

Overview and Scrutiny Panel Recommendations	Cabinet Decision	Council decisions
<p><b>Summary of Overview and Scrutiny Panel Recommendations to Cabinet</b></p>		
<p>At the Overview &amp; Scrutiny Panel meeting held on 28 May 2013:</p> <p><b>Thanet's Economic Growth and Regeneration Strategy - Phase Three</b></p> <ol style="list-style-type: none"> <li>1. The role of the voluntary sector needs to be emphasised in the Strategy and Action Plan;</li> <li>2. There is a need to review the role of Ramsgate Harbour and Port as a major driver of economic growth in Thanet because there may be increased competition from Dover Harbour where an investment of £100million has been earmarked for the development of the Port;</li> <li>3. The Action Plan should have the following additional information: <ol style="list-style-type: none"> <li>a) Costs</li> <li>b) Officer responsible for the action(s);</li> </ol> </li> </ol>	<p>At the Extra Cabinet meeting on 29 May 2014:</p> <p><b>Thanet's Economic Growth and Regeneration Strategy - Phase Three</b></p> <p>Councillor C. Hart proposed, Councillor Poole seconded and Members agreed that:</p> <ol style="list-style-type: none"> <li>a. Subject to the following considerations as recommended by the Overview &amp; Scrutiny Panel that: <ol style="list-style-type: none"> <li>1. The role of the voluntary sector needs to be emphasised in the Strategy and Action Plan;</li> <li>2. There is a need to review the role of Ramsgate Harbour and Port as a major driver of economic growth in Thanet because there may be increased competition from Dover Harbour where an investment of £100million has been earmarked for the development of the Port;</li> </ol> </li> </ol>	<p>There is no requirement for a Council decision on the matter as this is an Executive function.</p>

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<ul style="list-style-type: none"> <li>c) Measurable targets/indicators;</li> <li>d) Ensure the Milestones are SMART;</li> <li>e) Review prioritising the priorities in the Action Plan;</li> <li>f) Review project Management Dependencies</li> </ul> <ol style="list-style-type: none"> <li>4. The Action Plan should comment on the problem of under employment and zero hours' contracts.</li> <li>5. There is a need to include Town Councils in some of the Actions;</li> <li>6. There is a need to Include the heritage Sites;</li> <li>7. Include new other organisations under corporate social responsibility and encourage smaller organisations to be more proactive in terms of their social responsibility role.</li> </ol>	<ol style="list-style-type: none"> <li>3. The Action Plan should comment on the problem of under employment and zero hours' contracts;</li> <li>4. There is a need to include Town Councils in some of the actions;</li> <li>5. There is a need to include the heritage sites;</li> <li>6. The Action Plan should include other (new) organisations under corporate social responsibility and encourage smaller organisations to be more proactive in terms of their social responsibility role;</li> </ol> <p>b. Cabinet approved that officers' conduct the public consultation on the Action Plan during the period 31 May - 12 July, 2013 and complete the strategy ready for adoption.</p>	

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<p>At the Overview &amp; Scrutiny Panel meeting held on 22 October 2013:</p> <p><b>OSP Update Report to Cabinet - EKHUFT New Clinical Strategy Proposal</b></p> <p>Councillor Campbell proposed, Councillor Harrison seconded and Members agreed the following:</p> <p>That the issue be brought back for discussion to the Panel once the date for the public consultation on the matter has been announced by EKHUFT to decide whether they are minded to recommend to Cabinet a collective TDC response to the public consultation on a new Clinical Strategy for East Kent, as requested by Cabinet on 10 May 2012.</p>	<p>At the Cabinet meeting on 14 November 2013:</p> <p><b>OSP Update Report to Cabinet - EKHUFT New Clinical Strategy Proposal</b></p> <p>Councillor Johnston proposed, Councillor C. Hart seconded and Members agreed the following:</p> <p>To defer making a final decision on the matter until after the Overview &amp; Scrutiny Panel has made recommendations to Cabinet regarding the public consultation by the EKHUFT Board on the proposed Clinical Strategy for East Kent.</p>	<p>Not applicable because Cabinet had commissioned the Overview &amp; Scrutiny Panel to look into the issue in question</p>
<p>Council Referral: Interim Recommendations from the Overview &amp; Scrutiny Panel to Cabinet - Freehold of Pleasurama Site, Ramsgate</p> <p>Councillor K. Gregory proposed, Councillor</p>		<p>Not applicable as this issue is an Executive decision</p>

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<p>Campbell seconded and Members agreed the following:</p> <p>a) THAT the Corporate and Regulatory Services Manager requests the Leader of the Council as quickly as possible for an executive decision, authorising him to seek external legal advice;</p> <p>b) Recommend to Cabinet that no executive decision is taken in relation to further varying the Development Agreement, but that any recommendation in that regard be made to Council for final decision.</p>	<p>a) Cabinet generally agreed that the Corporate &amp; Regulatory Services Manager had already been given authority to source for external legal advice;</p> <p>b) Councillor Everitt proposed, Councillor C. Hart seconded and Members agreed to note the report.</p>	
<p>At the Extraordinary Overview &amp; Scrutiny Panel meeting held on 11 February 2014:</p> <p><b>Pleasurama Site Development Review Task &amp; Finish Group recommendations to OSP</b></p> <p>Proposed by Cllr Harrison, seconded by Cllr Campbell and AGREED to recommend that Cabinet approves the following</p>	<p>At the extraordinary Cabinet meeting on 20 February 2014:</p> <p><b>Overview &amp; Scrutiny Panel Recommendations to Cabinet - Pleasurama Site Development Review</b></p> <p>Councillor Everitt proposed, Councillor C. Hart seconded and Members AGREED the findings and subsequent recommendations of the</p>	<p>This is an executive decision that is finalised by Cabinet.</p> <p>However because the issue was also partly raised as a petition, there is a need to report back the final outcome to full Council for information.</p>

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<p>recommendations:</p> <ul style="list-style-type: none"> <li>a. The current development agreement and leases be terminated;</li> <li>b. There be no re-negotiation of the current development agreement;</li> <li>c. The previous advice from Eversheds Solicitors be reviewed to determine why the development agreement did not contain a longstop date entitling the Council to terminate the agreement if the development was not completed by that date;</li> <li>d. As part of the preparatory steps to terminate the development agreement, a rigorous development programme be established in consultation with a construction expert to include clear milestones for all phases of the construction work necessary to complete the development;</li> <li>e. The construction expert appointed by the Council to advise on the</li> </ul>	<p>Overview &amp; Scrutiny Panel (1.a-f) as detailed below that:</p> <ul style="list-style-type: none"> <li>1. <ul style="list-style-type: none"> <li>a. The current development agreement and leases be terminated;</li> <li>b. There be no re-negotiation of the current development agreement;</li> <li>c. The previous advice from Eversheds Solicitors be reviewed to determine why the development agreement did not contain a longstop date entitling the Council to terminate the agreement if the development was not completed by that date;</li> </ul> </li> <li>d. As part of the preparatory steps to terminate the development agreement, a rigorous development programme be established in consultation with a construction expert to include clear milestones for all phases of the construction work necessary to complete the development;</li> <li>e. The construction expert appointed by the Council to advise on the development</li> </ul>	

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<p>development programme be retained to support the officers in monitoring of the development programme;</p> <p>f. The quality of the existing construction work (including the foundation structure) be checked to confirm that it remains fit for purpose as a basis for further planned construction.</p> <p>And that in making their decision on 20 February 2014; Cabinet Members pay attention to the following:</p> <p>1. As the Development Agreement requires the Developer to complete the development by 28 February 2014, an extraordinary meeting of the Cabinet had been arranged for 20 February 2014 to consider the Council's response to the failure of the Developer to progress the development. Consequently, in order to ensure that the Overview &amp; Scrutiny Panel retained the opportunity of making recommendations to the Cabinet on this issue, Members were requested to</p>	<p>programme be retained to support the officers in monitoring of the development programme;</p> <p>f. The quality of the existing construction work (including the foundation structure) be checked to confirm that it remains fit for purpose as a basis for further planned construction;</p> <p>And added the following that:</p> <p>2. The request of the Developer for an extension of time be refused;</p> <p>3. The power to implement the recommendations of the Overview &amp; Scrutiny Panel be delegated to the Cabinet Member for Financial Services and such power to be enacted by a published decision notice following consultation with the Chief Executive.</p>	

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<p>consider and reflect on the recommendations of the TFG in advance of receipt of the formal report of the TFG; that will now be presented to the next ordinary meeting of the Overview &amp; Scrutiny Panel for decision.</p>		
<p>At the Overview &amp; Scrutiny Panel meeting held on 11 March 2014:</p> <p><b>Transeuropa Debt Review Task &amp; Finish Group recommendations to OSP</b></p> <p>Proposed by Cllr Campbell, seconded by Cllr Harrison and Members AGREED to recommend that Cabinet approves the following recommendations:</p> <p><b>A. SUMMARY OF FINDINGS</b></p> <p>The key findings were as follow that:</p> <p>1. Members generally agreed that Thanet District Council (TDC) officers and Members acted in good faith in the understanding that there</p>	<p>At the Cabinet meeting on 3 April 2014:</p> <p><b>Overview &amp; Scrutiny Panel Recommendations to Cabinet - Transeuropa Debt Review</b></p> <p>Councillor Everitt proposed, Councillor C. Hart seconded and Members AGREED the findings and subsequent recommendations of the Overview &amp; Scrutiny Panel as detailed below that:</p> <p>1. Adopt the consolidated and amended recommendations as set out in 6.2 of the Cabinet report;</p> <p>The recommendations in 6.2 are as follows:</p> <p>i. Commercial agreements relating to debt and similarly significant matters should be managed in accordance with the following principles:</p>	<p>This is an executive decision that is finalised by Cabinet.</p> <p>However since this issued was referred to the OSP by full Council, a report back to full Council will be produced.</p>

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<p>was no other supplier waiting to provide this type of service to Thanet;</p> <p>2. Members of all political parties and officers acted in good faith at all times in dealing with this matter.</p> <p>3. Members observed that one of vessels, the Spirit of Ostend was left to sail away from the Ramsgate Port when it could have been temporarily detained to ascertain the possibility for Council to recover the £380,005.08 owing to Council. An opportunity was therefore missed by Council.</p> <p>4. “We the sub-committee believe that the permission to let the Spirit of Ostend leave Ramsgate Harbour was an error.”</p> <p><b>B. LESSONS LEARNT BY MEMBERS OF THE OVERVIEW &amp; SCRUTINY PANEL</b></p>	<p>a. Recording of significant meetings held by officers, Members and other relevant parties;</p> <p>b. Recording of significant and relevant telephone conversations by officers, Members and other relevant parties;</p> <p>c. Retention of significant notes, emails and correspondence between officers, Members and other relevant parties – subject to the council’s information retention policy;</p> <p>d. Information should be retained in chronological order and in sufficient detail to support subsequent scrutiny;</p> <p>e. Information would be supplied to members in accordance with the council’s constitution. As agreed at the Extraordinary Governance and Audit Committee on 26th February the method and scope of sharing key commercially sensitive material will be judged on a case by case basis. Whilst the regular release of this confidential material to third parties is still occurring, decisions on</p>	



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<p>On the advice from the TFG, Members of the Panel acknowledged the following as lessons learnt by Council as a result of the Transeuropa debt issue:</p> <ol style="list-style-type: none"> <li>1. Members acknowledged that some lessons had been learnt from this incident; particularly the need for efficient record keeping of engagement with third parties and within Council when transacting important Council business (including commercial transactions).</li> <li>2. There was a need to conduct comprehensive analysis of all financial risks that could occur and determine what mitigatory measures Council would need to put in place in order to minimise such risks.</li> <li>3. There was a need to provide evidence that Cabinet was making appropriate calculated risk management for any debts even before such debts accrue to £150,000 are reported to Cabinet and</li> </ol>	<p>the sharing of material will favour the restriction of information, unless its confidentiality can be guaranteed by other means;</p> <ol style="list-style-type: none"> <li>ii. The Cabinet Member for Financial Services should be informed of the build-up of the potentially significant debts with a detailed risk analysis and due diligence reports before such debts are reported to Full Council when they reach the £150,000 limit;</li> <li>iii. Council should provide appropriate training to all elected Members on debt issues, with specific in-depth training for Cabinet Members;</li> <li>iv. Agreements for the re-arranging of debt payments should be considered by the Audit Service to ensure that these are effective, efficient and risk managed;</li> <li>v. Members need relevant and appropriate information to make decisions and such information should be disclosed to Members by Officers in accordance with the principles in 1e above;</li> </ol>	

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<p>Full Council;</p> <ol style="list-style-type: none"> <li>4. After the local government elections in May 2015; appropriate in-depth Member training should be provided to all elected Members;</li> <li>5. Specific training should be provided to Cabinet Members;</li> <li>6. When faced with a situation where there is a lack of information for Members to make informed decisions in future; Members should challenge officers and demand to be given adequate information;</li> <li>7. If then Members still do not get the requested information; corrective action should be taken against officers;</li> <li>8. In future, if TDC sought an agreement for the re-arranging of debt; Audit should check if such an arrangement is effective and efficient;</li> </ol>	<ol style="list-style-type: none"> <li>vi. Council puts on hold steps to recover the TEF debt unless new information emerges to support action.</li> <li>2. Refer the adopted recommendations to Governance and Audit Committee to incorporate these in corporate governance procedure where appropriate.</li> </ol>	

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<p><b>C. LESSONS LEARNT BY THE PAST &amp; CURRENT CABINET</b></p> <p>Members of the past and current Cabinet expressed the view that there were some lessons to learn from this incident. These include:</p> <ol style="list-style-type: none"> <li>1. All officers and Members involved in the decision making process made their best efforts in making the best decisions. They thought through issues that were extremely complicated and involved complicated permutations;</li> <li>2. That if Cabinet had known that the debt was never going to be made right, Members would have stopped the arrangement made with the ferry company;</li> <li>3. The importance of having robust corporate processes was highlighted in this incident; including the need to have robust audit trail and recording of officer meetings in relation to this subject;</li> </ol>		

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<p>4. The need for more clarity for the Leader of Council, other Cabinet Members and officers when handling such matters in the future.</p> <p>5. The role of Section 151 Officer should be separate from that of the Chief Executive.</p> <p>6. Council could consider a different form of governance arrangements for the Ramsgate Port. Council could consider setting up the Ramsgate Port as a separate business entity that is run outside the other Council business activities and then getting a dividend from the operations of that business</p> <p><b>D. LESSONS LEARNT BY TDC OFFICERS</b></p> <p>The following are the lessons learnt as reflected by senior Council officers:</p> <p>1. The need for formal noting of significant decisions. This included the need for</p>		

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<p>recording sensitive confidential commercial information;</p> <p>2. The need to ensure the recording of Member and officer decisions;</p> <p>3. The need for setting up formal timelines in the process of recording these important corporate decisions;</p> <p>4. The need to acquire evidence regarding the due diligence that would have been carried out on any new investor(s) to ascertain their viability on a proportional basis;</p> <p>5. The need to have a criteria for processing key decisions: - The structure of decision making should be timed so that Members and officers know when to make tough choices by setting 'trigger-points' in the decision making process;</p> <p>6. There was need to include the legal steps to be taken in order to recover debts that relate to port customers.</p>		

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<p>This included the need to look at such issues as 'securing Council debts.'</p> <p><b>E. SUMMARY OF RECOMMENDATIONS</b></p> <p>As a result of these findings the following recommendations were adopted by the Panel, incorporating minor changes agreed at the meeting:</p> <p>1. In future commercial agreements relating to debt and similarly significant matters should be kept on record; supported by adequate (fulsome and complete) records of the following:</p> <ul style="list-style-type: none"> <li>a. All meetings held by officers, Members and other relevant parties;</li> <li>b. All relevant telephone conversations by officers, Members and other relevant parties;</li> <li>c. All emails and other correspondences between officers, Members and other relevant</li> </ul>		

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<p>parties;</p> <p>d. Members generally agreed that all this information should kept in chronological order and in sufficient detail. Such information should be supplied to Members when required.</p> <p>2. Council should conduct detailed risk analysis on any major projects and such information should be disclosed to Members;</p> <p>3. Make available relevant commercial information (e.g. rules governing the lien issues); could be made available to senior Members of Council across political parties;</p> <p>4. Council should adopt a reporting procedure to Cabinet to make Members aware of the build-up of the debt before such debts are report to Full Council when they reach the £150,000 limit;</p>		

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<p>5. In carrying out a financial risk assessment, due diligence should also be conducted and the outcome reports should be made fully available to Cabinet Members;</p> <p>6. Council should provide appropriate in-depth training to all elected Members;</p> <p>7. Council should provide specific training to Cabinet Members;</p> <p>8. In future, if TDC sought an agreement for the re-arranging of debt; Audit should check if such an arrangement is effective and efficient;</p> <p>9. Where there is a lack of information for Members to make informed decisions in future; Members should challenge officers and demand to be given adequate information;</p> <p>10. If then Members still do not get the requested information; corrective action should be taken against officers;</p>		



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11. Council should not waste any more of the tax payers' money to recover the debt unless new information emerges.		