,000 to £950,000 be approved.**

## **35 Ashford Borough Council Annual Performance Report 2018/19**

The Leader of the Council introduced the report which provided a summary of some of the achievements and milestones of the Council over the course of the last financial year, as well as providing commentary of Key Performance Indicators from across the Council's services.

The Deputy Leader referred to the statistic that 18% of residents still did not participate in recycling and wondered if more plastic bags could be provided to encourage people to do this properly if they did not have the correct or sufficient containers. The Head of Environment and Land Management confirmed that the Council would be happy to provide extra recycling containers free of charge for residents who requested them, as well as extra plastic bags where needed. The Council was working on an article for the next edition of Ashford For You and would include that information within it. In response to a further question she confirmed that the plastic bags themselves were recyclable.

### **Resolved:**

**That the contents of the Annual Performance Report be noted and its publication on the Council's website be approved.**

## 36 Ashford's Approach to Health and Wellbeing

The Portfolio Holder introduced the report which highlighted some of Ashford's activity during 2018/19 to improve the health and wellbeing of its residents. It also highlighted changes made in approach and the new priorities for delivery during 2019/20 and onwards. The report also sought to amend Ashford's constitution in order to enable effective partnership working at the Ashford Health and Wellbeing Partnership. She advised that the health and wellbeing of residents was a key priority of this Administration and the development of the Council's new Corporate Plan and to achieve their goals, working with partners would be crucial. She wanted to thank those who had worked in this area over the last year from the Council and, in particular, from partner organisations both locally and sub-regionally. The new Ashford Health and Wellbeing Partnership would focus on three key priority areas: - working together to ensure there was a fit for purpose health infrastructure in Ashford; continuing to be the vanguard of innovation - building on Ashford's fantastic One You model; and tackling health inequalities in the Borough.

The Portfolio Holder said it was worth drawing particular attention to One You – Ashford's flagship response to health and wellbeing issues in the Borough. This continued to go from strength to strength, so much so that it had had to move premises much earlier than originally thought and she was delighted to announce that the new One You shop would be opening at the beginning of July. This would be a fantastic new community facility – free to access and for all to take advantage of. It would include an increased number of consultation rooms, kitchen facilities, practical learning, and exercise space and a family area, as well as a changing places toilet. This was all made possible by the financial investment of the last Administration and she encouraged everybody to visit and make use of the wide range of services delivered at the shop.

In accordance with Procedure Rule 9.3 Mr Crompton, a local resident, had requested to speak on this item. He advised that he wanted to discuss the wellbeing of the most vulnerable sector of society – disabled and vulnerable people. Officers and Members would be aware that he had previously raised the issue of disabled adaptations to housing and Disabled Facilities Grants (DFGs). He referred to examples at other Local Authorities where this had not been dealt with properly and that Council had been forced to pay appellants compensation for discrimination and disadvantage suffered. This Council also had its own alternative process in place for dealing with Council tenants, and this placed it at risk of also being at odds with the statutory entitlement through Disabled Facilities Grants. He considered such problems would not exist if the Council treated people equally. He referred to an issue he had previously raised with the Council and not received a response to in that people had statutory entitlements. In 1990 mandatory grants were introduced by the Government, and DFG was the last one to remain mandatory. All an individual had to do was make a valid application and it became a statutory requirement, it was not a case of the Council having to cut other budgets as he had previously been advised. If people did not meet their statutory obligation of paying their Council Tax, the Council would prosecute and take them to court, so he considered disabled people should not treat this Council any differently if their applications were not honoured. In his view this was all about the Council treating people fairly and honouring their pledges to Council tenants, without forcing them to move because they could not have their homes adapted. Case law was very clear that

“Local Housing Authorities were not entitled to take resources in to account in deciding whether or not approve a DFG for Section 23 purposes”. He also pointed to the Council’s policy of removing adaptations that they deemed no longer necessary and wondered where that left disabled residents?

The Leader said that when he took his position six years ago he had made it clear to the Housing department that adaptations to houses for disabled people was a high priority for him and he was less interested in renewing kitchens at regular intervals and would rather concentrate on the needs of disabled people in those homes. He had charged the Head of Housing to remedy that and reduce that waiting list, including both Council tenants and the general public. They had even funded an additional Occupational Therapist to assist KCC in removing a bottleneck and getting that backlog down.

The Head of Housing confirmed the Leader’s comments and clarified that Housing Services had done a lot of work in this area. At that time, the waiting list was standing at around a 2/3 year wait for DFGs and a similar level or longer in certain cases for disabled adaptations to Council properties. They had also been asked to “level the playing field” regardless of whether they were from Council tenants or private individuals. Both the Council and the HRA invested more money into addressing those needs and she was pleased to say that they had reduced the position with most people now waiting for a period of 6/9 months from start to finish of the process and there was currently no-one on the DFG waiting list. It was also worth pointing out that the Council would not remove an adaptation that was still required by a disabled person. It may have to be replaced by an alternative if its useful life had ceased, but it would not be removed. She hoped this therefore demonstrated that the Council had significantly improved the situation and whilst there were financial rules around the funding for such adaptations through different channels, in her view the most important thing was that a Housing Authority actually delivered, and that is what this Authority had been doing. Both the Head of Housing and the new Portfolio Holder for Housing offered to meet Mr Crompton outside of the meeting to discuss this particular matter further if he so wished.

The Head of Community Safety and Wellbeing said that on the substance of the report, it was important to note that there was a massive work stream that the Council and partners would be undertaking on a wide range of health and wellbeing issues and she encouraged all Members to get involved and engaged in this agenda. She wanted to thank partners for the amazing amount of work they undertook to support this programme.

The Leader said he wanted to re-iterate that one of his highest priorities was to disabled and vulnerable people and to be a caring Authority. This Council had introduced a number of measures such as: - assisted waste collections; the Syrian refugee programme where Ashford had taken the most refugees in the country per head of population; dementia and autism friendly film screenings at the new cinema; and working closely with the Ashford Access Group including now inviting them to be a member of the Ashford Strategic Delivery Board.

**Resolved:**

**That (i) the achievements made by the Ashford Health and Wellbeing Board in 2018/19 be noted.**



- (ii) **the work undertaken by partners in 2018/19 to improve Ashford's response to local, sub-regional and regional health and wellbeing issues be noted and that this had resulted in the establishment of the Ashford Health and Wellbeing Partnership (AHWP) and the East Kent Health Improvement Partnership (EKHIP).**
- (iii) **authority be delegated to the Head of Community Safety and Wellbeing to act as the Council's representative on the AHWP and the EKHIP, subject to consultation with the Portfolio Holder for Community Safety and Wellbeing as required. Decisions are likely to be around the priorities of the Groups, as well as activities to deliver them.**
- (iv) **the action plans to deliver the priorities of the AHWP, and the fact that there may be future resource implications in delivery, be noted.**

### **37 Ashford Borough Heritage Plaque Scheme**

The Portfolio Holder introduced the report which sought agreement to the establishment of an Ashford Borough Heritage Plaque Scheme. This was to ensure that noteworthy individuals or buildings from Ashford's past, that were not widely known or formally recognised across the Borough, would have a permanent acknowledgement of their existence. The scheme would address that invisibility, celebrate those past Ashford residents and buildings and promote Ashford's history and heritage to support civic pride. The Portfolio Holder circulated example photographs of the plaque design which had been omitted from the report and pointed out that the proposed colour was green, to personalise it to Ashford and distinguish it from the national blue plaque scheme. He also thanked Officers for their hard work in bringing this scheme forward.

#### **Resolved:**

- That**
- (i) **the establishment of an Ashford Borough Heritage Plaque Scheme, including the details of the eligibility criteria, scoring and decision making process and design of the plaque as outlined within the report, be supported.**
  - (ii) **a growth budget of £25,000 (to be taken from reserves) be committed to allow the scheme to be established**
  - (iii) **the Head of Culture, in consultation with the Portfolio Holder for Culture, Leisure and Tourism, be authorised to execute and complete all necessary documentation to give effect to the above recommendations.**

### **38 Planning Reorganisation**

The Portfolio Holder introduced the report which presented proposals for the reorganisation of the Planning and Development Service. The Cabinet was asked to consider the proposals, the impact this would have on the delivery of service priorities and the consultation process followed. He said this root and branch review was the

culmination of a lot of work from the Head of Planning and Development and his staff, along with the previous Portfolio Holder, and he thanked them for their efforts and fully endorsed the proposals. There had been a significant level of staff consultation and this had been taken account of in the final report. There would be an increased focus on cross departmental working to deal with planning applications, particularly with legal, rather than working in silos. In his view the proposals and proposed management changes would make the team more resilient and put it in a position to be able to provide a more efficient and effective service.

The Deputy Leader said he supported the report and drew particular attention to the increased strategic focus on infrastructure planning and delivery. He considered this would be crucially important going forward.

The Leader said it was fair to say that the Council had struggled recently to recruit planning staff. They were victims of their own success in a way as extremely good Officers had moved on to more senior positions at other Authorities, but there was also a shortage of qualified Planning Officers nationally with the increased focus on housebuilding. He expected the proposals in the report to begin to assist in this regard.

**Resolved:**

- That (i) the recommendation of the Joint Consultative Committee of 25<sup>th</sup> April 2019 be noted.**
- (ii) the implementation of the reorganisation of the Planning and Development Service as outlined in the report be approved.**
- (iii) the potential redundancy costs in the event that Officers are not able to be assimilated or redeployed be approved.**

## **39 Economic Regeneration and Investment Board Notes – 28<sup>th</sup> March 2019**

**Resolved:**

**That the Notes of the Meeting of the Economic Regeneration and Investment Board held on the 28<sup>th</sup> March 2019 be received and noted.**

## **40 Schedule of Key Decisions to be Taken**

**Resolved:**

**That the latest Schedule of Key Decisions as set out within the report be received and noted.**

## **41 Joint Transportation Board – Nomination of Membership**

**Resolved:**

**That the following Members be appointed to the Joint Transportation Board:**

**Councillors Burgess, Forest, Heyes (Ch), Mrs Heyes, Krause, Michael, Ward.**

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ASHFORD  
BOROUGH COUNCIL

**Agenda Item No:** 6  
**Report To:** CABINET  
**Date of Meeting:** 11 July 2019  
**Report Title:** Revenues & Benefits Recommended Write-Offs Schedule  
**Report Author & Job Title:** Nic Stevens, Senior Recovery Officer, Revenues & Benefits  
**Portfolio Holder:** Cllr Neil Bell, Portfolio Holder for Finance & IT  
**Portfolio Holder for:**

**Summary:** This report proposes the formal write off of £343,531.92. The proposals are in line with the Council's Revenues & Benefits Service Write Off Policy. Director of Finance & Economy has been consulted along with Heads of Service for relevant areas

**Key Decision:** No

**Significantly Affected Wards:** None

**Recommendations:** The Cabinet is recommended to:-

- I. Note the action that accounts totalling £43,532.76 have been written off under the delegated powers (Financial Regulations 11.1)
- II. Approve the write offs listed in the Exempt Appendices totalling £299,999.16

**Policy Overview:** The regular review and writing off of un-collectable debts is part of strong financial management.

**Financial Implications:** Provision for bad debts has been made in the final accounts to account for expected write-offs during the year.

**Legal Implications:** None

**Equalities Impact Assessment:** Not Required

**Other Material Implications:** None

**Exempt from Publication:** Yes

[Not For Publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.] and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

**Background  
Papers:** -

**Contact:** nicola.stevens@ashford.gov.uk – Tel: (01233) 330446

**Agenda Item No 6**

**Report Title:** Revenues & Benefits Recommended Write-Offs Schedule

## Introduction and Background

1. To advise Members of debts written-off and obtain approval to write off further individual debts of over £1,000.00 listed in the Exempt Appendices

## Proposal/Current Position

2. The write offs being recommended are in accordance with the Revenues & Benefits Service Write Off Policy that was approved by the Executive Committee on 20 March 2003. Over recent years, due to the economic climate there has been a significant increase in NNDR (Business Rates) write offs, the majority of these relate to companies that have ceased trading.
3. Under delegated powers the Director of Finance & Economy has written off debts totalling **£43,532.76** column (a). Approval is sought for write off of debts in column (b).

Table1 – Write off debt summary

	Value of debts written off under delegated powers £ (a)	Value of debts recommended for write off (see attached appendices) £ (b)	Provision for Bad Debts at 1.4.19 (c)	Provision for Bad Debts Balance (Current) £ (d)	Value of outstanding Debt at 1.4.19 (e)
<b>Council Tax</b>	£23,262.51	£24,742.01	£810,005.00	£762,000.48	£4,621,646.56
<b>Business Rates (NNDR)</b>	£2,221.66	£190,182.00	£336,167.00	£143,763.34	£1,246,572.88
<b>Housing Benefit Overpayment</b>	£11,551.85	£81,566.57	£988,238.00	£895,119.58	£2,470,595.00
<b>Sundry Debtors</b>	£6,496.74	£3,508.58	£630,338.00	£620,332.68	£584,056.52
<b>TOTAL</b>	<b>£43,532.76</b>	<b>£299,999.16</b>	<b>£2,764,748.00</b>	<b>£2,421,216.08</b>	<b>£8,922,870.96</b>

## Implications and Risk Assessment

4. The write offs do not have an immediate financial effect on the current year's budget as the bad debt provision is greater than the write-off total. However, the making of that provision did have a cost implication at the time the provision was made; those being sundry debtors at full cost, council tax approximately 10% cost (90% financed by Kent County Council, Police and Crime Commissioner of Kent & Kent Fire Authority), housing benefit overpayments 60% cost due to existing subsidy arrangements and NNDR 40% (50% financed by the Government and 10% by Kent County Council).

## **Conclusion**

5. The Service's Write Off policy has been followed and in many cases a number of methods of recovery followed before the debts have been recommended for write off.

## **Portfolio Holder's Views**

6. To be given at meeting

## **Contact and Email**

7. [nicola.stevens@ashford.gov.uk](mailto:nicola.stevens@ashford.gov.uk) Tel: (01233) 330446



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

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**Agenda Item No:** 7

**Report To:** CABINET

**Date of Meeting:** 11 July 2019

**Report Title:** **Statement of Licensing Policy 2019-2024**

**Report Author & Job Title:** Trevor Ford  
Environmental Protection & Licensing Team Leader

**Portfolio Holder** Cllr. Jo Gideon  
**Portfolio Holder for:** Community Safety and Wellbeing

**Summary:** The purpose of this report is to present to cabinet an updated version of Ashford Borough Council's Statement of Licensing Policy.

The new policy reflects changes in legislation and good practice.

**Key Decision:** NO

**Significantly Affected Wards:** All

**Recommendations:** **The Cabinet is recommended to:-**

i. **Note the review of the Statement of Licensing Policy for the Licensing Act 2003 and agree to publish the draft Statement of Licensing Policy 2019-2024 for the purposes of consultation.**

**Policy Overview:** The determination of Licensing Act applications and notices is a statutory duty and covers regulated activities such as the sale of alcohol, provision of live/recorded music, late night refreshment and film.

Effective regulation, including the provision of a Statement of Licensing Policy, helps to promote; the prevention of crime and disorder, the protection of public safety, the prevention of nuisance, and, the protection of children from harm.

Our Statement of Licensing Policy guides members of the public, applicants, elected members, and officers on such matters.

**Financial Implications:** None

**Legal Implications:** The revised report provides greater clarity on the expectations of the Licensing Authority and reduces potential inconsistency that could lead to legal challenge. No specific new negative implications are expected.

**Equalities Impact Assessment:** See attached

**Other Material Implications:** None

**Exempt from Publication:** **NO**

**Background Papers:** None

**Contact:** trevor.ford@ashford.gov.uk – Tel: (01233) 330 397

## Statement of Licensing Policy 2019-2024

### Introduction and Background

1. The purpose of this report is to present to Cabinet a revised draft version of Ashford Borough Council's 'Statement of Licensing Policy', which as a statutory document must be published every five years. The new statement of policy reflects legislative changes and good practice. This document is attached as *Appendix A*.
2. The determination of Licensing Act applications and notices is a statutory duty and covers regulated activities such as the sale of alcohol, provision of live/recorded music, late night refreshment and film.
3. Effective regulation, including the provision of a statement of licensing policy, helps to promote; the prevention of crime and disorder, the protection of public safety, the prevention of nuisance, and, the protection of children from harm.
4. Our statement of policy with respects to this subject area guides members of the public, applicants, elected members, and officers on such matters.
5. The current policy statement expires on the 11 December 2019, and the planned revision acts to update the document and provide greater clarity on the expectations of the Licensing Authority.
6. The statement of policy sets out how the council will approach the making of decisions, indicating what the council considers to be important, what control measures it will be looking for, and so forth.
7. It is vital that the policy does not turn into a rule that is applied inflexibly and fetters the exercise of discretion. There must be a willingness to consider individual applications on their particular merits.
8. A policy relating to the determination of applications not only guides the decision-maker but also services to inform an applicant about what they should consider in preparing their application.

### Proposal/Current Position

9. The Cabinet is asked to note the review of the Statement of Licensing Policy and agree to the publishing of the draft Statutory Statement of Licensing Policy for the purposes of consultation with the public and interested parties, prior to resubmission to Cabinet incorporating any relevant aspects for final adoption by Council.
10. The revision to this policy is modest and includes:-
  - Removal of information that is a duplicated from the statutory (Section 182) guidance

- Clarification that the statement of licensing policy must be read in conjunction with the Act and statutory guidance, and not in isolation
- Updated information provided in relation to deregulation surrounding music entertainment(s) and limits on Temporary Event Notices
- General updates with regard to amendments to the Act and statutory guidance. These have no material local implications
- Formatting and layout changes.

## **Implications and Risk Assessment**

11. The update to this policy is not anticipated to have any significant implications.
12. Judicial review is a risk if the policy strays beyond the requirements of the act, or restricts legal activities without due and appropriate cause

## **Equalities Impact Assessment**

13. The policy will affect all persons involved in or affected by a relevant licensable activity in the Borough, irrespective of gender, race, disability, sexuality or age. Recipients of the policy include holders of licences, members of licensing sub-committee, authorities e.g. Kent Police, Kent Fire & Rescue Service, etc. and all of the Borough's businesses, residents of the borough and those who visit and use premises offering licensable activities.
14. An equalities impact assessment is attached as *Appendix B*

## **Consultation Planned or Undertaken**

15. It is proposed that if the draft policy is approved for consultation, then the following steps will be taken;
  - The public consultation will run between 1 August 2019 to 31 October 2019.
  - During the public consultation a notice shall be displayed on the council website, and relevant consultees shall be written to. Details of bodies to be consulted on the draft Statement of Licensing Policy are provided within the document.
  - Following return of a final draft Statement of Licensing Policy to Cabinet/Council the final adopted statement will be published on the Council's website, and made available on request.

## **Other Options Considered**

16. As a statutory requirement under the Licensing Act, the Licensing Authority must publish a Statement of Licensing Policy for the period of December 2019 to December 2024.
17. Whilst the Statement of Licensing Policy must contain certain information as defined, the expectations of the Council are to an extent open to allow local considerations to be taken into account.

### **Reasons for Supporting Option Recommended**

18. During the development of the 'Statement of Licensing Policy' legislation and guidance has been considered, and the principles selected are considered appropriate to the aims of the licensing objectives taking into account local circumstances.
19. This approach is recommended to ensure that the policy remains up to date, and effectively can be usefully applied by the council, officers, applicants, and the general public without detriment to residents, businesses, or visitors to the town.

### **Next Steps in Process**

20. Once the draft has been agreed for consultation, it will be prepared for the statutory consultation described above. Once the consultation is complete a final version of the document will be prepared and submitted to Cabinet/Council for approval.
21. The final statement of licensing policy will be subject to statutory review after five years, along with any periodic review brought about by changes in the council's approach, or change to relevant legislation

### **Conclusion**

22. In summary, the statutory review and consultation on the statement of licensing policy aims to provide interested persons with details of the councils approach whilst promoting the Licensing Act's objectives.

### **Portfolio Holder's Views**

23. "I welcome the revision of this statutory policy document, which ensures that it remains fit for purpose and enables the council to continue to promote the licensing objectives of, namely the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm"  
*Councillor Jo Gideon*

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### **Appendix A: Statement of Licensing Policy 2019-2024 (DRAFT)**

### **Appendix B: Equalities Impact Assessment**

#### **Please note**

A copy of the current (2014-2019) Statement of Licensing Policy is available via;  
<https://www.ashford.gov.uk/media/2475/licensing-policy-2014-2019.pdf>



# Statement of Licensing Policy

Under Section 5 of the Licensing Act 2003

2019 - 2024



ASHFORD  
BOROUGH COUNCIL

# Policy: Statement of Licensing Policy

Original Implementation date: TBC

Control Schedule			
<b>Policy Owner:</b>	Licensing – Community Safety and Wellbeing		
<b>Policy Author:</b>	Environmental Protection and Licensing Team Leader		
<b>Approved By:</b>	Council		
<b>Approval Date:</b>	TBC	<b>Minute reference:</b>	TBC
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Version Control				
Version	Date	Author	Comment	Approved by
1.0	TBC	T Ford		Council

Decisions affecting this policy			
Date	Committee/Member/Officer	Report title	Minute ref

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# 1. Foreword

I am pleased to present to you Ashford Borough Council's Statement of Policy for the Licensing Act 2003.

We are required under Section 5 of the Licensing Act 2003 to publish a policy on our approach to this area of licensing law every five years.

The aim of the document is to guide business, residents, visitors, councillors, and the general public as to the expectations of the Licensing Authority in promoting the four licensing objectives.

The licensing objectives as defined by Section 4 of the Act are:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance, and
- The protection of children from harm.

This edition (2019-2024) has been revised to reflect the current expectations of Ashford Borough Council in its role as a Licensing Authority and incorporates changes in legislation and guidance that have been introduced since the previous version of the policy was published.

I would like to thank those who have participated in the development of this document and also to fellow members for their hard work in presiding over cases that may come before the Licensing Sub-Committee.

Councillor Jo Gideon  
**Cabinet Member for Community Safety and Wellbeing**

## 2. Introduction

Ashford Borough Council, the licensing authority for the Borough of Ashford, makes this Statement of Licensing Policy in accordance with Section 5(1) Licensing Act 2003.

The Licensing Act 2003 (“the Act”) requires that each licensing authority to publish a “Statement of Licensing Policy” every five years that sets out the policies the authority will apply in the exercise of its licensing functions under the Act.

This policy has been prepared in accordance with the provisions of the Act having regard to the statutory guidance issued under Section 182 of the Act (“the Guidance”). It will be reviewed after a period of not more than 5 years, during which time it will be kept under review.

The statement of licensing policy aims not to duplicate the specific requirements of the Act, or the information contained within the guidance, therefore it must be read in conjunction with those documents and not in isolation.

The Act requires that the licensing authority carry out its various licensing functions so as to promote the following four licensing objectives:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance, and
- The protection of children from harm.

Each objective is of equal importance and there are no other licensing objectives. These four objectives are of paramount consideration at all times.

This policy will seek to reflect local requirements and recognise the need to encourage and promote live music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with these wider benefits.

### 2.1 Consultation

This policy has been consulted on by members of the public, community stakeholders, specific groups and individuals as listed in section 5(3) of the 2003 Act. These are:-

- the chief officer of police for the licensing authority's area
- the fire and rescue authority for that area
- Local Health Board for an area any part of which is in the licensing authority's area
- each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area

- such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority
- such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority
- such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- such other persons as the licensing authority considers to be representative of businesses and residents in its area.

The views of all these bodies, and evidence presented, were given due weight in the determination of this policy.

## 2.2 Borough of Ashford

The Borough of Ashford is situated in the County of Kent, which contains 12 District Councils and 1 Unitary Authority in total.

Each is represented on the Kent & Medway Regulatory Licensing Steering Group whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.

Ashford is the largest Borough in Kent, covering 224 square miles and containing 39 parishes and is part of Kent Police's Eastern Division. The estimated population of the Borough is currently 127,500. The comparatively low population for the size of the Borough gives an indication of Ashford Borough's rural nature.



Capitalising on its highly accessible location, Ashford has one of the most dynamic and varied business communities in the UK. Further information on Ashford's development is provided at [www.ashford.gov.uk](http://www.ashford.gov.uk).

The current and projected residential and industrial growth offers huge opportunities for the people of the Borough and also present challenges, including those of balancing licensing control and cultural development, to the council, residents and businesses.

There are approximately 448 licensed premises in the Borough, of which 425 hold premises licences and 23 hold club premises certificates. Premises licensed include shops, village and community halls, pubs, bars, nightclubs, restaurants, open spaces, takeaways, barns, vineyards, hotels and private member clubs. In addition the licensing authority has granted over 1,823 personal licences.

## 3. Provisions of the Act

### 3.1 Applications

Due to the similarity between the application processes for both premises licences and club premises certificates, a reference to a premises licence in this section will also be a reference to an application for a club premises certificate.

All applications for new premises licences and variations must be accompanied by an operating schedule. The schedule should specify (amongst other things) the steps which the applicant proposes to promote each of the four licensing objectives.

If no responsible authority or 'other person' lodges an objection (known as a 'relevant representation') to the application, the licensing authority must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Act. The steps proposed by the applicant will become interpreted in to legally enforceable licence conditions. The licensing authority will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule.

Where, however, there are relevant representations, then a hearing of the opposed application before a licensing sub-committee will normally follow. At the hearing the sub-committee will, having regard to the representations, take such steps as it considers appropriate to promote the four licensing objectives. These may include granting or refusing the application or adding to or modifying the conditions proposed in the operating schedule.

In exercising its discretion, the licensing sub-committee will have regard (amongst other things) to this Policy. Therefore, in drawing up their operating schedule, applicants would be well advised to read this Policy carefully. Where an operating schedule complies with this Policy, it is generally less likely that any 'other person' or responsible authority will object to it, or that an objection will succeed. Therefore, compliance with this Policy is likely to assist the applicant to avoid the delay and expense of a contested licensing hearing, and the risk of a refusal or the addition of unwanted conditions.

This is not to say that an opposed application which complies with this Policy will necessarily be granted or that an opposed application which does not comply with it will necessarily be refused. Where there have been relevant representations, the licensing authority will always consider the individual merits of the case, and interfere with the operating schedule only when, and to the extent, appropriate to promote the four licensing objectives. Blanket or standard conditions will not be applied without regard to the merits of the individual case. So, for example, the licensing authority will not interfere with an operating schedule which does not comply with this Policy where the steps proposed are sufficient to meet the four licensing objectives in the individual circumstances of the case.



However, this Policy represents the licensing authority's view of the best means of securing the four licensing objectives in most normal cases. It has been drawn up in consultation with other expert bodies and responsible authorities, together with community stakeholders. While the contents of the operating schedule are a matter for the applicant, where there is objection to a schedule which departs from this Policy, the licensing sub-committee, hearing an opposed application, will normally expect to be given a good reason for the departure if it is asked to make an exception to this Policy.

In this Policy, there are a number of references to the licensing authority's expectation of applicants. As explained above, this Policy is only engaged where the licensing authority has a discretion following the receipt of a relevant representation. In such cases, the licensing authority will not apply this Policy rigidly, but will always have regard to the merits of the case with a view to promoting the four licensing objectives.

Further, the licensing authority may use this Policy when exercising other licensing functions. For example, when considering an application for review of a licence, the licensing authority is likely to view with concern premises which are being operated in clear breach of the terms of this Policy.

Nothing in this Policy will:-

- Undermine the rights of any person to apply under the Act for a variety of permissions and have each such application considered on its individual merits; and/or,
- Override the right of any person to make representations on any application or seek a review of a licence or certificate where provision has been made for them to do so under the Act.

A prime responsibility of the licensing authority in licensing activities in premises is to work with the business community to maintain the level of business activity in towns and villages in a manner that has due regard for public enjoyment, tourism and commerce, while balancing this with the promotion of the four licensing objectives.

Licensing is also about regulating licensable activities on licensed premises, by qualifying clubs or at temporary events within the terms of the Act. The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case.

In addressing this matter, the licensing authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the vicinity concerned.

The licensing authority acknowledges that licensing law is not the primary mechanism for the general control of nuisance or anti-social behaviour by individuals once they

are away from the premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the daytime, evening and night-time economy.

The Act requires applicants to consider carefully this Policy when drafting their applications. Applicants should show that they have considered the practical effects of managing their business to accord with this Policy.

Ashford Borough Council expects holders of a premises licence, club premises certificate or temporary event notice to make every effort to minimise the impact of their activities and any nuisance or anti-social behaviour by their patrons within the vicinity of their premises.

The Human Rights Act 1998, incorporating the European Convention on Human Rights, makes it unlawful for a local authority to act in a way, which is incompatible with a Convention right. The licensing authority will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following relevant provisions of the European Convention on Human Rights:-

Article 6 – In the determination of civil rights and obligations every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 – Everyone has the right to respect for his private and family life, his home and his correspondence.

Article 1 of the First Protocol – Every person is entitled to the peaceful enjoyment of his or her possessions.

## 3.2 Determining a Licence Application

Where an application is properly made and no responsible authority or other person makes representations, the licensing authority must grant the application, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the act. This should be undertaken as a simple administrative process by the officers of the licensing authority.

If representations are made by a responsible authority or other person, it is for the licensing authority to decide whether those representations are relevant to the licensing objectives and not frivolous or vexatious. If the licensing authority decides that any representations are relevant, then it must hold a hearing to consider them, unless the representations are withdrawn with agreement of all parties before a hearing.

At a hearing, the licensing authority may:-

- Grant the application subject to modifying conditions that are consistent with the operating schedule in a way it considers appropriate for the promotion of the licensing objectives;
- Reject one or more requested licensable activities;
- Reject the application; and/or
- Refuse to specify a person as a designated premises supervisor.

All decisions of the licensing authority, and any conditions imposed, must be appropriate for the promotion of the licensing objectives. Parties that disagree with the licensing authority's decision, have a right of appeal to the magistrates' court.

### 3.3 Administration, Exercise and Delegation of Functions

The powers of the licensing authority under the Act may be carried out by Ashford Borough Council's licensing committee, by its licensing sub-committees or by one or more officers acting under delegated authority.

In the interests of speed, efficiency and cost-effectiveness to all parties involved in the licensing process, the council has established a scheme of delegation to deal with applications received under the Act.

This form of delegation is without prejudice to the officers referring an application to the licensing sub-committee, or the sub-committee to the licensing committee, if considered appropriate in the circumstances of any particular case, and only in accordance with the Act.

Any applications dealt with by officers will be reported monthly to the chair of the licensing committee and the relevant portfolio holder for the purposes of information only.

The council's approved table of delegation, showing the decision-making process for applications under the Licensing Act 2003, is attached at Annex A to this Policy document.

### 3.4 Applications which Receive Objections

If a relevant representation is made, the licensing authority will have discretion to take such steps as are appropriate to promote the four licensing objectives. In exercising its discretion, it may where relevant, take into account whether the applicant proposes to follow the best practice set out above.

The licensing authority recognises the need to avoid duplication with other regulatory regimes as far as possible, including avoiding replicating offences set out in the Act and other legislation. The Licensing Authority will, when considering an application following receipt of relevant representation, consider attaching conditions to licences and certificates intended to promote the licensing objectives, and these should reflect the general principles regarding licence conditions set out in Chapter 1 of the Guidance issued under section 182 of the Act.

Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected/permitted/licensed to take place there.

### 3.5 Partnership Working

The licensing authority will seek proper integration with local crime prevention, planning, transport, employment, tourism and cultural strategies. In reviewing this policy, the council is consulting with the public and representative bodies and the views of all those responding to the consultation will be given appropriate weight when determining this policy.

The licensing authority will endeavour to work with other local authorities, particularly where licensing authority boundaries meet, to try to ensure a consistent approach is taken to licensing matters while respecting the differing needs of individual communities throughout the county.

The licensing authority, Kent County Council's (KCC) Trading Standards and the police take a serious view of the sale to minors of age-restricted goods. Trading Standards in Kent will continue to seek to ensure that there is no illegal sale of age-restricted goods. The work of KCC Trading Standards in setting up systems to avoid sales to minors taking place is acknowledged and welcomed by the licensing authority. This work will continue and the licensing authority will welcome reports from KCC Trading Standards on any relevant licensing matter. The licensing authority has particular regard to addressing problems caused by the link between alcohol sales to minors and crime and disorder issues.

Joint visits to all new premises, and any premises where there has been a change of Designated Premises Supervisor, will be carried out wherever reasonably possible with Kent Police. This proactive approach prevents non-compliance issues and helps to build a confident working relationship, whilst minimising the regulatory burden on business brought about by multiple visits.

## 3.6 Planning

The use of any licensed premises or places may be subject to planning controls which differ to that of licensing. Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process, which relates to the use of the premises.

There is no legal basis for a licensing authority to refuse a licence application because it does not have the relevant planning permission.

## 3.7 Enforcement

The council delivers a wide range of enforcement services aimed at safeguarding the environment, the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The licensing authority will aim to ensure effective and efficient public protection services and practice by carrying out its regulatory functions in a fair, open and consistent manner.

Ashford Borough Council will continue to support and participate in the Kent & Medway Licensing Steering Group – a county forum which aims to:-

- Help develop consistency between the statutory agencies responsible for licensed premises;
- Develop potential for a joint approach to implementation and administration;
- Act as a strategic forum for licensing in Kent;
- Develop liaison with agencies and other relevant organisations;
- Promote best practice; and
- Enhance the potential for sharing resources.

The licensing authority recognises the need to avoid duplication with other regulatory regimes as far as possible. This Policy is not intended to duplicate existing legislation and regulatory regimes that place duties upon employers and operators. In the event that conduct of activity related to the business has been found to be in contravention of other regulatory regimes the licensing authority will have regard to such conduct in considering licensing applications.

Some regulations do not cover the particular circumstances that arise in connection with entertainment. The licensing authority may (when its discretion is engaged), for example, attach conditions to premises licences and club premises certificates where these are considered appropriate for the promotion of the four licensing objectives and are not already provided for in any other legislation.

### 3.8 Cumulative Impact

A cumulative impact policy creates a rebuttable presumption that applications within a particular area of the Borough for new premises licences or club premises certificates or material variations thereto will normally be refused, if relevant representations are received about the cumulative impact on the four licensing objectives.

No area of the Borough is currently covered by a cumulative impact policy.

### 3.9 Early Morning Restriction Orders (EMRO)

An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12 a.m. and 6 a.m. in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

No area of the Borough is covered by an EMRO at present.

### 3.10 Late Night Levy

A Late Night Levy enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.

No area of the Borough is covered by a Late Night Levy at present.

### 3.11 Variation of Licences

When considering an application for the variation of a licence, the licensing authority will consider the guidance as provided in the statutory Section 182 guidance.

### 3.12 Licensing Hours

The Act does not promote or prohibit longer licensing hours, however the licensing authority recognises that the statutory guidance issued by the Secretary of State emphasises that the aim through the promotion of the four licensing objectives should

be to reduce the potential for concentrations of and a slower dispersal of, people from licensed premises through flexible opening times. This may be important to ensure that large concentrations of people do not leave premises at the same time and it may reduce the friction at late night hot food outlets, taxi ranks, taxi or private hire operators' offices and other sources of transport that can lead to disorder and disturbance.

The licensing authority will not set fixed opening hours within certain areas, as this may lead at particular times to the movement of significant numbers of people seeking premises opening later, resulting in concentrations of disturbance and noise.

The licensing authority may consider imposing stricter conditions in respect of noise control where premises are situated in areas that have dense residential accommodation and/or are close to sensitive areas, for example hospitals, schools, places of worship, nursing homes. However, regard will be given to the individual merits of any application, and the licensing authority would only have discretion to consider attaching such conditions where a relevant representation is received in respect of an application, and then only where considered appropriate for the promotion of the four licensing objectives.

### 3.13 Sexual Entertainment Venues

Where premises are to be used on twelve or more occasions within a 12 month period for relevant sexual entertainment, the premises must also be licensed as a sexual entertainment venue under the Local Government (Miscellaneous Provisions) Act 1982. Relevant sexual entertainment includes lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows. This activity is subject of a separate council policy.

### 3.14 Complaints, Reviews and Appeals

The licensing authority will investigate complaints relevant to the four licensing objectives in relation to licensed premises, and where appropriate may make referrals to the relevant responsible authority with reference to their areas of expertise.

In the first instance, complainants may be encouraged to raise the complaint directly with the licensee or business concerned. Where a responsible authority or any 'other person' has made:-

- valid representations about licensed premises; or
- a valid application for a licence to be reviewed.

Then the licensing authority may initially arrange a meeting to address, clarify and try to resolve the issues of concern.

This process will not override the right of any responsible authority or any 'other person' to apply for a review of the premises licence or club premises certificate, or for any licence holder to decline to participate in a mediation meeting.

Applicants and those making representations in respect of applications and reviews to the licensing authority have a statutory right of appeal to the magistrates' court against the licensing authority's decisions.

### 3.15 Shops, Stores and Supermarkets

The licensing authority will normally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.

The licensing authority may consider whether there are very good reasons for restricting those hours. For example, a limitation of opening hours may be appropriate following relevant representations from the police in the case of shops known to be the focus of disorder and disturbance because people gather there and engage in nuisance and/or anti-social behaviour.

### 3.16 Mandatory Conditions

The Licensing Act 2003 provides Mandatory Licensing Conditions that apply to all relevant premises in England and Wales. These conditions are amended from time to time by Statutory Instruments. Current Mandatory Conditions can be viewed by visiting our website, [www.ashford.gov.uk/licensing-policy](http://www.ashford.gov.uk/licensing-policy) or requesting a copy by post.



## 4. The Licensing Objectives

It is expected that those with direct responsibility for the upholding of the licensing objectives, for example Designated Premises Supervisors, Managers, and Licensees, shall be capable of demonstrating an understanding of the purpose of the Licensing Act 2003 regime, if not the specific licensing objectives. It is especially important that they are aware of their licence conditions and how they implement these requirements.

### 4.1 Prevention of Crime and Disorder

The prevention of crime and disorder objective is to protect the public from crime and anti-social behaviour caused by irresponsible licensed premises.

### 4.2 Best Practice in Crime Prevention

The licensing authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the crime prevention objective. Types of premises vary throughout the Borough, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are encouraged to carry out a risk assessment of their premises by reference to the following items of best practice:-

- Training given to staff in crime prevention measures appropriate to the premises;
- The physical security features installed in the premises. This may include matters such as the position of cash registers; the place where alcohol is stored in “off-licences”; the standard of CCTV that is installed and the retention period for images; the use of plastic, toughened or similar safety drinking glasses in pubs and clubs; and the secure storage of waste which could potentially be used as weapons;
- Measures to prevent the supply and consumption of illegal drugs, including any search procedures, entry policies and retention of seizures;
- Measures to raise staff awareness of, and discourage and prevent the use of, drugs on the premises;
- Arrangements to provide secure facilities to store seized drugs in a secure place;

- Additional to age verification requirements, the licensing authority and partners supports the challenge 21 and 25 initiatives;
- The likelihood of any violence, public order or policing problem if the licence or certificate is granted;
- Whether the applicant is a member of the Pubwatch scheme (or similar) within the Borough.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

The licensing authority will work in partnership with local Pubwatch initiatives in supporting licence holders to actively prevent crime and disorder and to form strategies to reduce current levels by meeting as necessary with members of the initiative. The strategies seek to address matters such as under-age sales, problems associated with drunken individuals, use of illegal drugs, violent and anti-social behaviour.

### 4.3 Public Safety

The public safety objective is concerned with the physical safety of the people, including any performers appearing at the premises, attending licensable activities at the relevant premises.

The licensing authority is committed to ensuring public safety across the Borough by working in close partnership, in particular with Kent Police, Kent Fire and Rescue Service, licensees, and with any other relevant bodies.

### 4.4 Best Practice in Public Safety

The licensing authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the public safety objective. Types of premises vary throughout the Borough, as do the types of licensable activities

carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are reminded that it is a requirement of legislation that any licensed premises carry out a fire risk assessment and to record the significant findings in writing (Regulatory Reform (Fire Safety) Order 2006 Article 9 paragraph 6).

When preparing their operating schedules, risk assessments of the premises should make reference to the following items of best practice:-

- Occupancy Limits – The authority will not generally impose conditions as to occupancy levels where these are adequately addressed by other controls but may do so in any other case where relevant representations are made. Capacities should be addressed in the fire risk assessment;
- Fire Safety – The fire risk assessment completed in relation to the use of the premises, should assist applicants in satisfying Kent Fire and Rescue Authority that the public safety objective will be met. Specific guidance is available at <https://www.kent.fire-uk.org/your-safety/business-safety/>;
- Levels of door supervision adequate to control access to and egress from premises in order to ensure the public safety;
- Training for current and future staff in matters relating to public safety, where not already required by other legislation;
- Prevention of injury – Where there is evidence of a current or past problem in relation to particular premises or a particular locality, or in all circumstances it is considered likely that such a problem might occur, and/or premises are to be used primarily for the sale or supply and consumption of alcohol on premises (particularly if those premises have little seating for patrons relative to their size/capacity). Applicants should give consideration to a policy of using plastic, polycarbonate or toughened glass, and a policy not to pass glass bottles over the bar, either throughout the period of operation or at certain times or on certain occasions;
- Measures to reduce the impact of noise both in terms of staff safety and protection of hearing of the public and staff at the premises, where such measures are not already required by other legislation;
- Measures to ensure that litter does not cause a nuisance or a health hazard to the public or a fire hazard to the vicinity, as generated by the activity at or near to the premises.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

## 4.5 Prevention of Public Nuisance

In considering the promotion of this licensing objective, the licensing authority will focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate or unreasonable.

The licensing authority is likely to be concerned with noise nuisance, light pollution, noxious smells and litter.

Under the Act, “public nuisance” retains its broad common law meaning. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a person living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of any other person.

## 4.6 Best practice in the Prevention of Public Nuisance

The licensing authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the prevention of public nuisance objective. Types of premises vary throughout the Borough, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are encouraged to carry out a risk assessment of their premises by reference to the following items of best practice:-

- Measures to prevent noise and vibration escaping from the premises, including; music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning (though this may add to the problem, especially if left on overnight), acoustic lobbies and sound limitation devices;
- Measures to prevent disturbance by patrons/customers arriving at or leaving the premises, particularly between the hours of 11.00 pm and 7.00 am;
- Measures to prevent queuing or, if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise to manage the queue to prevent disturbance or obstruction;

- Measures to ensure that customers/patrons and staff leave the premises quietly;
- Arrangements for parking by patrons/customers, and minimisation of the effect that parking will have on local residents and businesses;
- Measures to reduce the impact that the use of gardens or other open-air areas will have on local residents and businesses;
- The positioning of external lighting, including security lighting that is installed appropriately;
- Accessibility to local public transport services, including taxis and private hire vehicles;
- Measures to minimise the impact of refuse storage or disposal (including noise associated with bottle delivery and disposal), or additional litter (including fly posters and unauthorised placards) in the vicinity of the premises;
- Measures to minimise noxious smells omitting from the premises.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

## 4.7 Protection of Children from Harm

The protection of children from harm includes the protection of children from moral, psychological and physical harm, and this would include the protection of children from too early an exposure to strong language, sexual imagery and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.

However, in the context of many licensed premises such as pubs, restaurants, café bars and hotels, the licensing authority recognises that the development of family-friendly environments should not be frustrated by overly restrictive measures in relation to children.

The licensing authority also recognises that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions unless the Act itself imposes such a restriction or there are good reasons to restrict entry or to exclude children completely. The

licensing authority will focus on enforcing the law concerning the consumption of alcohol by minors.

## 4.8 Access to Licensed Premises

Other than set out in the Licensing Act 2003, and subject to the licence holders, the Act does not prevent unaccompanied children from having free access to any licensed premises where the consumption of alcohol is not the exclusive or primary activity.

The licensing authority will consider the individual merits of each application, and then only when an application attracts relevant representations, before deciding whether it is appropriate to limit the access of children to any given premises. The following are examples of premises that will raise particular concern:-

- Where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking;
- Where there is a known association with drug taking or drug dealing;
- Where there is a strong element of gambling on the premises;
- Where entertainment of an adult or sexual nature is provided;
- Where films with age-restricted classifications are to be shown.

Where relevant representations are received in respect of an application, the licensing authority may consider the following additional measures (which may be adopted in combination) for limiting the access of children to licensed premises in order to prevent harm:-

- Limitations on the hours when children may be present;
- Limitations on ages below 18;
- Limitations or exclusion when certain activities are taking place;
- Restrictions or exclusions in respect of parts of premises; Requirements for an accompanying adult;
- Full exclusion of all persons under 18 years of age from the premises when any licensable activities are taking place.

## 4.9 Best Practice in the Protection of Children from Harm

The licensing authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the protection of children from harm objective. Types of premises vary throughout the Borough, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are encouraged to carry out a risk assessment of their premises by reference to the following items of best practice:-

- Staff training on the law with regard to restricted sales;
- Training records and documentation to be kept available for inspection;
- Staff training to include; checking identification (ID) for proof of age, through a secure system. Ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark;
- A responsible person (as identified by Section 153 (4) of the Act) who is present and responsible for transactions made through staff that may be under 18 years of age;
- Procedures in place to record refusals of sales, with such records kept available for inspection;
- Vending machines dispensing age-restricted goods to be positioned to allow for proper supervision at all times;
- Arrangements for restricting children from viewing age-restricted films, classified according to the recommendations of the British Board of Film Classification (BBFC) or the licensing authority.

Where the majority of the intended audience at regulated entertainment is expected to be children or the entertainment offered is of a nature likely to be of interest to children (e.g. theatre productions or film shows), the following are considered best practice arrangements in order to control their access and egress and to assure their safety:-

- Each event/facility to assess requirements has undertaken specific risk assessments to identify ratios/regulations required for applicant may be asked to provide proof of risk assessment;
- A “lost child” policy which identifies arrangements for the safe care of lost children until they are reunited with the parent/guardian;
- A staff-to-children ratio which will ensure adequate supervision.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

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## 5. Temporary Event Notices

Where a person wishes to use premises for one or more licensable activities for a period not exceeding 168 hours, that person can serve a temporary event notice (TEN) on the Licensing Authority.

There is however commonly some confusion where the premises interacts with the use of other premises licences/authorisations such as multiple Temporary Event Notices (TEN) in conference venues etc. In these circumstances it should be noted that the 'premises' in this regard relates to the area being used for that licensable activity as being distinct from another 'premises'. As such, a conference or events venue can hold more than one TEN at the same time so long as the areas are distinctly separate and the areas covered by the TENs do not overlap

The process for this authorisation is explained in detail in the Act and statutory Section 182 guidance.

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## 6. Club Premises Certificate

Members' clubs can operate under club premises certificate instead of premises licence. This means, for example, that they are not required to have a designated premises supervisor, and sales of alcohol do not need to be authorised by a personal licence holder.

To be classified as a club for the purpose of this certificate, a group must meet several conditions as defined in the Licensing Act 2003.

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## 7. Designated Premises Supervisors (DPS) and Personal Licences

### 7.1 Designated Premises Supervisors

A designated premises supervisor (DPS) is normally the person who has been given the day-to-day responsibility for the running of the premises by the premises licence holder.

All businesses and organisations selling or supplying alcohol, except members clubs and certain community premises must have a designated premises supervisor.

Whoever holds this role must be named in the operating schedule, which needs to be completed as part of the application process when applying for a premises licence or by submitting an application to vary a premises licence to specify an individual as a DPS.

The DPS will act as primary contact for the licensing authority and the responsible authorities, including the police. They must understand the social issues and potential problems associated with the sale of alcohol, and also have a good understanding of the business itself.

While they need not be on site at all times, they are expected to be involved enough with the business to be able to act as its representative.

If the licensing authority or police have any questions or concerns about the business, they will expect to be able to reach the DPS.

Each business may have only one supervisor selected for this role, but the same person may act as the designated supervisor at more than one business.

The Act requires the DPS and all personal licence holders take responsibility for the sale and supply of alcohol. This is because of the impact alcohol has on the wider community, on crime and disorder, and antisocial behaviour. Because of these issues, selling alcohol carries greater responsibility than licensing regulated entertainment and late night sales of food and non-alcoholic drinks.

Where community premises hold a premises licence allowing the sale/supply of alcohol, the licence holder can apply to have the mandatory condition requiring a designated premises supervisor to be appointed, be removed. This passes the responsibility for the sale/supply of alcohol to the premises' management committee.

## 7.2 Personal Licences

A personal licence is not required in order to be employed in a pub or other business that sells alcohol. Premises licensed to sell alcohol must have a designated premises supervisor, who holds a personal licence.

The one exception is a community premises that has successfully applied to waive the DPS requirement under section 41(d) of the Act.

Anyone who does not hold a personal licence must be authorised to sell alcohol by a personal licence holder. There is no such requirement for the supply of alcohol in a members' club.

Personal licences allow you to sell alcohol on behalf of any business that has a premises licence or a club premises certificate. The relationship is similar to the way that a driving licence permits the driving of any car.

In order to apply, you must be aged 18 years or over, and hold a licensing qualification - for example, a BII Level II examination certificate or a similar accredited qualification such as the EDI NCPLH level 2 qualification and the results of a basic criminal conviction check, no more than one month old.

The aim of the qualification is to ensure that licence holders are aware of licensing law and the wider social responsibilities involved in the sale of alcohol

The personal licence is designed to ensure that anybody running or managing a business that sells or supplies alcohol will do so in a professional fashion. Only holders of personal licences can become designated premises supervisors for any business that sells or supplies alcohol.

## 8. Further Information

If you need more details about the licensing process or making an application please visit [www.ashford.gov.uk/licensing](http://www.ashford.gov.uk/licensing) and if required contact the Licensing Team by emailing [licensing@ashford.gov.uk](mailto:licensing@ashford.gov.uk), by calling 01233 331111 or in writing at *Licensing Team, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL.*

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## Appendix A: Exercise and Delegations of Functions

All decisions on licensing matters under the 2003 Act, with the exception of the approval and review of its Statement of Licensing Policy, will be taken in accordance with the following scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.

These delegations are without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate by the Licensing Officer or Sub Committee in the circumstances of any particular case and where permitted by legislation.

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for grant or renewal personal licence	If Police representation made	If no representation made
Decision whether to revoke personal licence when convictions come to light after grant	All cases	
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If representation made	If no representation made
Application for provisional statement	If representation made	If no representation made
Application to vary premises licence/club premises certificate	If representation made	If no representation made
Application to vary designated premises supervisor	If Police representation made	All other cases
Request to be removed as designated premises supervisor		All cases
Application to transfer premises licences	If Police representation made	All other cases
Applications for Interim Authorities	If Police representation made	All other cases

Application to review premises licence/club premises certificate	All cases	
Decision whether a representation is irrelevant, frivolous, vexatious etc		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Determination of a police representation to a temporary event notice	All cases	
Determination of application for the alternative licence condition to be included in the licence instead of the conditions in section 19(2) and (3))	If police representation made	<i>If no police objection is Made</i>
Determination of application by community premises to disapply the mandatory conditions for alcohol on a premises	If police representation made	<i>If no police objection is Made</i>
Determination of application for a review: supply of alcohol from community premises	If police representation made	
Determination of application for expedited reviews	If police representation made	
Determination of application for Interim steps	If police representation made	
Determination of application for a review of premises licence following review notice	If police representation made	
Application for a Minor Variation of a Premises Licence		<i>All cases including if representation is made</i>

Application for a Minor Variation of a Club Premises Certificate		<i>All cases including if representation is made</i>
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# Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

## Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

## Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership\*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

## Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
  - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
  - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.

7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

**Case law principles**

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

# Equality Impact Assessment

<b>Lead officer:</b>	Trevor Ford
<b>Decision maker:</b>	Cabinet
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	To agree to the publishing of a draft Statement of Licensing Policy 2019-2024 for public consultation
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	11 July 2019
<b>Summary of the proposed decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> <li>• Who will be affected and how?</li> <li>• How many people will be affected?</li> </ul>	<p>The report seeks to agree a draft Statement of Licensing Policy 2019-2024.</p> <p>The changes in the document include the update of out of date legal requirements, removal of duplicated guidance, and, layout/format changes</p> <p>It is not expected that there will be any impacts associated with the revised version.</p>
<b>Information and research:</b> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> <li>• Include sources and key findings.</li> </ul>	<p>Research conducted as part of the revision of the policy includes;</p> <ul style="list-style-type: none"> <li>• Updated case law</li> <li>• Best practice guidance</li> <li>• General Licensing Act 2003 research</li> </ul>
<b>Consultation:</b> <ul style="list-style-type: none"> <li>• What specific consultation has occurred on this decision?</li> <li>• What were the results of the consultation?</li> <li>• Did the consultation analysis reveal any difference in views across the protected characteristics?</li> <li>• What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics?</li> </ul>	N/A – this report relates to the publishing of the statutory consultation.

**Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.**

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

<b>Protected characteristic</b>	<b>Relevance to Decision High/Medium/Low/None</b>	<b>Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral</b>
<u>AGE</u> Elderly	Medium	Positive - minor
Middle age	Medium	Positive – minor
Young adult	Medium	Positive – minor
Children	High	Positive - minor
<u>DISABILITY</u> Physical	Low	Neutral
Mental	Low	Neutral
Sensory	Low	Neutral
<u>GENDER RE- ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Low	Neutral
<u>SEX</u> Men	Low	Neutral
Women	Low	Neutral
<u>SEXUAL ORIENTATION</u>	Low	Neutral

**Mitigating negative impact:**

Where any negative impact has been identified, outline the measures taken to mitigate against it.

N/A

**Is the decision relevant to the aims of the equality duty?**

Guidance on the aims can be found in the EHRC's [Essential Guide](#), alongside fuller [PSED Technical Guidance](#).

Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

<p><b>Conclusion:</b></p> <ul style="list-style-type: none"> <li>Consider how due regard has been had to the equality duty, from start to finish.</li> <li>There should be no unlawful discrimination arising from the decision (see guidance above).</li> <li>Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.</li> <li>How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?</li> </ul>	<p>No further action required.</p> <p>The results of the statutory consultation will be considered duly and incorporated into a final draft Statement of Licensing Policy that will be subject to the cabinet/council approval process and a detailed EIA assessment.</p>
<p><b>EIA completion date:</b></p>	<p>10 May 2018</p>

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**Agenda Item No:** 8  
**Report To:** Cabinet  
**Date of Meeting:** 11<sup>th</sup> July 2019  
**Report Title:** Conningbrook Lakes Country Park Masterplan  
**Report Author & Job Title:** Len Mayatt. Cultural Projects Manager  
**Portfolio Holder** Cllr. Peter Feacey  
**Portfolio Holder for:** Culture, Tourism & Leisure

**Summary:** This Report seeks Cabinet endorsement for the draft masterplan for Conningbrook Lakes Country Park (***refer Appendix A which will follow separately***) and to approve the proposal to place the draft masterplan on the Council's consultation portal for six weeks and commend the delivery of the park for the benefit of the community subject to relevant funding coming forward.

**Key Decision:** YES

**Significantly Affected Wards:** Kennington, Little Burton Farm and North Willesborough

**Recommendations:** **The Cabinet is recommended to:-**

- I. Note the contents of this report and endorse the draft masterplan;**
- II. Authorise officers to place the draft masterplan on the Council's consultation portal for a period of six weeks;**
- III. Delegate authority to the Head of Culture, Tourism and Leisure, in consultation with the Portfolio Holder for Culture, Tourism and Leisure to make any minor changes to the draft masterplan following the authorised consultation period;**
- IV. Agree an approach to paying back previous forward funding spend from the expected £2,054,727 S106 funding for the country park as described in paragraph 2 of the Report;**

**Policy Overview:** Corporate Plan. Priority 3: Active & Creative Ashford. Priority 4: Attractive Ashford

**Financial Implications:** £2,054,727 S106 contribution is due to be paid to the authority between 2019 and 2024 for the delivery of key infrastructure elements of the park. The cost of early access works borne by the Council is to be repaid from the S106 contribution at a time to be determined. However, it may be necessary for further forward funding to move the project forward. Subject to Member approval and relevant planning

permissions which may come forward, further S106 contributions may become available to support the delivery of the masterplan at a later date.

<b>Legal Implications</b>	The council holds a long term lease on the majority of the park. Therefore, the landlord's support for the principles of the proposed masterplan has been sought. Before finance can be released for spending in the park, confirmation will be required that the proposed works are complicit with the appropriate S106 agreements.
<b>Equalities Impact Assessment</b>	See Attached
<b>Other Material Implications:</b>	NO
<b>Exempt from Publication:</b>	<b>NO</b>
<b>Background Papers:</b>	-
<b>Contact:</b>	<u><a href="mailto:Len.mayatt@ashford.gov.uk">Len.mayatt@ashford.gov.uk</a></u> – Tel: (01233) 330490 <u><a href="mailto:Emma.powell@ashford.gov.uk">Emma.powell@ashford.gov.uk</a></u> – Tel: (01233) 330444



## Report Title: Conningbrook Lakes Country Park Masterplan

### Introduction and Background

1. This report updates Members on the positive progress made on producing a draft masterplan for the Country Park and seeks Members endorsement of the draft plan as attached in Appendix A. Such endorsement is key to enable officers to put in place an appropriate project delivery programme in conjunction with the available S106 funding for the park and support consideration of any further possible contributions in the future.
2. It should be noted that the cost of initial early access works undertaken to make the park available to the public in 2015, will need to be repaid. Those works cost approximately £500,000. It is proposed that as appropriate S106 payments are received by the Council for the park (refer paragraph 10) and work to deliver the park progresses, the forward funded sum is repaid at a time that does not adversely affect the delivery programme for the park. This approach allows the park to be developed to meet demand and repayment of funds to the Council.
3. Members are reminded that Conningbrook Lakes Country Park is designated as a Strategic Park in the Council's Open Space Strategy (2017 – 2030). As such it provides a unique opportunity to capture the essence of Ashford's rich rural heritage and strong natural environment on the edge of the main urban area.
4. A Strategic Park fulfils a number of functions by providing a mix of passive, active and recreational facilities and opportunities for residents and visitors alike to enjoy. The draft masterplan aims to create sufficient space within the park to balance the needs of all users, while protecting the rich natural environment.
5. The conservation area of the park is managed in accordance with an agreed Management Plan (2016 – 2020) by Kent Wildlife Trust. While that plan concentrates on the conservation area of the park, it's overall aim is reflected across the whole park and is summarised as;

*'To maintain Conningbrook Lakes Country Park as an important area for wildlife and as a public amenity for present and future generations to enjoy. Where possible to extend the size of the reserve and link to other conservation areas.'*

### Current Position/ Proposal

6. The park is currently designated into two main zones. The larger land area (and two smaller lakes) is the conservation zone which is managed by Kent Wildlife Trust. The second zone is the leisure/activity zone which is managed by Ashford Leisure Trust and includes the main lake where sailing opportunities are provided by the Royal Cinque Ports Sailing Club and fishing on the lake is managed by Mid-Kent Fisheries.
7. Since planning permission was granted for the Country Park in 2014, various works have been completed to enable limited use of the park. This has resulted in a basic access road, new permanent concrete slipway, temporary storage facilities and an aeration system being installed in the lake. This work has enabled the public to access the site and for the organisations noted above to deliver services for the park users.

8. All of those organisations and stakeholders work with local schools and community groups to encourage use of the facilities currently on offer and to participate in positive and healthy activities throughout the park.
9. One of the aims of the draft masterplan is to develop the temporary facilities listed above and provide them on a permanent basis along with a new children's destination play area, picnic areas, access paths, signage, interpretation, public art, country park car parking, new access road, enhanced conservation/landscaped areas and changing facilities. The last element will require partnership funding to complete it.
10. Funding for the proposed works in the Country Park is being provided by the enabling housing development that is currently under construction on land immediately adjacent to the main lake (H1). The first houses in that development are now occupied and the initial S106 contributions for the country park will be paid to the Council over the coming months. The S106 agreement allows for payment to the Council when 10 dwellings are occupied to a total contribution of circa £2,054,727. Within this payment is the need to repay the Council's previous forward funding of circa £500,000 as referred to in paragraph 2 above.
11. In order to enable the main infrastructure in the park to be completed, an overarching masterplan is required that maps out the locations of the various elements identified in the 2014 planning permission and other related proposals that have come forward since first use of the park commenced in 2015. The masterplan includes a schedule of how the S106 funding can be spent on the various elements and an indicative timetable for delivery of the various works (Scheduling Section).
12. Within the masterplan there is a section that includes options for incorporating other features within the park at a later date, subject to further funding and final approval being secured at the relevant time. Those features have been included in this masterplan for consideration and to illustrate how the park could look in the future if all elements are incorporated. If Members agree to retain those elements in the masterplan at this stage, each element could be delivered as and when appropriate finances become available.
13. Those features include an opportunity to consider providing a high ropes climbing facility to be managed by the operators of the Julie Rose Stadium and to develop a relationship with a partner organisation to provide an activity centre. If the latter opportunity is pursued it could be located on land currently owned by KCC within the boundary of the Country Park and would be subject to a full business case being developed. The provision of a high ropes facility would also be subject to a full business case being produced and approved by Members.
14. There is an option to incorporate the land owned by Kent County Council within the park if an activity centre is not developed. If this option is pursued, it would allow more space for sympathetic landscaping to be undertaken and provide valuable leisure space within the country park that park users could enjoy. An appropriate agreement would be required with Kent County Council to enable the park to be extended into the land in their ownership.
15. The draft masterplan provides space for a public house/restaurant to be located within the park as originally proposed within the 2014 planning permission. Work to secure the provision of such a facility is currently being undertaken by the Council's Regeneration and Projects Service and will be subject to separate approvals being considered and granted by the Council. However, space has been allocated within the draft masterplan for the facility to be provided if a suitable agreement is reached with a developer and operator.

16. Looking ahead and meeting potential future demands for quiet recreational space from a growing population, the draft masterplan proposes consideration be given to expanding the country park to the east beyond the river Stour into area that is currently cultivated, arable land. Such a proposal would need to be fully scoped, costed and agreed with the land owners but is included within the draft masterplan as an option for future consideration. Subject to further funding being secured, there are options for providing extra footpaths at key locations within the park as well as more signage, interpretation and more pieces of play equipment for example.
17. The draft masterplan has been produced in response to various stages of consultation that has been undertaken (as detailed in paragraph 25 below) and reflects the different aspirations and requirements of the various users, stakeholders and operators.
18. Cabinet Members are asked to endorse the spending of £2,054,727 S106 funding for the delivery of the masterplan works as those funds are received by the Council to facilitate the works noted in paragraph 9 of this Report.

## **Implications and Risk Assessment**

19. If the draft masterplan is adopted, it will enable the Council to embark on a delivery plan for completing the park over the next five to seven years as funding becomes available and agreements are reached with appropriate stakeholders and partners.
20. Risks attached to this project relate to the available funding for the works and the content/style of the park itself. If the housing market slows and S106 contributions for the park are not forthcoming it will not be possible to complete the works unless alternative funding can be secured. It is noted that current house sales are progressing well, so the risk is currently considered to be low. However, it is understood that the housing market can be volatile and subject to external influences that could cause the current positive position to change.
21. There is a balance to be struck between the passive and active recreational opportunities that have been identified in the consultation process. It is important that the guiding principles of the 2016 Management Plan noted in paragraph 4 above are retained and built facilities are limited to those considered to be essential to enhance the park.
22. Members are also asked to note that reaching a final agreement with Kent County Council on incorporating all or part of their land into the park, either as leisure land or for an activity centre, could require considerable resource to complete in terms of Officer and Member time.

## **Equalities Impact Assessment**

23. Members are referred to the attached Assessment. The key issues arising are ensuring the park is available to people with limited mobility, that adequate suitable car parking is required, surfaces are robust and easily identifiable and that play provision has a range of equipment available to children with different abilities. It will also be necessary to ensure clear information and signage is made available in different mediums and styles and is not restrictive.

## **Consultation Planned or Undertaken**

24. It should be noted that considerable public consultation was undertaken prior to the creation of the country park and the submission of the original planning application for the park in

2014. That consultation helped to describe the overall ambition and intent for the park. Further consultation has taken place on the draft masterplan during 2018 and 2019 which has helped to shape the plan that Members are being asked to consider. This has included:

- A stakeholder workshop at the Julie Rose Stadium, including ward members and park users
- Consultation with the Victoria Park and Conningbrook Park Advisory Committee during 2018 and 2019
- Further consultation with individual stakeholder groups
- Consultation with Ashford Access Group
- Meetings with Lake and Country Park users
- Discussions with the Council's Cabinet Members and Management Team.

25. It is proposed that if the draft plan is approved by Cabinet, the final document will be placed on the Council's Consultation Portal for a period of six weeks for further feedback and comment, with any notable amendments incorporated in the final masterplan in consultation with the Portfolio Holder for Culture, Tourism and Leisure.

### **Other Options Considered**

26. During the production of the draft masterplan, alternative layouts and designs have been considered. These have been amended and fine-tuned in response to the feedback from consultation sessions undertaken.

27. As part of that process early consideration was given to a proposal for introducing an indoor tennis facility adjacent to the Julie Rose Stadium. Such a facility would require considerable investment and a full business case being developed for consideration by Members before a decision on its viability and suitability was reached.

28. However, while initial work indicates that such a facility could prove to be financially viable, in response to concerns raised about the potential impact on the country park, it is proposed that more detailed work is undertaken to find an alternative location for the facility and a more detailed business plan is produced along with a suitable funding strategy before a decision on this proposal is taken forward. Therefore, it is not proposed to include such a facility within the bounds of the country park at this time.

### **Reasons for Supporting Option Recommended**

29. The Victoria Park and Conningbrook Park Advisory Committee has helped to steer this project and supported officers in the development of the draft masterplan, alongside the Cabinet and other key members. This support for the development of the plan has been crucial in producing the final version of the plan.

30. Having submitted the original planning application in 2014 and commissioning Allen Scott, Landscape Architects to complete the draft masterplan in 2018, the Council has committed to completing the delivery of the country park for the benefit of local residents and visitors to the Borough.

31. The draft plan represents a flexible and sympathetic plan for delivering the park which reflects the parks significance to the Borough by providing a balanced mix of passive and active recreational facilities, with opportunities to enhance the natural habitat further included in the proposal.

## **Next Steps in the Process**

32. If members are minded to support and endorse the draft masterplan, the plan will be placed on the Consultation Portal as noted above.
33. At the end of the six week consultation period an appropriate delivery plan and suite of projects will be developed to enable the park to be completed as funds become available to the Council. Those plans will be subject to the normal approval process via the Council's project management procedures.
34. Further consideration on the delivery of the elements listed in paragraphs 13, 14 and 16 will be made as and when suitable funds become available from other developments and sources.
35. Consideration of the proposed pub/restaurant in paragraph 15 above is subject to a separate Report being presented to Cabinet.

## **Conclusion**

36. Conningbrook Lakes Country Park is recognised as a highly valued and important strategic open space in the Borough. It is imperative that the work to complete the park is commissioned in the near future so that the park can be delivered and enjoyed by the widest possible audience.

## **Portfolio Holder's Views**

37. "I fully endorse this exciting project as it will supply a fantastic recreational facility for the residents of Ashford as well as provide a unique opportunity to enjoy the rich natural environments that the park has to offer." Cllr Peter Feacey.

## **Contact and Email**

38. [Len.mayatt@ashford.gov.uk](mailto:Len.mayatt@ashford.gov.uk) or [emma.powell@ashford.gov.uk](mailto:emma.powell@ashford.gov.uk)

# Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

## Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

## Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership\*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

## Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
  - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
  - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.

7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

**Armed Forces Community**

9. As part of the council's commitment to the Armed Forces Community made through the signing of the Armed Forces Covenant the council's Cabinet agreed in November 2017 that potential impacts on the Armed Forces Community should be considered as part of the Equality Impact Assessment process.

10. Accordingly, due regard should also be had throughout the decision making process to potential impacts on the groups covered by the Armed Forces Covenant:

- Current serving members of the Armed Forces (both Regular and Reserve)
- Former serving members of the Armed Forces (both Regular and Reserve)
- The families of current and former Armed Forces personnel.

**Case law principles**

11. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or

service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)



<b>Lead officer:</b>	Len Mayatt Cultural Projects Manager
<b>Decision maker:</b>	Cabinet
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	Review of the masterplan for Conningbrook Lakes Country Park and delivery of a suite of infrastructure and improvement works a cross the park.
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	11 <sup>th</sup> July 2019
<b>Summary of the proposed decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> <li>• Who will be affected and how?</li> <li>• How many people will be affected?</li> </ul>	<p>To ask Members to endorse the draft masterplan for Conningbrook Lakes Country Park and approve the release of S106 funding at the appropriate time, which is designated for the park, to enable the park to be completed and made fully available for the community to use.</p> <p>The Country Park will be available for all residents of the borough.</p>
<b>Information and research:</b> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> <li>• Include sources and key findings.</li> </ul>	<p>Considerable public consultation was undertaken prior to the submission of the original planning application and opening of the country park in 2014. That consultation helped to describe the overall ambition and intent for the park. Further consultation has taken place on the draft masterplan during 2018 and 2019 which has helped to shape the plan further that Members are now being asked to consider.</p> <p>It is proposed that if the draft plan is approved by Cabinet, the final document will be placed on the Council's Consultation Portal for a period of six weeks for further feedback and comment, with any notable amendments incorporated in the final masterplan in consultation with the Portfolio Holder for Culture, Tourism and Leisure.</p> <p>The consultation and design work completed to date has highlighted significant levels of interest in the Country Park from current and potential users. There is a requirement to ensure the park is available for all members of the community regardless of age, gender or ability. Therefore, there needs to be a range of easily accessible, stimulating, active and passive recreational opportunities within the park.</p>
<b>Consultation:</b> <ul style="list-style-type: none"> <li>• What specific consultation has occurred on this decision?</li> <li>• What were the results of the consultation?</li> </ul>	<p>Prior to starting work on the draft masterplan officers and the appointed consultants have reviewed the documentation, consultation and relevant management plans completed to date. Further consultation then took place as described below to refine plans and proposals so that the draft masterplan could be completed.</p>

<ul style="list-style-type: none"> <li>• Did the consultation analysis reveal any difference in views across the protected characteristics?</li> <li>• What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics?</li> </ul>	<ul style="list-style-type: none"> <li>• A stakeholder workshop at the Julie Rose Stadium, including ward members and park users in September 2018.</li> <li>• Consultation and discussion with the Victoria Park and Conningbrook Park Advisory Committee during 2018 and 2019</li> <li>• Further consultation with individual stakeholder groups in 2018 and 2019</li> <li>• Consultation with Ashford Access Group in 2018</li> <li>• Meetings with Lake and Country Park users 2018 and 2019</li> <li>• Discussions with the Council’s Cabinet Members and Management Team in 2018 and 2019</li> </ul> <p>While proposals were brought forward for the country park and its future layout and design, no major issues were highlighted which would adversely affect people with protected characteristics, other than ensuring there is good quality access, surfaces, equipment, parking and promotional material as described above. The design team will continue to liaise with user groups to ensure adequate provision is made within the park.</p>
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**Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.**

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

<b>Protected characteristic</b>	<b>Relevance to Decision High/Medium/Low/None</b>	<b>Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral</b>
<u>AGE</u> Elderly	Medium	Positive
Middle age	Medium	Positive
Young adult	Medium/High	Positive
Children	Medium/High	Positive
<u>DISABILITY</u> Physical	Medium	Positive
Mental	Medium	Positive
Sensory	Low	Positive
<u>GENDER RE- ASSIGNMENT</u>	None	Neutral

<u>MARRIAGE/CIVIL PARTNERSHIP</u>	None	Neutral
<u>PREGNANCY/MATERNITY</u>	None	Neutral
<u>RACE</u>	None	Neutral
<u>RELIGION OR BELIEF</u>	None	Neutral
<u>SEX</u> Men	None	Neutral
Women	None	Neutral
<u>SEXUAL ORIENTATION</u>	None	Neutral
<u>ARMED FORCES COMMUNITY</u> Regular/Reserve personnel	None	Neutral
Former service personnel	None	Neutral
Service families	None	Neutral

<b>Mitigating negative impact:</b> Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
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<b>Is the decision relevant to the aims of the equality duty?</b>	
Guidance on the aims can be found in the EHRC's <a href="#">Essential Guide</a> , alongside fuller <a href="#">PSED Technical Guidance</a> .	
<b>Aim</b>	<b>Yes / No / N/A</b>
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

<b>Conclusion:</b> <ul style="list-style-type: none"> <li>Consider how due regard has been had to the</li> </ul>	Due regard has been made to the equality duty, throughout the development of the draft masterplan and will continue during the delivery phase
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<p>equality duty, from start to finish.</p> <ul style="list-style-type: none"> <li>• There should be no unlawful discrimination arising from the decision (see guidance above ).</li> <li>• Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.</li> <li>• How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?</li> </ul>	<p>There will be no unlawful discrimination arising from the decision</p> <p>The proposal meets the aims of the equality duty as all sections of the community including those with protected characteristics will benefit from the enhancements to the park</p> <p>Monitoring of the policy, procedure or decision and its implementation will be undertaken and reported by the stakeholder group</p>
<p><b>EIA completion date:</b></p>	<p>11<sup>th</sup> June 2019</p>



**Agenda Item No:** 9  
**Report To:** Cabinet  
**Date of Meeting:** 11<sup>th</sup> July 2019  
**Report Title:** Conningbrook Housing Phase 2 and Country Pub/Hotel  
**Report Author & Job Title:** Paul Mckenner – Head of Corporate Property and Projects  
**Portfolio Holder** Cllr. Clokie  
**Portfolio Holder for:** Regeneration and Corporate Property

**Summary:** This report provides an update on the progress of the residential development at Conningbrook H1 and seeks approval for the entering into the agreement to progress the next phase of residential development at the site (H2). In addition, it provides an update on the negotiations with the freeholder of the country park and the proposed operator of the pub/hotel. The report seeks authority from Cabinet to proceed with both proposals.

**Key Decision:** YES

**Significantly Affected Wards:** Kennington

**Recommendations:** **The Cabinet is recommended to:**

- I. Note the progress made on the delivery of the residential development at H1;
- II. Approve the principles of an agreement with Brett Aggregates Ltd in respect of phase 2 of the development at Conningbrook on the terms set out in the report and Exempt Appendix 1, including the disposal of the land shown coloured green on the attached plan;
- III. Authorise the Head of Corporate Property and Projects in consultation with the Portfolio Holder for Regeneration and Corporate Property and the Director for Finance and Economy to finalise negotiations as to the terms of that agreement including the disposal of the Council's land forming part of Phase 2, and to enter into that agreement;
- IV. Authorise the Head of Corporate Property and Projects in consultation with the Portfolio Holder for Regeneration and Corporate Property and the

Director for Finance and Economy to finalise negotiations as to the terms of the lease to be granted to the operator of the pub/hotel and to grant a lease of the land shown edged red on the attached plan on such terms as shall be agreed;

- V. Authorise the Head of Corporate Property and Projects in consultation with the Portfolio Holder for Regeneration and Corporate Property and the Director for Finance and Economy to finalise negotiations as to the terms of the Licence to Assign to be entered into with the freeholder of the country park and to enter into the same;
- VI. Authorise the Head of Corporate Property and Projects in consultation with the Portfolio Holder for Regeneration and Corporate Property and the Director for Finance and Economy to apply for and negotiate the necessary amendments to the section 106 agreement entered into as part of the original planning consent for the Country park to allow for the relocation of the site of the proposed pub/hotel;
- VII. To delegate authority to the Head of Legal & Democracy in consultation with the Head of Corporate Property and Projects to agree, execute and complete all necessary documents required to give effect to the above recommendations;
- VIII. Authorise the Head of Corporate Property and Projects and the Director for Finance and Economy to act as the Council's representatives on the proposed "Design and Contract Forum" under the proposed terms of the agreement.

**Policy Overview:** Policy CS18a of the adopted LDF Core Strategy provides for the provision of a strategic park at Conningbrook.

**Financial Implications:** The proposed agreement will involve the disposal of the Council's land for the Phase 2 development. Section 123 Local Government Act 1972 requires that the consideration obtained may not be less than the best that can reasonably be obtained.

There will be a land sale receipt following the sale of H2 under the agreement as well as a land sale receipt following the sale of the pub/hotel site to the operator (as set out in Exempt Appendix 2 to this report).

The disposals proposed under this report will need to be for the best consideration that can reasonably be obtained in accordance with the provisions of section 123 of the Local Government Act 1972. Before completion of either of the

disposals referred to in this report, officers will obtain appropriate professional valuation advice on the financial implications of the terms of the actual disposal of the land and the grant of the lease in relation to these statutory obligations. A confidential summary of that advice will be provided to Members prior to the completion of the disposal and the grant of the lease.

There will be costs involved in the provision of services to the pub/hotel site which are detailed in the report below and are to be shared 50/50 with the freeholder.

**Legal Implications** The agreements to be entered into will be binding on the Council and will ensure that the Council has an involvement in the delivery of H2 and that the Council will be the direct landlord of the pub/hotel operator.

**Equalities Impact Assessment** Not Required because it has no EI implications

**Other Material Implications:** Please see report.

**Exempt from Publication:** **YES – in relation to the Appendices**

**The Exempt Appendices to this report are not for publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

**Contact:** Paul.mckenner@ashford.gov.uk – Tel: (01233) 330419

## **Report Title: Conningbrook Housing Phase 2 and Country Pub/Hotel**

### **Introduction and Background**

1. The original Cabinet decision to progress the Council's business plan for the Conningbrook Strategic Park was made in June 2011 and reaffirmed in July 2012. The recommendations from those decisions involved progressing discussions with Brett Aggregates Ltd ("Bretts") (owners of the majority of the land) to allow for the creation of a Country park funded by enabling residential development on neighbouring land. The process envisaged two phases of residential development (H1 and H2) as well as the provision of a pub/hotel.
2. To facilitate the development of the second phase of housing it is necessary for the Council to enter into a further agreement with Bretts. The proposed principals of this agreement are set out in this report.
3. The pub/hotel was originally intended to be located in Conningbrook Manor and Conningbrook Barn, as these were considered suitable buildings for conversion, and planning permission was granted accordingly. Subsequent discussions with the proposed operator of the pub/hotel have now resulted in a requirement to change the location of this facility to adjoining land currently forming part of the country park.
4. In order to facilitate the development of the pub/hotel, it is necessary for the Council to grant an underlease to the proposed operator. In order to do this, the Council must obtain the consent of Bretts as the freeholder of the country park. The proposed terms of this consent are set out in this report.
5. In addition, it will be necessary to make an application to vary the section 106 agreement in respect of the country park in order to alter the area that the pub/hotel will occupy and to remove it from the provisions of the original section 106. Of course, planning permission will be required for the construction of the pub/hotel and the appropriate conditions and any further section 106 agreement will be part of the considerations for the planning authority.
6. The master planning of the Conningbrook Park - see elsewhere on the agenda - will complement the proposals envisaged and there will be synergies between the various works stream and such there will be close working interrelationships between the two.

### **Proposal/Current Position**

7. The first phase of residential development (H1) is now well underway and early completion units are now sold and occupied. All monies due to the Council under the Commercial Agreement for H1 have been received.



## **Housing Phase 2**

8. The land that makes up Phase 2 is shown approximately on the plan attached at the end of this report edged blue, the part of this land owned by the Council is shown coloured green.
9. The proposed agreement for H2 is on similar terms to the one that the Council entered into for H1. It will provide for Bretts to submit an application for outline planning permission for H2, at their own costs and risk. Once the planning permission has been granted, the site will be sold in the open market with the benefit of that planning permission.
10. The proceeds of the sale, after the deduction of the costs relating to the planning application and the obtaining of planning permission (including any section 106 costs), will be divided between Bretts and the Council as detailed in Exempt Appendix 1.
11. As with the agreement for H1, in order to exercise some control over the residential development that is enabled by the sale of the Council's land for H2, a "Design and Contract Forum" (DCF) will be set up. The purpose of this is to maximise the return from the housing development land, commensurate with achieving a high quality of development appropriate to this prestigious location in Ashford and complementing the Country park environment and the housing in H1. The DCF will be responsible for making decisions about the marketing strategy and appointing the residential developer to take the development forward. It is proposed that two senior representatives from the Council should sit on the DCF alongside representatives of Brett, and that these be the Head of Corporate Property and Projects and the Director of Finance and Economy.

## **Pub/Hotel**

12. Negotiations have been ongoing with the proposed pub/hotel operator for a number of years. In order to finalise these negotiations and to enable the operator to proceed with a planning application, approval of the proposed terms of the lease of the pub and the consent from the freeholder, is required.
13. The heads of terms for the grant of the lease and the licence to assign granting the consent are set out in Exempt Appendix 2.
14. Following a change of location of the proposed pub/hotel area to that originally set out in the original section 106 agreement (at the request of the proposed operator) it is going to be necessary for the Council to apply to amend the original section 106 agreement.
15. The land to be leased to the operator of the pub/hotel is shown approximately edged red on the plan attached to this report.
16. This application to amend the section 106 agreement will be submitted at the same time as the application from the proposed operator of the pub/hotel for the construction of the pub/hotel so that the planning authority can consider the applications concurrently.

17. The Council is being asked to provide a fully serviced site to the pub/hotel operator and it has been agreed that the costs of providing these services will be shared equally between the Council and Bretts.

## **Implications and Risk Assessment**

### **Planning risks**

18. The planning application for residential development at H2 carries a risk of failure although the risk is considered low as the future development of H2 was provided for in the original planning consent and an allocation within the Local Plan for 170 units at the site has been provided for. In additional mitigation the provisions of the agreement with Bretts will ensure that the application will be prepared in order to give the best prospect of success.
19. The planning application for the pub/hotel also carries planning risks in particular the loss of the current area of country park. It is possible that there will be a requirement for a like for like provision of a replacement area and officers are working to identify possible areas. Early dialogue with the planning department to establish likely requirements will be carried out following which, if necessary, discussions can be progressed with third parties.

### **Reputational risks**

20. The dual roles of the Council as landowner and planning authority need to continue to be kept clearly separated to avoid reputational damage.
21. The poor quality development of either the pub/hotel or the housing on H2 would be detrimental to the Council's reputation. The Council's representation on the DCF will ensure that this does not happen.

### **Financial risks**

22. As indicated there is a requirement for the Council to share in the costs of providing a fully serviced site for the pub/hotel. In the event that the pub/hotel does not progress (either by virtue of failure of planning or commercial agreement) then these costs may not be recovered by a subsequent land sale receipt. This risk is deemed to be quite low as the work to install the services will not be carried out until planning permission has been granted and negotiations with the proposed operator are already well advanced.

## **Equalities Impact Assessment**

23. None required.

## **Consultation Planned or Undertaken**

24. The planning process will involve the usual and full consultations.

## **Other Options Considered**

25. To not proceed with either H2 or the pub/hotel. If this option was taken, the leisure offer available to the public at the country park would not be enhanced by the inclusion of a pub/hotel. If we were not to proceed with H2, then H2 would not progress and the site would remain as it is currently.

26. To sell the Council's interest in the H2 land to Brett. It is considered unlikely that this would maximise the Council's receipt for the land, and would remove any control the Council had as land owner over the future development.

### **Reasons for Supporting Option Recommended**

27. The proposals put forward continue the joint working approach with Bretts that has worked well on H1.
28. The proposals will result in a capital receipt for the Council both from H2 and the pub/hotel site.

### **Next Steps in Process**

29. The next stage of the process is to finalise the legal documents with Bretts and the operator of the pub/hotel.
30. Further consideration of the costs and values of the relevant works and receipts is required (in particular the value of the H2 land) and this advice will be provided to the Portfolio Holder for Regeneration and Corporate Property and the Director of Finance and Economy in due course.

### **Conclusion**

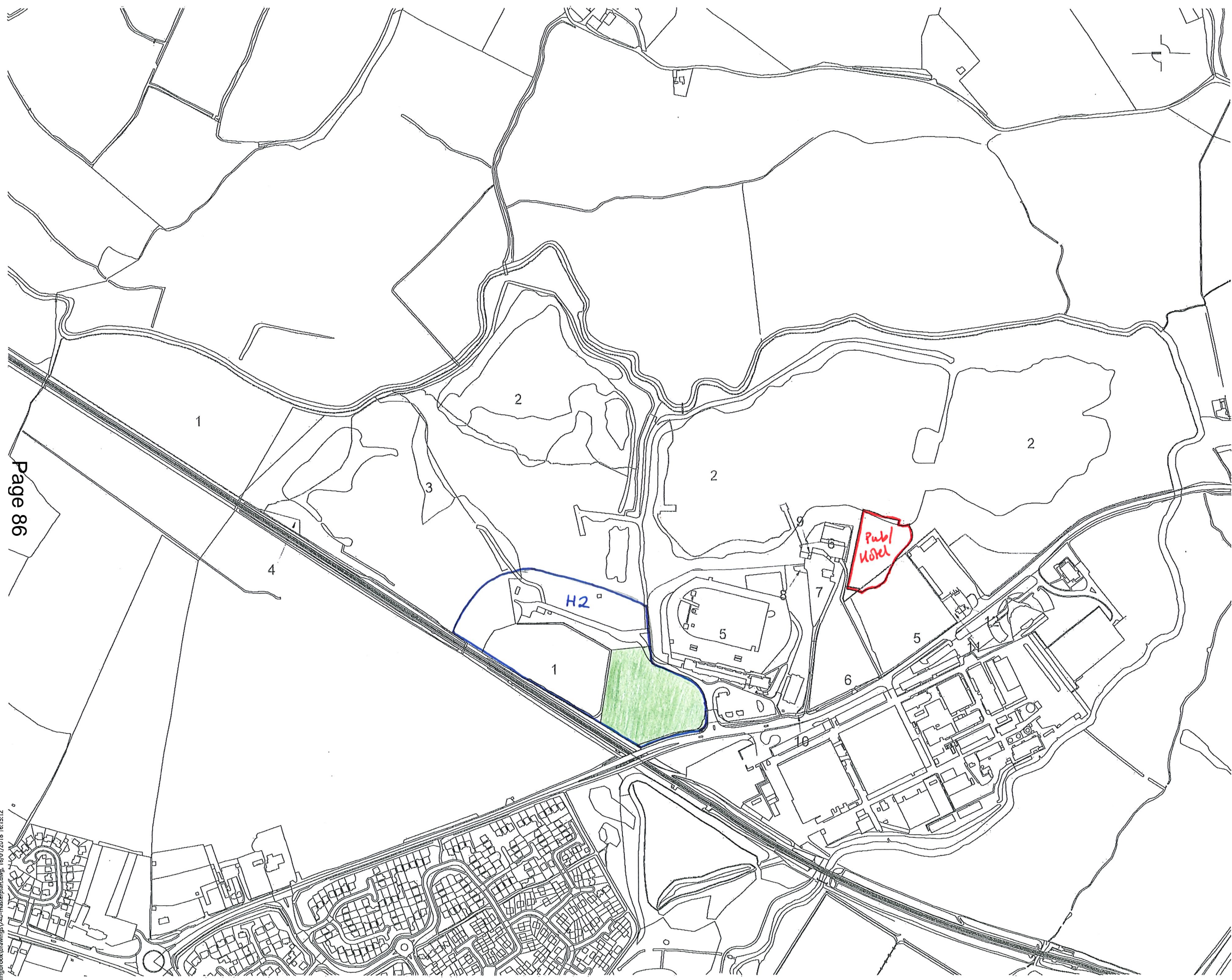
31. Members are asked to approve the recommendations as doing so will enable the next phases of the development at Conningbrook to come forward. The creation of a pub/hotel at the site will improve the offer available for visitors to the country park and will hopefully lead to an increase in visitors to the country park.

### **Portfolio Holder's Views**

32. This report carries forward the development of the Conningbrook lakes and the cooperation between Bretts ABC and Shepard Neame, and will I am sure produce a thriving community within the overall scheme. Therefore I am content with the legal arrangements as detailed in the report.

### **Contact and Email**

33. Paul Mckenner – paul.mckenner@ashford.gov.uk



**Notes:** This Drawing is produced from an enlarged OS extract.  
 Please report all discrepancies, errors and omissions.  
 Verify all dimensions on site before commencing any work on site or preparing shop drawings.  
 All materials, components and workmanship are to comply with the relevant British Standards, Codes of Practice, and appropriate manufacturers' recommendations that from time to time shall apply.  
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**Revisions:**

rev	date	revision

**Land Ownership**

1.	Brett Aggregate Ltd	K447985
2.	Brett Aggregate Ltd	K437772
3.	Brett Aggregate Ltd	K180376
4.	Brett Aggregate Ltd	K284514
5.	Ashford Borough Council	K858497
6.	Ashford Borough Council	K119852
7.	Ashford Borough Council	K119851
8.	Ashford Borough Council	K814044
9.	Ashford Borough Council	K814289
10.	Ashford Borough Council	K841586
11.	DR Duggan	K599518
12.	S & M Kent	K603955
13.	Unregistered Land (KCC)	

- Red Line - Pub / Hotel Land
- Brett Land Transferred to ABC
- Country Park Land
- Title Boundaries

**bdb**  
 Church Barn, Milton Manor Farm, Ashford Road, Canterbury, Kent, CT4 7PP.  
 T: 01227 458899 www.bdb-design.co.uk

PROJ019  
**BRETT GROUP**  
 Proposed Redevelopment of  
 Conningbrook Lakes  
 Willesborough Road, Ashford, Kent.  
 Pub / Hotel : Site Location Plan  
 1:2500 @ A1  
 January 2018 740-001

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

Document is Restricted

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**Agenda Item No:** 10  
**Report To:** Cabinet  
**Date of Meeting:** 11 July 2019  
**Report Title:** Householder Duty of Care Fixed Penalty Notice  
**Report Author & Job Title:** Mark Goodman, Environmental Contracts & Enforcement Manager  
**Portfolio Holder:** Cllr. Andrew Buchanan  
**Portfolio Holder for:** Environment and Land Management

**Summary:** Following a Defra consultation in January 2018, Duty of Care obligations have been altered with regards to householders.

Duty of care provides for the safe management of waste to protect health and the environment. It is an obligation to ensure that controlled waste is correctly disposed and not fly tipped.

When an individual appears to have failed to comply with their duty of care under section 34(2A) of the Environmental Protection Act, Local Authorities are empowered to issue a fixed penalty notice (FPN).

This legislation is a tool in influencing change in behaviour, and enables action towards householders whose decision leads to fly tipping. This report provides options for the amount of fine to be applied towards offenders.

Fly tipping can be an activity conducted by serious organised crime gangs. Householders can unwittingly use their services when engaging waste disposal representatives without checking their credibility.

**Key Decision:** Yes

**Significantly Affected Wards:** All wards in the Ashford Borough

**Recommendations:**

- I. **That a maximum level of default be applied for a fixed penalty notice for a householder failing to comply with their duty of care responsibilities (£400) and that a discounted amount (£300) be applied if payment is received inside 14 days.**

**Policy Overview:** Ashford, as an authority in enforcement of environmental offences, has the principal responsibility for enforcement of environmental crime. Currently this includes the Fly Tipping

Policy adopted 16/02/17.

**Financial Implications:**

Payment by recipients will be managed through the fixed penalty notice (FPN) management system.

Council is permitted to retain any revenue from fixed penalty notices paid. This revenue will be retained within Environment & Land Management Services for education and enforcement activities.

**Legal Implications:**

Officers within Environmental and Land Management will be delegated to issue FPN in accordance with legal process.

Stages of legal process will be managed through the fixed penalty management system.

Legal Services will provide prosecution services for recipients who fail to pay and remove their liability from prosecution, or elect to have the matter heard in court.

**Equalities Impact Assessment:**

An Equalities Impact Assessment is not required for this report.

**Exempt from Publication:**

**Relevant Papers:**

Waste Duty of Care Code of Practice

**Contact:**

mark.goodman@ashford.gov.uk – Tel: (01233) 330897



## Report Title: Householder Duty of Care Fixed Penalty Notice

### Introduction and Background

1. In January 2018, Defra published a consultation on “Proposals to tackle crime and poor performance in the waste sector & introduce a new fixed penalty for the waste duty of care”. The consultation was held between 15 January and 26 March 2018, with the summary of responses published on 3 July 2018.
2. Amongst other waste permitting issues, it considered introducing a fixed penalty notice (FPN) for breaches of the householder waste duty of care. The Environmental Protection Act already places obligations in Duty of Care requirements towards the practices of businesses for which a fixed penalty notice is available for non-compliance (currently £300). Until now householders have not had the same level of influence towards them. Fly tipping is an activity conducted by serious organised crime gangs. The impacts of fly tipping are well known.
3. Duty of care is the requirement for the producer of waste and user of a waste carrier to ensure the person/business is authorised, and that the waste is properly disposed. Businesses meet this requirement through conducting the checks and providing documentation (waste transfer notes) that identifies who carried the waste away and the location of disposal.
4. An FPN may be issued when an individual appears to have failed to comply with their duty of care under section 34(2A) of the Environmental Protection Act 1990 for example,
  - Where fly-tipped waste can be traced to a householder who is found to have failed to take reasonable steps to ensure they transferred the waste to an authorised person.
  - Where an unauthorised carrier is found to be carrying household waste that was transferred to them by the occupier of a domestic property.
  - Where an individual is found to have transferred their household waste to an unauthorised person at a site that does not have a permit or waste exemption.
5. A failure to comply by a householder in the above circumstances differs from that of a business. A business or carrier breaches a requirement in not presenting documents that prove they meet their duty of care. A householder would be approached as part of an investigation of a fly tip with evidence connecting them to the offence. It is due to this circumstance that officers recommend that Council consider the maximum of £400 be applied towards an offender.
6. Defra identify that two-thirds of fly-tipping incidents involve household waste. Frequently this is not disposed of by the individual but by the person whom

they engaged to dispose the waste. It is envisaged that reducing household waste to unauthorised carriers will lead to reduction in fly tipping and improvement in proper management of waste.

7. This legislation does not apply to residents who place their household waste or recycling out for collection by Council.
8. Defra have provided access to a summary of responses to the consultation available at:  
  
<https://www.gov.uk/government/consultations/reducing-crime-at-sites-handling-waste-and-introducing-fixed-penalties-for-waste-duty-of-care/outcome/government-response>
9. To support implementation of the fixed penalty notice, Defra produced a revised version of the Waste Duty of Care Code of Practice to provide clearer guidance to householders.

### **Proposal/Current Position**

10. Currently Ashford Borough Council does not issue a fixed penalty notice for this offence when breached by Householders.
11. The default amount for this fixed penalty notice is £200. Therefore without a Cabinet set level, this would be the amount applied.
12. The minimum amount for this fixed penalty notice is £150. It is considered that this amount will not deter householders from poor decision making.
13. The minimum default discounted amount for this fixed penalty notice allowed by statute is £120 if the fine is paid early. We have the ability to apply a discount or our choosing, and recommend a discount from £400 to £300 be applied if the fixed penalty notice is paid within 14 days.
14. The maximum full amount for this fixed penalty notice is £400. This is the recommended full amount which is in line with neighbouring authorities identified further below.
15. Ashford Borough Council currently has authority to issue fixed penalty notices for businesses that fail to comply with Duty of Care requirements, and for offenders identified disposing of controlled waste, 'fly tipping'.
16. An education phase has been conducted for Businesses and their responsibilities in duty of care. The same is being implemented for householders.
17. Online guidance has been provided by Government for local authorities in application of this law <https://www.gov.uk/government/publications/household-waste-duty-of-care-fixed-penalty-notice-guidance/guidance-for-local-authorities-on-household-waste-duty-of-care-fixed-penalty-notices> .
18. Information is being provided to residents on their obligations through a social media campaign and information to each household through 'Ashford for You'

Magazine.

19. Information is available on the council website with respect to householder duty of care.
20. Ashford Borough Council officers will conduct investigations into incidents gathering evidence including conducting interviews.
21. Ashford Borough Council will have the authority to determine whether or not to prosecute or issue a fixed penalty notice for a breach of legislation by a householder.

## **Implications and Risk Assessment**

22. The primary aims of the fixed penalty notice will be to;
  - Ensure householders comply with the law
  - Deter future non-compliance by driving change in attitudes
  - Lead to reduction in environmental criminal activity
  - Provide a penalty commensurate with the level of involvement in a criminal activity
23. Assessment will be conducted upon completion of investigation as to the most appropriate level of legal action towards an alleged offender.
24. Deciding factors in direction in legal action can be but not limited to;
  - The volume of waste disposed
  - Hazardous and environmental impacts
  - Repeat offender.

## **Equalities Impact Assessment**

25. The change to legislation does not impact on any particular equality group in our borough as it applies to all community members that are considered a householder under the Act.

## **Consultation Planned or Undertaken**

26. DEFRA conducted public consultation.
27. The #Scrapflytipping campaign conducted Kent wide in November 2018 highlighted the need to apply duty of care.
28. The implementation of this approach to enforcement will be communicated to householders across the borough through social media and media release.
29. Clear information and guidance will be provided on the Ashford Borough Council website.

## **Reasons for Supporting Option Recommended**

30. Without the approval of this recommendation Ashford Borough Council will be limited to the default amount of £200 when decision is made to issue a FPN as an alternative to prosecution.

31. Approving the maximum level will apply responsibility upon the householder commensurate with the level applied to the person disposing of the waste.
32. The following neighbouring districts have applied the respective amounts to this fixed penalty notice.
  - Dover District Council £400 reduce to £300 if paid within timeframe.
  - Swale Borough Council £400
  - Maidstone Borough Council £300
  - Thanet £200 no reduction – default position
  - Folkestone & Hythe £150 no reduction

### **Next Steps in Process**

33. A webpage will be available (is developed) for residents to access this information similar to that currently provided for businesses.
34. A social media campaign will be launched and repeated to drive education.
35. Street Scene & Open Spaces Officers are authorised to issue a Fixed Penalty Notice (FPN) to offenders.
36. A FPN will not be used where prosecution through the courts is more appropriate.

### **Conclusion**

37. The Cabinet is asked to agree the recommendation that a fixed penalty charge of £400 be applied for a householder duty of care offence and £300 be the default if paid inside 14 days.

### **Portfolio Holder's Views**

38. The result of the Defra consultation identified in this report, has demonstrated both the need and expectation that a mechanism be implemented that drives accountability of householders in helping prevent occurrences of fly tipping. In this current environment it has never been more important that householders take responsibility and protect the environment. It also highlights that there is a true financial cost to managing waste. The size of the fine gives weight to how serious society takes the problem of fly tipping & protecting the environment.

If Residents engage with unscrupulous operators, this is supporting a criminal offence as well as damaging the countryside. It makes sense for authorities to take a tougher stance, in the belief that our residents will change their behaviours and conduct checks, to ensure those who they engage to dispose of their waste are properly licensed and can provide documents to prove their duty of care.

### **Contact and Email**

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**Agenda Item No:** 11  
**Report To:** CABINET  
**Date of Meeting:** 11 July 2019  
**Report Title:** Council Tax Reduction Scheme 2020/21  
**Report Author & Job Title:** Peter Budden, Revenues & Benefits Manager  
**Portfolio Holder:** Cllr. Neil Bell  
**Portfolio Holder for:** Finance

**Summary:** The existing scheme for Council Tax Reduction (CTR) has existed in its current form since 1 April 2017. This report sets out draft scheme options that can form the basis for consultation.

The proposals seek to simplify the scheme for both the claimant and the administrator. The scheme will operate within the existing cost envelope and the exceptional hardship scheme has been enhanced to protect claimants who have been disadvantaged by the proposed changes.

**Claimants of pensionable age are not affected by the changes to the scheme.**

The Council's scheme is the only one in Kent that offers additional protection to the Disabled and Carers; these protections will continue in the new scheme.

In order for any changes to be adopted a full consultation exercise is necessary, and this report will kick off this process.

**Key Decision:** NO

**Significantly Affected Wards:** All

**Recommendations:** **The Cabinet is recommended to:-**

- I. Agree the options to be put forward for public consultation and the proposed form of consultation.**

**Policy Overview:** Cabinet must approve a Council Tax Reduction Scheme by 11 March 2020 for the 2020/21 financial year.

**Financial:** None – the scheme is designed to be cost neutral and any

**Implications:** savings generated will be set aside to provide a safety net within the scheme.

**Legal Implications** None

**Equalities Impact Assessment** See attached appendix – a full EIA will be completed for the final proposed scheme.

**Other Material Implications:** No

**Exempt from Publication:** **NO**

**Background Papers:** Appendix 1 DRAFT Equalities Impact  
Appendix 2 DRAFT Consultation document

**Contact:** Peter Budden [peter.budden@ashford.gov.uk](mailto:peter.budden@ashford.gov.uk)

## Report Title: Council Tax Reduction Scheme 2020/21

### Introduction and Background

1. In December 2016 Cabinet considered and approved the Council's Council Tax Reduction (CTR) Scheme [also known as Council Tax Support] for 2017/18. It resolved:
  - a. To increase the minimum contribution for working-age customers to 17.5% (from 10%), except disabled/carer customers.
  - b. To remove Second Adult Rebate.
  - c. To introduce a capital limit of £10,000 (previously it was £16,000).
  - d. To introduce a standard non-dependant deduction of £10.00.
  - e. To introduce a band D cap to CTR cases.
  - f. To introduce a minimum income floor for self-employed cases.
  - g. To introduce an exceptional hardship scheme.
2. Cabinet agreed to reduce the maximum level of support for working-age applicants from 90% to 82.5%, whilst maintaining the maximum level of support for working-age disabled/carer applicants at 95%.
3. Since the introduction of the scheme there have been changes in welfare reform that have required the Council to review the existing scheme and the impact that it will have on residents and the authority in the future. There is a Kent-wide working group looking at this issue together.
4. The introduction of Universal Credit full service from June 2018 in the district has had an impact on the Council's CTR scheme increasing the team's workload. This is a trend being recognised nationally as more schemes are adapted to meet the changing needs of residents.
5. Regulations require that in the event that there are proposals to make significant changes to the scheme there will be a requirement for a full public consultation and agreement at full Council by 11 March 2020.
6. Any proposed change would only relate to working-age residents as the pensionable age regulations are maintained by Central Government and out of scope for local review.

#### *Impact of the rollout of Universal Credit*

7. From June 2018 working-age residents that apply for 'legacy benefits' (Income Support, Jobseekers Allowance, Employment Support Allowance, Working & Child Tax Credits and Housing Benefit) in the Ashford Job Centre area have had to claim Universal Credit instead of the legacy benefits.
8. Under Universal Credit claimants will receive once monthly payments encompassing their qualifying benefits. This does not include Council Tax Reduction which remains an administrative function of the Local Authority.

9. Research in areas where Universal Credit rolled out in earlier years has identified trends in three key areas:
  - Low take up of customers in receipt of Universal Credit applying for Council Tax Reduction.
  - Large numbers of change in circumstances received by Councils via DWPs data hub. Approximately 40% of UC cases will have an adjustment each month (this results in an increase in claims administration work for the Council).
  - Collection difficulties with multiple demand notices being issued.
10. National trends have demonstrated that on average Universal Credit customers receive at least 8 change notifications in a year. Under the existing scheme each change to income would produce a new demand notice for the customer; amending their instalments on a regular basis and making it difficult to collect via Direct Debit due to rules around the administration.
11. Multiple changes for the customer in Universal Credit result in a knock-on effect of multiple changes for the customer in their Council Tax Reduction award. Using the existing scheme, which is a calculation on tapered income, any small change to income can amend the CTR award.
12. Regular changing of instalments can make it difficult for a customer to use Direct Debit as a payment method, due to the lead-in times that the Council needs to advise the customer of a change before taking payment. Multiple demand notices can also be confusing for residents to keep up with.
13. Regular changes can also provide the customer with difficulties in budgeting as they would not have a regular payment amount known for their Council Tax. This can lead to difficulties in paying which leads to further action and potential costs to vulnerable residents.
14. Multiple changes have demonstrated to have a significant negative impact on administration and billing for the Local Authority in areas where UC has already rolled out. Each change that results in a new demand notice needs to be administered by an officer and the demand notice needs to be produced, either by post or email, and sent to the charge payer.
15. If a resident has a monthly change it may not be possible to collect payments via Direct Debit due to the regular changes. This has been recognised nationally where collection rates for CTR cases have reduced significantly, having a negative impact on collection and recovery teams.
16. Therefore when reviewing the current scheme it is important to design a scheme that mitigates for the impacts of these issues, making the scheme more understandable for the customer and simpler to administrate.

## **Proposed Scheme**

17. It is proposed to introduce a Banded Scheme which means claimants are allocated to a range of income bands which are then entitled to a certain level of discount. As long as the claimant's income remains within the band then their awarded discount will be unchanged, in the event that they move beyond the band their entitlement is reviewed and a new discount calculated and applied to their bill.



18. Banded schemes have become more common in CTR in areas where Universal Credit was rolled out earlier. One such example is the London Borough of Sutton. Locally in Kent, Folkestone & Hythe (as well as Dartford and Sevenoaks) have introduced banded schemes.
19. A banded scheme would reduce the number of changes to entitlement and improve opportunities for billing and collection. Whilst the Council still needs to review each change this simplifies the assessment process for officers, treating CTR more as a discount and moving away from it being a benefit with traditional benefit rules.
20. A banded scheme would enable the resident to budget their payments as the scheme could operate using a simpler formula that could be used by residents. An example of this can be seen in Table 1.

**Table 1 – Proposed Banded Matrix**

Table 1 Band	Single	Couple	1 Child	2+ children
<b>80% discount</b>	0.00 to 82.10	0.00 to 122.10	0.00 to 172.10	0.00 to 222.10
<b>65% discount</b>	82.11 to 123.15	122.11 to 163.15	172.11 to 213.15	222.11 to 263.15
<b>50% discount</b>	123.16 to 164.20	163.16 to 204.20	213.16 to 254.20	263.16 to 304.20
<b>35% discount</b>	164.21 to 205.25	204.21 to 245.25	255.20 to 295.25	305.25 to 345.25
<b>20% discount</b>	205.26 to 246.30	245.26 to 286.30	295.26 to 336.30	345.26 to 386.30

These income bands have been set using the National Living Wage hourly rate (£8.21) x 10 hours/15 hours/20 hours/25 hours/30 hours.

The disabled/carers scheme would follow the 2+ children income bands, regardless of household, and the percentages would be 10% higher in each band, i.e. 90%/75%/60%/45%/30% discount.

21. A banded scheme allows a resident to place their total income into a category. They would then use this to work out how much Council Tax they are due to pay. A banded scheme also considers that small changes are less likely to have impacts on the CTR award. Therefore less changes are needed for the issuing of demand notices throughout the year as only significant changes between bands would produce a change in award. This would benefit the customer with less changes to their CTR and less demand notices being produced.
22. It is recognised that such a scheme may impact detrimentally on some residents near the bottom of a band. The Council will continue to operate its Exceptional Hardship Payment scheme to support residents showing a need for additional support in their payments.

*Principles of a new scheme:*

23. The main features of a new scheme proposed to be applied across the district are as follows:
  - i. The scheme has been designed to be cost neutral. Whilst there is an expected saving in the overall expenditure as a result of increasing the minimum contribution levels to 20% and 10% (from 17.5% and 5% respectively), it is anticipated that this saving will be re-invested into the scheme by awards of exceptional hardship, in order to alleviate any negative impacts on particular customers who experience hardship.

By making these changes, it is also bringing our CTR scheme more into line with other schemes locally (in Kent). Ashford is the only district in Kent that currently has additional protection for disabled/carers customers. Whilst the new proposal is less generous in this protection, it still affords protection to this group as the proposed minimum level of contribution is 10% (as opposed to 20%), and it still disregards all disability benefit income from the income calculation;

ii. The changes can only be made to the working-age scheme as the current scheme for pensioners is prescribed by Central Government;

iii. The current means-tested scheme will be replaced by a simple income grid model as shown by table 1;

iv. The levels in each grid will be determined based on:

1. Overall expenditure of the scheme;
2. Ensuring maximum number of applicants are protected; and
3. Ensuring that any losses to individual applicants are minimised.

v. It is proposed that the highest level of discount will be set at 80% (as opposed to the current 82.5%) of liability and that all current applicants that are in receipt of a 'passport benefit' such as Income Support, Jobseeker's Allowance (Income Based) and Employment and Support Allowance (Income Related) receive maximum discount. This is therefore an increase of 2.5% in the minimum level of contribution that each customer has to pay (from 17.5% to 20%);

vi. It is also proposed that the highest level of discount will be set at 90% (as opposed to the current 95%) of liability for disabled customers, and for carers. This is therefore an increase of 5% in the minimum level of contribution that each customer has to pay (from 5% to 10%). Where hardship is caused then an exceptional hardship application will be available to support them

vii. The precise levels for all other bands will be determined during the modelling process – this is an ongoing process and will be undertaken regularly through the year to ensure that the final decision of the Council is as accurate as possible and protects the majority of applicants from significant change (either positive or negative)

However, the proposed new scheme does limit the amount of support to families with 3 or more children, as the maximum income band is for families with 2 children. This is in line with central government and Universal Credit principles. This will mean that many families with 3 or more children will see a significant reduction in the amount of CTR they receive. These families tend to have larger incomes so many will be able to pay, but where hardship is caused then an exceptional hardship application will be available to support them;

viii. The scheme framework allows for variation in household size with the levels of income per band increasing where an applicant has a partner, and/or dependants;

- ix. Where an applicant has non-dependants living with them, the new scheme will make a standard deduction from any entitlement, as in the current scheme;
- x. To encourage work the existing earnings disregards will be replaced by a standard £25 per week disregard across all applicant types. This is to incentivise work, which is a key priority of any scheme;
- xi. Disability benefits such as Disability Living Allowance and Personal Independence Allowance will continue to be disregarded and, in addition, Carers Allowance will also be disregarded; again providing additional protection with the scheme. A disability disregard of £40 will also be included for all cases where there is a qualifying disability benefit in payment;
- xii. Carers Allowance will be disregarded as an income within the scheme.
- xiii. Child Benefit and Child maintenance will continue to be disregarded within the scheme;
- xiv. The total disregard on war pensions and war disablement pensions will continue;
- xv. It is proposed that the capital limit used will be in line with the current scheme;
- xvi. Extended payments will be removed; and
- xvii. Student rules will be amended in line with Council Tax legislation. Where there is a liability a reduction will be considered.

## **HOW THE NEW SCHEME FRAMEWORK WILL ADDRESS THE PROBLEMS OF FULL SERVICE UNIVERSAL CREDIT**

24. Due to the simplicity of the proposed new scheme framework and by taking a more 'Council Tax discount approach', it will help to address the problems associated with Universal Credit as follows:

i. **The scheme framework will require a simplified claiming process.** In the case of Universal Credit applicants *any* Universal Credit data received from the Department for Work and Pensions will be treated as a claim for Council Tax Reduction. Where information is received from DWP, the entitlement to Council Tax Reduction will be processed automatically without the need to request further information from the taxpayer. This will have the following distinct advantages namely:

- a). **Speed of processing** Claims will be able to be calculated automatically and promptly without the need to request further information which inevitably leads to delays;

b). **Maximising entitlement to every applicant** As there will no requirement for Universal Credit applicants to apply, entitlement to Council Tax Reduction will be maximised with a reduced risk of loss of discount or the need for backdating;

c). **Maintenance of collection rates** In most cases the new scheme will avoid constant changes in discount, the need for multiple changes in instalments and therefore assist in maintaining the high collection rates currently achieved.

ii. **The income bands are wide avoiding constant changes in discount.** The current Council Tax Reduction scheme is very reactive and will alter even if the overall change to the person's income is small. This is leading to constant changes in Council Tax liability, the need to recalculate monthly instalments and the requirement to issue a large number of Council Tax demands. The effect of this is that Council Tax collection is reduced where Universal Credit full service has been introduced.

The new scheme, with its simplified income banded approach will have the following advantages:

a). Only significant changes in income will affect the level of discount awarded (unless on the cusp of a band); and

b). Council Taxpayers who receive Council Tax Reduction will not receive multiple Council Tax demands and adjustments to their instalments

iii. **A modern approach to changes in entitlement.** The current Council Tax Reduction scheme is based on an old-fashioned benefit approach which alters entitlement on a weekly basis. The new scheme framework is designed to reflect a more modern approach, notwithstanding that the number of changes will be reduced, where discount changes it will be effective from the day of the change rather than the Monday of the following week;

iv. **A simpler scheme.** The current Council Tax Scheme document is large, benefits based and unduly complex. The intention is to make the new scheme document simpler, reducing the level of complexity and more understandable to applicants.

## Implications and Risk Assessment

25. Ashford Borough Council is currently the only District Council in Kent that provides additional protection to the disabled, and whilst changes are proposed, the new scheme will still be the only one in the county that offers additional protection to the disabled and carers.

26. The estimated total level of expenditure for the Council Tax Reduction scheme for 2019/20 is £7.4 million (£3.3 million of which is in respect of pensionable age scheme, which is not part of this review). Therefore, the working-age expenditure is currently £4.1 million.

27. The cost of the scheme is split between Ashford Borough Council and the major precepting authorities - Kent County Council, Kent Police and Kent Fire. The Council's share of the cost is approximately 10%.
28. The intention is to maintain expenditure at current levels (by re-investing any savings by payments of exceptional hardship) and to incentivise work. The modelled expenditure for 2020/21 based on the new scheme is:

Working-age (non-disabled) expenditure is currently £1.6 million. A reduction in CTR of 2.5% for working-age (non-disabled) customers will reduce the level of discount awarded by approx. £50,000.

Disabled/carer expenditure is currently £2.1 million. A reduction in CTR of 5% for disabled/carer customers will reduce the level of discount awarded by approximately £100,000.

The intention is to re-invest this saving through exceptional hardship payments where necessary to focus support to claimants in greater need.

29. Early modelling analysis suggests the following impacts on different groups (this analysis will be subject to change):

**Table 2: Indicative Modelling**

Household group	Inc/Dec in expenditure per group	Current Caseload	New Caseload	Average annual gain/loss (£)	Average weekly gain/loss (£)
Single	+15,742	113	123	+139.31	+2.68
Couple	+1,062	16	17	+66.35	+1.28
Family with 1 child	+32,737	175	209	+187.07	+3.60
Family with 2+ children	-85,066	459	392	-185.33	-3.56
Passported claim	-28,417	713	713	-39.86	-0.77
Disabled passported claim	-97,004	1889	1889	-51.35	-0.99
Disabled earnings	-26,160	260	213	-100.62	-1.93
Totals	-187,107	3625	3556	-51.62	-0.99

The table above excludes customers in receipt of Universal Credit. It is also only indicative and is subject to change once more detailed breakdown of the groups is available. Further changes will be made to ensure that average weekly gains/losses are minimised.

30. As the table demonstrates, the biggest impact would be on families with 3 or more children, as would be expected. The operation of the exceptional hardship scheme can mitigate some of these impacts. The overall saving of circa £180,000 is attributed mainly to the reduction in maximum level of support from 82.5% to 80% and 95% to 90%, as detailed earlier. Whilst the changes to the scheme in terms of making it a banded scheme are estimated to be cost neutral.
31. The new scheme framework will inevitably change the amount of discount to some applicants. The modelling suggests that whilst a number will have an

enhanced award, where any award is reduced applicants will be able to apply for an exceptional hardship payment.

**Table 3: summary of the perceived risks**

Perceived risk	Seriousness	Likelihood	Preventative action
Council not able to maximise collection due to increased demand notices	High	Medium	To review the scheme so that small changes in income are not reflecting in multiple changes to a CTR award with multiple demand notices.
Council not able to recover increase in arrears	Medium	Medium	To utilise resource effectively and administer hardship schemes appropriately.
Negative public reaction to proposals	Medium	Medium	Response from consultation will be taken into consideration when the final scheme is recommended.
Potential legal challenge to 2020/21 CTRS	Medium	Low	Ensure full consultation has taken place with genuine options and that a proper equality impact assessment has been undertaken.

### Equalities Impact Assessment

32. A full Equality Impact Assessment, together with the results of the consultation, will be presented to Cabinet once the consultation is closed. At this stage, Cabinet is only being asked to agree draft scheme options that can be put out to consultation.
33. The draft Initial Stage Equality Impact Assessment has been attached (**Appendix 1**) for reference.

### Consultation Planned or Undertaken

34. As the proposals are a fundamental change to the current approach, full consultation is required with the public and with precepting authorities.
35. It is proposed that a consultation is carried out specifically writing to all current working-age CTR customers (approx. 4,000), as well as targeting a sample of approximately 2,000 Council Tax payers who are not CTR customers. The consultation questionnaire will only be available on the Council's web site and

stakeholders such as CAB and Shelter will be directly contacted via email and invited to respond.

36. The consultation will be web-based. The questionnaire will be anonymous but will ask for basic personal details such as age, disability and CTR entitlement. This will enable the Council to demonstrate the diversity of groups feeding into the process.
37. Social media outlets and local press will be utilised to promote the consultation.
38. It should be noted that whilst there is a risk that customers could complete more than one questionnaire to try to influence results; this risk is felt to be low. There was no evidence of this during previous CTR consultations. In addition, to completely exclude views of Council Tax payers who have not been specifically invited to respond but who have a view would not be fair.
39. The timeline for the consultation is drafted in table 2. Dates for presenting the final scheme will be confirmed at a later date but the scheme must be agreed and published by 11 March 2020.

**Table 4: Timetable**

Key dates	Activity
5 August 2019	Open consultation
30 September 2019	Close consultation
<i>December 2019</i>	Present results and scheme to Cabinet
11 March 2020	Deadline for publishing agreed scheme for 2020/21
1 April 2020	New scheme live

40. The consultation will offer the choice of remaining with the existing scheme or a new banded scheme, offering examples as part of the information available. The draft Consultation questionnaire has been attached (**Appendix 2**) for reference.

### **Other Options Considered**

41. To retain existing scheme.

### **Reasons for Supporting Option Recommended**

42. As set out in the report, it will be a simpler scheme to administer and understand, and it will further incentivise work. In terms of legal implications, 11.1 Schedule 1A (5) of the Local Government Finance Act 1992 as amended requires local authorities to consider the following:

*For each financial year, each billing authority must consider whether to revise its scheme or to replace it with another scheme.*

*The authority must make any revision to its scheme, or any replacement scheme, no later than 11th March in the financial year preceding that for which the revision or replacement scheme is to have effect.*

43. In addition, where there are changes to the scheme, the authority is obliged under Schedule 1A (5) (4) *if any revision to a scheme, or any replacement scheme, has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement must include such transitional provision relating to that reduction or removal as the authority thinks fit.*

### **Next Steps in Process**

44. To carry out public consultation.

45. Once consultation is completed, to consider the consultation responses and to propose a final scheme to Cabinet in December 2019.

### **Conclusion**

46. There is a need to carry out public consultation in respect of the proposed changes to the Council Tax Reduction Scheme for 2020/21.

### **Portfolio Holder's Views**

47. To be given at meeting.

### **Contact and Email**

Peter Budden, Revenues & Benefits Manager  
[peter.budden@ashford.gov.uk](mailto:peter.budden@ashford.gov.uk)



## Equality Impact Assessment Templates

### Quick Guidance Notes

#### Stage 1. Screening Stage

Stage 1 of the template is classed as the Screening Stage. This should always be completed. **Remember it should be an integral part of policy development not a last-minute thought.**

At this stage you should be assessing obvious negative/positive impact or gaps in knowledge about likely impact. It should be a relatively short process which makes use of any previous consultation results, any differences in user satisfaction among groups, personal knowledge and experience, research, reports, existing equality data about service usage, internet searches, internal and external specialist advice, employees with previous experience of similar work, known inequalities etc. **If the likely impact on a particular group is unknown, then action should be taken to acquire this information.**

If the impact is positive (i.e. the outcome will benefit an Equality Group) then no further action is required. If no positive or negative impacts are identified then no further action is required. If the activity has the potential to cause adverse/negative impact or discriminate against different groups in the community it will require a full impact assessment (Stage 2).

In some cases it might be easy to put in place simple adjustments to eliminate any negative impact while you are working through the screening process, especially if you already have clear evidence/consultation and the process is an integral part of your policy development. It should only be done if you are absolutely confident that no other impact will be identified. If you choose to do this you should clearly document the reasons/evidence and put in place monitoring to ensure action is taken if unanticipated impact occurs.

#### Stage 2. Full Equality Impact Assessment Report

Stage 2 of the EIA process guides officers through the full impact assessment process, ensuring that research/consultation with relevant equality groups has been carried out and leads to an action plan aiming to minimise the negative impact/s.

Consultation involves engaging with representatives from equality groups who are likely to be affected by the activity. It could involve engaging with employees and Members, trade unions, other public bodies, voluntary and community groups. It is important to ensure sufficient time and resources are dedicated to the consultation process to encourage full participation. You should refer to the Consultation Toolkit to ensure your consultation follows good practice. The Focus system should also be used and is able to give you information relating to other consultation activities across the council as well as existing groups/volunteers you may be able to access.

#### Take a Proportionate Approach

Your approach to assessing the equalities impact of a policy, strategy or service should be proportionate to the likely impact it will have. Issues you should consider include:

- the number of people likely to be affected
- the size of the budget/amount of money involved
- the extent of the proposed change
- wider public policy implications

This means you will assess more rigorously policies which are likely to have a significant impact on the local community.

**Additional guidance notes to help you through the process are available in the Equality Impact Assessment Guidance Document.**

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# Stage 1 and 2 Equality Impact Assessment Templates

Directorate: Finance Service: Revenues & Benefits

Accountable Officer: Peter Budden

Telephone & e-mail: 01233 330698 peter.budden@ashford.gov.uk

Date of assessment: 17<sup>th</sup> June 2019

Names & job titles of people carrying out the assessment: Peter Budden

Name of service/function/policy etc: Council Tax Reduction Scheme
Is this new or existing? Replacement of existing scheme

## Stage 1: Screening Stage

### 1. Briefly describe its aims & objectives

The Council Tax Reduction scheme provides support for certain taxpayers who have a low income.

Where entitled, the scheme provides a reduction in liability for Council Tax.

The replacement scheme is designed to overcome the significant administrative complications with the introduction of Universal Credit within the area. The main issues are;

- The current scheme is too reactive to the constant changes in Universal Credit. With the frequent changes in liability, taxpayers receive multiple Council Tax demands which in turn has a negative effect on the taxpayer's ability to manage their finances and on collections levels;
- There is a need to make the scheme simpler and for taxpayers to be encouraged to claim a reduction; and
- The scheme needs to be future proofed to avoid constant amendments.

### 2. Are there external considerations? (legislation/government directive etc.)

Yes - the legislation (Local Government Finance Act 1992 as amended) allows the Council to amend the scheme for working age applicants only.

The scheme for pension age applicants is prescribed by Central Government and cannot be amended.

Schemes must be amended by 11<sup>th</sup> March of the financial year preceding the year of implementation.

All changes to schemes are subject to consultation with both precepting authorities and the public.

### 3. Who are the stakeholders and what are their interests?

The stakeholders are:

- Working age Council Taxpayers who have a low income (who may make an applicant for reduction);
- The District Council ,who is responsible for administration of the scheme, and also receives a proportion (10%) of Council Tax receipts to provide services for local residents;
- The Major Precepting Authorities (Kent CC; Police & Crime Commissioner and Fire & Rescue) who receive the majority of Council Tax receipts to provide services for local residents;

### 4. What outcomes do we want to achieve and for whom?

Any new scheme must:

- Minimise any potential loss to existing applicants;
- Reduce administration costs which will occur through the roll out of Universal Credit;
- Ensure that collection rates are maintained in respect of Council Tax; and
- Prevent future changes in schemes

### 5. Has any consultation/research been carried out or relied upon?

Yes

Consultation is to be carried out in accordance with the legislation.

Major preceptors will be consulted as well as the public and interested groups.

Consultation will be carried out over the Summer Time and the results will be analysed and taken into account when the scheme is decided by full Council.

**6. Are there any concerns at this stage which indicate the possibility of inequalities/negative impacts?** (Consider and identify any evidence you have - equality data relating to usage and satisfaction levels, complaints, comments, research, outcomes of review, feedback and issues raised at previous consultations, known inequalities) If so please provide details.

Major changes to the scheme as proposed may affect applicants. Modelling of scheme options will be undertaken throughout 2019 up to the adoption by the Council.

Most applicants will experience a minimal change to their entitlement between £0.00 and £1.50 per week gain or loss.

The Council maintains an Exceptional Hardship Payment Scheme which can be applied for by any applicant. Where any applicant experiences exceptional hardship, further support can be given.

**7. Could a particular protected characteristic be affected differently in either a negative or positive way? (Positive - it could benefit, Negative - it could disadvantage, Neutral - neither positive nor negative impact or Not sure?)**

	Type of impact, reason & any evidence
Disability	Neutral - disability benefits will be disregarded as income and a further income disregard granted where a person would have met the previous criteria for awarding disability premium, enhanced disability premium, disabled child premium or severe disability premium
Race (including Gypsy & Traveller)	Neutral
Age	Only working age applicants will be affected
Gender	Neutral - based on current modelling both male and female applicants can either receive increased or decreased support
Transgender	Neutral
Sexual Orientation	Neutral - sexual orientation has no bearing on the scheme
Religion/Belief	Neutral - religion or belief orientation has no bearing on the scheme
Pregnancy & Maternity	Neutral - although it should be noted that a third or subsequent child will not affect entitlement
Marriage/ Civil Partnership Status	Positive- couples or persons in Civil Partnerships / relationships are able to have a higher level of income than singles to receive the same level of support.

**8. Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?**

Carers	Positive effect as Carers Allowance will be disregarded as an income under the scheme
Low income taxpayers - will be able to apply as in the current scheme	Neutral effect - as low income applicants can still apply for a support under the scheme
Applicants who have more than two dependants	Negative because we'll no longer be protecting larger families who's children were born before 1 Apr 17.

	No additional support will be provided to a third or subsequent dependant.
Applicants who have non dependants	Neutral because the amount of charge for a non-dependant is not changing
Disabilities	Positive effect as all applicants who receive a disability benefit such as DLA, PIP etc will have the income disregarded <b>and</b> a further disregard of £40 per week will be taken from their net income potentially allowing further support to be granted

**9. Are there any human rights implications?**

No

**10. Is there an opportunity to promote equality and/or good community relations?**

Yes - the new scheme will make understanding the scheme easier and will treat all working age applicants equally, with an added protection for disabled & carer applicants.

**11. If you have indicated a negative impact for any group is that impact legal? (not discriminatory under anti-discrimination legislation)**

Yes

**12. Is any part of this policy/service to be carried out wholly or partly by contractors?**

No

Please note that normally you should proceed to a Stage 2: Full Equality Impact Assessment Report if you have identified actual, or the potential to cause, adverse impact or discrimination against different groups in the community. (Refer to Quick Guidance Notes at front of template document)

**13. Is a Stage 2: Full Equality Impact Assessment Report required?**

Yes

**14. Date by which Stage 2 is to be completed and actions**

## Stage 2: Full Equality Impact Assessment Report

15. Summarise the likely negative impacts for relevant groups identified in the screening process (Refer to Stage 1, Questions 7-8, start to think about possible alternatives)

	Type of impact, reason & any evidence
Disability	Neutral
Race (including Gypsy & Traveller)	Neutral
Age	Only working age applicants will be affected
Gender	Neutral - based on current modelling both male and female applicants can either receive increased or decreased support
Transgender	Neutral
Sexual Orientation	Neutral - sexual orientation has no bearing on the scheme
Religion/Belief	Neutral - religion or belief orientation has no bearing on the scheme
Pregnancy & Maternity	Neutral - although it should be noted that a third or subsequent child will not affect entitlement
Marriage/ Civil Partnership Status	Positive- couples or persons in Civil Partnerships / relationships are able to have a higher level of income than singles to receive the same level of support.
Carers	Positive effect as Carers Allowance will be disregarded as an income under the scheme
Persons in receipt of Support Component of ESA	Positive effect as the Support Component of Employment and Support Allowance will be disregarded as an income under the scheme
Low income taxpayers - will be able to apply as in the current scheme	Neutral effect as low income applicants can still apply for a support under the scheme
Applicants who have more than two dependants	The scheme will provide additional support to families up to and including two dependants. No additional support will be provided to a third or subsequent dependant. This is in line

	with Central Government benefits such as Housing Benefit, Tax Credits and Universal Credit
Applicants who have non dependants	Positive effect as the new scheme will not make any deductions where there are non-dependants
Disabilities	Positive effect as all applicants who receive a disability benefit such as DLA, PIP etc will have the income disregarded <b>and</b> a further disregard of £xx per week will be taken from their net income potentially allowing further support to be granted

**16. What consultation/involvement activities have taken place or will need to take place with groups/individuals from each relevant protected characteristic or equality group? (refer back to Stage 1, Question 5)**

The scheme has been subject to consultation as follows:

- Major precepting authorities - the County Council, Fire & Rescue Service and the Police and Crime commission has been consulted on the new scheme. No objects have been received;
- A full public consultation has been undertaken between dd/mmm/yyyy and dd/mmm/yyyy.

**17. What other research has been or will need to be carried out to help you with the assessment?**

Modelling of the scheme will continue to be undertaken until final approval by full Council.

**18. Results of research/consultation (what does it tell you about the negative impacts?)**

Consultation results

**19. Conclusions & Action Planning**

You should explain what and how negative impacts have been reduced or removed and how positive impacts are to be improved or included.

Your final decisions or recommendations may include making immediate changes, stopping or proceeding with a new policy, justifying a decision or adding objectives/targets to the service development plan/equality scheme (long term changes).



You could use the template below to record your conclusions/actions. You should also make reference to any additional monitoring or research that is still required, or was not retrievable at the point of assessment, but will be required in subsequent reviews or in order to complete actions.

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Impact/Issue	Action/Objective/Target or Justification	Will this remove negative impact?	Resources	Lead Officer & Timescale
Reductions in support	The Council will operate an Exceptional Hardship Fund. Any applicant who receives less support, may apply for additional support. A careful examination will be made of their circumstances (income and essential expenditure). Where it is determined that they are experiencing exceptional hardship, further support may be granted	Yes	Staff have been fully trained to administer the Exceptional Hardship Fund	

**20. How will you monitor, evaluate and check the policy in the future?**

The scheme will be monitored on an ongoing basis after implementation in April 2020

**21. When will a review take place?**

Constantly.

**Please complete**

We are satisfied that a full impact assessment has been carried out.

Completed by:

Date:

Role:

Countersigned by Head of Service:

Date:

# Example

## Council Tax Reduction Scheme 2020/21

### Consultation Questionnaire

## Background to the consultation

### What is this consultation about?

Each year the Council has to decide whether to change the Council Tax Reduction scheme for working age applicants in its area. This year the Council has decided that changes should be made to significantly change the Council Tax Reduction scheme due to the introduction of Full-Service Universal Credit within the Ashford area. In effect the traditional link between Housing Benefit (which will no longer be available to new working age claimants, with some exceptions) and Council Tax Reduction will no longer exist and it is essential that the scheme is changed to meet future requirements, to reduce administration costs and to ultimately prevent any additional costs being added to the Council Tax

### What is Council Tax Reduction?

Council Tax Reduction is a discount for Council Tax. The level of discount is based on the income of the household. Currently the maximum discount is 82.5% of Council Tax for working age households, 95% for working age disabled & carer households and up to 100% for pensioners.

### Why is a change to the Council Tax Reduction scheme being considered?

In April 2013, the Council Tax Benefit Scheme was replaced by a new Council Tax Reduction Scheme. Council Tax Benefit had been funded by the Department for Work and Pensions and supported people on low incomes by reducing the amount of Council Tax they must pay.

The Council Tax Reduction scheme is determined locally by District Councils rather than the Department of Work and Pensions. Although the Government initially provided funding for the scheme, the funding has reduced each year in line with the reduction in Revenue Support Grant provided to councils.

People can claim Council Tax Reduction if they are on certain benefits. The current scheme requires all working age applicants to pay a minimum of 17.5% of their Council Tax (a maximum level of support of 82.5%). Working age disabled & carer households pay a minimum of 5% of their Council Tax. Applicants in receipt of income-based Jobseekers Allowance, Income Support and Income Related Employment and Support Allowance receive the maximum level of support. Others receive a level of Council Tax Reduction based on their income and other factors.

A separate Central Government scheme is retained for people of pension age and Councils are **only** able to vary their schemes for people of working age.

Each Council is required to review their schemes each year and decide if they want to make any changes. Before any changes can be implemented, they must

be subject to public consultation.

The District Council is proposing a number of changes to its existing scheme and, in line with legislation, we have a duty to consult you and provide you with the opportunity to tell us your views on the proposed changes to our Council Tax Reduction Scheme.

The Council is consulting on the following changes to its scheme for 2020/21:

- Introducing an income 'grid' scheme for all working age applicants replacing the current means tested approach which was based on the previous Council Tax Benefit scheme (Option 1);
- Limiting the number of dependent children used in the calculation of support to two for *all* working age applicants (Option 2);
- Changing the claiming process for all applicants who receive Universal Credit (Option 3);
- Removing the current earnings disregards and replacing them with a standard disregard of £25 (Option 4);
- Disregarding Carer's Allowance which is currently taken into account as income (Option 5);
- Where the applicant is in receipt of Universal Credit, any amount awarded as a housing element will be disregarded when calculating the applicant's income;(Option 6)
- Decrease the maximum level of protection for working age claimants from 82.5% to 80%, and from 95% to 90% for working age disabled & carer households

In the District, 7,500 people currently receive Council Tax Reduction, of which 4,500 are working age. The gross cost of the scheme is £7.4 million which is spread across the District Council (10%), the County Council (75%), Fire (5%), and the Police (10%) in accordance with the proportion of Council Tax which each organisation levies (which is shown in brackets).

#### **Who will this affect?**

Working age households in the District who currently receive or will apply for Council Tax Reduction.

Pension age households will **not** be affected as Central Government prescribe the scheme.

#### **Are there any alternatives to changing the existing Council Tax Reduction scheme?**

We have also thought about other ways to make the administration simpler. These have not been completely rejected (including maintaining the current scheme) and you are asked about them in the Questionnaire, but, at the moment we do not think we should implement them for the reasons given.

#### **We have considered:**

##### **1 Continuing with the current scheme**

This would mean higher administration costs and scheme costs generally. Not making these changes would significantly increase the administration of

Council Tax Reduction. The current scheme will not work effectively with the Government's Universal Credit system. The multiple changes in Universal Credit inevitably lead to multiple changes in Council Tax Reduction. This would increase the costs for all council tax payers in the District paying towards the scheme. The decision to increase Council Tax may need to be made by voting in a local referendum.

**2 Reduce funding to other Council services to pay for additional administration costs**

Keeping the current Council Tax Reduction scheme will mean an increase in administration costs and less money available to deliver other Council services; or

**3 Use the Council's reserves to keep the Council Tax Reduction scheme**

Using reserves to fund the additional administration costs would be a short-term option. Once used they will no longer be available to support and invest in other Council services and additional cuts would have to be made in the following years.

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# Questionnaire

## Have Your Say on the Council Tax Reduction Scheme.

Q1.

I have read the background information about the Council Tax Reduction Scheme:

Yes  No

This question must be answered before you can continue.

### Paying for the Scheme

Q2.

Should the Council keep the current Council Tax Reduction scheme? (Should it continue to administer the scheme as it does at the moment?)

No  Yes  Don't know

Q3.

Please use the space below to make any comments you have on protecting the Council Tax Reduction Scheme from these changes.

## Options to change the current Local Council Tax Reduction scheme

As explained in the background information, the Council is primarily consulting on the following proposals to change the existing Council Tax Reduction Scheme from 1<sup>st</sup> April 2020, which will reduce the administrations cost of the scheme generally and importantly make the scheme simpler. **Please note that whilst the changes are intended to reduce the level and cost of administration, the Council is not looking to reduce the total overall level of support available.** Your responses are a part of this consultation. Set out below are the proposals being considered.

### Option 1 - The introduction of an Income Grid scheme to replace the current scheme for all applicants of working age

The current scheme for Council Tax Reduction is largely based on the previous Council Tax Benefit scheme which was assessed alongside Housing Benefit. Housing Benefit for working age applicants is being phased out and for new claims are no longer available (with some exceptions). Whilst Housing Benefit was the main provider of housing support for working age persons, it was logical to maintain a Council Tax Reduction scheme that mirrored the approach. Now that Universal Credit is being rolled out, it gives the Council the opportunity to significantly simplify what is in effect a Council Tax Discount.

It is proposed that a simplified income 'grid' scheme will be introduced as follows:

Single £	Couple £	WA1 £	WA2 £	Working Age %	Vulnerable	Vulnerable %
0-82.10	0-122.10	0-172.10	0-222.10	80	0-222.10	90
82.11-123.15	122.11-163.15	172.11-213.15	222.11-263.15	65	222.11-263.15	75
123.16-164.20	163.16-204.20	213.16-254.20	263.16-304.20	50	263.16-304.20	60
164.21-205.25	204.21-245.25	254.21-295.25	304.21-345.25	35	304.21-345.25	45
205.26-246.30	245.26-286.30	295.26-336.30	345.26-386.30	20	345.26-386.30	30

The key principles of the scheme are as follows:

- a. The level of discount (shown in the grid) will be based on the total net income (determined by the Council) of the applicant and their partner;
- b. Income levels can vary in accordance with household size and still receive the same level of discount;
- c. Applicants who are in receipt of income support, income related employment and support allowance and income based jobseekers allowance

- will receive a discount of 80% against their liability for Council Tax, 90% for disabled & carer households
- d. Applicants who have total net income less than the levels in Band 2 will receive a discount of 80% against their liability for Council Tax. Where applicants are not in receipt of those benefits and their income is above the levels specified in Band 1, Council Tax Reduction shall be awarded at the appropriate level (Bands 3, 4 & 5);
  - e. Applicants who have total net income levels above the levels shown in the grid will receive no discount;
  - f. The grid will be limited to a maximum of two dependants (see Option 2)
  - g. Making claiming simpler for applicants who receive Universal Credit (see Option 3);
  - h. Removing the current earnings disregards and replacing them with a standard disregard of £25 (see Option 4);
  - i. Certain incomes will continue to be disregarded including Disability Living Allowance; Personal Independence Payments, Child Benefit and Child Maintenance.
  - j. Carer's Allowance received will be disregarded (see Option 5);
  - k. Where the applicant is in receipt of Universal Credit, any amount awarded as a housing element will be disregarded when calculating the applicant's income;(Option 6)

It is inevitable that there may be both winners and losers; however, the Council is keen to protect as many applicants as possible. The Council is not minded to reduce the overall total level of support available within the scheme but there will be a redistribution of support in some cases. Where an applicant experiences exceptional hardship, they will be able to apply for additional support from the Council under the Exceptional Hardship Payment Scheme which will continue as at present.

#### **The benefits of changing the scheme:**

- It provides a simpler scheme, easily understood by all applicants;
- It will save significant increases in administration costs due to the introduction of Universal Credit;
- It will reduce the number of Council Tax demands that applicants receive during the year and prevent multiple changes to monthly instalments;
- Applicants in receipt of 'passported benefits' such as income support, income related employment and support allowance and income based jobseekers allowance, will still receive the maximum level of protection; and
- It will make claiming simpler for Universal Credit applicants ensuring that their entitlement to Council Tax Reduction is maximised.

#### **The drawbacks of doing this are:**

- Whilst the Council will look to protect applicants as far as possible, there may be winners and losers; and
- Some households with more than two children may receive less support.



Q4.

Do you agree with this change to the scheme?

Yes  No  Don't know

Q5.

If you disagree what alternative would you propose?

## Option 2 - To limit the number of dependant children within the calculation for Council Tax Reduction to a maximum of two for *all* applicants

Within the current scheme, applicants who have children are awarded a dependant's addition within the calculation of their needs (Applicable Amounts). The new scheme will be based on an income grid system which takes into account the number of dependants within the household; however, it will be limited to two, for *all* applicants.

The benefits to the Council of doing this are:

- Council Tax Reduction will be brought into line for all applicants; and
- It is simple and administratively easy to incorporate within the scheme

The drawbacks of doing this are:

- Applicants who have three or more dependants may receive less Council Tax Reduction. However, if the applicants face exceptional hardship they may apply for additional support through the Council's Exceptional Hardship Payment scheme.

Q6.

Do you agree with this change to the scheme?

Yes  No  Don't know

Q7.

If you disagree what alternative would you propose?

### Option 3 - Changing the claiming process for all applicants who receive Universal Credit

Currently, where an applicant wants to claim Council Tax Reduction, they must make a formal application on-line. Where applicants claim Universal Credit from the Department for Work and Pensions (DWP) there is often either a delay in receiving a Council Tax Reduction claim or no claim is made at all leading to a potential loss in entitlement. The latter occurs largely through confusion, with all other benefits being claimed from DWP and claimants not realising they must make an additional claim to the Local Authority.

When a person claims Universal Credit, their award details are passed to the Council automatically. It would be a distinct advantage and simplification in administration if the Council were to take any Universal Credit data received from DWP as a claim for Council Tax Reduction automatically.

**The benefit of this option is:**

- It will make the administration of the scheme simpler;
- Universal Credit claimants will receive any Council Tax Reduction automatically; and
- The change is simple and administratively easy to incorporate within the scheme

**The drawbacks of doing this are:**

- There are no drawbacks to this option.

**Q10.**

**Do you agree with this change to the scheme?**

Yes  No  Don't know

**Q11.**

**If you disagree what alternative would you propose?**

## Option 4 - Removing the current earnings disregards and replacing them with a single disregard of £25.

Where applicants (or their partner if they have one) have earnings and work over 16 hours per week, an earnings disregard is applied depending on their individual circumstances. The standard disregards (only one is awarded) are £5 per week for a single person, £10 per week for a couple, £20 per week if they meet certain conditions such as disablement or part time special employments or £25 for lone parents. If they work additional hours, in some circumstances they may receive an additional £17.10 disregard per week. Also, if child care is paid for above that received free from Central Government, then further disregards can be made against earnings for monies paid out.

The proposed change to the scheme would introduce a single disregards of £25 per week. Disabled & carer working households will receive an additional disregard of £40 (£25 + £40 = £65) All other disregards will be removed (except the disregard in relation to paying for child care)

**The benefit of this option is:**

- It will make the administration of the scheme simpler; and
- The change is simple and administratively easy to incorporate within the scheme.

**The drawbacks of doing this are:**

- There may be certain applicants who may receive less support, and some may receive more support depending on their circumstances. (It should be noted that applicants with dependants will be allowed a higher level of income within the grid scheme and also if they face exceptional hardship, they may apply for additional support under the Council's Exceptional Hardship Payments Scheme).

Q12.

Do you agree with this change to the scheme?

Yes  No  Don't know

Q13.

If you disagree what alternative would you propose?

## Option 5 - Disregarding Carer's Allowance which is currently taken into account as income

Where applicants (or their partner if they have one) receive Carer's Allowance for looking after a person who is ill or disabled, the Carer's Allowance payment they receive is considered as income for Council Tax Reduction. This is partially offset by an award of Carer's Premium within the current scheme. With the move to an income based 'grid' scheme, the use of premiums etc. will end. The Council feels that it is fair, in these cases, to fully disregard any payment of Carer's Allowance received.

### The benefit of this option is:

- It will make the administration of the scheme simpler;
- It may be more generous to applicants who receive Carer's Allowance; and
- The change is simple and administratively easy to incorporate within the scheme.

### The drawbacks of doing this are:

- There may be a small increase in scheme costs although this is thought to be negligible.

Q14.

Do you agree with this change to the scheme?

Yes  No  Don't know

Q15.

If you disagree what alternative would you propose?

**Option 6 - Where the applicant is in receipt of Universal Credit, any amount awarded as a housing element will be disregarded when calculating the applicant's income.**

When an applicant for Council Tax Reduction is in receipt of Universal Credit it will be essential to disregard any housing element awarded from their income when calculating any income under the new scheme.

**The benefit of this option is:**

- It will make the administration of the scheme simpler;
- It will have the same effect as the current scheme; and
- The change is simple and administratively easy to incorporate within the scheme.

**The drawbacks of doing this are:**

- There are no drawbacks with this option.

**Q18.**

**Do you agree with this change to the scheme?**

Yes  No  Don't know

**Q19.**

**If you disagree what alternative would you propose?**

## Alternatives to changing the Council Tax Reduction Scheme

If the Council keeps the current scheme, it will be administratively more complex and it will cost taxpayers more. If this happens we will need to find savings from other services to help meet the increase in costs. The proposals set out in this consultation will deliver administration savings. The alternatives are set out in the background information.

**Q24.**

Do you think we should choose any of the following options rather than the proposed changes to the Council Tax Reduction Scheme? Please select one answer for each source of funding.

**Q24.1.**

Increase the level of Council Tax to cover the additional administration costs

Yes  No  Don't know

**Q24.2.**

Find the additional administration costs by cutting other Council Services

Yes  No  Don't know

**Q24.3.**

Use the Council's reserves

Yes  No  Don't know

**Q25.**

If the Council were to choose these other options to pay for additional administration costs, what would be your order of preference? Please rank in order of preference by writing a number from 1 - 3 in the boxes below, where 1 is the option that you would most prefer and 3 is the least.

Increase the level of Council Tax

Reduce funding available for other Council Services

Use Council reserves

**Q26.**

Please use this space to make any other comments on the scheme.

Q27.

Please use the space below if you would like the Council to consider any other options (please state).

Q28.

If you have any further comments or questions to make regarding the Council Tax Reduction scheme that you haven't had opportunity to raise elsewhere, please use the space below.

## About You

We ask these questions:

1. To find out if different groups of people in the Council's population have been able to take part in the consultation and identify if any groups have been excluded. This means it is not about you as an individual but to find out if people with similar characteristics have had their say.
2. To find out if different groups of people feel differently about the options and proposals in comparison to each other and all respondents. This means it is not about you as an individual but to find out if people with similar characteristics have answered in the same way or not.

**This information is completely confidential and anonymous.** Your personal information will not be passed on to anyone and your personal details will not be reported alongside your responses.

Q29.

Are you, or someone in your household, getting a Council Tax Reduction at this time?

Yes  No  Don't know/Not sure

Q30.

What is your sex?

Male  Female  Prefer not to say

Q31.

Age

18-24  25-34  35-44  45-54  55-64  65-74  75-84  85+  Prefer not to say

Q.32

**Disability: Are your day to day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?**

Yes  No  Don't know/Not sure  Prefer not to say

Q33.

**Ethnic Origin: What is your ethnic group?**

Prefer not to say

**White**

British  Irish  Gypsy or Irish Traveller  Any other White background

**Mixed/Multiple ethnic groups**

White & Black African  White & Black Caribbean  White & Asian  Any other multi mixed background

**Asian or Asian British**

Pakistani  Indian  Bangladeshi  Chinese  Any other Asian background

**Black/African/Caribbean/Black British**

African  Caribbean  Any other Black background

**Other Ethnic Group**

Arab  Other - please specify below:

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## Next steps....

Thank you for completing the questionnaire.

Progress reports on the consultation will be added to our website.

You may submit further evidence, ideas or comments (marked CTR consultation) by email to [counciltaxsupport@ashford.gov.uk](mailto:counciltaxsupport@ashford.gov.uk)

**The consultation closes on 30/09/2019.**

We will listen carefully to what residents tell us and take the responses into consideration when making a final decision on the 2020/21 scheme.

Following the decision, the full results from the consultation will be available on the Council's website.

The new scheme will start on **1 April 2020**. The Council will consider the impact of the scheme annually and consult again if it thinks further changes need to be made.

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## Joint Transportation Board

Minutes of a Meeting of the Joint Transportation Board held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **11<sup>th</sup> June 2019**.

**Present:**

Cllr. Heyes (Chairman);  
Mr P W Bartlett (Vice-Chairman);

Cllrs. Burgess, Forest, Mrs Heyes, Krause, Smith, Ward  
Mr M J Angell, Mrs C L Bell, Mr S J G Koowaree

Mr. K Ashby – KALC Representative.

In accordance with Procedure Rule 1.2 (c) Councillor Smith attended as a Substitute Member for Councillor Michael

**Apologies:**

Cllr. Michael, Mr D Farrell, Mr P M Hill, Mr C Simkins.

**Also Present:**

Cllrs. Campkin, Gideon, Iliffe, Wright.

Project Manager – J10A (Highways England), Stakeholder Liaison – J10A (Vinci Construction UK), Senior Highway Manager – (KCC) , Parking Enforcement Manager – (KCC) , Ashford District Manager – (KCC), Schemes Project Engineer – (KCC), Technical Support Officer – (KCC), Head of Community Safety and Wellbeing- (ABC), Deputy Head of Community Safety and Wellbeing - (ABC), Community Safety and Wellbeing Manager – (ABC) Parking, Highways and Transportation Technical Officer - (ABC), Civil Enforcement Officer Team Leader - (ABC), Economic Development Manager - (ABC), Member Services Liaison Manager – (ABC).

## 22 Declarations of Interest

Councillor	Interest	Minute No.
Mr Bartlett	Made a 'Voluntary Announcement' as he lived close to Junction 10 of the M20	27

## **23 Minutes**

### **Resolved:**

**That the Minutes of the Meeting of this Board held on the 12<sup>th</sup> March 2019 be approved and confirmed as a correct record.**

## **24 Parking and Waiting Restrictions – Update Summary**

The report provided an update and summarised parking and waiting restriction schemes that had been through the Joint Transportation Board. The Deputy Head of Community Safety and Wellbeing advised that one objection had been received in respect of the Amendment 7 Order in relation to proposals at Ashford Road Tenterden, which Officers had been able to accommodate.

### **Resolved:**

**That the update on schemes be noted.**

## **25 Proposed Waiting Restrictions – Imperial Way, Ashford**

The report gave details of the proposed No Waiting at Any Time restriction to be implemented on Imperial Way in Ashford.

The Schemes Project Engineer (KCC) explained that the proposal stemmed from concerns expressed by residents and the County Member about public service vehicles regularly having to mount the footway to negotiate parked vehicles on a short section of Imperial Way. There had been 9 letters of support and 8 letters of objection to the proposal. The Schemes Project Engineer (KCC) further explained that the proposal would only result in the loss of one parking space.

### **Resolved:**

**That the implementation of the proposed waiting restrictions on Imperial Way, Ashford be approved.**

## **26 Proposed Permanent Traffic Regulation Order – Ashford HGV Overnight Parking Enforcement**

The report gave details of the proposed permanent Traffic Regulation Order (TRO) to manage the overnight parking of HGV's on the A20 Ashford between Charing and Ashford and four Industrial Estates in the Borough. The advert for the TRO had been published on 19 April 2019, with a closing date for comments on 13 May 2019. A total of 17 responses in support had been received from local residents and one objection had been received from the Road Haulage Association (RHA).

In accordance with Procedure Rule 9.3, Mr Tom Cotton, Head of Licensing and Infrastructure Policy for the Road Haulage Association Ltd spoke and advised that

the RHA represented 7,200 members with over 76,000 operating licences and more than half of the UK HGV fleet.

He explained that lay-by's were an essential part of the road infrastructure and that roads were the workplace of the Haulage Industry. Lay-by's were road safety features which enabled all drivers to take a break, which was a mandatory requirement. If they were not taken there were serious consequences for example loss of vocational license and jobs for those who failed to comply.

Mr Cotton further explained that all food, medicine, and other essential products were delivered by road freight and many products had a short shelf life and could not be transported by any other means. He understood that KCC had identified a current shortfall of 1000 lorry parking spaces each night which meant that there was nowhere for drivers to stop. This was an historical problem and not a new one and KCC had failed to respond, or properly plan despite the warning signs and RHA stating this problem for many years. He believed that this problem had been created by KCC through their inactivity and forward planning. Mr Cotton said that even with the increase at Ashford Truckstop there was a net loss, because of losses at Folkestone Harbour and Airport Café.

Mr Cotton then referred to the DfT – National Survey of Lorry Parking published in 2018 which described the East of England as Critical and the South East as Serious, but 1% away from Critical. He said that this year Kent would reach critical and KCC and Local Authorities had not done enough to provide parking for road freight which was national critical infrastructure. Trucks were the “invisible supply line” and no delivery was free, despite many retailers offering free delivery.

In terms of the consultation exercise, he said that 16 responses supporting the making of this order permanent had been received along a five mile section of road with thousands of residents living adjacent to it and a Borough population of over 270,000 people. Mr Cotton considered that the needs of the Borough, Kent and the entire UK economy needed to come above the 16 opponents. The 16 opposition responses were from from hundreds, if not 1000's of addresses covering a 5 mile section of road and 4 industrial estates demonstrated to him that if there was a problem with lorry parking the response would have been much greater.

Mr Cotton further explained that if Kent and other local authorities had the correct lorry parking provision in place this would not be needed and said that the zonal approach was designed for urban and not rural areas. Kent County Council had permitted a 45 minute break, but had kept this secret, as it was not shown on the signage. He said that the Freight Transport Association (FTA) would have responded in similar terms to the RHA, but the short consultation period over Easter had prevented this.

In an interim report into the Future of Freight, published last December reference had been made to Freight Blindness and this report demonstrated that both government and Local Authorities often had little understanding of why and how it planned for freight, which left the needs of the freight system far down the priority list. This had resulted in policy makers or planners being unable to take account of, or plan effectively for, the needs of freight. Mr Cotton said that the Government's

current approaches to policy making for freight were piecemeal and fragmented into individual modes that had struggled to proactively confront future challenges.

In conclusion, Mr Cotton said that on the basis of the 16 responses from a population of more than 270,000 it was the contention of the RHA that this was not needed but if the Board decided there was a need, then proper infrastructure needed to be put in place, before restrictions were created. If appropriate overnight parking existed, Mr Cotton said that the RHA would not oppose restrictions. **Post Meeting Note: The 2011 Census figure shows the Borough population as 118,000.**

In accordance with Procedural Rule 9.3, Mrs Christine Drury, Chairman of Westwell Parish Council and speaking on behalf of Hothfield Parish Council wished to give thanks to the Traffic Regulation Order team at KCC and others in Ashford Borough Council and Kent County Council for their work including discussions with the Department for Transport.

Mrs Drury said that residents were aware that this proposal for a permanent TRO was a follow on from the 18 month trial, and what was being proposed today was just the TRO, not the enforcement arrangements which were not yet ready to be discussed.

Residents also appreciated that the TRO being discussed had been informed by the trial and by discussions with the Road Haulage Association and others, as well as with communities and residents.

Mrs Drury said that Ashford fully recognised its location and the need to provide truck parking, and had set about doing it properly and fairly. This was why 200 additional spaces had been provided in the Borough. It was also why the operation of the 18 month trial had been a success, because it had been well operated. Residents did note that changed behaviours and the provision of truck parking with facilities may still depend on enforcement so the enforcement arrangements would be important. Meanwhile making the TRO permanent was simply the next stage in a process of continuous improvement of how HGV parking need was well managed in the Borough.

Mrs Drury explained that the waiting restrictions proposed in this TRO would discourage drivers and their operators from parking overnight and at weekends in places that were inappropriate for road safety or residential impact reasons. The restrictions would also encourage drivers to use high quality facilities available in the Borough, which allowed them to comply with the legal requirement for 45hr rest periods to be away from their vehicles. The flexibility needed in case of getting caught short on drivers hours was included in the exemptions built into the TRO. Mrs Drury said that as parishes they were well aware of how certain Eastern European HGV operators worked and if the exemptions were being abused there might be a need to ask the JTB to address the situation.

In conclusion, Mrs Drury said that overall this TRO was a small but important step forward in achieving better working conditions for drivers and transforming the road safety and environmental conditions for local residents and businesses just in the

TRO area in the Borough. It had the support of Westwell and Hothfield Parish Council's, and she said that they would like to see it approved today.

The Deputy Head of Community Safety and Wellbeing explained that ABC and the KCC had worked with the lorry park operators with a view to identifying any opportunity to enhance facilities and she accepted that throughout the County, Kent had a long way to go. She considered that the five mile stretch of the A20 was unique in terms of the location backing on to residential properties. Officers had met with the RHA the previous week and would continue to work with them over this issue. In terms of the comment about signage, the Deputy Head of Community Safety and Wellbeing said that it was not possible to incorporate information about exemptions and explained that this issue had been upheld at a Tribunal. The TRO was the first step in formalising the process and Officers would be meeting with the DfT shortly to discuss changes in legislation to enable offenders to be fined on the first offence and to increase the wheel clamp release fee.

The Vice-Chairman said that he wished to remind the Board that this issue had started over seven years ago when severe problems were starting to be experienced with lorries parking in industrial estates. Now that Waterbrook had increased its capacity by 200 spaces, he said that there was sufficient overnight lorry parking available in Ashford.

**Resolved:**

**That the implementation of the proposed time limited overnight waiting restrictions on the A20 between Charing and Ashford and four Industrial Estates in the Borough be approved.**

## **27 M20 J10A Construction Programme Update**

The report advised on progress on the above scheme since the last meeting in March 2019.

The Project Manager outlined the work which included: the installation of the bridge deck of the Church Road footbridge; construction commencing on the eastbound off slip; soil nailing completed to embankment of Junction 10a London bound exit slip road; on the new slip roads, abutments on the North East, South East and South West had been poured; on the East and West interchange bridge the final deck pours had been completed; work was now starting on the construction of the load bearing supporting walls; and the reinforced Earth Wall at Kingsford Street was now complete. Various utility diversion works were also being accommodated.

The Project Manager also explained that a trial was underway to increase the coast bound speed limit on the M20 to 60mph, which if successful, could be applied to the section of the London bound carriageway through the road works. In conclusion he advised that the works to install traffic lights for the Barrey Road junction with the A2070 would be undertaken in September 2019.

The Chairman explained that the Ward Member had informed him that certain properties in Kingfisher Close were experiencing flooding and light pollution issues. The Stakeholder Liaison (Vinci Construction) said that he was aware of this but explained that the profile of the land had not changed significantly in the vicinity of Kingfisher Close but he would continue to monitor the situation. In terms of light pollution, the levels at the new roundabout were higher, but properties should become protected when the vegetation and planting grew. Contractors did not generally work at night, but if evening work was planned residents were informed. In response to a further question, the Project Manager said that he did not think that a temporary bund was feasible but undertook to contact the Ward Member direct to discuss the matter. The Stakeholder Liaison also referred to excellent artwork produced by students from the Norton Knatchbull school which had been applied to hoardings near the playground and encouraged Members to see it before it was removed.

A Member referred to the current closure of Newtown Road and asked whether it was possible to open two lanes from the Orbital Roundabout to Junction 10 to ease traffic congestion during this period. The Project Manager said that he would be happy to take this request away for consideration but doubted whether this could be done as it might be a financial burden on the project.

**Resolved:**

**That the report be received and noted.**

## **28 Ashford International Station and Eurostar Update**

The report updated Members on the project to enable new Eurostar trains to access Ashford International Station. The Economic Development Manager advised that Atkins had completed a feasibility report in March 2019 and detailed design work was being undertaken. Delivery of the solution was due to take place at the end of the year, with the commissioning of the works by the end of December 2019. The new KBV signalling had operated without fault since it had been commissioned.

A further report would be submitted to the next meeting in September 2019 at which stage a detailed programme for the implementation would be available. In response to a question, the Economic Development Manager explained that it was hoped that a new Eurostar timetable would commence from January 2020.

**Resolved:**

**That the report be received and noted.**

## **29 Highway Forward Works Programme 2019/20 onwards**

The report updated Members on the identified schemes approved for construction in 2019/20.



The Ashford District Manager explained that KCC had increased its budget for Highways and therefore subsequent reports might incorporate new schemes not currently shown in the report.

In response to a question about the works planned at Evergreen Way, the Ashford District Manager undertook to let the Chairman know the diversion route for the G line bus. She also undertook to keep the County Member informed of progress in terms of the drainage works at The Street, Warehorne Road, Ruckinge Road and Ashford Road, Hamstreet.

Mr Ashby referred to the different terms used for the various types of road surface works and suggested that definitions be included in subsequent reports. The Ashford District Manager agreed that this could be done and she also undertook to check the position in terms the works at Appledore Road/Warehorne Road.

The Ashford District Manager also agreed to let the County Member have details about the works planned at the Hythe Road/Church Road junction, and for the Vice Chairman, information about the A2070/Finberry junction improvement works.

**Resolved:**

**That the report be received and noted.**

### **30 Operation Brock – M20**

The report of the Vice Chairman referred to the issue of the continued use of the barriers on the M20 to restrict London bound traffic to two lanes which he had raised with Highways England. The report included the text of the response from Highways England which advised that the restriction to two lanes on the London bound carriageway was essential to enable Brock to be implemented within a short timeframe if necessary.

The Senior Highway Manager said that KCC supported the view being taken by the Borough Council and advised that they were pressing the case with Highways England. He said that he understood that the principal problem was the uncertainty over when Brexit would happen. He also said Highways England may have to undertake survey work on the hard shoulder as the current design had not envisaged the level of use it was currently experiencing. In terms of the carriageways between Junction 9 and Junction 13 it was likely that Highways England would be carrying out resurfacing work and Officers would be closely monitoring this via the Kent Corridor Coordination Group (KCCG) to ensure that they were coordinated.

The Vice Chairman considered that the repositioning of the steel barrier just at either end of Brock was a small piece of work and in his view would take just 48 hours to implement. He said that it was unacceptable for Ashford and Folkestone residents to suffer for 6 months to save Highways England 48 hours work.

The Board discussed whether it would be appropriate to request that the temporary speed limit be increased from 50mph to 60mph, but on safety grounds were not minded to support such an increase.

**Resolved:**

**That the Chairman of the Board write a letter to the Secretary of State requesting that the London bound section of the M20 between Junction 9 and 8 be returned to 3 carriageways.**

## **31 – Deputy Head of Community Safety and Wellbeing**

The Deputy Head of Community Safety and Wellbeing explained that this was the last JTB she would be attending as she was moving to another post within Ashford Borough Council. She said that she had enjoyed the challenging work and said that her role would be taken over by the Community Safety and Wellbeing Manager.

The Chairman, on behalf of all Members of the JTB, thanked the Deputy Head of Community Safety and Wellbeing for all of her work for the Board and wished her well in her new role.

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Queries concerning these Minutes? Please contact Member Services:  
Telephone: 01233 330564 Email: [memberservices@ashford.gov.uk](mailto:memberservices@ashford.gov.uk)  
Agendas, Reports and Minutes are available on: <http://ashford.moderngov.co.uk>

**Agenda Item No:** 14  
**Report To:** CABINET  
**Date:** 11<sup>TH</sup> JULY 2019



**Report Title:** SCHEDULE OF KEY DECISIONS TO BE TAKEN

**Report Author and Job Title:** Danny Sheppard, Member Services Manager (Operational)

**Portfolio Holder:** Portfolio Holders are individually specified in the attached Schedule.

<b>Summary:</b>	To set out the latest Schedule of Key Decisions to be taken by the Cabinet of Ashford Borough Council.
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**Key Decision:** NO

**Significantly Affected Wards:** Where appropriate, individual Wards are indicated.

**Recommendations** **That the Cabinet receive and note the latest Schedule of Key Decisions.**

**Policy Overview:** Under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, there is no longer a legal requirement to publish a Forward Plan of Key Decisions, however there is still a requirement to publish details of Key Decisions 28 clear days before the meeting they are to be considered at. The Council maintains a live, up to date rolling list of decision items on the Council's website, and that list will be presented to the Cabinet each month, in its current state, for Members' information.

**Financial Implications:** Nil

**Legal Implications:** n/a

**Equalities Impact Assessment** n/a

**Other Material Implications:** Nil

**Exempt from publication:** No

**Background** None

**Papers:**

**Contacts:**

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**CABINET  
SCHEDULE OF KEY DECISIONS TO BE TAKEN**

The following Key Decisions will be taken by Ashford Borough Council's Cabinet on the dates stated.

Ashford Borough Council's Cabinet is made up of: - Councillors Gerry Clarkson; Paul Bartlett; Bill Barrett; Neil Bell; Andrew Buchanan; Paul Clokie; Peter Feacey; Jo Gideon; Alan Pickering; and Neil Shorter.

*Copies of the reports and any other relevant documents that are submitted to the Cabinet in connection with a proposed decision will be available for inspection, or on screen, five clear days before the decision date at the Civic Centre, Tannery Lane, Ashford and at The Town Hall, 24 High Street, Tenterden, during opening hours, or at <https://ashford.moderngov.co.uk>*

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
<b>11<sup>th</sup> July 2019</b>					
Revenues & Benefits Recommended Write-Offs Schedule	<i>Proposed formal write-off of debts</i>	Cllr Bell	Nic Stevens	Open (Exempt Appendix)	13/7/18
Statement of Licensing Policy 2019-2024	<i>To seek Cabinet approval to go out to public consultation on draft version of the revised policy.</i>	Cllr Gideon	Trevor Ford	Open	10/4/19

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Conningbrook Masterplan	<i>To introduce the draft masterplan which provides a conceptual plan for the park and the main features to be delivered within it, with S106 contributions from current and potential future developments. The report will also confirm indicative costs and delivery timescales.</i>	Cllr Feacey	Len Mayatt	Open	4/9/18
Conningbrook H2 and Country Pub/Hotel	<i>To endorse the progression of legal agreements with Bretts to allow them to progress a planning application for H2 with a view to a subsequent land sale and with Bretts and Shepherd Neame to allow for the sale of the land for the Country Pub/Hotel.</i>	Cllr Clokie	Archie Cowan	Open	16/5/19
Householder Duty of Care Fixed Penalty Notice	<i>To ask the Cabinet to approve the application of a penalty for Householder breach duty of care and to confirm the amount of penalty to be applied.</i>	Cllr Buchanan	Mark Goodman	Open	11/4/19
<b>8<sup>th</sup> August 2019</b>					
<b>NO MEETING</b>					
<b>12<sup>th</sup> September 2019</b>					
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Bell	Maria Stevens	Open	10/8/18

<b>Decision Item</b>	<b>Report Summary</b>	<b>Relevant Portfolio Holder</b>	<b>Report Author</b>	<b>Open or Exempt</b>	<b>Added to Schedule</b>
Corporate Performance Report	<i>To give Members and residents an overview of how the council is performing with a key performance 'snapshot'.</i>	Cllr Bell	Will Train	Open	10/8/18
Corporate Commercial Property Strategy – Annual Report	<i>To advise of the revenue performance of the Council's corporate property portfolio during the last financial period and to advise of proposals to increase profitability in the coming financial period.</i>	Cllr Clokie	Paul McKenner	Open	14/9/18
Animal Licensing Policy	<i>To approve an animal licensing policy based on changes in legislative framework and responsibility.</i>	Cllr Gideon	Sheila Davison	Open	4/12/18
Section 106 Agreements – Annual Progress Report	<i>Focus on s106 contributions received in the last year, contributions secured in new agreements and projects that have been supported by s106 funding.</i>	Cllr Shorter	Tim Naylor	Open	18/6/18
Government Housing Green Paper – Ashford Promise and Fixed Term Tenancies		Cllr Barrett	Anthony Crossley	Open	8/5/19
Royal Military Canal		Cllr Feacey	Len Mayatt	Open	21/2/19
Play Plan		Cllr Feacey	Amanda Scott	Open	16/5/19

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Adoption of the WYE3 / WNP11 Masterplan	<i>To set out the revised and updated context for the draft masterplan and recommend whether the masterplan should now be adopted as it stands or whether additional amendments should be made.</i>	Cllr Shorter	Simon Cole	Open	23/5/19
LASER Energy Contract		Cllr Clokie	Daniel Stone	Open	1/7/19
<b>10<sup>th</sup> October 2019</b>					
<b>14<sup>th</sup> November 2019</b>					
Corporate Performance Report	<i>To give Members and residents an overview of how the council is performing with a key performance 'snapshot'.</i>	Cllr Bell	Will Train	Open	9/11/18
Medium Term Financial Plan	<i>To ask Cabinet to note the Medium Term Financial Plan ahead of this year's Budget process.</i>	Cllr Bell	Maria Stevens	Open	9/11/18
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report.</i>	Cllr Bell	Maria Stevens	Open	9/11/18



Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Corporate Plan – Approval to Commence Consultation on Draft Corporate Plan 2020		Cllr Clarkson	Lorna Ford/ Jennifer Shaw	Open	11/3/19
<b>5<sup>th</sup> December 2019</b>					
Draft Budget 2020/21	<i>To present the preliminary draft service budget and outline MTFP for the purposes of subsequent formal scrutiny by the O&amp;S Task Group and public consultation.</i>	Cllr Bell	Maria Stevens	Open	7/12/18
Council Tax Base 2020/21	<i>To present for approval the estimated 2020/21 Council tax base calculation for the Borough and each parished area, on which the major preceptors and local Parish Councils will base their requirements.</i>	Cllr Bell	Maria Stevens	Open	7/12/18
Housing Revenue Account (HRA) Business Plan 2019 – 2049	<i>An annual update of the HRA Business Plan financial projections. This report updates the position for the period 2019-49.</i>	Cllr Barrett	Sharon Williams	Open	7/12/18
Adoption of the Chilmington Public Art Strategy		Cllr Feacey	Chris Dixon	Open	26/6/19

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
<b>16<sup>th</sup> January 2020</b>					
Revenues & Benefits Recommended Write-Offs Schedule	<i>Proposed formal write-off of debts</i>	Cllr Bell	Nic Stevens	Open (Exempt Appendix)	11/1/19
<b>13<sup>th</sup> February 2020</b>					
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Bell	Maria Stevens	Open	15/2/19
Revenue Budget 2020/21	<i>To present the draft revenue budget for 2019/20 to the Cabinet for recommendation to Council.</i>	Cllr Bell	Maria Stevens	Open	15/2/19
Corporate Performance Report	<i>The report seeks to give Members and the Borough's residents an overview of how the Council is performing. It seeks to do this in a transparent and easily-accessible manner, giving a key performance 'snapshot'.</i>	Cllr Bell	Will Train	Open	9/2/18
<b>12<sup>th</sup> March 2020</b>					
Annual Pay Policy Statement (Including Review for 2020/21)	<i>A review of the annual Pay Policy Statement and Ashford Living Wage Allowance</i>	Cllr Pickering	Michelle Pecci/ Joy Cross	Open	15/3/19

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Corporate Plan - Report on Consultation Findings and Approval to Publish Corporate Plan 2020		Cllr Clarkson	Lorna Ford/ Jennifer Shaw	Open	11/3/19
2 <sup>nd</sup> April 2020					
14 <sup>th</sup> May 2020					
11 <sup>th</sup> June 2020					
Final Outturn 2019/20	<i>Final budget outturn for previous financial year.</i>	Cllr Bell	Maria Stevens	Open	14/6/19
Corporate Performance Report (Quarter 4) and Annual Performance Report 2019/20	<i>To give Members and residents an overview of how the council is performing with a key performance 'snapshot' and the Annual Report will build upon the contents of quarterly performance monitoring, but will also include the following information – An Introduction from the Leader and Chief Executive; Facts and figures about Ashford; Timeline of key achievements in the Borough over the calendar year; Borough achievements; and a Financial Summary.</i>	Cllr Bell	Will Train	Open	14/6/19

***If you wish to contact a Report Author by email, unless stated otherwise, the addresses are;  
first name.surname@ashford.gov.uk***

1/7/19

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

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