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Date: **20 April 2015**
Our ref: **Extraordinary Overview & Scrutiny Panel/Agenda**
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EXTRAORDINARY OVERVIEW & SCRUTINY PANEL

28 APRIL 2015

An extraordinary meeting of the Overview & Scrutiny Panel will be held at **7.15 pm on Tuesday, 28 April 2015** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor Gideon (Chairman); Councillors: Campbell (Vice-Chairman), Driver, Dwyer-King, Fenner, Gibson, I Gregory, K Gregory, Hornus, Huxley, Matterface, Moore, Poole, D Saunders, M Tomlinson and Worrow

AGENDA

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**

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. **OVERVIEW & SCRUTINY PANEL CALL-IN OF A CABINET DECISION - TRANSFER OF FORT ROAD HOTEL FROM THE GENERAL FUND TO THE HOUSING REVENUE ACCOUNT** (Pages 1 - 8)

Declaration of Interest form - back of agenda

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OVERVIEW & SCRUTINY PANEL CALL-IN OF A CABINET DECISION - TRANSFER OF FORT ROAD HOTEL FROM THE GENERAL FUND TO THE HOUSING REVENUE ACCOUNT

To: **Extraordinary Overview & Scrutiny Panel – 28 April 2015**

Main Portfolio Area: **Housing and Planning Services**

By: **Senior Democratic Services Officer**

Classification: **Unrestricted**

Ward: **Thanet Wide**

Summary: The Overview & Scrutiny Panel called-in a Cabinet decision on the transfer of Fort Road Hotel from the General Fund to the Housing Revenue Account. This covering report highlights the grounds for that call-in.

For Decision

1.0 Introduction and Background

1.1 On 2 April 2015 Cabinet considered an officer report on the Transfer of Fort Road Hotel from the General Fund to Housing Revenue Account. After some debate Councillor Nicholson proposed, Councillor Harrison seconded and Members agreed the following:

1. To transfer the Fort Road Hotel from the general fund to the housing revenue account;
2. To allocate the property for housing purposes;
3. The use of HRA balances and 141 receipts where appropriate to undertake the development works up to £950K;
4. The use of repairs reserve to fund the General Fund costs already incurred prior to transfer.

2.0 Reasons for Call-in

2.1 The Chairman of the Overview and Scrutiny Panel called-in the Cabinet decision on 13 April 2015. In calling-in the decision the Chairman indicated the following reason for the call-in; that:

“I believe that not all the options for the site have been considered.”

3.0 Options

- 3.1 The Panel could request Cabinet to reconsider its decision made on 2 April 2015.
- 3.2 The Panel could opt to make a recommendation to the 2015/16 Overview and Scrutiny Panel to set up a sub-group to consider this issue in greater detail. If this option is adopted by the Panel; it would mean that the executive can go ahead and implement the Cabinet decision without further delays.
- 3.3 Members may wish to take no further action in which case the Cabinet decision becomes implementable from the date of this meeting.

4.0 Overview & Scrutiny Panel Procedure Rules for Call-in

- 4.1 Under the call-in procedure as outlined in the Overview and Scrutiny Procedure Rule 15.0:
 - 4.1.1 If, having considered the decision of Cabinet, the Panel is still concerned about it, it may refer it back to Cabinet for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council.
 - 4.1.2 If referred to Cabinet, Cabinet shall then reconsider the decision within a further 15 working days from the date of this meeting, amending the decision or not, before adopting a final decision.
 - 4.1.3 If the Panel does not refer the matter back to Cabinet, the decision shall take effect on the date of this meeting.
- 4.2 The Overview and Scrutiny Procedure Rule 15.0 also provides for a referral of the decision by the Panel to full Council. If that is the case, Council should meet within 15 working days of referral and if it objects to the decision, it will refer it back to Cabinet, together with its views on the decision. Cabinet would then have to convene to reconsider within 15 working days of the Council meeting.

5.0 Corporate Implications

5.1 Financial and VAT

- 5.1.1 The financial implications of the Cabinet decision are as outlined in the Cabinet report attached.

5.2 Legal

- 5.2.1 The legal implications of the cabinet decision are as outlined in the Cabinet report attached in Annex 1.
- 5.2.2 The procedure for calling in Cabinet decisions is as prescribed by Overview & Scrutiny Procedure Rule 15.0.

5.3 Equity and Equalities

- 5.3.1 There are no equity and equalities issues arising directly from this report.

6.0 Recommendations

Members are requested to consider making any of the following recommendations:

Either

6.1 That Cabinet reconsiders its decision made on 2 April 2015;

or

6.2 That Members recommend to a future meeting of the Overview & Scrutiny Panel that a sub-group be set up to review the issue in greater detail;

or

6.3 That no further action is taken by the Panel.

7.0 Decision Making Process

7.1 If the Panel refers the decision back to Cabinet, the Executive ought to meet within 15 working days. However it is not possible for Cabinet to meet within the timescale prior to the May Elections and comply with the pre-publication requirements of the Access to Information Rules. The referral will therefore need to be considered by Cabinet as soon as practicable in the new municipal year.

7.2 If Members of the Panel choose to set up a sub-group to review this Cabinet decision, they can only do so as a post-hoc scrutiny review and that leaves the executive to implement the decision without further delays. The purpose of the post decision scrutiny would be to draw some lessons for the future.

Contact Officer:	Charles Hungwe, Senior Democratic Services Officer, Ext 7186
Reporting to:	Glenn Back, Democratic Services & Scrutiny Manager, Ext 7187

Annex List

Annex 1	Cabinet Report – Transfer of Fort Road Hotel from the General Fund to Housing Revenue Account
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Background Papers

Title	Details of where to access copy
None	N/A

Corporate Consultation Undertaken

Finance	Nicola Walker, Interim Head of Financial Services
Legal	Steven Boyle, Head of Legal and Democratic Services & MO

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TRANSFER OF THE FORT ROAD HOTEL FROM GENERAL FUND TO HOUSING REVENUE ACCOUNT

To: **Cabinet – 2nd April 2015**

Main Portfolio Area: **Housing and Planning Services**

By: **Cllr Richard Nicholson, Deputy Leader and Portfolio Holder
Housing and Planning Services**

Classification: **Unrestricted**

Ward: **Margate Central**

Summary: To transfer the Fort Road Hotel from general fund to housing revenue account and to agree the budgets for the development of the property into housing.

For Decision

1.0 Introduction and Background

- 1.1 The Fort Road Hotel, Margate has been empty and derelict for a number of years. As a result the property was subject to a compulsory purchase order that was made on 28th May 2010. A general vesting declaration was made on 15th October 2010 and the property has been held within the general fund since.
- 1.2 The council has considered a number of options for the property and has undertaken requests for development proposals through an expression of interest process on a couple of occasions, the latest being in 2014.
- 1.3 The expressions of interest have been unable to identify a suitable development proposal and in order to progress bringing this property back into use it is proposed it is now used for housing purposes.

2.0 Options

- 2.1 The property is transferred from the general fund to the HRA and cabinet agree the funding arrangements to undertake the development.

3.0 Equality Impact Assessment

- 3.1 An Equality Impact Assessment is not necessary.

4.0 Corporate Implications

4.1 Financial and VAT

- 4.1.1 Due to the accounting arrangements there is a decrease in the headroom for HRA borrowing by the amount equivalent to the market value of the property. As the market value has been determined as nil this will not impact on the capped HRA borrowing headroom. The estimate of the financial impact of the transfer is detailed in the table below:-

Detail	HRA	General Fund
Estimated Opening Capital Financing Requirement	£20,874,692	£26,459,705
Market Value of Hotel	£0	£0
Closing Capital Financing Requirement	£20,874,692	£26,459,705

- 4.1.2 Capital expenditure will be required for the development of the property into housing and it is proposed to utilise £950K of balances held within the Housing Revenue Account to facilitate this, through a revenue contribution to capital spend and 1-4-1 receipts where appropriate. Up to 30% of development costs can be funded from 1-4-1 receipts for new affordable housing units.
- 4.1.3 The financial impact of transferring the Hotel from the General Fund to the Housing Revenue Account will mean that any future costs and income relating to the property will subsequently fall on the Housing Revenue Account.
- 4.1.4 To date costs of approx. £30,000 have been incurred on scaffolding etc. to support the structure and these will be funded from the General Fund repairs reserve prior to transfer.
- 4.1.5 As options for development were initially considered, in order to protect the council's VAT partial exemption status the Council applied for an option to tax on the property. Specialist advice has been sought on the tax impact of changing the development for housing as opposed to commercial. Advice received has been that provided the consideration for the property is less than £250,000 then the capital goods scheme will not apply.
- 4.1.6 On the assumption that the property will be used for residential housing purposes and not for commercial rent, the option to tax will be dissapplied and so will not have any impact provided the property is used to house council tenants. In the event the Council were to consider a shared ownership scheme then the initial capital receipt from the owner would qualify as the first grant of a major interest in the dwelling and would therefore be zero rated allowing the Council to recover all the VAT incurred on construction. The rental payment for the remaining share that remains in TDC's ownership will be an exempt supply and so any VAT incurred on expenditure after the first grant will need to be considered in relation to the Council's partial exemption status.
- 4.1.7 Stamp duty and land tax (SDLT) is charged by a seller on the acquisition of a chargeable interest in land by the purchaser. As the property remains within the ownership of the council there should be no further SDLT payments to transfer the property from the General Fund to the HRA.

4.2 Legal

- 4.2.1 There are no legal implications as the transfer of the property between budgets and the use of the property for housing purposes do not conflict with the original compulsory purchase order.
- 4.2.2 The transfer will be carried out in accordance with the relevant legislation.

4.3 Corporate

4.3.1 Housing is a key area of focus for the council and the development of this property for housing purposes meets the following corporate priority.

Priority 7: We will plan for the right number and type of homes in the right place to create sustainable communities in the future.

5.0 Recommendations

5.1 For cabinet to agree to transfer the Fort Road Hotel from the general fund to the housing revenue account;

5.2 For cabinet to agree to allocate the property for housing purposes;

5.3 For cabinet to agree the use of HRA balances and 141 receipts where appropriate to undertake the development works up to £950K;

5.4 For cabinet to agree the use of repairs reserve to fund the General Fund costs already incurred prior to transfer.

Contact Officer:	Tanya Wenham, Head of Housing Services
Reporting to:	Larissa Reed, Interim Director for 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	Nicola Walker – Interim Head of Finance
Legal	Steven Boyle – Head of Legal & Democratic Services

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £100 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

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 and Scrutiny Manager well in advance of the meeting.

DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY

MEETING

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

DISCRETIONARY PECUNIARY INTEREST

SIGNIFICANT INTEREST

GIFTS, BENEFITS AND HOSPITALITY

THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:

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

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.