

# Public Document Pack

Date: 1 September 2014  
Our ref: Cabinet/Agenda  
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## CABINET

**11 SEPTEMBER 2014**

A meeting of the Cabinet will be held at **7.00 pm on Thursday, 11 September 2014** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

### Membership:

Councillor Johnston (Chairman); Councillors: Nicholson, Everitt, D Green, E Green and Harrison

## A G E N D A

Item  
No

Subject

1. **APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Nicholson.

2. **DECLARATIONS OF INTEREST**

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest form attached at the back of this agenda. If a Member declares an interest, they should complete that form and hand it to the officer clerking the meeting and then take the prescribed course of action.

3. **MINUTES OF EXTRAORDINARY MEETING** (Pages 1 - 2)

To approve the summary of recommendations and decisions of the extraordinary Cabinet meeting held on 17 July 2014, copy attached.

4. **MINUTES OF PREVIOUS SCHEDULED MEETING** (Pages 3 - 6)

To approve the summary of recommendations and decisions of the Cabinet meeting held on 31 July 2014, copy attached.

5. **RAMSGATE PORT AND HARBOUR GOVERNANCE PROPOSALS** (Pages 7 - 18)

6. **VATTENFALL - COMMUNITY PROJECT FUNDING** (Pages 19 - 22)

7. **HOUSING REVENUE ACCOUNT GARAGES** (Pages 23 - 26)

8. **TO ADOPT FOOD SERVICE PLAN 2014-16** (Pages 27 - 74)

9. **DESTINATION MANAGEMENT PLAN UPDATE** (Pages 75 - 90)

10. **ROYAL SANDS DEVELOPMENT** (Pages 91 - 96)

Item  
No

Subject

11. **DRAFT HOUSING ASSISTANCE AND DISABLED ADAPTATIONS POLICY -  
CONSULTATION**

Report to follow

**Declaration of Interest form - back of agenda**

## CABINET

**Minutes of the meeting held on 17 July 2014 at 2.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.**

**Present:** Councillor Johnston (Chairman); Councillors Nicholson, Everitt, D Green, E Green and Harrison

**In Attendance:** Alexandrou, Bayford, Bruce, Duncan, Gibson, Lodge-Pritchard, Poole, W Scobie and Wells

### **173. APOLOGIES FOR ABSENCE**

There were no apologies received at the meeting.

### **174. DECLARATION OF INTERESTS**

There were declarations of interest made at the meeting.

### **175. MANSTON INTERNATIONAL AIRPORT - CPO INDEMNITY PARTNER PROCESS**

Cabinet considered the proposed timeline for identifying an indemnity partner in the event a CPO is sought for Manston Airport and the procurement process that would be involved in achieving that objective. Cabinet was advised that the Leader of Council's motion at Full Council affirmed the Council's considerable disappointment at the recent closure of Manston as a regional airport.

There was recognition of the public support for the continued operation of Manston Airport. Cabinet endorsed the steps taken so far towards that objective. The Leader urged all available options to that end to be explored, including a detailed examination of the legal and financial implications of a Compulsory Purchase Order before a final decision is reached.

Cabinet acknowledged that the petition and the motion on the Manston Airport were referred to Cabinet on 31<sup>st</sup> July 2014. They expected that by then officers would have been able to advise Cabinet on some of the key issues in deciding whether to take forward a CPO. Such advice would include the preliminary results of a viability assessment.

Members urged officers to identify whether EU Rules applied in this case or not as this would have time scale implications for how long it would take to complete the process. Cabinet noted that at every stage there was a need to demonstrate that all the financial and legal issues were fully addressed. All the risks for this major project would need to be analysed, measured and managed in order to ensure that public funds were committed appropriately.

Cabinet noted that Manston Airport was important to the district's economic development and that there was cross party working towards ensuring that the Airport remained operational. Members also noted that Kent County Council (across the political groups) was in support of the efforts being made by Thanet District Council.

The following Members spoke under Council Procedure Rule 24.1:

Councillor Gibson;  
Councillor Alexandrou;  
Councillor Poole.

Councillor Johnston proposed, Councillor E. Green seconded and Members unanimously agreed the following

1. That the timetables are noted and that the appropriate process be initiated in the event that Cabinet determines a CPO should be applied for.

No proposal was made in relation to the bond issue because that matter would be discussed in more detail at the Cabinet meeting on 31 July 2014.

Meeting concluded: 2.45 pm

**CABINET**

**Minutes of the meeting held on 31 July 2014 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.**

**Present:** Councillor Mrs Iris Johnston (Leader and Chairman); Councillors Nicholson (Deputy Leader), Everitt, D Green, E Green and Harrison

**In Attendance:** Councillors: Alexandrou, Bayford, Cohen, Dark, Duncan, Edwards, Gibson, Gideon, C Hart, S Hart, Lodge-Pritchard, Matterface, Moores, Poole, D Saunders, M Saunders, M Tomlinson, S Tomlinson, Wells and Worrow

**176. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**177. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**178. MINUTES OF PREVIOUS MEETING**

On the proposal of the Leader, seconded by the Deputy Leader, the minutes of the meeting of Cabinet held on 19 June 2014 were approved and signed by the Leader.

**179. MANSTON INTERNATIONAL AIRPORT - PETITION; MOTION; AND EVALUATION AND VALIDATION REPORT**

The Leader stated that, in her opinion, the report, for which five clear working days' notice had not been given, should be considered at this meeting as a matter of urgency as it related to an issue of significant interest to the public and to delay further would also have continuing impact on the Council's local plan position.

Mr Keith Churcher re-presented the petition, with 3,361 online and 4,330 paper signatures, having already presented it at the meeting of full council on 10 July 2014:

"We the undersigned petition the council to make a compulsory purchase of Manston, Kent's International Airport. We would also like Thanet District Council to look into the possibility of members of the public to buy bonds into this purchase."

In his presentation, Mr Churcher referred to: the petition to the Government which had been signed by over 26,000 persons, approximately 35% of whom, it was believed, lived in Ramsgate: the financial struggles experienced by some of those who had lost their jobs as a result of the airport's closure; the level of cargo companies' support for the airport; and RiverOak, who had expressed an interest in purchasing the airport, having reportedly undertaken to underwrite all the costs to the Council of a compulsory purchase order (CPO) and having indicated that they would not operate night flights at Manston.

The following Members spoke under Council Procedure Rule 24.1: Councillors Alexandrou, Gibson, Poole, Gideon, Cohen, Bayford, Moores & Wells.

It was proposed by the Leader, seconded by Councillor E Green and RESOLVED:

1. THAT Cabinet accepts the recommendations contained within the Stage 1 Evaluation and Validation report;

2. THAT Cabinet shares the report with the current owner of Manston to enable discussions with a view to establishing a way forward;
3. THAT Cabinet instructs Officers to proceed to Stage 2 of the viability assessment to develop a high level Business Plan which will be necessary to support the Local Plan process and any potential future procurement for an appropriate investor/partner;
4. THAT Cabinet instructs Officers to undertake a market testing exercise (prior to any full procurement process) to establish the level of interest in line with the conclusions in the Evaluation and Validation report.

**180. NOTICE OF MOTION NO. 2 - DESIGNATION OF CONSERVATION AREA, CLIFTONVILLE**

Councillor C Hart spoke under Council Procedure Rule 24.1.

It was proposed by Councillor D Green, seconded by the Deputy Leader and RESOLVED:

1. THAT the Ethelbert and Athelstan Road area be progressed for adoption as a designated Conservation Area subject to public consultation. That the officers prepare, consult and undertake the formal designation of an Article 4 Direction in respect of the area.
2. THAT the remainder of the areas Edgar Road/Sweyn Road, Norfolk Road/Warwick Road/Surry Road, Clifton Place/Grotto Gardens, Northdown Road, Clifftop are progressed in order as part of a management plan towards consultation with members of the public for consideration as designated Conservation Areas. Part of this process will include consultation of an Article 4 Direction.

**181. GREAT BRITISH SEASIDE FESTIVAL**

Councillor Wells spoke under Council Procedure Rule 24.1.

It was proposed by the Leader, seconded by the Deputy Leader and RESOLVED:

THAT the option laid out in paragraph 3.3 of the report is agreed; that is, that funding for the event is agreed to be paid in two stages, £5,000 now and £5,000 when the events for Margate and Broadstairs are formulated and agreed later in the year.

**182. PETITION TO COUNCIL - MARGATE HARBOUR**

Councillor Poole spoke under Council Procedure Rule 24.1

It was proposed by Councillor Harrison, seconded by the Deputy Leader and RESOLVED:

“THAT Cabinet agrees Option 1 as described in section 6.1 of the report and rejects the request to reopen the sluice gates”.

**183. RAMSGATE MARITIME PLAN**

Councillors Gideon and Bayford spoke under Council Procedure Rule 24.1.

It was proposed by Councillor Harrison, seconded by the Deputy Leader and RESOLVED:

“THAT Cabinet adopts the Ramsgate Maritime Plan which gives the strategic direction for Ramsgate Port and Royal Harbour”.

**184. CORPORATE RISK REGISTER**

Councillor E Green thanked Adrian Halse and Steve Tebbett for their work in connection with the report.

On Councillor E Green’s proposal, seconded by the Deputy Leader, it was RESOLVED:

1. THAT Cabinet approves the proposed Corporate Risk Register, as set out in Annex 1;
2. THAT Cabinet designates the Cabinet Member with responsibility for corporate risk management as the Council’s Risk Management Champion;
3. THAT Cabinet commits to review the Corporate Risk Register once a year but delegates responsibility to approve changes to the Corporate Risk Register during the course of the year to the Risk Management Champion.

**ORDER OF BUSINESS**

The Leader directed that Agenda Items 14 [*Thanet Markets: Margate Weekly General Market*], 15 [*Financing a New Housing Management IT System for East Kent Housing*] and 16 [*Dreamland Phase 2 Process*] be taken at this stage of the meeting.

**185. THANET MARKETS: MARGATE WEEKLY GENERAL MARKET**

It was proposed by the Leader, seconded by the Deputy Leader and RESOLVED:

“THAT Cabinet supports the Council relocating the weekly Margate market to Cecil Square and takes on responsibility for managing the market”.

**186. FINANCING A NEW HOUSING MANAGEMENT IT SYSTEM FOR EAST KENT HOUSING**

It was proposed by the Deputy Leader, seconded by Councillor Everitt and RESOLVED:

1. THAT Cabinet agrees a loan of £223,000 for East Kent Housing for the purposes of purchasing a single IT system.
2. THAT Cabinet delegates authority to determine the terms of the loan to the Section 151 Officer, in consultation with the Portfolio Holder for Finance.

**187. DREAMLAND PHASE 2 PROCESS**

It was proposed by Councillor Everitt, seconded by the Deputy Leader and RESOLVED:

1. THAT Cabinet gives approval to commence with the process to advertise the area(s) to lease the units documented in paragraphs 2.2.1 through to 2.2.7 to obtain expressions of interest, with a view to progressing through to leasing the areas to achieve the regeneration objectives.

2. THAT Cabinet agrees to the use of the Un-Ring-Fenced Grants Reserve to a sum of £63,000 (ex VAT) in order to progress the plans for the Sunshine Café.

**188. ANNUAL TREASURY MANAGEMENT REVIEW 2013/14**

It was proposed by Councillor Everitt, seconded by the Deputy Leader and RESOLVED:

1. THAT Cabinet approves the actual 2013/14 prudential and treasury indicators in the report;
2. THAT Cabinet approves the annual treasury management report for 2013/14;
3. THAT Cabinet recommends the report to Council.

**189. BUDGET OUTTURN**

It was proposed by Councillor Everitt, seconded by the Deputy Leader and RESOLVED:

1. THAT Cabinet notes the General Fund, HRA and capital outturn position for 2013/14;
2. THAT Cabinet approves the proposed movements to earmarked reserves as outlined in paragraphs 2.4 and 3.3 of the report.

**190. BUDGET MONITORING**

It was proposed by Councillor Everitt, seconded by the Deputy Leader and RESOLVED:

1. THAT Cabinet notes the projected outturn position for 2014/15 for the General Fund;
2. THAT Cabinet agrees the reserve movements detailed in paragraphs 3.1 and 3.3 of the report;
3. THAT Cabinet notes the current Housing Revenue Account position;
4. THAT Cabinet approves the grant to the Citizens Advice Bureau as mentioned in paragraphs 3.3 and 4.2 of the report;
5. THAT Cabinet notes the General Fund and Housing Revenue Account Capital programmes and agrees the budget virements detailed as per Annex 3 for the General Fund Capital Programme.

**191. CREDIT METHODOLOGY CHANGES**

It was proposed by Councillor Everitt, seconded by the Deputy Leader and RESOLVED:

“THAT Cabinet approves Option 3.1, as set out at paragraph 3.1 of the report (in line with Capita’s new rating assessment methodology) and recommends it to Council”.

Meeting concluded : 9.00 pm



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## RAMSGATE PORT AND HARBOUR GOVERNANCE PROPOSALS

To: **Cabinet – 11<sup>th</sup> September 2014**

Main Portfolio Area: **Operational Services**

By: **Cllr Mike Harrison, Cabinet Member for Operational Services**

Classification: **Unrestricted**

Ward: **Central Harbour**

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**Summary:** To consider proposals for the governance of Ramsgate Port and Harbour taking into account the previous findings of Opportunities for Ports in Local Authority Ownership – A Review of Municipal Ports in England and Wales.

### For Decision

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#### **1.0 Introduction and Background**

- 1.1 Work on the governance of the port and harbour has been done in parallel to the development the development and adoption of the Ramsgate Maritime Plan by Cabinet.
- 1.2 This has been done in the context of the approach recommended in 'Opportunities for Ports in Local Authority Ownership – A Review of Municipal Ports in England' and Wales, which makes reference to the findings of 'Modernising Trust Ports – A Guide to Good Governance'. However, this work has also reflected how this has been adopted by a number of ports and the issues this has caused for them.
- 1.3 On this basis the report takes on board the prime aims in the above documents, but proposes a more flexible approach, in which the responsibility remains with Cabinet as currently, but the role of a Harbour Committee is undertaken by a Cabinet Advisory Group

#### **2.0 Current Situation**

- 2.1 The port and harbour are a direct responsibility of Cabinet as an executive function, with the management being delegated to officers to run the services. The constitution does not allow the executive to delegate its responsibilities to a Committee of Cabinet unless this is comprised of Cabinet members only. On this basis it can seek input from other members either through a Cabinet Advisory Group, or through making a decision to revert its responsibilities to full Council, and for Council to set up a committee.

#### **3.0 Proposal**

- 3.1 Annex 1 sets out possible terms of reference for the governance of Ramsgate Port and Harbour, and it is proposed that this is adopted by Cabinet.

- 3.2 The delivery of these terms of reference can be undertaken either through a Cabinet Advisory Group, or through a committee constituted under full Council as indicated in 2.1 above.
- 3.3 The primary finding of the government in its review was the need to ensure that there is sufficient accountability, capacity and capability in relation to the management of municipal ports. Although a number of councils adopted a separate committee with specific delegated powers to give effect to this, this has led to some problems, and is clearly not the only way to approach this.
- 3.4 The alternative is to create a Cabinet Advisory Group with both member and external representation. This can create the capability and capacity to assist managers and Cabinet in the running of the port and harbour, allowing advice to be carried forward by officers in day to day management where this is in line with current delegations, and seeking approval from Cabinet where significant decisions need to be made that fall outside these. This combines the flexibility necessary, but with ultimate responsibility remaining with Cabinet in parallel with their other responsibilities. It can be done without changing the constitution to reflect the reversion of these responsibilities to Council or the setting up of a new committee, and allows this to be changed much more readily if it is not working. Overall scrutiny of the exercise of executive responsibilities would still remain with the Overview and Scrutiny Panel.

#### **4.0 Corporate Implications**

##### **4.1 Financial and VAT**

- 4.1.1 The membership of the board would involve the normal travel expenses for members of the group that can be accommodated within existing budgets.

##### **4.2 Legal**

- 4.2.1 Under paragraph 7.1.1 terms of the Constitution for the Governance of Thanet District Council, Cabinet can set up Cabinet Advisory Group to advise it on relevant issues. However, Cabinet remains responsible for the port and harbour.

##### **4.3 Corporate**

- 5.3.1 The current financial position of the port precludes taking a more radical approach to its future management and relationship to the council at this point. However, following the development of the Ramsgate Maritime Plan and the associated consultation, there are benefits to considering changes to the governance of the port and harbour. The proposals represent the current national advice on the governance of municipal ports, which allows more involvement of members in the management of Ramsgate, but also an opportunity to bring in external expertise to assist this. However, this is done in a way that reflects on the experience of other ports, and provides as much flexibility as possible.

##### **5.4 Equity and Equalities**

- 5.4.1 There are no equalities implications associated with the proposals.

#### **6.0 Recommendation**

- 6.1 That Cabinet agrees the setting up of the Ramsgate Port and Harbour Cabinet Advisory Group under the terms set out in Annex 1.

## 7.0 Decision Making Process

7.1 This is a non-key decision which can be made by Cabinet.

Contact Officer:	Mark Seed, Director of Operational Services
Reporting to:	Madeline Homer, Interim Chief Executive

### Annex List

Annex 1	Ramsgate Port and Harbour Board Terms of Reference
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### Background Papers

Title	Details of where to access copy
Ramsgate Maritime Plan	<a href="http://democracy.thanet.gov.uk/ieListDocuments.aspx?CId=151&amp;MId=3046&amp;Ver=4">http://democracy.thanet.gov.uk/ieListDocuments.aspx?CId=151&amp;MId=3046&amp;Ver=4</a>
Opportunities for Ports in Local Authority Ownership – A Review of Municipal Ports in England	<a href="http://webarchive.nationalarchives.gov.uk/20100513185438/http://www.dft.gov.uk/pgr/shippingports/ports/opportunities/rtunitiesforportsinlocal4960.pdf">http://webarchive.nationalarchives.gov.uk/20100513185438/http://www.dft.gov.uk/pgr/shippingports/ports/opportunities/rtunitiesforportsinlocal4960.pdf</a>
Modernising Trust Ports – A Guide to Good Governance	<a href="http://assets.dft.gov.uk/publications/modernising-trust-ports-guide/mtp-good-guide-to-governance.pdf">http://assets.dft.gov.uk/publications/modernising-trust-ports-guide/mtp-good-guide-to-governance.pdf</a>

### Corporate Consultation Undertaken

Finance	Matthew Sanham, Finance Manager (Service Support)
Legal	Steven Boyle, Interim Legal Services Manager & Monitoring Officer

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**Annex 1**

**Ramsgate Port and Harbour Cabinet  
Advisory Group  
Terms of Reference**

**September 2014**

## 1. Introduction

### 1.1. Basis of preparation

The terms of reference for the Ramsgate Port and Harbour Cabinet Advisory Group (the “CAG”) has been prepared with regard to the following:

- Port and Harbour related Acts (as defined in section 3.1)
- Constitution for the Governance of Thanet District Council (the “Council’s Constitution”)  
<http://democracy.thanet.gov.uk/documents/s35863/Constitution%20for%20Governance%20of%20Thanet%20District%20Council%20-%20updated%205%20December%202013.pdf>
- Opportunities for Ports in Local Authority Ownership – A Review of Municipal Ports in England and Wales  
<http://webarchive.nationalarchives.gov.uk/20100513185438/http://www.dft.gov.uk/pgr/shippingports/ports/opportunities/rtnitiesforportsinlocal4960.pdf>
- Modernising Trust Ports – A Guide to Good Governance- Second Edition  
<http://assets.dft.gov.uk/publications/modernising-trust-ports-guide/mtp-good-guide-to-governance.pdf>

### 1.2. Compliance with the Council Constitution

The CAG is a formally constituted advisory group to the Cabinet of Thanet District Council. These Terms of Reference have been drawn up to provide a guide to members of the CAG, on its role and functions within the Council. The Legal Services Manager and Monitoring Officer will continue to give guidance on constitutional issues as they arise. That guidance will be given in accordance with the Council’s Constitution, whose terms will always prevail over these Terms of Reference.

### 1.3. Conformity with recommendations of national government

The Terms of Reference seek to follow, as far as is practicable, the recommendations of national government more specifically set out in the publications of the Department of Transport ‘Modernising Trust Ports – A Guide to Good Governance’ – Second Edition” and ‘Opportunities for Ports in Local Authority Ownership – A Review of Municipal Ports in England and Wales’.

## **2. Strategic objectives and constraints of the CAG and the Council**

### **2.1. Objective of the CAG**

This objective of the CAG is to support the council's principal aims as set out in its Corporate Plan 2012-16, especially in relation to supporting the growth of Thanet's economy and the number of people in work.

### **2.2. Constraints on the CAG:**

To provide advice to the Executive and officers to achieve the following basic requirements:

- To be financially self-sufficient
- To comply with applicable legal and regulatory requirements
- To deliver to the best practice of open and transparent governance

## **3. Terms of Reference**

### **3.1. The terms of reference of the Ramsgate Port and Harbour CAG ("the Terms of Reference") are as follows:**

- (a) To provide advice and direction to Cabinet and officers on the exercise of the functions of the Council under relevant legislation (including byelaws), which may apply from time to time in respect of the Council's functions with regard to the administration and management of the port and harbour
- (b) To advise on the discharge of these functions within the overall policy discretion set by the Council and within a ring fenced budget as far as possible.
- (c) To provide strategic advice in all matters relating to Ramsgate Port and Harbour, including port and harbour land and property.
- (d) To advise on the proper discharge the Council's duties and powers, as a Competent Port and Harbour Authority, in relation to marine safety and the safe use of all port and harbour lands in accordance with the Port Marine Safety Code.
- (e) To ensure that it is open and accountable in all its activities.
- (f) To strive to make Ramsgate Port and Harbour financially self-sustaining.
- (g) To have due regard to the changing needs of the marine sector and others with an interest in the port activities of Ramsgate Port and Harbour.
- (h) To have due regard to the interests of the local community in the running of the Ramsgate Port and Harbour and in particular to recognise the contribution which the port and harbour makes to the economic wellbeing of the area through both direct and secondary employment and purchasing.

- (i) To submit to the Executive in November each year, via the Director of Operational Services and Portfolio Holder, a five year capital programme including funding proposals and five year revenue projections.
- (j) To monitor and advise on revenue and capital expenditure associated with the port and harbour.

## **4. Constitution of the CAG**

### **4.1. Membership of the CAG**

#### **4.1.1. The CAG**

The CAG shall consist of 7 members: comprising 5 councillors and 2 external members agreed by the Cabinet Member for Operational Services.

All members of the CAG shall participate in training programmes to understand the duties and responsibilities involved in the Council running the port and harbour and to assist their advice to Cabinet and Officers.

The CAG is an advisory body and cannot exercise delegated authority on behalf of the council.

#### **4.1.2. External members**

The external members shall have full voting rights on all matters before the CAG and be appointed on merit, based on their knowledge of the maritime matters, in order to obtain a CAG that is independent and fit for purpose.

The external CAG members will be appointed so that they provide a full range of maritime business expertise.

### **4.2. Meeting arrangements**

#### **4.2.1. Time and place of meetings**

The CAG shall meet at least 4 times per year and the meetings will be held at the Ramsgate Harbour Office.

#### **4.2.2. Notice and agenda for meetings**

Notice to members of the CAG and the public of the time and place of the meeting will be given at least five clear working days before the meeting. An agenda for the meeting together with such reports and background papers as are available will be provided with the notice.

#### **4.2.3. Motions**

CAG members may put forward motions for consideration by the CAG provided that written notice is given to the Democratic Services no later than eight clear working days before the date of the meeting.



#### 4.2.4. Quorum

The quorum for a meeting shall be at least four members.

#### 4.2.5. Voting

Any matter will be decided by a simple majority of those CAG members present and voting in the room at the time the matter was put. The Chairman will have, where necessary, a casting vote.

#### 4.2.6. Declarations of interest

Personal Interest

If a CAG member has a personal interest (as defined in the Members' Code of Conduct) and attends a meeting of the CAG where that matter is to be discussed they must disclose to that meeting the existence and nature of that interest at the commencement of that discussion or when the interest becomes apparent.

Prejudicial interest

If the personal interest is prejudicial, (that is, if the interest is one which,

- (a) Is not a decision listed in paragraph 10(2)(c) of the Code
- (b) Affects a member's financial interests or relates to a licensing or regulatory matter and
- (c) A member of the public who knows the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest)

Then the member shall declare their interest and withdraw from the meeting until discussion of the relevant matter is concluded.

The principles set out in this section would apply to external members of the CAG.

#### 4.2.7. Public participation

The public has the right to:

- (a) See non confidential reports and background papers and any records of advice provided by the CAG;
- (b) Attend CAG meetings as observers except during those times when confidential or exempt information is likely to be disclosed;

#### 4.2.8. Minutes

Minutes of the CAG meeting will be taken and will contain all motions and amendments in the exact form and order put to the meeting.

The Chairman will sign the minutes of the CAG meeting at the next suitable meeting.

#### **4.3. Rules of Procedure, Codes and Protocols**

##### **4.3.1. Rules of procedure**

The CAG is subject to the Council's Rules of Procedure as set out in the Council's Constitution.

##### **4.3.2. Council's Codes and Protocol**

All members of the CAG are subject to the Council's Codes and Protocols as set out in the Council's Constitution. The principles of these will apply to external members of the CAG.

#### **5. Strategy and Business Planning**

##### **5.1. Business development plans**

The CAG shall draw up an annual business development plan for Ramsgate Port and Harbour (the "Business Development Plan") setting out proposed strategic budgetary and development plans for a forward period of five years. The Business Development Plan shall be submitted annually to Cabinet for approval.

The Business Development Plan shall form the basis on which the CAG will draw up more detailed implementation plans from time to time.

An outline of the Business Development Plan of the CAG shall be included in the CAG's Annual Report, as described in section 7.1.

#### **6. Financial arrangements**

##### **6.1. Annual budgets**

Annually, in accordance with the Council's established timetable, the CAG shall prepare and submit for approval and adoption by the Executive a proposed budget of the revenues, expenditure, capital expenditure and financing plans for the Port and Harbour for the forthcoming year in accordance with the Council's budgetary and policy framework rules and in accordance with the Medium Term Financial Strategy.

##### **6.2. Five year forecasts**

Annually, in accordance with the Council's established timetable the CAG shall prepare and submit for approval and adoption by the Executive a forecast of the revenues, expenditure, capital expenditure and financing plans for the Port and Harbour for the following five years.

### **6.3. Financial reporting**

The CAG shall prepare a statement of revenues, expenditure, capital expenditure and financing at each six month interval in the financial year to show the actual results achieved for the cumulative six month period in comparison with the Port and Harbour budget. The CAG shall also make a forecast of the most likely out-turn for the full financial year. In each case, a description of the differences between the actual results achieved and the budget or prior forecast of the most likely out-turn shall be provided.

The CAG shall present an analysis of the financial performance of the Port and harbour for the immediately preceding financial year for inclusion in the Annual Report.

### **6.4. Assured (ring-fenced) accounts**

In accordance with the recommendations of the Department for Transport, as set out in 'Opportunities for Ports in Local Authority Ownership – A Review of Municipal Ports in England and Wales', and as indicated in point 2 of the CAG's Terms of Reference set out in section 3.3, the CAG seeks to advise and direct the activities of the Port and Harbour within a ring-fenced budget on the basis of assured accounting arrangements.

## **7. Annual report**

### **7.1. Annual Report**

No later than six months after the end of its financial year, the CAG will prepare an annual report (the "Annual Report") which will include, but not be limited to, an outline of the following:

- Activities undertaken and progress achieved
- Business development plans
- Financial results and budget
- Changes to CAG membership

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## VATTENFALL - COMMUNITY PROJECT FUNDING

To: **Cabinet – 11<sup>th</sup> September 2014**

Main Portfolio Area: **Operational Services**

By: **Cllr Mike Harrison, Cabinet Member for Operational Services**

Classification: **Unrestricted**

Ward: **Cliffsend and Pegwell, Central Harbour, Eastcliff**

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**Summary:** In 2009 Vattenfall provided a grant of £100k to TDC to develop and deliver a project to benefit the local community and environment. This report describes the work to date and recommends two projects for delivery using this grant funding.

### For Decision

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#### **1.0 Introduction and Background**

- 1.1 In 2009 the energy company Vattenfall started the construction phase of the Thanet Offshore Wind Farm. As part of this they confirmed their intention to support a project which benefits the local community and environment. The company provided a grant of £100k to Thanet District Council for this purpose.
- 1.2 An outline project brief was proposed for a scheme on and around the former Hoverport at Pegwell Bay. TDC formed a project group consisting of elected members, key local stakeholders and other consultees such as Natural England and the Kent Wildlife Trust. Vattenfall were also represented on the group. The project team refined the proposal for a project to promote the sustainable enjoyment of the former Pegwell Hoverport and surrounding area with improved pedestrian links to the main part of the Pegwell Bay Nature Reserve.
- 1.3 The main focus of the project was a raised walkway through the saltmarsh at the rear of the bay which was to be constructed from recycled materials. The final project scope was agreed in February 2011 and was then designed in detail. Some questions over the nearby informal car park on Sandwich Road and the overall environmental impact delayed the scheme development as an Appropriate Assessment was undertaken to assess the impact on the environmentally designated site and inform a planning application. This application was submitted in June 2012 but was withdrawn shortly afterwards following new concerns raised by members of the project group.
- 1.4 The project was put on hold at this point due to limited resources and the need to focus upon other major construction projects late in 2012. The scheme design had reached an advanced stage with contractors shortlisted for tender invitation; a full site investigation had also been completed. As a result the cost of this development work reduced the value of the remaining grant to just under £93k.
- 1.5 It is proposed that alternative projects are now progressed and delivered using the remaining funding. The issues encountered with the raised walkway project proposal cannot be easily resolved without significant compromises which would affect the desired objectives. Therefore, two new projects are being proposed which fulfil the original criteria of providing a local community and environmental benefit. These

projects are described below and recommended for approval by Cabinet to progress to detailed design and delivery as replacements for the original scheme.

## **2.0 Project Proposals Recommended for Approval by Cabinet**

### **2.1 Village Recreation Ground Play Area - Cliffsend**

2.1.1 The recreation ground has a children's play area containing a few basic pieces of play equipment. This equipment has a short residual life and would benefit significantly from being completely replaced. Some pieces of play apparatus will need to be removed soon to comply with the latest advice from RoSPA. The recreation ground at Foads Lane contains the only play facilities for the Cliffsend area, with the next nearest play area being more than 3km away on the Westcliff of Ramsgate.

2.1.2 The primary objective of this project is therefore to replace the existing play equipment with a modern high quality play area complying with current (RoSPA) guidelines. A budget of £50k would allow for the installation of a selection of comprehensive play apparatus including the required ground works, rubberised surface finishes, perimeter fencing and approaches. Upon completion of the project the play area would be maintained by the council in accordance with the established inspection and maintenance regime for play areas across the District.

2.1.3 The recreation ground is the subject of a lease agreement between the Maudsley Charity and TDC. This lease agreement is due to come to an end in September 2015 but is subject to the conditions of the Landlord and Tenant Act, therefore the council have normal security of tenure meaning that it is likely that a new lease will be agreed. The existing lease does however include a 12 month rolling break clause, which means that the landlord could choose to serve notice. No planning applications have been received by the council on the site of the recreation ground since 2005. There is also a Local Plan policy indicating a presumption to protect this area of land. However future planning policy may be subject to change and is could be affected by the proposed Cliffsend Neighbourhood Plan. There is always a risk of notice being served on the council by the landlord. However, given the circumstances and longstanding use of the land the level of risk appears to be low, and should be considered in the context of the perceived likelihood of development and the long standing lease arrangement which has been in place continuously for more than 40 years.

2.1.4 There is currently no capital funding allocated or proposed to take forward the play equipment replacement at Foads Lane. Allocation of funding to the play area from the council's wider capital programme would be dependent on the overall availability of funding within the programme moving forward and the wider priorities of the council.

### **2.2 Ramsgate Eastcliff and Westcliff Gardens**

2.2.1 This project focuses upon improvements to the Eastcliff gardens from the harbour to King George VI Park in Ramsgate. The proposed work primarily involves changes to the planting in this areas consisting of the re-siting of the current flower and shrub/rose beds to create a more uniform appearance to the upper promenade area and provide more sustainable planting. The intention is to also use this opportunity to remove older items such as the circular flowers beds, the raised bed by the Granville and rose beds opposite the Coastguard Cottages. The current flower beds are colourful but lack height and with the lack of winter planting now due to budget constraints there needs to be a change to a mixture of shrubs, herbaceous and annual planting. Similar works on the Westcliff at Ramsgate will also be considered as this project is developed.

2.2.2 In addition the work will include the final phase of planting to the Madeira Walk rockery and also the Wills Memorial. The latter site requires removal of over mature planting that

is damaging the listed structure, requiring associated repair work. This will also reinstate the intended sea views.

- 2.2.3 Although this project would be delivered in association with the local community, building on current work, it is currently unfunded. It is proposed that an allocation of £40k be made from the Vattenfall grant fund to this project.

### **3.0 Corporate Implications**

#### **3.1 Financial and VAT**

- 3.1.1 The funding was provided by Vattenfall as a grant for a project which benefits the local community and environment. The funds provided (£100k) were net of VAT. A total of just under £93k remains available for allocation to a project. It is proposed to allocate a total £90k to the two projects above with the remaining funding of just less than £3k set aside to cover project delivery including fees, staff costs and procurement.
- 3.1.2 The original scheme to deliver a Walkway at Pegwell Bay was approved as a capital project and included in the budget report to Council in 2010. If Cabinet agrees to the recommendation to take forward the above two projects instead of the Walkway project it would also be necessary to formally approve a variation to the use of these funds from that which was agreed in the 2010 budget report, including its use for the primarily revenue projects as described in section 2.
- 3.1.3 There are no known VAT issues associated with either of the recommended projects.

#### **3.2 Legal**

- 3.2.1 The expenditure of the funding provided by Vattenfall on the projects proposed above is unlikely to raise legal issues.

#### **3.3 Corporate**

- 3.3.1 The project to replace the play equipment at the Cliffsend Recreation Ground carries a project risk relating to the lease conditions. This risk is described in paragraph 2.1.3 above.
- 3.3.2 The outputs from the project options described above are aligned with Corporate Plan priorities including 3 (Community and Voluntary), 6 (Clean, Green Environment) and 11 (Preserving our Public Spaces).
- 3.3.3 Close liaison with a representative of Vattenfall on the recommended projects will be maintained as a courtesy to the funder. Permanent physical acknowledgement of Vattenfall as the funding provider will be made at both project sites.

#### **3.4 Equity and Equalities**

- 3.4.1 There are no obvious equity and equality issues associated with the options considered in this report.

#### **4.0 Recommendations**

- 4.1 That £50k of the Vattenfall funding is allocated to the replacement of the play area in Cliffsend as set out in section 2.1 and that £40k is allocated to the Ramsgate Eastcliff and Westcliff Gardens project as set out in section 2.2. The remaining £3k to be allocated to support the delivery of the two projects as set out in 3.1.1.
- 4.2 That Cabinet approve a variation to the use of the funds from that which was agreed in the 2010 budget report, and that the proposal for a raised walkway is not taken forward.

#### **5.0 Decision Making Process**

- 5.1 This is a non-key decision that is within the delegated authority of Cabinet.

Contact Officer:	Mike Humber – Technical Services Manager
Reporting to:	Mark Seed – Director of Operational Services

#### **Corporate Consultation Undertaken**

Finance	Matthew Sanham, Finance Manager (Service Support)
Legal	Stephen Boyle, Interim Legal Services Manager & Monitoring Officer



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## Housing Revenue Account Garages

To: **Cabinet – 11 September 2014**

By: **Cllr Nicholson, Deputy Leader and Cabinet Member for Housing & Planning Services**

Classification: **Unrestricted**

Ward: **All wards**

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**Summary:** **To approve the Director of Community Services to have delegated authority to acquire garage leaseholds and freeholds on Housing Revenue Account land.**

### **For Decision**

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#### **1.0 Introduction and Background**

1.1 Thanet District Council has undertaken an audit of all the council owned garages across the district. There is currently a 50% vacancy rate across all of these sites. Some of the sites have development potential to provide new affordable homes, which is in accordance with the objectives of the Corporate Plan 2012-2016 and the Housing Strategy 2012-2016. Sites which have development potential now have planning consent to deliver up to 40 new affordable homes which will be retained by Thanet District Council and let to households on the housing register.

#### **2.0 The Current Situation**

2.1 In order to develop the sites, we need to purchase back some of the leaseholds and freeholds of garages which have previously been sold along with properties in the HRA through the Right to Buy.

2.2 As part of the planning application process the leaseholders and freeholders on the application sites were notified that a planning application had been submitted. They were given the opportunity to contact the council to discuss the application and their options to potentially sell their garage back to the council.

2.3 The current delegated authority of the Director of Community Services does not include the buy back of garages on Housing Revenue Account Land. Due to the timescales of delivering the new build homes, it would be more efficient for delegated authority to be granted for this project to allow negotiation and the purchase of the leaseholds and freeholds to be undertaken at an officer level in conjunction with the portfolio holder.

#### **3.0 Options**

3.1 For Cabinet to agree for the Director of Community Services to be granted delegated authority to purchase back leaseholds and freeholds of garages that have previously been sold.

3.2 For members to choose to make the decision on the purchase of each garage, but this will create delays to the new build programme.

## **4.0 Next Steps**

- 4.1 Negotiation can commence with the owners of the garages. Across the sites we are currently looking at there are 9 garages to purchase back in total. Some of the owners have already been in contact and would like to sell their garages back to the council.

## **5.0 Corporate Implications**

### **5.1 Financial and VAT**

- 5.1.1 There are no envisaged VAT issues arising from the proposal. Funds have been secured for the buy-back, however individuals may wish to refuse sale and as a result Compulsory Purchase may become an issue, possibly further inflating the costs.

### **5.2 Legal**

- 5.2.1 There will need to be care taken to ensure that the price paid is reasonable following valuation as this will be a requirement for the end of year audit. It needs also to be borne in mind that acquiring land with a view to redevelopment does not guarantee any right to redevelop the land and any proposal will be subject to obtaining the relevant planning and other permission.

### **5.3 Corporate**

- 5.3.1 Building new affordable homes has strong links with the ethos and priorities of the Corporate Plan. In particular Priority 7: "We will plan for the right type and number of homes in the right place to create sustainable communities in the future." Other priorities such as Priority 2: "We will tackle disadvantage across the district" feature housing issues such as tackling empty homes and also Priority 4: "We will make our district a safer place to live" in terms of good housing design and creating sustainable communities. Also, by redeveloping the sites, issues such as antisocial behaviour and fly tipping which are linked with disused garages, are being tackled.

### **5.4 Equity and Equalities**

- 5.4.1 Purchasing back garages which have previously been sold, does not negatively impact on residents of the district. The new build programme aims to improve housing opportunities in Thanet and make better use of our Housing Revenue Account assets to benefit residents. Garage sites were included in housing developments from the 1960's to the 1980's and in most cases have a lack of natural surveillance that attracts ASB and fly tipping. By redeveloping these sites we are removing these problem areas and making best use of council owned land. The housing will be allocated to households on the housing register in accordance with the Allocations Policy, for which an Equalities Impact Assessment has been undertaken.

## **6.0 Recommendation**

- 6.1 For members to approve the Director of Community Services to have delegated authority to acquire garage leaseholds and freeholds on Housing Revenue Account land.

## 7.0 Decision Making Process

Contact Officer:	Ashley Stacey, Strategic Housing Manager Ext 7280
Reporting to:	Madeline Homer, Director of Community Services

### Annex List

None	N/A
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### Background Papers

Title	Details of where to access copy
None	N/A

### Corporate Consultation Undertaken

Finance	Matt Sanham, Finance Manager (Service Support)
Legal	Steven Boyle, Interim Legal Services Manager & Monitoring Officer
Communications	Hannah Thorpe, PR & Publicity Manager

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## **Food Law Enforcement Plan 2014-16**

To: **Cabinet – 11 September 2014**

Main Portfolio Area: **Corporate & Regulatory Services**

By: **Cllr Johnston, Leader of Council and Cabinet Member for Community Services**

Classification: **Unrestricted**

Ward: **All Wards**

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**Summary:** The Food Law Enforcement Plan sets out how this Council intends to provide an effective food safety service that meets the requirements of the Food Standards Agency Framework Agreement. It covers the functions carried out by authorised officers of the Public Protection Team under the provisions of the Food Safety Act 1990, the Food Hygiene (England) Regulations 2006 and relevant regulations made under the European Communities Act.

### **For Decision**

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#### **1.0 Introduction and Background**

- 1.1 The Food Standards Agency requires local authorities to produce a Plan that outlines how we intend to provide an effective food safety service. The plan sets out how the Public Protection Team prioritises and manages their work for the next 24 months.
- 1.2 The work of the team which is included in this Plan includes inspections of food businesses, shell fish sampling and general sampling, approval of food manufacturing premises, imported food controls and complaints about food premises.
- 1.4 The Plan also indicates the level of resources required to undertake the services required.

#### **2.0 The Current Situation**

- 2.1 There have been a number of changes over the last six months which have required the Food Law Enforcement Plan to be updated. The two which have a major impact on the Public Protection Team are the closure of the Designated Point of Entry, which saw the responsibility for imported food return to the team, and a change in the guidance on the frequency of inspections.
- 2.2 The impact of these changes means that we now require 1 FTE Manager, 2 FTE Environmental Health Officers and 3.5 FTE Public Protection Officers. Due to recent staff changes in the team we have a number of vacant posts so there are no staff directly affected by the changes to the Food Law Enforcement Plan.
- 2.3 The Service Plan is a key document in setting out the focus of the team for the next two years and will lead to a consistent work programme for the next year as well as complying with our statutory responsibilities.

### **3.0 Options**

3.1 To approve the Service Plan

3.2 To not approve the Service Plan

### **5.0 Corporate Implications**

#### **5.1 Financial and VAT**

5.1.1 There are no additional costs associated with the new staffing levels calculated within the Food Law Enforcement Plan.

#### **5.2 Legal**

5.2.1 The statutory duty is imposed on the Council under the Food Safety Act 1990 to ensure the effective implementation of Government Strategy on food safety issues, having regard to the Food Law Code of Practice issued by the Food Standards Agency and guidance issued by the Local Authority Co-ordinating Body and Regulatory Services (LACORS).

#### **5.3 Corporate**

5.3.1 Failure to comply with the effective implementation of the Food Safety Act 1990 and the relevant guidance and codes of practice leaves the authority open to challenge by the Food Standards Agency. More importantly though it leaves our residents and visitors at risk of food poisoning and in worse case death due to the poor hygiene standards practiced in food premises.

5.3.2 The Service Plan links into the 2012/16 Corporate Plan on a number of levels including:

- Priority One – Support the growth of our economy and the number of people in work;
- Priority Two – Tackle disadvantage across our district;
- Priority Three – support our community and voluntary organisations;
- Priority Four – make our district a safer place to live;
- Priority Six – make our district cleaner and greener and lead by example on environmental issues;
- Priority Ten – influence the work of other agencies to ensure the best outcomes for Thanet.

#### **5.4 Equity and Equalities**

5.4.1 The Service Plan details the level of Service businesses and the public can expect from the Public Protection Team with regard to food safety. The Plan ensures that high risk premises are inspected with more regularity than those posing a lower risk to public health. The standard of food premises impacts on everyone in society as poor standards & practices increase the likelihood of a food poisoning outbreak.

### **6.0 Recommendation**

6.1 Members are requested to approve the Food Law Enforcement Plan.

### **7.0 Decision Making Process**

7.1 This is a policy framework key decision due to the impact it has on the community.

Contact Officer:	Penny Button, Head of Safer Neighbourhoods, Ext 7425
Reporting to:	Madeline Homer, Director of Community Services

### **Annex List**

Annex 1	Food Law Enforcement Plan
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### **Background Papers**

<b>Title</b>	<b>Details of where to access copy</b>
None	N/A

### **Corporate Consultation Undertaken**

Finance	Sarah Beeching, Finance Officer
Legal	Steven Boyle, Interim Legal Services Manager & Monitoring Officer
Communications	Not undertaken

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# Thanet District Council

## Environmental Health

### **FOOD LAW ENFORCEMENT**

### **PLAN**

### **AND ENFORCEMENT POLICY**

**2014/2016**

Prepared Jan 2014  
Reviewed Aug 2014  
Annual Review Aug 15



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## Introduction

This Service Plan sets out how this Council intends to provide an effective food safety service that meets the requirements of the Food Standards Agency (FSA) Framework Agreement. It covers the functions carried out by authorised officers of the Public Protection Team under the provisions of the Food Safety Act 1990, the Food Safety & Hygiene (England) Regulations 2013 and relevant regulations made under the European Communities Act.

The Service Plan incorporates the entire audit findings/recommendations from the Audit carried out by the FSA in November 2011, when the FSA expressed serious concerns regarding TDC's then current service.

Following a further review meeting with the FSA in July 2013, The Public Protection Team's functions and statutory duties were again thoroughly reviewed to improve efficiency and accuracy, taking a robust approach to deal with FSA concerns, with effect from January 2014.

Manston airport became a DPE (Designated Point of Entry) in January 2013. From September 2013 Port health functions and shellfish sampling were managed by a separate Port Health team under their own DPE manager, who are the direct responsibility of the Head of Safer Neighbourhoods.

In March 2014 an announcement was made that the airport was to be closed, this was due to be completed on 22<sup>nd</sup> May 2014. The Port health and shellfish sampling activities will be re-included in this Food Service Plan from July 2014.

During 2013/2014 the food service plan concentrated on clearing the backlog of inspections and new registration inspections, food officers dealt with issues that have been neglected in the past through lack of resources, this includes a more thorough approach to complaints and new registration visits, the use of alternative interventions, educative approaches, street auditing, and routine sampling work.

The Public protection Manager's role changed during 2013/2014, focusing on increased auditing of officers work, ensuring an accurate LAEMS return to the FSA, and ensuring that the team continue to adhere to the FSA Action Plan and recommendations from their audit.

# 1. **Service Aims Objectives & Priorities**

## 1.1 **Aims Objectives and Priorities**

### **Aims**

- The overall aim of the Food Safety service is to ensure that food intended for human consumption produced, stored, distributed, handled or purchased within Thanet is without risk to public health and safety of the consumer.
- To encourage good practice amongst those responsible for preparing, handling and cooking food intended for human consumption, and to ensure they comply with their statutory obligations.
- To rate all premises under the Food Hygiene Rating Scheme (FHRS) to enable Thanet consumers to make informed decisions on where they consume food.

### **Objectives**

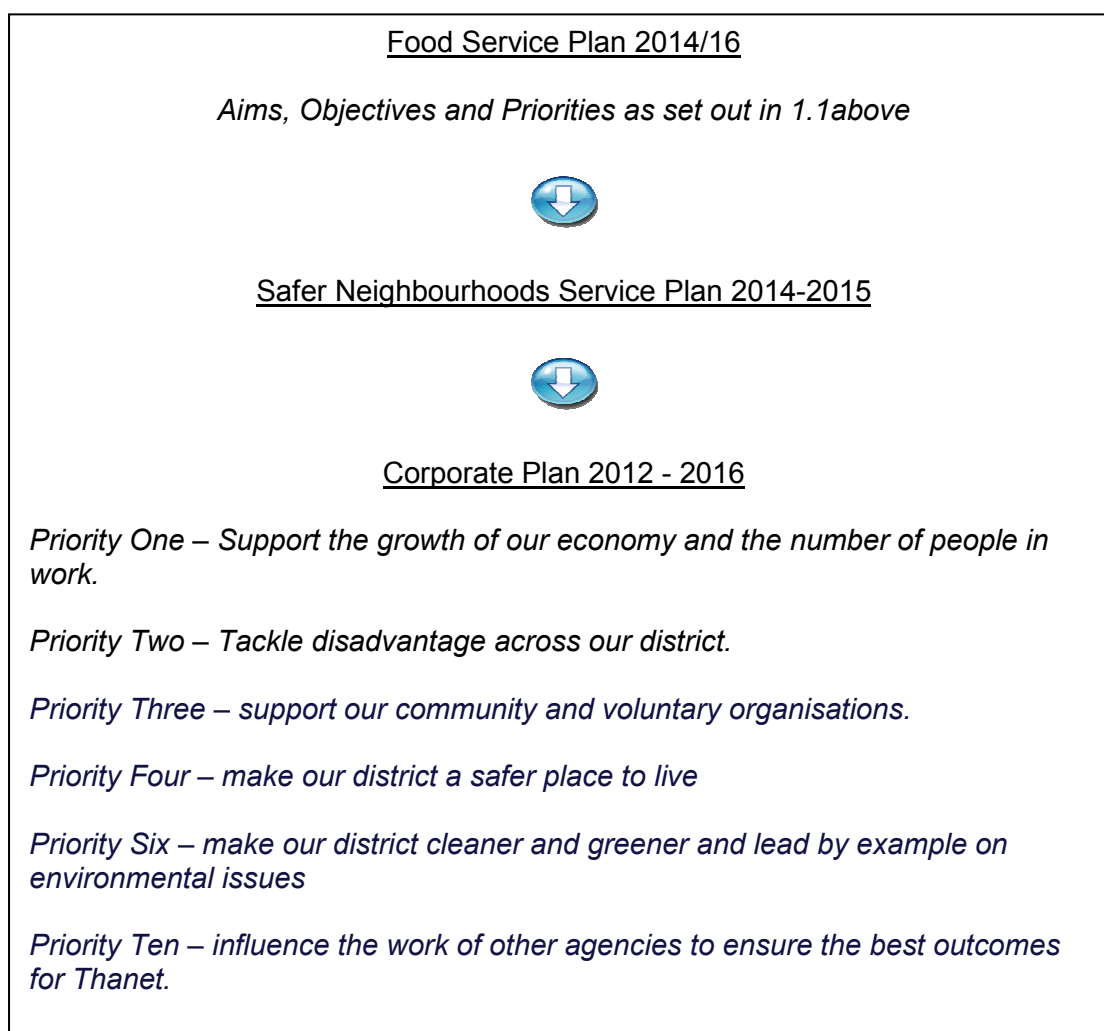
- To fulfil the statutory duty imposed on the Council under the Food Safety Act 1990 as 'The Food Authority' and ensure the effective implementation of Government Strategy on food safety issues, having regard to the Food law code of practice issued by the Food Standards Agency and guidance issued by government organisations.
- Protect the public as far as reasonably practicable by delivering a complimentary programme of education and enforcement which endeavours to ensure that food businesses are conversant with the law, understand the principles of hygiene and are operated and maintained at a standard that complies with relevant legislation.
- To fulfil the issues raised by the Food Standards Agency (FSA) auditors, following their audit of Thanet District Council's 'Food Authority' in November 2011. Their Audit report lists actions required by TDC to satisfy statutory requirements and the effective documented and procedural systems that need to be in place to support actions taken and enable accurate returns to the Government.
- To take appropriate enforcement action using an educative approach where appropriate, but closing premises through voluntary means or through the Magistrates court where an imminent risk to health is found.
- To achieve the above objectives, the following priorities for the two year period 2014 – 2016 have been identified. The FSA audit requirements will be reviewed periodically to ensure they are being adhered to and the Food Service plan will be updated annually or more frequently if appropriate.

## Priorities:

Thanet District Council priorities, response work and service improvements are listed below, with the Food Standards Agency recent audit requirements/statutory duties highlighted in ***BOLD Italic*** throughout the service plan. The consequences of not satisfying the FSA audit requirements and statutory obligations may lead to the Government Agency putting in 'measures' to manage the 'The Food Authority' and recharging the local authority the costs, to enable statutory functions to be carried out.

## 1.2 Links to corporate objectives and plans

The service plans in TDC link and support each other as shown below:



(\*Issues raised by the Food Standards Agency audit and statutory functions are shown in 'bold' throughout the report)

### 1.2.1 Programmed work

- ***Effectively deliver a comprehensive risk assessed inspection programme for all high risk premises (Rated A and B).***
- ***Consider premises as ‘approved premises’ on routine inspections and ensure an effective recording and monitoring system is put in place, both documentary and on the councils computer system.***
- ***Develop and implement an alternative intervention programme including education and use of intelligence for medium and lower risk premises (Rated C, D and E).***
- ***Review and update the whole Food Safety Procedure Manual. Develop and provide officers with guidelines/checklists to enable them to make decision in the field consistent with current Government advice.***
- ***Deliver a food sampling programme where budget allows for the TDC area in accordance with LACORS, County or National programmes.***
- ***Carry out shellfish sampling in accordance with EU requirements where a need has been established by fishermen.***
- ***Monitor seaports for landing of non EU foods, fish/shellfish and ensure traceability is monitored.***
- ***Audit the work carried out by the food team to ensure consistency, accuracy and efficiency.***
- Routinely monitor the database for accuracy of local food businesses, and carry out occasional checks to cross-reference information against tourism websites/yellow pages/internal databases
- Implement the National Food Hygiene Rating Scheme as accurately and consistently as possible.

### 1.2.2 Response work

- ***Provide an effective response service able to deal proportionately with complaints regarding food hygiene***
- Provide an effective service for new business enquiries.
- ***Provide an effective response service able to deal proportionately with incidents or outbreaks of food poisoning or other notifiable diseases***
- ***Ensure all newly registered premises are assessed and receive full initial inspection***

- ***Respond within appropriate timescales to FSA food alerts and withdrawals***
- Develop the provision of basic food hygiene level 2 courses to our food business operators to improve standards in the Thanet area
- Provide advice and information to public and businesses within resource

### 1.2.3 Service improvements

- Engage with local businesses during the implementation and roll out of the National Food Hygiene Rating scheme.
- ***Expand on officer training as appropriate to ensure a consistent approach to food related enforcement within the district.***
- ***Put procedures in place to improve the consistency and accuracy of data held on the M3 data base***
- Seek to improve effective sharing of information within the Council and with external agencies, according to the Data Protection Act 1998.
- Expand the intelligence based checking of visiting FBO's and show a presence at small and large scale public events.
- Take positive steps to identify and monitor/investigate inland imported foods
- ***Full participation in the UK sampling programme***
- ***Continue the monthly accountability meetings with the Head of Safer Neighbourhoods to improve performance and monitoring of food team activities.***
- ***Ensure that out of hours inspections are up to date and carried out at a frequency stated in the Food Law CoP***
- ***Take a pro-active approach to imported food duties and accurately recording those activities for the LAEMS return.***
- ***Take a more robust approach to identifying and recognising potential Approved premises, through training and more thorough inspections***

### 1.2.4 Reviews



- ***Review, update and then maintain officer training programmes, particularly free FSA courses, to assist with the competency of Food Enforcement Officers***
- ***Roll out a training programme with regard to the new documented procedures, to improve on consistency, performance and accuracy.***
- ***Review the internal audit and it's recommendations, including the requirement to carry out inspections on the basis of geographical area, rotated between officers on a regular basis.***
- ***Review the agenda for monthly 1:1 meetings between Public Protection Manager and food team officers to encourage improvement, and make agenda items that integrate the Food Law Enforcement Plan/Corporate Plan/FSA Audit requirements/officers individual targets and responsibilities. Integrate the agenda with the HR 1:1 document requirements.***
- ***Review all food premises receiving a score of 3\* and less and monitor the task that has been given to a specific officer to improve their scores by training/seminars/SFBB coaching etc., Review their scores before and after intervention and analyse most successful outcomes.***
- ***Review sampling and imported food activity entry onto M3 database to ensure a more accurate LAEMS return in these two areas where we are failing to account for our actions.***

### **1.3 Food Standards Agency Audit December 2011**

The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. The audit of Thanet District Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.

This Authority was audited following a meeting between Agency officials and representatives from the Authority in August 2011, which raised a number of concerns regarding the Authority's ability to provide an effective food law enforcement service. The audit was agreed as a means of gaining a broader assessment of the food service and the Authority's performance in delivering its statutory food law obligations.

The findings of the audit highlighted serious concerns in relation to the Authority's performance in delivering its statutory obligations across the food law enforcement service to ensure that public health is adequately protected.

The auditors found that there was a failure to provide an adequate risk-based food premises inspection programme with effective assessments of business compliance. Poor records of food law enforcement activities across all areas, and a failure to carry out adequate food inspection and sampling at points of entry into the UK and at shellfish beds within the Authority's area.

Another critical issue was that the Food Safety Procedure manual, which is core guidance for officers when carrying out food activities and database input is approximately 3 years out of date. All food activities and procedures should be carried out in accordance with the Council's procedures and the audit showed that without this guidance being up to date, there are serious failings. The recommendation is that the Procedure manual be brought up to date, and this is due to be completed by 30th June 2014.

## **2. Background**

## 2.1 Profile of Thanet District Council

The District of Thanet comprises a mixture of rural and urban coastal resort communities with a population of approximately 130,200 in an area of 112 km sq. making it the second most densely populated district in Kent. Principal population areas are the resorts of Margate, Ramsgate and Broadstairs alongside a number of smaller villages. Thanet is one of 13 local authorities in Kent and is located on the South East Coast neighbouring the City of Canterbury to the West and the Port of Dover to the South West.

The area has serious deprivation issues and an ageing population which is predicted to grow at a higher rate than elsewhere in the County. Six of the 10 most deprived wards in Kent are in the Thanet area. This level of deprivation is evident in the significant difference in life expectancy of 11 years between the most affluent wards in Broadstairs and the most deprived ones in Central Margate.

The main industries were Ramsgate New Port and Kent International Airport, Manston; light industry and tourism. Unfortunately, the port lost its passenger ferry service in 2013 and the airport closed in May 2014. There is a recently developed retail and food area at Westwood Cross on the borders of Broadstairs. Due to its history as a resort area, the district has an above average number of food premises; many of them small and family run which present a challenge for the food safety enforcement function.

The Public Protection Team from which the food service is delivered is based at:

Thanet District Council  
P O Box 9  
Cecil Street  
Margate  
Kent  
CT9 1XZ

Telephone number: 01843 577000  
Environmental health: 01843 577423

Fax Number: 01843 577340

E-mail: [environmental.health@thanet.gov.uk](mailto:environmental.health@thanet.gov.uk)

Thanet District Council can be contacted via telephone or at the Gateway offices as follows:

Mon – Weds	9am – 6pm
Thursday	9am – 8pm
Fri	9am - 6pm
Sat	9am - 5pm

## 2.2 Organisational Structure

The Council operates on a Leader and Cabinet system with lead members delivering specific portfolios as follows:

Cllr. Mrs Iris Johnston was elected as the Leader of the Council.

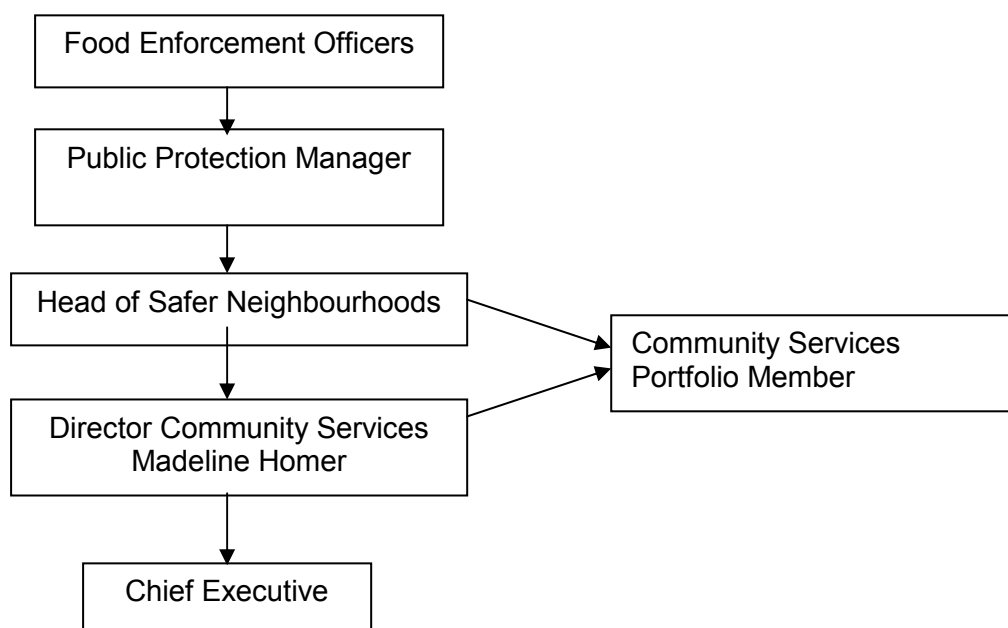
Cllr. Richard Nicholson was elected as the Deputy Leader.

The Cabinet and Shadow Cabinet details for the council year 2014 are:

<b>Portfolio</b>	<b>Cabinet Member</b>
Business, Corporate and Regulatory Services	Cllr Elizabeth Green
Community Services	Cllr Mrs Iris Johnston
Financial Services	Cllr Rick Everitt
Housing and Planning Services	Cllr Richard Nicholson
Operational Services & Deputy Leader	Cllr Mike Harrison
Strategic Economic Development & Leader	Cllr David Green

The Food functions are considered to be part of Community Services making Cllr Mrs Iris Johnston the relevant portfolio member. Her main contact is with Penny Button, Head of Safer Neighbourhoods.

The key reporting lines for the flow of food safety issues are:



## Specialist appointments

The food team are supported in delivery of their functions by the following specific appointments:

Public Health England Infectious diseases	Director of HPA	Dr J Sedgwick Kent Health Protection Unit Preston Hall Aylesford Kent
Public Analyst		Kent Scientific Services 8 Abbey wood Road Kings Hill West Malling Kent
Food Examiners		FW&E Microbiology Lab (Collindale) London, 61 Collindale Avenue London NW9 5 EQ
Food Examiners	Shellfish Port Health samples	CEFAS Lowestoft Laboratory Pakefield Road Lowestoft SUFFOLK
Fish Inspectors	Internal appointments	Debbie Huckstep TDC Nicola Wilson TDC

### 2.3 Scope of the Food Service Plan

The Food Enforcement officers in the Public protection team are responsible for:

- ***Implementing the proactive programme for food hygiene interventions and subsequent revisits for high risk premises***
- Investigating the possibility of premises requiring 'Approval' at the time of inspection.
- ***Investigating reported cases of food poisoning and potential outbreaks in accordance with Health Protection Agency (HPA) guidance***
- ***Imported Food Controls at sea and airports***
- ***Shellfish sampling compliant with EU requirements***
- ***Investigating requests for service (complaints) regarding the hygiene of food premises, or food quality issues relating to foods purchased or produced in Thanet***
- ***Developing and delivering a programme of appropriate interventions for lower risk premises\****
- ***Registration of food premises***
- ***Responding to food alerts***
- ***Delivering a food sampling programme in line with the LACORS/HPA national and regional programme***
- ***Provision of training, advice and support to existing and prospective food business operators and the users of the service***
- Delivering a Basic Food Hygiene training programme for Thanet food operatives

- Delivering a programme to improve the FHRS scores for premises rated under 3\*
- Implementing projects and campaigns within available resources that promote good food hygiene
- Development and maintenance of partnerships and liaisons to the furtherance of the Food Service
- Referral of Health and Safety issues to Health and Safety Officer
- **Maintaining the database regarding food premises**
- **Providing the Food Standards Agency with statistical returns**
- Delivering the National Food Hygiene Rating Scheme
- Carrying out enforcement of inland imported food/controls

(The food service is not responsible for Food Standards).

## 2.4 Demands on the Food Service

As at May 2014 there are 1316 Food Premises in Thanet the District Council area. The following tables provide more detail regarding premises types and risks:

### 2.4.1 Establishment numbers by Groups (May 2014)

Description (MAFF Code)	No. of premises
Producers (A)	1
Manufacturers/Processors (C)	13
Importers/Exporters (E)	0
Distributors/Transporters (F)	14
Supermarket/Hypermarket (G01)	18
Smaller Retailers (G02)	190
Retailers Others (G03)	46
Restaurant/Canteen (H01)	314
Hotel/Guest House (H02)	49
Pub/Club (H03)	163
Take-away (H04)	131
Caring Establishment (HO5)	165
School/College (H06)	74
Mobile Food Unit (H07)	26
Restaurant/Caterer – others (H08)	112
<b>GRAND TOTAL</b>	<b>1316</b>

### 2.4.2 Establishment numbers by risk groups (June 2014)

Risk Rating	Number of premises
-------------	--------------------

A	11
B	61
C	203
D	571
E	463
F	0
Not categorised	7
<b>TOTAL</b>	<b>1316</b>

### 2.4.3 Inspection frequency

In accordance with FLCOP Annexe 5.4 the minimum intervention frequencies are as set out below:

Category	Score	Minimum intervention frequency
A	92 or higher	At least every six months
B	72 to 91	At least every 12 months
C	52 to 71	At least every 18 months or a programme of alternative enforcement strategies
D	31 to 51	At least every 24 months or a programme of alternative enforcement strategies
E	0 to 30	A programme of alternative enforcement strategies or interventions every three years

### 2.4.4 Inspections due per annum

Category	No of premises	Inspections per annum	<i>Partial/AI's</i>	%
A	11	22	0	
B	61	61	0	
C	203	135	34	25%
D	571	285	143	50%
E	463	0	154	100%
No Cat	7	7	0	
Total	1316	510	331	

### 2.4.5 Inspections - Categories A-D

**Now 510 inspections per annum after CoP re-ratings adjusted**

(Available working days per year per officer: 216 days  
EHO's/Food Safety officers (PPO) averaging approx 1 inspection per day)

#### 2.4.6 Non inspection Food Responsibilities:

- **Approved Premises: J. C. Rook\***. (Statutory duty) Home Authority -This Company operates a cutting plant within their premises in Cecelia Road, which prepares pies, sausage rolls, pasties, quiches etc. for the chain of butchers' shops they operate across Kent. The FSA have a granted approved premises status to this premises. We are their Home Authority.
- **Approved Premises: Zeila Farm\*** (Statutory duty) has been inspected and found to be an approved premise, monitoring is suspended as the FBO is not currently operating due to ill health
- **Approved Premises: Margate Smokehouse** (Statutory duty) Smoked cheese, smoked salmon, meat preparations and meat products.
- **Home Authority:** TDC is also the home authority for J. C. Rook's shops located across Kent; all Local Authorities refer to us regarding all premises.
- **Port Health function – Imported Food Controls.**
- **Shellfish Sampling**
- **Monitoring of Events**
- **Infectious disease notification work**



## 2.4.7 Resources requirement – Public Protection Team

**EHO Environmental Health Officer x 3 from 1<sup>st</sup> July 2014 (was 4FTE)**

**PPO Public Protection Officer x 3.5 from 5<sup>th</sup> August 2014 (was 2FTE)**

**PPA Public Protection Assistant (deleted post from 1<sup>st</sup> July 2014)**

<b>Task</b>	<b>EHO % FTE</b>	<b>PPO % FTE</b>	<b>PPA % FTE</b>
<b>Public Protection Manager</b>	<b>1.0</b>		
<b>*Inspections A-C</b>	<b>1.0</b>	<b>1.0</b>	
<b>*Inspections D-E</b>	<b>.10</b>	<b>1.0</b>	
<b>*Admin</b>	<b>.10</b>	<b>.10</b>	<b>.00</b>
<b>*LAEMS return</b>			
<b>*Revisits</b>	<b>.10</b>	<b>.10</b>	
<b>*Port Health</b>	<b>.10</b>	<b>.20</b>	
<b>*Shellfish Sampling Routine Sampling</b>	<b>.10</b>	<b>.60</b>	
<b>Events Farmers Markets</b>	<b>.10</b>	<b>.10</b>	<b>.00</b>
<b>*Complaints</b>	<b>.10</b>	<b>.10</b>	<b>.</b>
<b>Advice to new business – Verbal and visits</b>	<b>.10</b>	<b>.10</b>	<b>.</b>
<b>*Infectious Disease work</b>	<b>.10</b>	<b>.10</b>	<b>.</b>
<b>*FHRS re-scoring visits/updating procedure manual</b>	<b>.10</b>	<b>.10</b>	
<b>TOTAL</b>	<b>3 FTE</b>	<b>3.5 FTE</b>	<b>0</b>

**\* Statutory functions/Code of Practice and FHRS requirements**

## 2.5 Regulation Policy

The Council adopted the enforcement concordat for all appropriate services on 11<sup>th</sup> June 1998. The Food Safety Enforcement Policy has been developed in line with best practice and advice/guidance from the Food Standards Agency (FSA) and LACORS.

### **3. Service Delivery**

#### **3.1 Food Premises interventions Statement (Statutory duty)**

The interventions programme for food premises on Categories A, B & C premises forms the core activity of the Food Safety Team. The programme of interventions which is detailed in Annexe 2 has been prepared to meet the aims, objectives and priorities summarised in paragraph 1.1 of this document in line with Chapter 4 of the Food Law Code of Practice (England) (April 2012 version)

Following the introduction of the National Food Hygiene Rating Scheme in Thanet In March 2012, full inspections are planned to be carried out over the following 3 years to bring all relevant premises into the scheme..

##### **3.1.1 Intervention reports: (FSA Food Law Code of Practice FLCOP)**

Hand written reports are be prepared at the conclusion of each inspection, with the aid of a checklist which authorised officers are required to use during all inspections. An inspection record sheet is provided to the Food Business Operator (FBO) with information at the time of inspection. The inspection checklist is used at each premise to assist with a consistent approach by the enforcing officers.

##### **3.1.2 Types of interventions:**

###### **Full inspections/ Partial Inspections/ Audits. (Statutory duty)**

The presumption is that enforcement officers in all cases will undertake full inspections of all parts of the premises. However, there are options available of partial inspections and audits. Officers, after researching the previous history of the premises, may decide to carry out a partial inspection. The options are considered in a little more detail below:

###### Full Inspection: (FLCOP 4.1.3.1)

This is a check on compliance with legal requirements in accordance with elements set out in section 4.2.2 of the Code. A full inspection will consider all aspects of a food business including structure, food safety management and management arrangements.

###### Partial Inspection: (FLCOP 4.1.3.1)

An inspection that covers only certain elements of the inspection as laid down in Section 4.2.2 of the Code.

###### Planned audits (FLCOP 4.1.3.1)

An audit may be undertaken instead of a partial or full inspection, where any food business operator, including those providing a high risk business has put in place an acceptable documented food safety management system (addressing Article 5 Regulation 852/2004). Details of the system will be required in advance of the audit so the Officer can plan the appropriate audit.

The audit may include one or more of the following elements (FLCOP 4.1.3.1):

- Complete audit of the food safety management system
- Audit of selected elements of the food safety management system where the system is complex
- Partial Audit concentrating on a particular produce
- Operational audit concentrating on certain arrangements such as temperature monitoring.

### **3.1.3 Revision of intervention rating:** (Statutory duty)

On completion of the food inspection, partial inspection or audit the officer will revise the intervention rating of the establishment in accordance with Annexe 5 FLCOP. The FHRS star rating is also awarded based on this scoring, records of both are left with the FBO at the conclusion of the inspection.

### **3.1.4 New premises** (FLCOP 4.1.3.2) (Statutory duty)

TDC responds positively and supportively to new food businesses which approach the authority prior to starting up. In response to initial enquiries they will receive as a minimum verbal advice, usually by telephone along with a registration form and advice on where to find the FSA 'starting up' booklet on the FSA website. An initial advisory visit will be provided where this is considered proportionate and appropriate to the needs and potential risks the business may present. It is preferred that we visit the premises after a food registration has been received so that the advice given can be recorded on their entry on M3, to avoid disputes on what was said at the time. A written record of what was agreed at the time is left with the FBO. There is an obligation to register the food premises 28 days before any food activities take place.

In all cases, new registrations will be recorded onto the M3 data base once received and then an initial full inspection will take place.

### **3.1.5 Routine planned inspections – high risk premises (A and B rated)** (FLCOP 4.1.5.2.1) (Statutory duty)

The preferred method for A and B premises is to carry out a full inspection, unless a partial one or audit has been decided after reviewing the premises history. All such interventions are identified as appropriate by the FLCOP.

Where other interventions occur at the same time as a full inspection, such as sampling, education or training, or a complaint visit, it will be recorded on M3 accordingly.

### **3.1.6 Planned interventions medium risk (rated C) (Statutory duty)** (FLCOP 4.1.5.2.2)

Until an establishment is considered to be 'broadly compliant' an intervention will comprise either a full inspection, partial inspection or audit as defined above at the frequency identified by Annexe 5 FLCOP.

Once it is considered to be broadly compliant, planned interventions will alternate between inspections, partial inspection or audits and other official controls as defined in paragraph 4.1.2.3 of the Food Law code of practice and listed below and defined in Annexe 3:

- Monitoring
- Surveillance
- Verification
- Audit
- Sampling for analysis (more than just a visit to collect a sample)

Broadly compliant is defined as:

*Neither an establishment that has an intervention rating score of not more than 10 points under each of the following three parts of Annexe 5:*

*Part 2 Level of (current) compliance – Hygiene*

*Level of (current) compliance – Structure*

*Part 3 Confidence in Management*

### **3.1.7 Planned interventions low risk premises (rated D) (Statutory duty)** (FLCOP 4.1.5.2.3)

Interventions can alternate between an official control and an intervention that is not an official control, the frequency will remain that established by the Food law Code of Practice Annexe 5. Category D establishments that are also rated 30 or 40 for 'type of food and method of handling' must be an inspection, partial inspection or audit.

### **3.1.8 Planned Interventions low risk premises (rated E) (Statutory duty)**

Premises in this category will be subject to alternative interventions at least once every three years in accordance with Annexe 5.2 of the Food law code of practice.

### **3.1.9 Alternative Enforcement Strategies (Statutory duty)** (FLCOP 1.2.10, 4.1.5.2.4, Annexe 5.2)

Premises in this category (E) will be subject to alternative interventions at least once every three years in accordance with Annexe 5.2 of the Food law code of practice, unless the premises is subject to Approval.

### **3.1.10 Large scale public events (corporate plan)**

To improve the prospects for Thanet, the Council is concentrating on regeneration and bringing in more investment. Alongside this a lot of emphasis is placed on putting on events to bring in tourism. These will range from small and local events to major show case events such as 'Broadstairs Food Festival'. There are between 50 – 100 events planned during the year which will have a TDC involvement either because they are on Council land, or are arranged by Council Events team, Parish or Town Councils. The food team have a system in place to respond to such events and carry out risk based desk top assessments using the information requested from FBO's 28 days before the event take place. Some events are spot checked by food officers on a regular basis to match the desk top data to what premises are on site.

### **3.2 Food complaints (Statutory duty)**

All incoming complaints are directed to the Public Protection Team Leader who will assess and prioritise and allocate them to officer's areas on the following key criteria:

- Implied or actual risk to public health – public health significance
- Justification/seriousness or likely impact of the complaint
- Likely recurrence in the future
- Number of complainants
- Number of people potentially at risk
- History of premises from which food was produced/purchased/consumed etc.
- Last inspection details if relevant
- Date of next scheduled inspection

All complaints will be considered and will have a response within 3 working days, dependant on resources. This may comprise a phone call or a letter or email dependant on the nature of the complaint and the outcome of the assessment.

Complaints are investigated according to risk and the information provided. Anonymous complaints are not accepted. If a visit is warranted, where possible the next inspection will be brought forward and carried out at the same time as the complaint visit. Complaints are dealt with by officers, supervised by the PPM.

### **3.3 Home Authority Principle and Primary Authority Scheme (mandatory)**

TDC has operated as the Home Authority for J. C. Rook since 8<sup>th</sup> April 1997. They operate a cutting plant and combined manufacturing and distributing plant supporting a chain of 15 butchers shops located across Kent within Canterbury, Thanet, Dover, Shepway, Maidstone, Medway and Tunbridge Wells Council areas. The resources necessary to maintain the home authority scheme for J C Rooks is not significant.

### **3.4 Advice to business** (mandatory & corporate plan)

The service is committed to ensuring that advice and support is available to all food businesses in the District when requested. The key ways this is provided is through

Website	Reviewed quarterly to ensure accuracy and usefulness of data
Leaflets/ Booklets	Use if made of FSA website, starting up booklet and SFBB booklets
Verbal advice.	This is absorbed into routine work and will take place either in the case of routine official interventions or resulting from business enquiries for new or changed premises

Most contacts that businesses make are with regard to new and changed food businesses which are all responded positively to.

### **3.5 Food sampling**

We take part in both the UK National sampling programme and shellfish sampling as appropriate.

#### Routine samples

Within resources, TDC will take samples to meet the UK and County wide sampling programme based normally on the priorities set by LACORS and the Food Standards Agency.

#### Environmental Swabbing

Environmental swabbing of food premises is a proven, cost effective, enforcement tool. Swabs can be tested for *E Coli 0157* and other coliforms. The results can clearly demonstrate serious lapses in cross contamination control, personal hygiene and faecal contamination, all areas that can be difficult and time consuming to evaluate during routine inspections.

Following the FSA Audit in December 2011, a sampling programme was said to be 'crucial in protecting public health', and Thanet now intend to take part in local and national sampling from January 2014. Procedures are currently under review to be completed by June 2014 based on the Kent group Sampling procedures.

### **3.6 Infectious Diseases control and investigation** (Statutory duty)

Officers investigate food related infectious disease notifications in accordance with its documented procedures, which will be completed in June 2014. The primary objective of every investigation is to identify the cause of infection and prevent any further spread. Officers investigate notifications that are connected to the allocated geographical area they are working in.

Response times and the nature of response are all set out in the procedure and are based on the Framework Agreement, KHPU/Kent & Medway LA's for the Control of Communicable Disease (March 2010).

Officers liaise with the Dr. Sedgwick, the 'Proper Officer' appointed under the Public Health Act 1984 and Section 47 of the National Assistance Act 1948 (as amended).

### **3.7 Food Alerts/Incidents** (Statutory duty)

A food incident is considered to be any event where, based on the information available, there are concerns about actual or suspected threats to the safety or quality of food that could require intervention to protect consumers' interests. TDC received routine reports of Food Alerts which in most circumstances do not require additional input from the enforcement officers; they are dealt with as part of normal duties.

### **3.8 National Food Hygiene Rating Scheme**

In April 2011, the Food Standards Agency made representations to all Local Authorities on the implementation of the National Food Hygiene Rating Scheme. TDC's Corporate Management Team made the decision that Thanet will implement the National Scheme as long as there was minimum cost to the LA. TDC applied for funding and were successfully awarded grant funding.

The Food Hygiene Rating scheme makes it easier for consumers to choose places with good hygiene standards when they're eating out or shopping for food. The food hygiene rating tells them about the hygiene standards by awarding a 'star rating' which is shown by way of standard stickers. The same stickers are used across the whole of the UK, by participating local authorities. The scheme deadline for roll out was targeted at being before the Olympics.

Thanet's scheme was launched in April 2012, alongside most other Kent authorities. The scheme is working well in Thanet with a small number of businesses asking for re-rating visits.

The Council's aim for the future is to help premises with a rating of under 3\*'s to improve their scores, we are considering workshops or special visits/mail shots to these businesses.

### 3.9 Liaison with Other Organisations

The team works in partnership to deliver services, some examples of which are given below:

#### External Partnerships/Liaisons

Customs and Excise (HMRC) & UKBA	Imported Foods and potential Fraud
Association of Port Health Authorities (APHA)	Imported Food, air and sea port
Kent Environmental Health Managers (KEHM) Food Technical Working Group	County-wide liaison group for all food safety issues with representatives from the Health Protection Agency and Trading Standards as well as local Authorities.
CEFAS	Government Laboratories for Shellfish and Imported Food issues
Thames Port (City of London)	Port Health, advice and support
Trading Standards	Food complaints, Port Health
Food Standards Agency	Wide range of advice and support
Health Protection AGENCY (HPA)	Outbreak control or advice
HPA, Food Sampling Group and labs	Food sampling
Kent Infection Control Committee	Infectious disease investigations
Kent Food Group	Consistency meetings/Policy
Health and Safety Executive	RIDDOR/Gas Safety/Electricity at Work
CIEH	Chartered Institute of Environmental Health

External partnerships and liaisons are strong; however there is a significant issue with regard sharing information with internal partners. Particular issues have been identified with regard to the need to improve internal communications with Events team, Licensing and Planning in order to enable the food team to make the best of intelligence already within the Authority which can then be used for better targeting of resources, all within FOI and data protection criteria.

### 3.10 Promotional Work

The overall resources available for the Public Protection Team have improved greatly from 2011 to 2014, All resources are effectively targeted to achieving the key responsibilities and commitments to the Corporate plan, Food Service Plan and in consideration of the FSA audit recommendations in 2011, as well as our own internal audit recommendations. The benefit of promotional work is accepted and appreciated and wherever resources can be identified, the Food team will actively become involved in promotional activities.



## 4. Resources

### 4.1 Financial Allocation

Following the July 2010 restructure, the budgets for the Food Safety function will be managed by the Head of Safer Neighbourhoods, with input from the Public Protection Manager.

### 4.2 Staffing Allocation

Following the restructure from 1<sup>st</sup> April 2014 the resources for Food Safety are currently:

Staff resource	Number (FTE)
<p>Public Protection Manager:</p> <p>Daily running and supervision of the team, allocating proactive workload, managing daily reactive work for example complaints and recalls, voluntary closures of food premises. Support and back up for officers. Legal and technical advice, dealing with enquiries internally and externally.</p> <p>Inspecting food premises within a geographical area of Thanet</p> <p>Annual Review of Food Service Plan</p> <p>Reports and monitoring of service delivery, improvements in service delivery, service reviews and performance returns for the FSA and Head of Safer Neighbourhoods for the following:</p> <ul style="list-style-type: none"><li>• Inspections/Revisits/Complaints carried out</li><li>• Auditing and review of officers work.</li><li>• Auditing for consistency</li><li>• Quality of complaint work</li><li>• Accuracy of transfer of information onto M3</li><li>• Alternative interventions carried out/Questionnaires</li><li>• Port health interventions</li><li>• Shellfish sampling</li><li>• Routine sampling</li><li>• Infectious Disease interventions</li><li>• Relevant team training</li><li>• LAEMS return monitoring</li><li>• Financial claims of team</li><li>• Time management of team</li></ul>	<p>1 FTE (Management of Food Service and statutory FSA requirements)</p>

<ul style="list-style-type: none"> <li>• Kent food group co-ordination and attendance</li> <li>• Internal training</li> <li>• Procedure manual (once updated)</li> <li>• Sampling procedures</li> <li>• M3 procedures</li> <li>• Min 10 Inspections per annum</li> <li>• Events co-ordination</li> <li>• Annual leave requests</li> <li>• Prosecution and formal action supervision</li> <li>• Managing the training provision for basic food hygiene courses for FBO's</li> <li>• Ensuring that officers participate in inland enforcement of imported foods</li> </ul>	
Food EHO's	2 FTE
Public Protection Officers	3.5 FTE
Support (admin)	0
<b>Total</b>	<b>6.5 FTE</b>

### 4.3 Qualifications and competence

(FLCOP 1.2.9)

The establishments in TDC area require the following officers/qualifications:

<b>Establishment type or Action</b>	<b>Officer/Qualification</b>
All establishments requiring inspection at intervals of 12 months or less (A & B rated)	EHO or Officer with Higher Certificate in Food Premises Inspection
Approved premises – those requiring inspection under Regulation 853/2004	EHO or Higher Certificate <b>And</b> with detailed knowledge of enforcement in approved establishments. If no experience, must be accompanied by experienced officer
Service of Improvement Notices (Reg 6)	EHO or Higher Certificate
Service of Prohibition Notice (Regulation 8)	EHO plus 2 years post qualification experience in food (only with PP Manager/Head of Safer Neighbourhoods agreement)
Service of application for closure order to Magistrates Court	PPM (is an EHO) with 2 years experience (as above if PPM absent)

**An EHO must hold either:**

- Certificate of Registration of the Environmental Health registration Board (EHRB) or
- Diploma in Environmental Health (or its antecedents) awarded by EHRB or the Royal Environmental Health Institute of Scotland (REHIS)

**The Higher Certificate in Food Premises Inspection may be awarded by one of the following:**

- EHRB
- The Scottish Food Safety Officers Registration Board (SFSORB)
- The Institute of Food Science and Technology (IFST)

The staffing establishment in July 2014 when this document was prepared included the following officers whose qualifications are indicated in the table below:

Officer	Qualifications	CPD notes
Deborah Huckstep, Public Protection Manager (EHO)	MSc Environmental Health July 2009  EHORB Registration 13 <sup>th</sup> August 2009  NEBOSH: National General Certificate Level 3 2 <sup>nd</sup> July 2009  FSA Official Fish Inspector March 2006	20 hours required p.a.
Nicola Wilson Public Protection Officer (EHO)	BSc Environmental Health 2.1 Hons  EHORB Registration 15 <sup>th</sup> December 2003  FSA Official Fish Inspector March 2005	20 hours
Vacant post EHO		20 hours
Vacant Post (EHO) deleted and changed to Public Protection Officer post (non EHORB)	Due to the loss of 331 inspection in CoP April changes, this post will now be a Public protection post for alternative interventions.	10 hours recommended
Vacant post Public Protection Officer .50 FTE	Required for provision of shellfish sampling and re-classification of the Thanet cockle beds	10 hours recommended
Mark Kennedy Public Protection Food Safety Officer	Higher Certificate in Food Premises Inspection 1998 EHORB Registration 1998	10 hours recommended
Simon Hogben Public Protection Food Safety Officer (not fully qualified)	Higher Certificate in Food Premises Inspection 2014 (Not yet EHORB)	10 hours recommended
Public Protection Assistant post	Deleted	

#### **4.4 Staff development plan**

As new appraisals embed in 2013/2014 following a period of 2 years of unsettled management structure, more specific targets have been set, as well as monthly 1:1's arranged taking place for all officers together with monthly team meetings. The new staff development plans include improved training plans and meeting attendance. Documentation of training qualifications and training attended are now recorded and up to date records are used to establish training needs and competence.

#### **4.5 Training and Development**

There is no specific training budget for the professional officers. Officers have the opportunity to apply for funding for specific courses that would aid their development, as well as ample time off and opportunity to attend FSA food courses. The Food Standards Agency had highlighted this issue and the consideration of a specific budget was considered and not agreed. The Head of Safer Neighbourhoods has discussed this with the FSA and the TDC Chief Executive TDC.

### **5. Quality Assessment and internal monitoring**

The team is placing considerable emphasis on its effectiveness and accuracy within its available resources. This makes 'getting it right first time' and 'Making every inspection count' particularly important.

Following the FSA Audit recommendations, an auditing regime based on the FSA document 'Making every inspection count' has been established and has been operational since January 2014. Carrying out the following audits:

- 100% desktop audit of the officers control sheet checked against the inspection report and completed checklist, to ensure that the Annexe 5 scores, the FHRS scores and the chosen star rating agree, as well as the FHRS status and whether the premises should be included in the scheme. Consistency is considered with regards to the scores and compared against other officers scoring. This audit is signed off by the PPM before the admin team input any information and scoring onto the database, hence the database scoring and FHRS scoring is correct, and the correct certificate and sticker are sent out, this gives protection to the database, as well as the resulting LAEMS return.
- An audit of 4 inspections per month for each officer is carried out various checks for example, that the correct standard paragraphs have been used, photographs of contraventions have been input on to the computer system, the checklist shows the contraventions that have been actioned, menu information has been collected, the premises has been considered for approval, and a copy of the inspection record has been left with the FBO are checked, this list is not comprehensive, and depends on the findings of the officers previous audits.

- Two inspections per officer are revisited by the PPM for a full audit of their findings, within 48 hours of the inspection being completed per year.
- Incorrect actions are noted and returned to the officer, corrected and the control sheet initialled by the officer, returned to PPM and kept in the audit file.

The FSA audit highlighted poor performance and unreliable LAEMS returns in the 2011 audit.

Monthly reports have been produced and auditing of the LAEMS figures to date takes place on a monthly basis. The following areas are checked through the LAEMS figures and in addition through auditing: (not exhaustive)

- Number of inspections/Revisits/Complaint carried out
- Scoring inconsistencies/anomalies
- Correct Categories against premises (local knowledge)
- No A or B categories outstanding
- Closed premises
- Unrated premises
- Registrations outstanding

## **7. Review Process**

The Food Law Enforcement Plan is reviewed once per year.

The auditing checks of the teams work is reviewed by the Head of Safer Neighbourhoods on a regular basis, at least 4 times per year.

## **Annexe 1: Food Law Enforcement Plan and Enforcement Policy**

### **Food Law Enforcement Objective**

It is this Council's policy to strive to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within the district is without risk to the health or safety of the consumer.

### **The Aim of this Policy**

- To ensure a consistent approach to food related enforcement within the district;
- To provide officers with guidelines to enable them to make decisions in the field, consistent with current Government advice;
- To inform the public and food businesses of the principles by which enforcement action is taken.

### **Enforcement**

Purpose of food hygiene inspections

- To establish whether food is being handled and produced hygienically;
- To establish whether food is, or will be having regard to further processing, safe to eat;
- To identify foreseeable incidences of food poisoning or injury as a consequence of consumption of food;
- The identification of breaches in hygiene or processing legislation will be incidental to the above aims.

Factors influencing the enforcement approach

- An authorised officer has a range of options available in seeking to ensure the above aims are met. These range from the giving of advice and verbal warnings, to the service of statutory notices, or prosecution or closure of premises.
- This authority has signed the Enforcement Concordat and has adopted a graduated approach to enforcement as described in that document. As the first step towards securing compliance, an authorised officer will adopt an educative approach and discuss the requirements of the legislation relating to hazard analysis and the supervision and instruction and/or training with the food business operator.
- This authority will have regard to the BRE Regulator Compliance Code of Practice (attached as Appendix 1) in the conduct of its enforcement work.
- The Food Law Code of Practice (England) Code of Practice gives guidance on the appropriate use of the available procedures. This authority strictly follows advice issued by central government and the Local Authorities Coordinators of Regulating Services (LACORS) and authorised officers are required to follow this enforcement policy.

- Departures from this policy must be exceptional and the reasons will be documented.
- Enforcement action will be proportionate to the risk to public health arising from the contraventions identified. Combinations of formal notice and informal advice may be appropriate.
- Decisions on appropriate enforcement action will be taken based primarily on an assessment of risk to food safety and public health, but will also be influenced by the history of compliance by the food business operator with food safety legislation and his willingness to remedy contraventions.
- This authority has regard to the LACORS Home Authority principle and will consider whether a relevant Home Authority should be consulted before giving detailed advice or taking enforcement action.
- This authority recognises that some organizations, including voluntary and charitable ones operated by volunteers will need help and guidance to understand food safety requirements and an informal approach will be used where public health is not compromised.
- This authority recognises that many businesses in the District are small and family run on a tight budget. Consideration will always be given to low-cost solutions to contraventions, as long as this does not present a threat to the public health.
- This authority recognises that many businesses are seasonal and operate out of normal office hours and will need inspection and advice during these trading hours.
- This authority recognises that English is not the first language of many traders in its area and will take care to ensure its enforcement actions are clearly understood by providing documents and arranging for interpreters in an appropriate language wherever possible.
- Where there is a shared or complimentary enforcement role this authority will consult with those other enforcement agencies to ensure that the proposed action is consistent with the policies and actions of that other authority. An example would be consultation with Trading Standards over sampling programmes or the labelling of foodstuffs.
- Enforcement action taken by this authority will take into account the requirements of other departments of the Council and of other teams within the Environmental Services department to ensure consistency of action.
- Before taking action that the authority believes may be inconsistent with that taken by other food authorities, or with LACOTS advice, it will first discuss the area of difficulty with those bodies through the Kent Technical Food Group.

### **Legal Safeguards influencing the Enforcement Approach**

- **The Regulation of Investigatory Powers Act 2000**

Any covert surveillance which is conducted as part of any investigation of any case which falls within this policy, will comply with the Regulation of Investigatory Powers Act 2000 (RIPA). In that covert surveillance falling within RIPA will be authorised and conducted in accordance with the statutory framework and any Code or Codes made there under.

- **The Human Rights Act 1998 and the European Convention on Human Rights**

The Human Rights Act 1998 (HRA) makes it unlawful for a public authority to act in a way that is incompatible with the European Convention on Human Rights (ECHR). This policy will be implemented taking into account the legal and procedural implications of both the HRA and the ECHR.

### **Qualification and Authorisation of Officers**

- No officer will carry out food hygiene inspection and enforcement duties unless suitably trained and experienced and authorised in writing by the Director of Community Services.
- High risk premises (categories A and B), all food manufacturers and processors classified as substantial and premises approved under product specific legislation will only be inspected by qualified environmental health officers, or food safety officers holding the Higher Certificate in Food Premises Inspection.
- Officers will be authorised to sign Hygiene Improvement Notices only for premises within the categories for which they are qualified.
- Hygiene Emergency Prohibition Notices and voluntary closure agreements will only be signed by specifically authorised officers, having a minimum of two years post-qualification experience of food safety enforcement and currently involved in food safety enforcement. Only officers holding specific food inspection qualifications will be authorised to inspect, detain or seize foodstuffs.
- Only officers holding specific food inspection qualifications will be authorised to inspect, detain or seize foodstuffs.
- Only officers holding specific food inspection qualifications and specific imported foods training will be authorised to inspect, detain or seize imported foodstuffs.
- Newly qualified officers will only be authorised after a minimum of 6 months of structured practical training in enforcement procedures at the appropriate level.
- Continuing professional development training will be provided for all food safety officers to enable them to keep abreast of changes in legislation and good practice and meet the requirements of Code of Practice No. 19.
- Officers will be fully acquainted with the requirements of this Enforcement upon appointment and with any revisions as they arise.

### **The Informal Approach**

- The existing procedure of giving advice and informing of minor contraventions by informal letters is accepted and understood by Thanet's food businesses. Officers will use this approach as long as they believe that this will achieve compliance with food safety legislation within a time-scale that will protect the public health and ensure safe food production.
- An authorised officer will be prepared to offer advice where this is requested by the operator of an existing or new food business, and will seek to encourage food businesses to adopt good food hygiene practice through this approach.



- This informal approach will be consistent with the Food Safety Act 1990 Code of Practice and with LACOTS guidance.
- Officers will clearly differentiate between legal requirements and recommendations of good hygiene practice in both verbal and written communications.

### **The Use of Hygiene Improvement Notices**

An improvement notice is a legal document issued under the Food Hygiene (England) Regulations 2006, Reg 6. It details contraventions of the EU Hygiene Regulations, the works required to correct the contraventions and a time-scale for completion. Failure to comply with the notice is an offence.

Improvement notice procedure will be used where major contraventions of food hygiene or food processing regulations are found and where any of the following conditions are satisfied:

- where formal action is proportionate to the risk to public health;
- there is a documented history of non-compliance with food safety legislation;
- an informal approach has been tried but has not been successful, or the authorised officer has reason to believe that informal action will not be successful;
- in the case of new business or requirements, where the authorised officer assesses that the operator is unwilling or unlikely to comply, for whatever reason;
- Where there is a breakdown of controls critical for food safety, or where no such controls exist.

### **An improvement notice will not be used where:**

- the contravention is minor and presents no risk to public health;
- The contravention is a continuing one, e.g. cleanliness or temperature control, and a notice would only secure an improvement at one point in time. (prosecution may be the only option);
- Swift action is required, such as at a one day event where there exists a risk to public health.

Improvement notice procedure will only be implemented after the authorised officer has discussed the need for such action and its requirements with the food business operator informally and considered alternatives. The food business operator will be offered the opportunity for the matter to be referred to the officer's manager in the event of a dispute.

Only suitably qualified and experienced officers will be authorised by the Council to sign improvement notices.

## **The Use of Hygiene Prohibition Orders**

A prohibition order may be imposed by the courts following a conviction for a food hygiene offence, if the contravention has not been corrected or there still exists a risk of injury to health. The prohibition order may prohibit the use of a process, the use of premises or equipment, or the participation in a food business by a convicted food business operator.

- An application for a prohibition order will be made if an inspection of premises, prior to a court hearing to consider a food hygiene offence, reveals that the contravention is continuing and there is a risk of injury to health.

## **The Use of Hygiene Emergency Prohibition Notices**

An emergency prohibition notice has the effect of immediately closing a food business or prohibiting the use of equipment or a process where there is an imminent risk of injury to health.

Conditions where prohibition of premises may be appropriate:

- Premises which contravene food safety legislation and have been or are involved in an outbreak of food poisoning or present an imminent risk of one;
- Serious infestation of vermin resulting in actual or imminent risk of contamination of food;
- Poor structural condition and poor equipment and/or poor maintenance of routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in actual or imminent risk of food contamination;
- Serious drainage defects or flooding of the premises leading to actual or imminent risk of food contamination;
- Any combination of the above or any cumulative effect of contraventions which together represent an imminent risk of injury to health.

Additionally, equipment or a process may be prohibited where there is a risk of cross contamination of ready to eat food or where there is a failure to achieve critical control criteria such as minimum cooking or pasteurisation temperatures or the use of a process which is inappropriate.

An emergency prohibition notice will only be signed by a specifically authorised officer being an environmental health officer having a minimum of two years post qualification experience of food enforcement matters and being currently involved in food enforcement. Such actions will, additionally, have to be approved by the food safety team leader or other suitably qualified senior officer.

Outside, expert advice will be sought where the process or treatment under consideration requires specialist knowledge or qualifications to establish that the health risk conditions above are met.

## **Voluntary Closure**

- There may be occasion where an authorised officer is satisfied that grounds for Emergency Prohibition exist, but where the food business operator offers to close voluntarily until the health risk is removed.
- Such an offer will only be accepted if the authorised officer is satisfied that there is no likelihood of the premises being used as a food business, or of the use of equipment, or of a process without the express agreement of the food authority.
- Such an offer will only be accepted if the offer to close and its acceptance are fully documented and signed by the food business operator and by a specifically authorised officer, as for an emergency prohibition notice.
- When considering such an offer, great care will be taken to ensure that the food business operator is aware that in closing voluntarily they are relinquishing the rights to compensation for unjustified action contained in formal emergency prohibition notice procedure.

## **Hazard Analysis – Compliance with Article 5**

Article 5 of EU Regulation 852/2004 requires that a food business operator shall put in place, implement and maintain a permanent procedure based on the HACCP principles. These seven principles are to identify food safety hazards, critical control points, critical limits, monitoring arrangements, corrective actions, and to set up procedures and documentation to implement these principles.

- Non-compliance with any of the requirements of Article 5 will not be considered in enforcement terms to be any different from the other detailed requirements of the Hygiene Regulations. The level of enforcement action will be risk based and will be considered using the principles of proportionality described above.
- The extent of procedures and documentation required for compliance will be commensurate with the size and food safety risks presented by a food business. Fuller details are contained in the Safer Food Better Business (SFBB) Guidance Notes (Appendix 2).
- Provided hazards are adequately controlled, an educative approach will be taken to assist a business in complying with the documentation requirements using the Safer Food Better Business scheme.
- Where a subsequent revisit reveals little or no progress towards adequately documented system, Hygiene Improvement Notice procedure will be followed.

## **Follow Up Visits**

Where significant breaches of hygiene regulations have been identified during an inspection, a revisit will be carried out to check on progress towards compliance. The time-scale for the revisit will be agreed with the food business operator at the time of the primary inspection. Wherever practicable, and in all cases where a formal notice has been served, or prosecution instituted, the revisit will be undertaken by the same officer who carried out the original inspection.

## **Port Health Enforcement**

Enforcement of port health duties will be guided by the principles described above. Additionally:

- When carrying out inspections of imported foodstuffs, authorised officers will have regard to guidance issued by the Food Standards Agency and DEFRA.
- When carrying out food hygiene inspections of ships and Port food businesses, authorised officers will have regard to guidance issued by Governmental bodies and the Association of Port Health Authorities (APHA).
- When carrying out all port health duties, authorised officers will take care to liaise with the Maritime and Coastguard Agency and HM Customs and Excise to ensure consistency and support for enforcement actions.

## **Prosecution**

- Prosecution may be considered as an alternative, in addition to, or as a consequence of failure to comply with the above enforcement procedures.
- In considering prosecution action for food safety offences an authorised officer will consider whether that course of action is proportionate to the risk presented to the public health by the contravention, using the principles outlined in the paragraph “Factors influencing the enforcement approach” above.
- Home and originating authorities will be consulted where prosecutions are planned and due regard will be paid to opinion of that authority. Such authorities will be notified of the outcome of prosecutions taken.
- The recommendation to prosecute will be made by the Public Protection Manager after careful consideration of a written report from the inspecting officer.
- The decision to prosecute will be made by the Principal Solicitor, who will take account of the criteria set out in the Code for Crown Prosecutors, in particular the Evidential Test and the Public Interest Test. The Code is a public document and is available from the CPS Communications Branch, 50 Ludgate Hill, London, EC4M 4EX or on their website: [www.cps.gov.uk](http://www.cps.gov.uk).

## **The decision to prosecute**

Factors that will be considered before initiating prosecution procedures include:

- The seriousness of the alleged offence;
- The previous compliance history of the food business;
- The likelihood that a *due diligence*\* defence could be established;
- The ability of any important witness and their willingness to co-operate;
- The willingness of the food business operator to prevent a recurrence of the contravention;
- The probable public benefit of a prosecution and the importance of the case in establishing a precedent;
- Whether other action, such as issuing a formal caution, serving an improvement notice, or imposing a prohibition, would be more appropriate or effective;
- Any explanation offered by the food business.

*\* due diligence: The Food Safety Act 1990 provides a defence for a person charged with an offence that he took all reasonable precautions and exercised all due diligence to avoid the offence. This requires that, not only are suitable precautions set up, but that these are adequately implemented and monitored to ensure their effectiveness.*

## **Non-Compliance with Notices**

Non-compliance with an improvement notice is a serious offence and will be considered to be grounds for prosecution with the following exceptions:

- Where the remaining contraventions detailed in the notice are minor and do not pose a risk to public health;
- Where the outstanding works are in hand, (confirmation from contractor or supplier required), and an extension of time to complete the works would have been granted, if requested.

Non-compliance with an informal notice will not be considered grounds for prosecution, but the authorised officer will reconsider at this stage the enforcement options available to remedy the contravention using the criteria described above. The failure to respond in the first instance to an informal approach will influence that decision.

## **Food Complaints**

(LACORS Guidance on Food Complaints – second edition)

The decision to prosecute for Food Safety Act 1990 offences relating to the sale of food unfit for human consumption, or not of the quality demanded by the purchaser will be taken at the earliest opportunity to avoid unnecessary and time consuming investigations by both authorised officers and food businesses.

Prosecution will be indicated where:

- the offence has resulted in a risk to public health;
- there is evidence of negligence in failing to adopt basic food hygiene precautions;
- The food business has failed to respond to an informal approach to prevent a recurrence of the problem.

Particular regard will be paid to the possibility of establishing a *due diligence* defence.

Only officers holding a relevant food inspection qualification will be authorised to consider whether food is fit for human consumption. Independent advice will be sought from the appointed food examiner or public analyst, or other expert, where appropriate.

In all cases where a prosecution is being considered, a report will be requested from the originating or home food authority as appropriate and particular regard will be paid to that report.

The integrity and co-operation of a complainant in providing witness support is especially important with food complaints. The wishes of the complainant as to whether to proceed to prosecution will be respected, unless it is felt to be in the public interest to proceed independently.

## **Food Hygiene Regulations**

(E U Regulations 852/2004)

A decision to prosecute for offences under the food hygiene regulations will be taken based on the risk to public health presented by the contravention. It is not sufficient for there to be a technical breach of the regulations on a minor matter.

The initial response to contraventions that do not present a risk to public health will be written notification by informal or improvement notices.

Immediate prosecution action will be indicated where:

- conditions are found that present an immediate risk to public health, whether or not prohibition action is also taken;
- There is a risk to public health presented either by the seriousness or number of contraventions and there is documented evidence that the food business has previously received warnings regarding such contraventions.

Where a prosecution is prepared for food hygiene regulation contraventions, summonses will generally be issued for a small number of specimen charges, representing the more serious contraventions and demonstrating the element of risk.

## **Formal Cautions**

(Home Office Circular 18/1994 and LACOTS circular FS 7 94 2)

There may be circumstances where evidence exists for a successful prosecution, but where mitigating circumstances are such that nothing is likely to be gained from such action. In such circumstances the authorised officer will consider the offer of a formal caution as an alternative to prosecution. Circumstances where a formal caution may be considered are:

- the contravention is minor and a first offence;
- the contravention, although serious, has been speedily dealt with and steps taken to prevent a recurrence;
- the food business has since closed or the food business operator ceased that occupation;
- The defendant would be unable to pay a fine, costs or compensation.

Formal caution will only be considered where there is sufficient evidence to give a realistic expectation of success if the case went to the courts. It will not be seen as an alternative to prosecution where it is felt the prosecution case is weak.

A caution can only be administered where the suspected offender is prepared to admit the offence. Care will be taken to ensure that the suspected offender understands the significance of the caution and is able to give an informed consent to being cautioned.

The decision to offer a formal caution will be taken by the Principal Solicitor upon receiving the report of the Public Protection Manager (PPM). The PPM is authorised as the "Cautioning Officer" for the purpose of implementing the caution.

If the offer of a formal caution is declined, further enforcement action will be considered. This will usually be prosecution, but the option of a written warning will be considered.

Home and originating authorities will be notified of formal cautions issued by this authority where appropriate.

### **Review of Policy**

This Enforcement and Prosecution Policy will be reviewed annually or when changes in legislation or centrally issued guidance make this necessary.

### **Appendices**

1. Notes on BRE Regulators Compliance Code of Practice
2. Guidance on enforcement of Article 5 requirement for documented food safety systems.

## Annexe 2: Definitions

### FLCOP Para 4.1.2.3

**'Inspection'** means the examination of any aspect of feed, food, animal health and animal welfare in order to verify that such aspect(s) comply with the legal requirements of feed and food law and animal health and welfare rules.

**'Monitoring'** means conducting a planned sequence of observations or measurements with a view to obtaining an overview of the state of compliance with feed or food law, animal health and animal welfare rules.

**'Surveillance'** means a careful observation of one or more food businesses, or food business operator or their activities

**'Verification'** means the checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled.

**'Audit'** means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objective.

**'Sampling for analysis'** means taking feed or food or any other substance (including for the environment) relevant to the production, processing and distribution of feed or food or to the health of animals, in order to verify compliance with feed or food law or animal health rules.

### FLCOP Para 4.1.1

**'Intervention'** is defined as *Activities that are designed to monitor, support and increase food law compliance within a food establishment. This includes 'official controls'*

### FLCOP Para 4.1.2

**'Official controls'** are defined as *any form of control for the verification of compliance with food law. This includes:*

- *Inspections*
- *Monitoring*
- *Surveillance*
- *Verification*
- *Audit*
- *Sampling (where analysis is to be carried out by an Official laboratory).*  
*(These terms are defined in Annexe 3)*



FLCOP Para 4.1.2

'Other interventions' are also defined and can include *Other interventions, i.e. those which do not constitute official controls include:*

- Targeted education, advice and coaching at food establishment
- Information and intelligence gathering (including sampling where analysis is not carried out by an Official laboratory)
- 

**NOTE:** a visit to an establishment for the purpose of obtaining a sample does NOT constitute a planned intervention unless the sampling activity forms a component part of a wider reaching official control that overall provides sufficient information to allow the officer to determine the level of compliance. .

FLCOP 4.1.3.1

**Full Inspection:** This is a check on compliance with legal requirement in accordance with elements set out in section 4.2.2 of the Code. A full inspection will consider all aspects of a food business including structure, food safety management and management arrangements.

**Partial Inspection:** An inspection that covers only certain elements of the inspection as laid down in Section 4.2.2 of the Code.

Where a partial examination is agreed, the reasons for adopting this approach will be documented on the central data base M3 in the agreed format. The scope of the partial inspection will be specified in the inspection report provided to the food business operator.

**Planned audits:** An audit may be undertaken instead of a partial or full inspection, where any food business operator, including those providing a high risk business has put in place an acceptable documented food safety management system (addressing Article 5 Regulation 852/2004). Details of the system will be required in advance of the audit so the Officer can plan the appropriate audit.

The audit may include one or more of the following elements (FLCOP 4.1.3.1):

- Complete audit of the food safety management system
- Audit of selected elements of the food safety management system where the system is complex
- Partial Audit concentrating on a particular produce
- Operational audit concentrating on certain arrangements such as temperature monitoring.

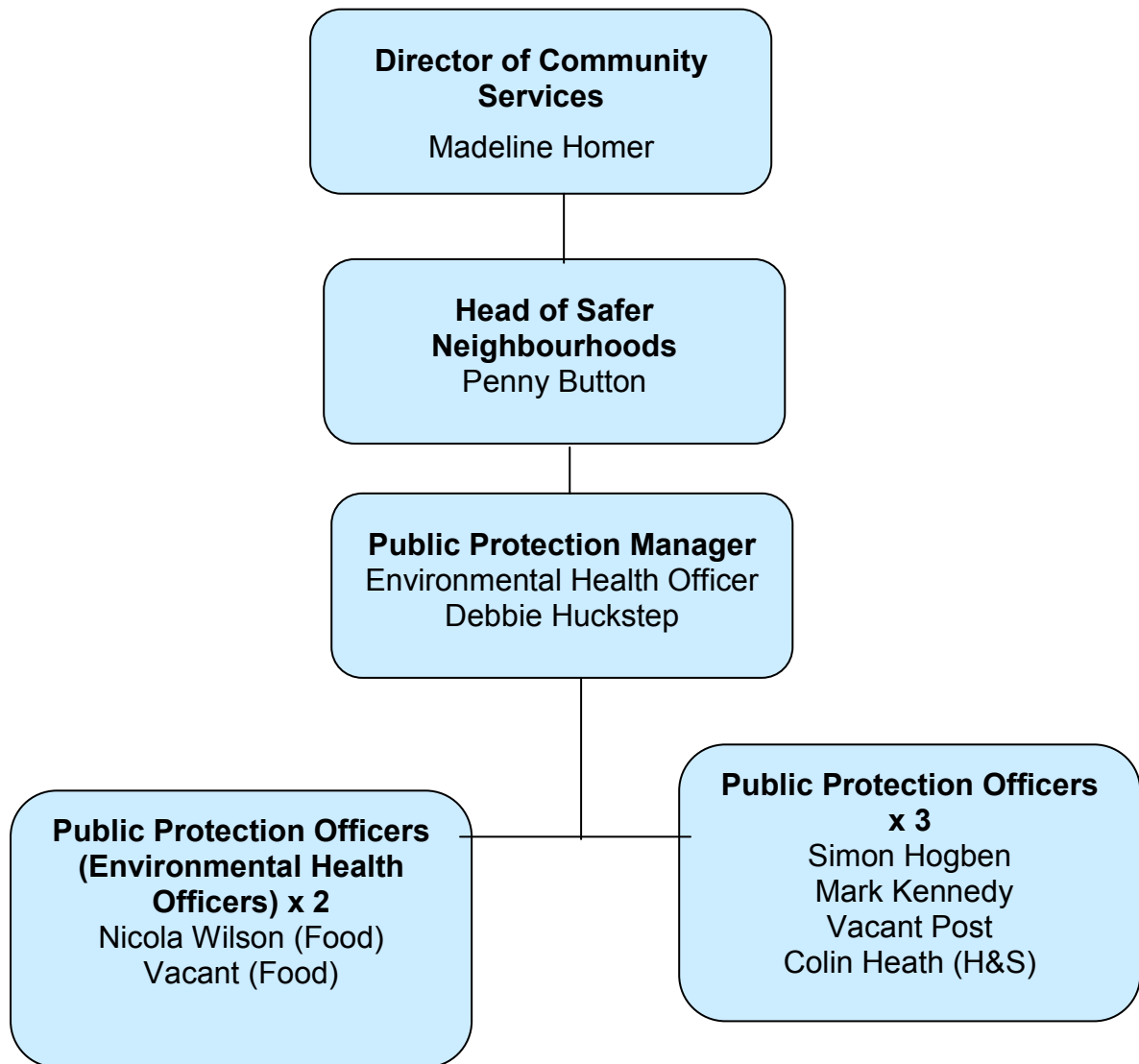
The reason for this approach will be documented on the M3 data base in the agreed format. The scope of the audit will be specified in the inspection report provided to the food business operator.

FLCOP 4.1.5.2.2

**Broadly compliant** is defined as *neither an establishment that has an intervention rating score of nor more than 10 points under each of the following three parts of Annexe 5:*

- Part 2      Level of (current) compliance – Hygiene*  
*Level of (current) compliance – Structure*
- Part 3      Confidence in Management*

### Annexe 3: Organisation Chart: Public Protection Team



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## Destination Management Plan Update

To: **Cabinet - 11 September 2014**

Main Portfolio Area: **Tourism**

By: **Cllr Johnston, Leader of Council and Cabinet Member for Tourism**

Classification: **Unrestricted**

Ward: **Thanet Wide**

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**Summary:** **This report provides an update on the delivery so far of the adopted Destination Management Plan.**

### **For Decision**

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#### **1.0 Update**

- 1.1 In 2012 VisitEngland bought out principles for developing Destination Management Plans and Thanet was the first authority in Kent to use these guidelines, to develop our own Destination Management Plan (DMP). The DMP was adopted a year ago and since then there has been lots of activity to deliver towards the priorities of the plan.
- 1.2 The Council engaged Tourism Works, a local tourism consultancy made up from Fran Warrington (Kent County Council and Visit Kent experience) and Kiki Case (Isle Magazine experience) to help deliver the DMP by working through the sector. The aim of working with an external organisation was to:
- Bring external perspective and expertise in managing the stakeholders
  - Add value to the process
  - Achieve buy-in from stakeholder
  - Add capacity to Council delivery
- 1.3 Tourism Works have provided an update, attached in Annex 1, on the work that has been delivered so far on the DMP. As their report highlights there has been a huge amount of engagement and work that has taken place which has provided an invaluable resource for the council to support delivery of the DMP. Their initial contract was for one year which comes to an end in November, 2014.
- 1.4 Since the DMP was adopted Cabinet have allocated £500,000 in reserves to help deliver the priorities of the plan. The ambition is that this funding will deliver projects that support the priorities of the DMP, projects are sustainable and provide a lasting impact on the destination, where possible match funding is provided from other sources and the projects add value and improvements that make a difference for visitors, residents and businesses.
- 1.5 Development of the projects takes time, which is often the case when working with a number of different stakeholders, who all have pressures on their time. However, one of the priority projects was to have a Beach Management Plan which includes an audit of the districts beaches and bay and a number of recommendations on how to improve the beach offering along the coastline. The Beach Management Plan was

developed by consultants who know the district well and was written in consultation with relevant stakeholders. The plan will be brought to Cabinet for adoption later in the year once officers have had time to speak to beach businesses (out of season).

1.6 In July, 2014 officers requested funds from the DMP Reserves to match some Interreg funding that Visit Kent had to help deliver against some of the recommendations from the draft Beach Management Plan. A Decision notice was agreed and a total amount of £70,000 (half Interreg and half reserves) is being used to deliver the below:

- Provide an inventory of the coastal shelters with an understanding of potential costs of repairs, options for refurbishment including funding and organisations who could be custodians of the shelters to ensure their future sustainability;
- A review of all of the beach showers, identifying the correct location and any works required to improve the user experience of showers on the beach. This will be used to access funding to improve the shower provision where it is most needed;
- A series of case studies will be developed to promote to inward investors about successful tourism sector businesses already in the district. This will include a range of businesses across the sector, both inward investors and those who have developed their product over time;
- Feasibility study for a Beach Club to be developed at Ramsgate. This will identify the types of uses that would be sustainable at Ramsgate, the scale of opportunity and identify how to take it forward.

This work is currently being delivered due to the tight timescales from the Interreg funding.

1.7 This Cabinet report is to note the update from Tourism Work, the Decision notice for the delivery of activities from the Beach Management Plan and to also note that there is great drive and ambition from the Council and its partners to develop and improve Thanet as a destination and that there is great desire for this to continue. The DMP was developed in a very consultative way with priorities and projects having come directly from the sector. It therefore provides all partners and stakeholders with a quality framework within which to deliver and provides the council with an opportunity to manage people expectations about what can be delivered. These are exciting times for Thanet as a destination and the plan helps the area as a whole to take advantage of opportunities for Thanet's economic growth and regeneration.

## **2.0 Corporate Implications**

### **2.1 Financial and VAT**

2.1.1 There are no financial implications from this report.

### **2.2 Legal**

2.2.1 There are no legal implications from this report.

### **2.3 Corporate**

2.3.1 The DMP supports the delivery of the below priorities of the Council's Corporate Plan 2012-2016:

- Priority 1: support the growth of our economy and the number of people in work;
- Priority 3: support our community and voluntary organisations;
- Priority 8: support excellent and diverse cultural facilities and activities for our residents and visitors;

- Priority 9: support a broad range of sports, leisure and coastal activities;  
 Priority 10: influence the work of other agencies to ensure the best outcomes for Thanet;  
 Priority 11: protect and preserve our public open spaces.

2.3.2 Tourism and the visitor economic is a priority in Thanet, recognised by the Corporate Plan and the Economic Growth and Regeneration Strategy. The Economic Impact of Tourism in Thanet Report 2011 identified that there were a total of 3,128,000 visitors, creating a total economic impact of £230,373,000 and 5,477 jobs – highlighting its importance to the local area.

## 2.4 Equity and Equalities

2.4.1 The development of the DMP was carried out using the VisitEngland guidelines and principles. Where relevant, an EIA will be completed against the different priority activities and actions.

## 3.0 Recommendation

3.1 Officers request that Cabinet note the update from Tourism Works (attached).

Contact Officer:	Louise Askew, Economic Development Manager Paula Harbidge, Tourism Manager
Reporting to:	Edwina Crowley; Head of Economic Development and Asset Management

### Annex List

Annex 1	Tourism Works Thanet Destination Management Plan update report
Annex 2	Thanet DMP Steering and Working Group Members

### Background Papers

Title	Details of where to access copy
<i>Thanet Destination Management Plan</i>	<a href="http://www.thanet.gov.uk">www.thanet.gov.uk</a>
<i>The Economic Impact of Tourism on the District of Thanet 2011</i>	Tourism Department

### Corporate Consultation Undertaken

Finance	NA
Legal	NA

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## Thanet Destination Management Plan

### Update report from Tourism Works

#### EXECUTIVE SUMMARY

This document is a report on activities to date of the Thanet Destination Management Plan (DMP), including the development of the action plans for each of the three priorities, the areas selected for specific focus, the activity being undertaken, the results to date, and the people involved.

#### 1. OVERVIEW OF THE DMP

The DMP is about acknowledging and understanding the importance of tourism in Thanet. Thanet District Council Cabinet formally approved the 5-year DMP in September 2013.

It aims to maximise tourism opportunities, improve facilities, attract tourism-related inward investment, create resources and connect businesses, to put Thanet firmly on the destination map.

It has been agreed that this will be achieved by

- ensuring that visitors have a great experience in Thanet, developing new experiences to attract more tourists and targeting new higher spending visitors looking for a short break.
- presenting the three towns more strongly together, playing to the strength of each and making it easy for the visitor to get around.
- investing in the experience of our beaches - Thanet's strongest natural assets
- prioritising investment in new quality character accommodation to encourage visitors to come and stay for longer.
- making the most of Thanet's location – the natural coastline, the big skies, the proximity to London by high-speed train and the potential new visitors that brings.
- stimulate the environment to encourage investment in new quality visitor attractions, visitor experiences and places to stay.

The DMP action plan aims to be driven by the private sector, working closely with the public sector. Thanet District Council is acting as a catalyst, facilitator and partner and the three towns and businesses will work together to help deliver the plan. The DMP will also provide a marketing toolkit and training for local businesses, enabling them to promote themselves as well as the area.

We are beginning to tackle some of the barriers to making things happen and raising the profile of the importance of tourism to the Thanet economy.

The Steering Group (SG) is chaired by Harry Lagan, who is representing the Broadstairs Tourism and Leisure Association and who owns and operates a self-catering unit in Broadstairs. The vice chair is Nick Cole, representing the Thanet Business Forum. There are 11 private sector businesses represented on the SG and 5 from the public sector, making a total of 16 members.

## 2. KEY ACCOMPLISHMENTS

A Steering Group (SG) and three Working Groups (WG) have been set up representing the wider tourism industry. Membership is detailed in Appendix 1.

- 59 people from both the public and private sectors have been engaged through these groups.
- Four SG meetings have been held, plus two extra meetings to finalise the SG status.
- 10 project workshops have been conducted, resulting in action plan progress.
- 9 projects from the DMP action plan are currently being progressed

### Beach Management & Development

Activity	Outcome
Main concerns of businesses in relation to the beach	List of main concerns/issues from Beach Business Group, Beach Business workshop and Steering Group.
Beach Audits	One audit for each beach – a detailed assessment of all the facilities of all 17 beaches and bays in Thanet.
Beach Management Plan	Draft produced June 2014 with 16 recommendations highlighting opportunities for further beach development.
Beach Business Group	A beach business group has been set up and a pre-season meeting held, bringing together beach businesses and relevant council departments for the first time. We now have contact details for everyone and are able to contact all by email when any real time beach issues occur. This has resulted in better communications between businesses and Thanet District Council.
Internal Council Beach Group	Work is being done on prioritising improvements to beach showers, toilets, coastal buildings and shelters. Work to assess the repairs, improvements, maintenance and funding for the showers and coastal shelters is planned for September.
Real Time Signposting	Chalk boards and seaweed notices re-done and new dog signs produced and installed.
Toilets	Toilets in Broadstairs harbour and middle beach, St Mildred's, Botany Bay and Dumpton have been repainted and St Mildred's toilets have had a new roof and windows.
Internal Byelaws and enforcement Group	Work on assessing byelaw enforcement and how to improve enforcement. One meeting with officers has been held and an action plan drawn up.
Bay inspectors Offices	All have been repainted.
Botany Bay	Car park resurfacing has been done.

## Coastal Regeneration

Activity	Outcome
Priority Sites	List of potential sites has been drawn up that could have tourism-related opportunities, including hotels, B&Bs, self-catering apartments, shops, restaurants and cafes etc.
Information for Investors	Research on information for investors, developers and re-locators has been carried out and a list of sources and links drawn up. This includes relevant and timely tourism statistics and planning and funding information relating to Thanet. This will demonstrate that Thanet is supportive and welcoming of new investment and has many opportunities for business development.

## Telling Our Stories

Activity	Outcome
Community Engagement	Raised profile of Thanet Big Weekend through media Interviews, press releases, Council staff communications, Tweets and visitor attractions co-operating. The foundation has been set for future collaboration between participating attractions. Working media relationships have been established with the Thanet Gazette and Academy FM.
Shared Story usage	8 of Thanet's larger visitor businesses are using the shared story in their marketing campaigns and it has been disseminated to businesses through group members, and to the general public via local radio.
Toolkit	Under development to be available in October for all tourism-related businesses to use as an information and photographic resource and to help some improve their knowledge and skills in marketing. 72 businesses to receive training over the winter.
Way finding	Sub-group of the three Town Teams set up to share knowledge and work together to create a project to welcome visitors at train and bus stations and help them find their way into and around town
Trails	Review of existing trails complete.

## Funding

Match funding for the DMP	Research on what is available started.
Workshop for businesses	A funding workshop has been held for businesses and a shortlist of funding sources has been produced. 12 people attended the workshop with 6 businesses receiving individual follow up sessions.

## Communications

Basecamp	Project management tool for all people involved in working and steering groups to communicate and access documents is up and running.
Media	Working media relationships have been established with the Thanet Gazette and Academy FM.
Social events	Two social networking events have been held to encourage people to get to know each other and share knowledge and experience.

### **3. Overview of activity November 2013 to July 2014**

#### **3.2 Beach Management Working Group**

This group is working to deliver a programme of prioritised beach-by-beach improvements, informed and steered by a new Beach Management Delivery Group. In order to enhance quality, protect the environment and deliver new distinctive experiences the group is looking at the options for community and industry-managed beaches that are freely available to everyone and incorporate the best creative and commercial ideas.

There are three sub-groups currently working on the following:

##### **1. Produce a Beach Management Plan and Audit**

Roger Budden and Alison Burgh from Real Places were commissioned to undertake an audit of the 17 beaches and bays in Thanet and prepare proposals for improvements and development opportunities. The first draft of the Beach Management Plan has been produced.

##### **2. Improve public information**

Beach signs are being reviewed and improved to give better information about seaweed and make dog signs clearer and friendlier in their tone.

##### **3. Establish a Beach Business Group (BBG)**

A Beach Business Group has been established to provide a forum for beach business operators and concession owners to meet each other as well as relevant Council Officers at the start and end of the season. Council Officers have met to look at the issues and comments raised by the BBG members to see what can be done to improve the coastline. Updates on beach issues have been sent to the group throughout the season and all beach businesses receive the monthly "Tourism Matters" e-newsletter.

#### **3.3 Coastal Regeneration Working Group**

This group is working on making a stronger case for tourism regeneration in specific underused or derelict coastal buildings and targeting inward investment to specialist developers, who can inject creative solutions and deliver new quality developments.

The emphasis is on reinforcing what is distinctive about Thanet and creating much needed character accommodation. There are currently two sub-groups working on the following:

1. Creating a shortlist of tourism development priority sites and how they might be promoted. The draft list of sites has been created and a sub-group is meeting to further investigate the possibilities.
2. Producing clear, relevant and distinctive information about Thanet to highlight tourism investment opportunities.

#### **3.4 Telling out Stories**

Telling our stories is about using the Shared Story developed for the DMP to create a stronger sense of place through a joined-up approach to marketing, information and interpretation, including helping small tourism businesses improve the quality of their marketing through skills development and support. The emphasis is on business engagement, support for the DMP and delivering a consistent quality product.

There are three project groups

1. Shared Story Network and Toolkit:

1a The Shared Story

Members of the group have started to use and disseminate the Shared Story. For example, Turner Contemporary has put the whole story on the website, Quex has shared it with all the businesses on the Estate, The Thanet Gazette has distributed it to appropriate advertisers, such as estate agents, to encourage usage, Isle magazine has incorporated it in articles and the Visitors' Guide, Ramsgate Town Centre has distributed it to local businesses.

1b The Marketing Toolkit

A specially formed subgroup of local businesses has been working with Thanet Tourism and Visit Kent to develop a comprehensive guide for the contents and has helped to select a company to deliver the Toolkit through a competitive tendering process. At the same time, a photographic brief is being developed with the aim of creating a bank of free, high quality images depicting the Shared Story, which can be used by businesses. Marketing and toolkit training courses are being developed and will be offered to businesses.

2. Local Community Campaign

To support and grow local pride in Thanet as a place to live in and visit. To date, this has involved collaborative promotional work for the Big Thanet Weekend, media interviews about the DMP and the Shared Story, and meetings with groups, such as the Town Teams and Ramsgate Heritage Society.

3. Welcome, signage and trails programme:

3a Way finding and Wayfaring

Each of the three main Thanet Town Teams have started to develop projects related to this theme and a way finding sub-group has been set up so the three towns can investigate ways of collaborating, sharing their work and resources, integrating the work already done and seeking funding.

Both Southeastern Trains and Stagecoach have been engaged and will become more involved.

3b Trails

An audit of existing trails has been carried out. A sub-group is now being formed to investigate integration of existing walking and cycling trails.

3c Tourism map

A comprehensive tourism map showing the whole of Thanet, with attractions, beaches, trails, transport and general tourism information is being designed.

### **3.5. Funding**

#### **Funding Meeting**

A funding sub-group meeting was held in March to:

1. Review DMP project plans to identify where funding might be needed.
2. Look at work being done by Visit England, Kent County Council, Tourism South East and Thanet District Council on possible funding sources for DMP activity, and review list of sources in relation to projects.
3. Consider how the SG can support the project groups in applying for funding from all sources, including the funding set aside for the DMP by Thanet District Council Cabinet.

#### **Funding Workshop**

A workshop for businesses was held in May, run by Visit Kent. The course content included:

- Getting an understanding of the big picture for funding - grant funding and loan finance for the tourism industry in the UK.
- Defining finance requirements – what does the business want to achieve?
- An overview of relevant grant funding streams, including Heritage Lottery Fund – what they are and how to access them.
- An overview of loan finance, including Expansion East Kent, Kent County Council's Regional Growth Fund scheme and local tourism success stories.
- Information on new innovative funding models such as crowd funding and how to make them work.
- Techniques for writing a winning a funding bid and the key content that funders are looking for.

### **3.6 Communication**

A communication plan for the DMP is in place to make sure that businesses and residents in Thanet know about the DMP, and how they can get involved. In the meantime, the following communications are in progress or have taken place:

- An online project management tool, Basecamp, has been set up to communicate with and between all group members.
- DMP Light: A summarised version of the DMP is being prepared for print and PDF/website use.
- Radio interviews: A close working relationship has been formed with Academy FM. So far, two interviews have taken place - one highlighting the Thanet Big Weekend and the other discussing Isle magazine, the DMP and the Shared Story.
- Press release: Announcing the commissioning of Tourism Works to help facilitate the DMP
- Media Briefings:
  - Meeting with Rebecca Smith, the editor of the Thanet Gazette

- Meeting with Howard Evans of Academy FM
- Social event: All members of the Steering Group and Project Groups were invited to two two-hour, early evening social events to provide people with an opportunity to network and get to know each other better in an informal situation. The social event will take place every 6 weeks.
- General support: Since the start of the implementation of the DMP, more than 59 individuals and businesses have given their time to attend meetings and workshops and some have given venues and refreshments free of charge to host these events.

#### 4. CONCLUSION AND NEXT STEPS

The foundations for the Steering Group and the Working Groups have been firmly set, directly engaging some 59 people from both the public and private sectors, and many more through networking, individual meetings, and disseminating the Shared Story. The scope and ambition of the DMP is being formulated more clearly through constant review and updating of action plans.

A considerable amount of activity is happening, with beach management audits completed and the beach management plan in its final stages, the marketing toolkit is under production, a photographic library is being developed, way finding activities are underway and an investors' pack is being developed.

Work in the forthcoming months will focus on drilling down to individual actions, looking at feasibility, budgets and funding.

Involving a lot of people means that sometimes implementation can be a long and slow but steady process, which needs constant nurturing. Realistically, people from the private sector can give only limited time but there is definitely a great enthusiasm for the project and a willingness to be involved.

Going into next year, we see some of the priorities for the DMP being:

- **Building financial plans for priority projects**

Produce costings for projects, giving a total required and a breakdown of works/actions. Prepare funding proposals, showing how much is required from the DMP, possible sponsorship, matched funding from other organisations and bodies and possible grants.

- **Building stronger relationship with Town Councils and Town Teams**

Identify areas of work that are a priority for Town Councils and Town Teams and see where they support the work of the DMP. Seek joint projects.

- **Building stronger relationship with beach businesses**

Increase frequency of meetings, and in good time for the new season. Encourage more participation in beach management.

- **Sponsorship**

Research and develop sponsorship packages for toilets, showers, dogs, seagulls, coastal shelters, beaches, way finding and the investors' pack.

- **Top Ten Businesses**

Build stronger relationships with some of the bigger players in Thanet, with resources, such as Shepherd Neame, Southeastern, Thorley Taverns, Southern Water, Stagecoach, Premier Inn, Travel Lodge, Visit England, East Kent College, KM Group, Thanet Gazette. Also consider companies such as Cardy's, Fuji, Cummins, Emco Wheaton and Thanet Earth.

- **Promoting DMP to small businesses**

Getting the message about the DMP out to small businesses through Tourism Matters, Toolkit promotion, mentoring and an industry event.

- **Engaging the community**

Develop the community side of the Telling our Stories action plan, involving residents in using and appreciating local tourism facilities.

- **Structuring meetings differently**

Review the working of the Steering Group and workings groups and invite members to make suggestions for improvements or changes to the way we work.

- **Improve communication and engagement with and within Council departments**

Spend more time with Council officers and members promoting the DMP internally and seeking further involvement and ideas.

## **APPENDIX 1**

List of all group members



**Appendix 1  
Thanet DMP Steering and Working Group Members**

<b>Thanet DMP Steering Group Members as at July 2014</b>		
<b>Name</b>	<b>From</b>	<b>Representing</b>
Harry Lagan Chair	Albion Cottage	Broadstairs Tourism & Leisure Association
Nick Cole Vice chair	Thanet Business Group	General business interests
Louise Oldfield	The Reading Rooms	Margate Independent Traders/small hotels and B&B's
Cllr Iris Johnston	Thanet District Council	Ward member for Margate
Steve Davies	Your leisure	Sports and Leisure
Anthony Curwen	Quex Estate	Attractions
Jo Tuffs	Broadstairs Folk Week	Event's Organisers
Richard Morsley	Turner Contemporary	Attractions
Cllr Bob Bayford	Broadstairs & St Peters Town Council	Broadstairs & St Peters
David Otteson	Holiday Inn Express	Large Hotels
Sandra Matthews-Marsh or Ruth Wood	Visit Kent	General tourism interests
Emma Irvine	My Seaside Luxury	Accommodation
Paula Harbidge	Visit Thanet	Tourism interests
Louise Askew	Thanet District Council	Economic Development issues and opportunities
Julie Edwards	Visit Thanet	Tourism interests
Graeme Endacott	Shepherd Neame	Pubs and accommodation
Jan Wyatt	Wyatt & Jones Restaurant	Restaurateurs
Jon Burton	Hilderstone College	Language Schools
Cllr David Green	Ramsgate Town Council	Ramsgate
Fran Warrington	Tourism Works	DMP

Kiki Case	Case Communications	DMP
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<b>Thanet DMP Beach Management Group Members as at July 2014</b>		
<b>Name</b>	<b>From</b>	<b>Representing</b>
Jean Reynolds	Thanet District Council	Foreshores
Steve Davies	Your Leisure	Sports & leisure
Cllr Iris Johnston	Thanet District Council	Tourism Interests
Martyn Cassell	Police/Community Safety	Beach safety
Dave Melmoth	Joss Bay Surf School & Thanet Better Beaches	Beach businesses
Paula Harbidge	Visit Thanet	Tourism interests
Laura Smith	Thanet District Council	Planning
Austin Pegden	Children's Rides	Beach Businesses
Ruth Wood	Visit Kent	General Tourism
Tony Child	Thanet Coast Project	Beach activities
Colin Bowley	Environment Agency - Team Leader Land & Water East Kent & Stour	Beach habitats
Angela Marlow	Natural England, Ashford	Beach habitats
Barry James	Friends of Ramsgate Seafront	
Suzie Hooper	Thanet District Council	Thanet Coast project (now Events)
Lisa Powell	Visitor Information Centre Team/Ambassadors	Information provision/customer card
Graham White	Southern Water	Water quality
Harry Lagan	Albion Cottage	BTLA
Fran Warrington	Tourism Works	DMP

<b>Thanet DMP Coastal Regeneration Group Members as at July 2014</b>		
<b>Name</b>	<b>From</b>	<b>Representing</b>
Paul Wookey	Locate in Kent	Investment
Cheryl Parker	Visit Kent	Tourism General
Julie Edwards	Visit Thanet	DMP
James Thomas	The Royal Harbour Hotel	Accommodation
Emma Irvine	My Seaside Luxury	Accommodation
Hamish McAlpine	Individual	Private sector
Theresa Bruton	Kent County Council	Kent Economic Development interests
Louise Oldfield	The Reading Rooms	Small hotel
Graeme McKirdy	Heritage Lottery Fund	Heritage Enterprise Funding
Louise Askew	Thanet District Council	Economic Development Opportunities
Andy Brown	English Heritage	Building infrastructure protection
Nick Dermott	Thanet District Council	Heritage Advisor

<b>Thanet DMP Telling Our Stories Group Members as at July 2014</b>		
<b>Name</b>	<b>From</b>	<b>Representing</b>
Jon Burton	Hilderstone	Language Schools
Jo Tuffs	Folk Week	Festivals/Events
Rebecca Smith	Editor, Thanet Gazette	Press
Lucy Bryant	South Eastern Trains	Transport

Bryony Bishop	Turner Contemporary	Art Galleries
Tammy Shaddick	Margate Town Team	Town Teams
Anne Marie Nixey	Qing	Independent Retailers
Lynette Crisp	Visit Kent	Tourism Interests
Cheryl Mvula	Powell-Cotton/Quex	Heritage/Attractions
Craig Knight	Thorley Taverns	Pubs
Devine Anderson	Stagecoach	Transport
Hannah Thorpe/Katie Mackinnon	Thanet District Council	Communication interests
Suzy Humphries	Ramsgate Town Promoter	Ramsgate Town Team
Debbie Meacham	East Kent College	Training/Education
Kerry Millett	Volunteer	Broadstairs Town Team
Dean Martin	Your Leisure	Sports, recreation, theatres
Laura McCarthy	Dreamland	Attraction
Julie Edwards	Visit Thanet	General Tourism
Kiki Case	Tourism Works/Isle	DMP
Fran Warrington	Tourism Works	DMP

## Royal Sands Development

To: **Cabinet – 11 September 2014**

Main Portfolio Area: **Cllr Rick Everitt, Cabinet Member for Finance & Estates**

By: **Edwina Crowley, Head of Economic Development & Asset Management**

Classification: **Unrestricted**

Ward: **Eastcliff**

**Summary:** **Further information has become available since Cabinet adopted the recommendations of the Overview and Scrutiny Panel on 20<sup>th</sup> February. Cabinet are asked to consider this information and determine the resolution.**

### For Decision

#### **1.0 Introduction and Background**

1.1 On 20<sup>th</sup> February Cabinet made a number of decisions based upon the recommendations of the Overview and Scrutiny Panel which it received and adopted.

#### **2.0 The Progress since the Decision on 20<sup>th</sup> February**

2.1 Since the Cabinet report of 20<sup>th</sup> February there has been a change in project team as follows:

Edwina Crowley	Project Lead, Head of Economic Development and Asset Management
Steven Boyle	Interim Legal Services Manager
Mike Humber	Technical Services Manager
Grant Burton	Capital Development Manager

2.2 The team is supported by Stuart Wortley and Luke Miotte of Pinsent Masons (legal advice) and Tim Mitford-Slade of Strutt and Parker (valuation advice). The project team have re-visited the site and reviewed the documents and correspondence.

2.3 Acting on the recommendations contained in the Cabinet report made on the 20<sup>th</sup> February the Council served Notice on the developers legal advisor requiring remedy of the breach of the agreement.

2.4 Following the service of the Notice the development agreement contractually provides for parties to enter into mediation when there is a significant dispute and therefore on 10<sup>th</sup> July, a without prejudice meeting took place at the offices of Pinsent Masons.

2.5 At this meeting the Developer informed officers that they had been approached by Cardy Construction Ltd to acquire the share capital of SFP (Ventures) Ltd thereby proposing to take ownership of all SFP contractual obligations (including this development agreement with the Council) and that in principle, the Developer is keen

to accept the offer. This would mean that Cardy Construction Ltd would become responsible for finishing the construction works in accordance with the planning permission.

- 2.6 Furthermore Cardy Construction Ltd would amalgamate this company into the established parent group of companies which has an long history of successful performance with such schemes.
- 2.7 Additionally, Cardy Construction Ltd are, in principle, in a position to enter into an agreement which, subject to successful negotiations between the parties, would mean the Council would not only receive the overage payments in advance of completion of the construction but also provide additional benefits for the Council.
- 2.8 Cabinet is asked to note at this point that the current contractual arrangements with SFP entered into in 2006 mean that the Council has substantially disposed of its freehold interest in the land (with freehold transfer provisions documented in the development agreement); the Council's only continuing legal interest is the right to receive overage payments in respect of the completed units.
- 2.9 Notwithstanding the problems that the developer has outlined which they state have caused a problem in developing out this construction (see 3.2.3) if the matter progressed to Court, the Courts would expect the Council to undertake an objective assessment of all reasonable offers put forward in order to complete this construction project and by doing so receive the overage payments owed to them.

### **3.0 The Current Situation**

- 3.1 In light of this offer advanced through the mediation process, the council development project team has reviewed all the documents and correspondence and can provide the following comment on the position.
- 3.2 It is clear following legal advice that terminating the development with SFP would not be straightforward for the following reasons:-
- 3.3 Notwithstanding the expiry of the date for compliance contained within the Notice served on the developer's legal advisors, the procedure for terminating the development requires the service of 3 additional separate notices. The Notice served referred to the breach committed and had to allow the developer reasonable time to comply with performance documented in the notice. The developer may comply in full or in part, and at the end of the period for compliance the developer would be allowed further time to proceed to the next phase of works.
- 3.4 To continue down this route of performance management means the process will be likely to be drawn out over a number of years.
- 3.5 Furthermore, SFP (Ventures) Ltd could at any stage decide to contest any attempt to terminate the development agreement by formal action on the basis of several arguments. Whilst there are varying degrees of merit to these potential challenges they might include:-
  - a) some of the delays to the development were caused by matters outside of their control and therefore may validate the request by SFP to extensions of time, for example the problems with the cliff face wall, access and egress restrictions.

- b) SFP have also made allegations about the actions of a particular Councillor trying to undermine its attempts to fund the scheme and promote the development (including its attempts to identify a suitable hotel operator).
- c) Notwithstanding the programme of works agreed at the time of the 2009 variations required the developer to build in an illogical manner because the hotel could not sensibly be opened with the residential still underway; the highways issue in 2010 made it practically impossible too for the reasons documented in (d) below.
- d) A review of the programme of works in light of the access/egress restrictions mentioned means that it would be extremely difficult to follow in a safe and practicable manner (given that if the hotel was built first in accordance with the programme, access to the remaining site would be obstructed by the hotel), and Health & Safety Construction Regulations require adjustments to works programmes where there is a safer way of delivering the project.

3.6 SFP claim to have invested significant sums of money in the development, accordingly, they are likely to fight very hard to protect SFP's interest in the development site.

3.7 For these reasons, any formal attempt to terminate the development agreement would undoubtedly take a considerable time and there is always a risk with litigation that the Council may be unsuccessful and at the very least the outcome would be uncertain. Contentious litigation would be very likely in this case and progressing with such action would be expensive (with uncertainty as to where the Court would award the costs) and could tie the development site up for many years.

3.8 The Council's decision through Cabinet to terminate the development agreement on 20<sup>th</sup> February 2014 was reached on the basis of a summary of Pinsent Masons' legal advice. Issues which have been raised by Parry Law in response to the Notice served for the breach have resulted in amendment to the original advice, including (as requested by Members) a review of the comments around the absence of a long stop date being a "material defect"

3.9 There was no one off long stop date in the development agreement whereby if the developer had not performed the Council would have step in rights to get the site back. The agreement did however have several performance indicators; failure to perform one of them would trigger a review of the agreement with the Council taking action as appropriate. In light of the amount of money that the developer would have invested at each stage, Pinsent Masons advise it is unlikely that they would have been agreeable to a long stop date when the contracts were being negotiated in 2006.

#### **4.0 Cardy Construction Ltd**

4.1 Focusing on the present situation, it is clear that circumstances have materially changed in that there is now a reputable and established construction company, willing to take over SFP and they in turn have indicated they are willing to transfer their interest to this company. Upon completion of company transfer contracts between SFP and Cardy Construction Ltd, the current owner of SFP would have no further involvement with the development.

4.2 Cardy Construction Ltd have in principle funding in place to complete the development within a reasonable time frame. Furthermore, they are of a sizable nature, have proven technical expertise and a consistent record for delivering quality projects of this type and scale.

- 4.3 It is also proposed that the Cardy Construction Ltd will employ local tradespeople for this project and engage apprentices. A construction project of this scale will employ up to 200 people on this project when in full operation, there is also the ongoing opportunity for jobs aligned to the hotel trade, commercial units and servicing of the residential common parts.
- 4.4 Overall, Cardy Construction Ltd is therefore considered a much stronger covenant for the development and for this reason are able to attract funding for the scheme, making delivery viable.

## **5.0 Commercial Considerations**

- 5.1 The project team had been asked to consider the present value of the site and what the implications would be if the council was able to buy the site from the developer. Valuation experts Strutt and Parker were asked for advice on the present value of the freehold interest.
- 5.2 Strutt and Parker advised that the site is worth a significant amount of money even in its part developed state.
- 5.3 The Council does not have the funds to buy the site back (see section 7.1 below) even if the developer was willing to sell the site. The market value of the scheme is the value added by the granted planning permission for the finished scheme.
- 5.4 Even if the Council was able to buy back the site then the Council would still be required to secure an alternative developer, in order to secure the best financial value for the site, so it is likely that the same scheme or a scheme of similar type and scale would be developed out.
- 5.5 Therefore, the offer by the Cardy Construction Ltd to finish the scheme and compensate the council for the overage money owed is considered to be a good solution. To get the site developed will not only bring financial return to the council but will support regeneration in Ramsgate, both by direct and indirect employment opportunities.
- 5.6 The project team have considered the benefits of receiving the overage payment in advance of completion of the development. The project team are also confident that they can negotiate better contractual terms for the council to include a call in option for non-performance.
- 5.7 The offer from the Cardy Construction Ltd to build out the site in a timely manner is, subject to successful negotiations, considered by the project team to be acceptable in principle.

## **6.0 Recommendations**

- 6.1 It is therefore recommended that Cabinet authorise officers to defer the recommendations of the Cabinet paper dated 20<sup>th</sup> February whilst positive negotiations continue;
- 6.2 Furthermore, that Cabinet authorise the project team (in consultation with the S151 Monitoring Officer, Head of Paid Service and Cabinet Member for Finance and Estates) following due process and procedures to progress with negotiations;
- 6.3 That a report be brought back to Cabinet in October, documenting the outcome of the negotiations for final decision.



## **7.0 Corporate Implications**

### **7.1 Financial and VAT**

The Royal Sands development is currently accounted for within the Council's asset register and subsequently within the Balance Sheet. The financial implications of the aforementioned have been detailed below:-

To receive the overage monies owed to the Council would result in a substantial capital receipt that would be used to fund council's capital expenditure programme.

It is noted that preliminary investigations were held by the project team to get an indicative present value for the site and that this amount is a considerable sum. There is no allowance in the budgets to take this action, it would constitute as capital expenditure for acquisition of the rights bought back that had previously been sold. There has been a decline in capital receipts over the past few years due to the economic downturn and the need to achieve best value. Currently the council does not hold sufficient funds in the unallocated capital receipt reserve to fund such expenditure as it has been fully committed to fund the existing capital programme. It is likely the Council would need to borrow to facilitate the purchase of the leases, which would result in increased revenue costs for the Interest on borrowing and the minimum revenue provision for principal repayment.

Once agreement has been sought on which option would be the most appropriate then specialist VAT advice will need to be sought.

### **7.2 Legal**

The legal issues are broadly as outlined within this report.

There are processes to be followed to seek to terminate the existing agreements as outlined. There is likely to be a challenge to this process which will be costly and time consuming.

Careful attention needs to be made to any action taken either to terminate the existing agreement, purchase the leases or seeking to sign a new agreement to ensure the Council's legal position is secured.

Appropriate advice has been sought at all stages so far to ensure that the Council's position is sustainable.

### **7.3 Corporate**

As outlined within this report the position has changed materially since the Cabinet Decision was taken in February.

Given that there is now an alternative which may bring about a solution to the problem avoiding the legal challenges it is appropriate that members are given the opportunity to consider this and to take a decision based upon all of the options.

### **7.4 Equity and Equalities**

If Cabinet agree to taking this forward, all discussions and agreements are subject to a Council equity and equalities assessment.

## 8.0 Decision Making Process

8.1 This is a key decision subject to call in.

Contact Officer:	Edwina Crowley, Head of Economic Development and Asset Management
Reporting to:	Madeline Homer, Acting Chief Executive

### Corporate Consultation Undertaken

Finance	Nicola Walker, Finance Manager - HRA, Capital & External Funding
Legal	Steven Boyle – Interim Legal Services Manager & Monitoring Officer

## THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

### Do I have a personal interest?

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- a) An interest you must **register**.
- b) An interest that is not on your register, but where the well-being or financial position or you, members of your family (spouse; partner; parents; in laws; step/children; nieces and nephews), or people with whom you have a close association (friends; colleagues; business associates and social contacts that can be friendly and unfriendly) is likely to be affected by the business of your authority more than it would affect the majority of:
  - Inhabitants of the ward or electoral division affected by the decision (in the case of the authorities with electoral divisions or wards.)
  - Inhabitants of the authority's area (in all other cases)

These two categories of personal interests are explained in this section. If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest.

### Effect of having a personal interest in a matter

You must declare that you have a personal interest, **and the nature of that interest**, before the matter is discussed or as soon as it becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it in the meetings where matters relating to that interest are discussed, unless an exemption applies.

### When an exemption may be applied

An exemption applies where your interest arises solely from your Membership of, or position of control or management on:

1. Any other body to which you were appointed or nominated by the authority.
2. Any other body exercising functions of a public nature (e.g. another local authority)

### Is my personal interest also a prejudicial interest?

Your personal interest will also be a **prejudicial interest** in a matter if all of the following conditions are met:

- a) The matter does not fall within one of the **exempt categories** of decisions
- b) The matter affects **your financial interests** or relates to a **licensing or regulatory matter**.
- c) A member of public, who knows the relevant facts, would **reasonably think your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

### What action do I take if I have a prejudicial interest?

- a) If you have a **prejudicial interest** in a matter being discussed at a meeting, you must declare that you have a prejudicial interest as the nature of that interest becomes apparent to you.
- b) You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is case, you can also attend the meeting for that purpose.
- c) However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

d) In addition you must not seek to **improperly influence** a decision in which you have a prejudicial interest.

**This rule is similar to your general obligation not to use your position as a Member improperly to your or someone else's advantage or disadvantage.**

**What if I am unsure?**

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services Manager well in advance of the meeting.

**DECLARATION OF PERSONAL AND, PERSONAL AND PREJUDICIAL INTERESTS**

**MEETING** .....

**DATE**..... **AGENDA ITEM** .....

**IS YOUR INTEREST:**

**PERSONAL**

**PERSONAL AND PREJUDICIAL**

**NATURE OF INTEREST:**

.....  
.....  
.....

**NAME (PRINT):** .....

**SIGNATURE:** .....

Please detach and hand this form to the Committee Clerk when you are asked to declare any interests.

