

Thurrock - An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future

Cabinet

The meeting will be held at **7.00 pm** on **17 June 2020**

Due to current government guidance on social-distancing and the COVID-19 virus, Cabinet on 17 June 2020 will not be open for members of the public to attend. Arrangements have been made for the press and public to watch the meeting live via the Council's online webcast channel: www.youtube.com/user/thurrockcouncil

Council Chamber, Civic Offices, New Road, Grays, Essex, RM17 6SL

Membership:

Councillors Robert Gledhill (Leader), Shane Hebb (Deputy Leader), Mark Coxshall, James Halden, Deborah Huelin, Andrew Jefferies, Barry Johnson, Ben Maney, Allen Mayes and Aaron Watkins

Agenda

Open to Public and Press

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| 1 Apologies for Absence | |
| 2 Minutes | 5 - 16 |
| To approve as a correct record the minutes of Cabinet held on 11 March 2020. | |
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| To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972. | |
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- 6 Briefings on Policy, Budget and Other Issues**
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Queries regarding this Agenda or notification of apologies:

Please contact Lucy Tricker, Democratic Services Officer by sending an email to Direct.Democracy@thurrock.gov.uk

Agenda published on: **9 June 2020**

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DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

When should you declare an interest *at a meeting*?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a Non-Pecuniary interest? – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- **Not participate or participate further in any discussion of the matter at a meeting;**
- **Not participate in any vote or further vote taken at the meeting; and**
- **leave the room while the item is being considered/voted upon**

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

Non- pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

Our Vision and Priorities for Thurrock

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

1. **People** – a borough where people of all ages are proud to work and play, live and stay
 - High quality, consistent and accessible public services which are right first time
 - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
 - Communities are empowered to make choices and be safer and stronger together

2. **Place** – a heritage-rich borough which is ambitious for its future
 - Roads, houses and public spaces that connect people and places
 - Clean environments that everyone has reason to take pride in
 - Fewer public buildings with better services

3. **Prosperity** – a borough which enables everyone to achieve their aspirations
 - Attractive opportunities for businesses and investors to enhance the local economy
 - Vocational and academic education, skills and job opportunities for all
 - Commercial, entrepreneurial and connected public services

Minutes of the Meeting of the Cabinet held on 11 March 2020 at 7.00 pm

The deadline for call-in is 27 March 2020 at 5.00pm

Present: Councillors Robert Gledhill (Chair), Shane Hebb (Deputy Chair), Mark Coxshall, James Halden, Deborah Huelin, Andrew Jefferies, Barry Johnson, Ben Maney, Allen Mayes and Aaron Watkins

In attendance: Lyn Carpenter, Chief Executive
Sean Clark, Director of Finance, Governance and Property
Roger Harris, Corporate Director of Adults, Housing and Health
Ian Hunt, Assistant Director Law and Governance and Monitoring Officer
Sheila Murphy, Corporate Director of Children's Services
Karen Wheeler, Director of Strategy, Communications and Customer Service
Lucy Tricker, Democratic Services Officer

Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

81. Minutes

The minutes of the Cabinet meeting held on 12 February 2020 were approved as a correct record.

82. Items of Urgent Business

There were no items of urgent business.

83. Declaration of Interests

There were no interests declared.

84. Statements by the Leader

The Leader began his statement by welcoming Councillor Halden to the Cabinet in his new role as Portfolio Holder for Children and Adults Social Care. He also welcomed Ian Hunt, and the new Assistant Director Law and Governance and Monitoring Officer, and Sheila Murphy, the new Corporate Director Children's Services. He wished them all luck in their new roles and hoped to see a continuation of the good work that the previous post-holders had achieved.

The Leader then moved on to discussing the new anti-social behaviour initiatives that had taken place across Tilbury, in liaison with Essex Police, to tackle problems such as parking and graffiti. He stated that Operation Banjo had occurred on 2 March 2020 after concerns from residents and local Councillors had been raised, which tackled nuisance parking along Lansdowne Road. He highlighted that 19 parking warnings had been issued for anti-social parking, 14 Fixed Penalty Notices had been issued, and one driver had been found to have an uninsured vehicle. The Leader then described the success that had been had with Operation Bellina, which had been tasked with tackling graffiti, and stated that in the first 36 hours, 85 tags had been removed, 1 Fixed Penalty Notice had been issued for fly-tipping, and a Duty of Care Waste Notice had been issued.

The Leader updated Cabinet on the latest developments with the Tilbury Board and Grays Board, and stated that the committees for these groups had now been set up, and both contained members of the local community, MPs, Councillors and business leaders. He felt this was a good opportunity to increase the economy, culture, transport, and connectivity across the borough, and looked forward to seeing bids and improvements.

The Leader moved onto describing the Clean It, Cut It, Fill It Update, and stated that since April 2019: 2042 potholes had been filled (99% within target time); 117 fly-tips had been cleared; 3087 tonnes of waste removed; 3737 Fixed Penalty Notices issued; 208 £400 fly-tipping Fixed Penalty Notices issued; and 268 people had been prosecuted for failure to pay on the spot fines.

The Leader summarised and stated that he wanted to reassure residents regarding the recent outbreaks of Coronavirus, and the preparations that the Council had in place to deal with this. He stated that officers were in contact with Public Health England and were following national advice and updates, with a daily briefing being sent to all Group Leaders. He urged residents to follow the facts and national advice, as there were currently only 32 cases in the East of England, and none confirmed in Thurrock, with most not requiring medical intervention. He reassured residents that the Council had robust business continuity plans in place that would ensure services could continue to operate. He restated the national advice and encouraged residents to follow the NHS and Public Health England's advice of maintaining personal hygiene, regularly washing hands for 20 seconds, and carrying tissues to catch a sneeze or cough. He stated that if a resident felt any symptoms of Coronavirus, they should self-isolate and use the NHS' 111 to seek medical advice.

85. Briefings on Policy, Budget and Other Issues

Councillor Mayes added to the Leader's statement regarding Coronavirus and highlighted that new cases around the UK were not unexpected, and plans to tackle the pandemic were already in place and ready. He clarified that the risk remained low, but he was in contact with Public Health England to ensure residents were protected. He stated that most cases of the virus could be

treated by self-isolating, but was most dangerous to older people and people with underlying conditions and respiratory problems. He reiterated the Leader's advice to follow good personal hygiene and hand-washing procedures, and if you had any symptoms to contact 111 and the Public Health England website.

Councillor Halden stated that this virus disproportionately affected the elderly population, and stated he was working with the Corporate Director Adults, Housing and Health, as well as Basildon Hospital, to ensure that staff in the council and residents were supported. He added that business continuity and contingency plans were in place to ensure the necessary support was available for vulnerable residents, those in care, and those on the verge of care. He asked residents to consider their elderly neighbours and offer help and advice where necessary. He summarised and stated that the team were currently sending leaflets and notes to schools, churches, libraries, and care homes, and schools were being contacted so they could spread the message to parents and teachers.

Councillor Huelin added that the Council had agile working in place, so many staff members could work from home if necessary. She explained that the IT team were currently checking the system to ensure it could handle increased numbers of people working from home, but felt confident this would be ready. She added that as there was a policy of hot-desking, staff already had a sanitising routine in place, so used antibacterial wipes on their desks and telephones at the end of every working day. She stated that vulnerable staff members who were more at risk from Coronavirus would be allocated a fixed desk to reduce the likelihood of them catching the virus.

Councillor Watkins moved on and stated that the team were in the final stages of procurement for the new Household Waste and Recycling Centre, which would improve access and recycling across the borough, and he would announce the new contractor within the next two weeks. He also welcomed the news from central government that 30,000 hectares of trees would be planted across the UK, and stated that the team would be lobbying government to ensure some of these additional trees would be planted in Thurrock. Councillor Watkins highlighted that the first phase of the Tree Planting Strategy would commence soon, and work would begin planting trees in streets and avenues across the borough, beginning with Lodge Lane. He stated that the next stage would also begin soon to work with the transport team to heat-map trees and improve air quality through tree planting.

Councillor Watkins added that a new waste consultation was also being sent to residents across the borough, and urged residents to fill this in, as well as placing the stickers attached to this documentation on their bins. He felt this would improve recycling rates and make it clear for residents what items could be recycled. He added that a new scheme was also being rolled out to encourage recycling in flats, after a successful pilot scheme last year. He stated that due to the recent wet weather, grass cutting was being increased across the borough, with a particular focus on cemeteries in time for upcoming Mother's Day.

Councillor Watkins stated that this would be his last Cabinet, and thanked the Leader for choosing him to be a Portfolio Holder in 2017. He thanked Members, officers, and gave particular thanks to the Director of Environment, Highways and Counter-Fraud for her support, as well as Councillors Halden, Hebb and Coxshall, and the local MPs.

86. Petitions submitted by Members of the Public

There had been no petitions submitted by members of the public.

87. Questions from Non-Executive Members

There had been no questions submitted by Non-Executive Members.

88. Matters Referred to the Cabinet for Consideration by an Overview and Scrutiny Committee

There had been no items referred to the Cabinet for consideration by an Overview and Scrutiny Committee.

89. Purfleet Centre Regeneration

The Leader stated that due to attendance of members of the public, this item would be moved forward on the agenda. Councillor Coxshall introduced the report and stated that it gave agreement for the first stage of development, which was 61 new houses, as part of the 2000 new houses agreed for Purfleet Centre Regeneration. He added that the rest of the houses and infrastructure would be brought forward for Cabinet approval at a later date. Councillor Maney felt that this report was focussed and started a conversation with the community in Purfleet, and local businesses. He stated that he had received some concerns from local businesses in Botany Way, and sought reassurance that the Portfolio Holder would be mindful of local businesses, and let them know when the next stage of development would start. Councillor Coxshall replied that he was aware of business concerns, but clarified that this report was only for the development of 61 houses, and no concrete plans had been brought forward for further development by Purfleet Regeneration at this stage. He stated that there were currently no plans for Compulsory Purchase Orders near the Botany Way area, and this report was simply asking for agreement to change the land usage, as agreed by the Planning Committee and the last Labour administration.

RESOLVED: That Cabinet:

1. Approved the appropriation of the areas of land referred to in this report, and shown edged in red and on the plan at Appendix 1A to this report, for planning purposes in order to facilitate the development of 'Phase 1A' of the Purfleet Centre Regeneration Limited masterplan.

2. In respect to the areas of land shown edged in red on the plans at

Appendix 1A of the report:

(i) Noted that the consequence of taking the decision in (a) above is to enable easements and other rights to be overridden in accordance with the provisions of section 203 of the Housing and Planning Act 2016; and

(ii) Authorised officers to take such necessary administrative and accounting steps to give effect to the appropriation.

*Reason for decision: as outlined in the report
This decision is subject to call-in*

90. Quarter 3 Financial Report

Councillor Hebb introduced the report and stated that this was a look back at the financial position in the previous quarter. He stated that although there were overspends and pressures in some areas, he reassured Cabinet Members and residents that the budget would be balanced by the end of the year. He highlighted the pressure currently being felt in Adult Social Care, which had seen a £1million overspend, due to some high-need and complex cases, but that the service had always broken even in previous years, and would do so again this year. He added that nationally, the majority of local authorities had overspent on Adult Social Care, and this was usually due to high-need, high-cost placements. He clarified that the recent increase in council tax had included ring-fencing for adult social care, and to ensure investment in early intervention care to reduce demand, and increase people's ability to live an independent lifestyle. He stated that there was also an overspend in Children's Services, but in 2016 the service had been £6million overspent and had received an OFSTED rating of 'requires improvement', but now the service was only overspending by £0.6million and had an OFSTED rating of 'good'. He felt this was a marked improvement, but the service would continue to try to improve, as well as providing high quality care and balancing the budget.

Councillor Hebb then highlighted that the environment team had broken even, whilst improving the borough and ensuring it looked good for residents and visitors. He also highlighted that there was pressure within the Dedicated Schools Grant high-needs block, as this had a high-needs requirement, but he would work with Councillor Jefferies to ensure this was balanced by the end of the financial year.

Councillor Hebb drew Cabinet's attention to the Housing Revenue Account, which had also broken even, and highlighted the pressures that had been put on the service in regard to increased numbers of people presenting as homeless. He stated that an extra £0.3million had been invested into homelessness to ensure all residents could receive the support they needed. He also felt it was good to see services coming in under budget, as these could help with other overspent services and corporate costs, such as the Belmont Road programme, which had been taken into account within the

budget. He summarised and stated that the budget would be balanced by the end of the municipal year, and services would continue to improve and be well-managed.

Councillor Halden commented that even though Adult Social Care had overspent, the current administration had taken on a £30million overspend in 2016, which they had changed to a £30million surplus, whilst also increasing reserves to 40%. He felt this was good as the Council could be buffeted against any future problems, whilst also continuing with programmes such as Head Start Housing, improving technology access for elderly people, installing pendant alarms for those that needed them free of charge, and improving the care leavers offer. The Leader added that the Council had always been able to deliver a balanced budget, and felt this was on track to be balanced by the end of the financial year. He echoed previous comments regarding the overspend in Adults Social Care and Children's Services, and stated that the most vulnerable residents within Thurrock would always receive the necessary care. He highlighted that some of the pressures, such as additional high-needs cases and additional Unaccompanied Asylum Seekers were outside of the Council's control, but they would continue to manage these.

RESOLVED: That Cabinet:

1. Noted the revenue forecast outturn position for 2019/20 and that further mitigation is required to outturn within the agreed budget envelope.

*Reason for decision: as outlined in the report
This decision is subject to call-in*

91. Procurement of Housing Capital Programme Delivery

Councillor Johnson introduced the report and stated that the Transforming Homes programme had been improving the internal and external decoration of council housing for seven years, which had improved living conditions, and the economy. He highlighted that 45% of the Transforming Homes team were Thurrock residents, 50% of the supply chain was based in Thurrock, and 51% of construction costs were spent within the local economy. He stated that this report continued the programme until 2025/26, after a procurement exercise through mini competition from a list of providers. He stated that the report had been to Housing Overview and Scrutiny Committee in February 2020, and they had agreed all recommendations, particularly the external refurbishment of the nine tower blocks within the borough.

Councillor Maney welcomed the report, and stated that some of the tower blocks were situated within his ward. He felt that some of the tower blocks had come to the end of their life, and asked if other options had been considered, such as using the refurbishment money to bring some of them down, to be able to build new council housing. Councillor Johnson understood the point

raised, and stated that this option would be discussed with the housing team and would be considered. The Leader echoed Councillor Maney's comments and welcomed comments from the housing team on this issue. Councillor Coxshall highlighted that all site surveys on the cladding for tower blocks would be brought back to Cabinet, who then vote could further on the refurbishment. The Leader then asked when the procurement process would no longer have to include EU legislation, and the Monitoring Officer replied that as the UK were currently in the transition phase, EU legislation would continue to be used. He stated that once the UK had left the EU and agreed its equivalent procurement legislation, the UK would then switch to a national procurement portal.

RESOLVED: That Cabinet:

1. Approved the procurement of two major works contract packages for the delivery of the Housing Capital work programme as set out in the report.

2. Approved the procurement of two contract packages to provide strategic support and cost management of the Housing Capital Programme as set out in the report.

3. Approved authority being delegated for the awarding of the above contracts to the Corporate Director of Adults, Housing and Health, in consultation with the Portfolio Holder for Housing.

Reason for decision: as outlined in the report

This decision is subject to call-in

92. Housing Planned and Reactive Repair Programme Procurement

Councillor Johnson introduced the report and stated that it was to agree to the re-procurement of the lift and entry door maintenance system for the next five years, with an option to extend for a further five years. He stated that this report had received input from the Tenants Excellence Panel, and the current contractors had delivered good outcomes for residents, including a consistent service. He commented that there would be one contractor for each maintenance area, and robust Key Performance Indicators (KPIs) would be put in place to monitor the performance of the contract.

The Leader highlighted the work of the current contract, and felt pleased to see that 96% of urgent repairs were carried out within 6 hours, and 100% were carried out the next calendar day. He added that 86% of lift repairs were also carried out the next day, 100% of emergency repairs to entry systems were carried out within 6 hours, and 100% of routine repairs were carried out within 28 days. He stated that Cabinet had introduced charges for lift and entry systems, but felt it was good to see residents getting value for money in these services and 100% of KPIs being met.

RESOLVED: That Cabinet:

1. Approved the re-procurement of Passenger Lift Maintenance and Door Entry Maintenance contracts for a period of up to five years with an option to extend for a further five years.

2. Approved delegated authority for award of the above contracts to the Corporate Director of Adults, Housing and Health, in consultation with the Portfolio Holder for Housing.

*Reason for decision: as outlined in the report
This decision is subject to call-in*

93. Contract for Short Term Temporary Accommodation

Councillor Johnson introduced the report and stated that there was currently a range of temporary accommodation across the borough, but there had recently been additional pressures on this system due to the lack of affordable accommodation and no formal contract between the Council and private agents. He explained that this report would establish a contract to provide short term accommodation for single people, former Looked After Children, and families at risk of homelessness.

Councillor Halden felt pleased to see the report and highlighted that housing provided young people leaving care with increased life chances and social mobility. He felt it was important for previously Looked After Children to be included in this report as it supported the Head Start Housing Scheme, as well as other Council services. He felt it was good to see linked up working between the housing department and other teams such as social workers and council tax. Councillor Johnson replied that the housing team continued to look for ways to work with other services, and commented that tackling homelessness was one of their priorities. He mentioned that the first meeting of the Homelessness Reduction Panel had recently met whose aim was to tackle homelessness across the borough.

RESOLVED: That Cabinet:

1. Approved to proceed to tender for a contract for Letting Agents and Landlords for short term accommodation, and agreed to delegate authority for award of the contract to the Director of Adults, Housing and Health, in consultation with the Portfolio Holder for Housing.

*Reason for decision: as outlined in the report
This decision is subject to call-in*

94. Post 18 Autism Support Service

Councillor Halden introduced the report had stated that it was asking Cabinet to go out to procurement to formalise a pilot scheme that supported young adults on the autism spectrum. He commented that a wide variety of partners had been working in coalition on the pilot scheme, which had proven successful, and now needed to be embedded within the Council. Councillor Halden highlighted that at the recent OFSTED inspection, Thurrock had received a 'good' rating, but one of the areas for improvement had been the level of support for people transitioning from childhood to adulthood. He stated that he was working with the Corporate Director of Adults, Housing and Health to ensure that this project would have a long lead-in time, so people aged 16-17 would be familiar with the autism support services, before they were able to benefit at aged 18.

RESOLVED: That Cabinet:

1. Agreed the proposed process to commence procurement to establish a Framework for a Post 18 Autism Support Service, for Thurrock young people aged 18 to 25 with a diagnosis of autism and disabilities that challenge service responses.

2. Agreed to delegate authority to award the contract to the Corporate Director of Adults, Housing and Health, in agreement with the Cabinet Member for Children's and Adults Social Care.

*Reason for decision: as outlined in the report
This decision is subject to call-in*

95. Tuition Support Services

Councillor Jefferies introduced the report and stated that it sought Cabinet approval to go to tender on tuition support services, and needed Cabinet approval due to the size of the contract. He clarified that currently tuition services were purchased on an ad-hoc basis when necessary, but this contract would commission one-to-one support for those children that were better suited to external learning, such as those with illness or those that had been excluded. He stated that this service would ensure a formal process for purchasing and receiving specialist tuition support for those that needed it.

RESOLVED: That Cabinet:

1. Agreed that a tender process be initiated to procure Tuition Support services.

2. Agreed that delegated authority to award the contract is given to the Director of Children's Services, in consultation with the Portfolio Holder for Education.

Reason for decision: as outlined in the report

This decision is subject to call-in

96. Integrated Transport Block Capital Programme 2020/21, DfT Block Maintenance Capital Programme 2020/21 & A126 Safer Roads Programme

Councillor Maney introduced the report and stated that as the Council moved into a new financial year, central government allocated money to the Council for highways development. He stated that the Integrated Transport Block (ITB) programme would receive £971,000 from central government, and the DfT Block Maintenance programme would receive £1,938,000. He commented that the money would be spent in line with the Council's highways strategies and priorities, and these were outlined at 3.3 and Table 1 of the report. He stated that these included improved road safety, public rights of way access, traffic and freight management, as well as the A126 Safer Roads programme, which would last for three years.

Councillor Watkins felt it was good to see the continuation of the Safer Routes to School programme, and congratulated Woodside Academy for their poster campaign relating to idling engines outside of schools. He stated that air pollution had already reduced outside the school due to this campaign, and asked if it could be rolled out across schools in the borough, as part of the continued Safer Routes to School Programme. Councillor Hebb added that a Stanford-le-Hope resident had pitched that idea of a poster campaign, and Arthur Bugler Primary School had reached out to him to ask if they could follow a similar poster competition.

RESOLVED: That Cabinet:

- 1. Approved the Integrated Transport Block Capital Programme for 2020/21 (as detailed in Appendix 1) and noted the process by which the Safer Routes to School and Road Safety Engineering programme are assessed and prioritised for implementation.**
- 2. Approved the A126 Safer Roads fund programme for the next 3 years (as detailed in Appendix 2).**
- 3. Delegated authority to the Director of Place, in consultation with the Cabinet Member for Highways and Transport, to review and make local changes to the ITB and Safer Roads programmes, taking into account local views and priorities.**
- 4. Approved the DfT Maintenance Block Allocation Programme for 2020/21 (as detailed in Appendix 2).**
- 5. Delegated authority to the Director of Environment and Highways, in consultation with the Cabinet Member for Highways and Transport, to review and make local changes to the DfT Maintenance Block Allocation**

programme.

Reason for decision: as outlined in the report

This decision is subject to call-in

97. Quarter 3 (Month 9) Corporate Performance Report 2019/20

Councillor Huelin introduced the report and stated that 85% of KPIs had met their target, and thanked Members and officers for their hard work on this. She stated that today was the first day of the 'One View of Debt' portal, which allowed residents to see all of their debt across the Council in one place, and highlighted that Thurrock had been nominated for an award because of this innovative idea. She stated that Corporate Overview and Scrutiny Committee had commented on the report and had congratulated officers and Members on the achievement, particularly relating to the apprenticeship KPI, which had already met its end of year target. She added that the Committee had welcomed the new 'route to green' for each KPI that had not met its target, but she highlighted that 60% of KPIs were better than they had been in 2018/19.

Councillor Watkins congratulated officers and Members on this achievement, and felt that the bin collection KPI, which had previously been a problem, was now regularly meeting its target and was seeing a positive direction of travel. He added that although the KPI relating to graffiti was still an issue, actions were in place to tackle this and the budget surplus had provided more investment to ensure graffiti was regularly cleaned up. He also highlighted that the percentage of waste being recycled, reused or composted had not met its target, and encouraged residents to fill out the waste consultation that was being delivered to their houses, and put the new stickers on their blue bins. He felt that the roll out of the new recycling policies in flats and communal areas would also improve the KPI.

RESOLVED: That Cabinet:

1. Noted and commented upon the performance of the key corporate performance indicators, in particular those areas which are off target.

2. Identified any areas which require additional consideration.

The meeting finished at 8.15 pm

Approved as a true and correct record

CHAIR

DATE

**Any queries regarding these Minutes, please contact
Democratic Services at Direct.Democracy@thurrock.gov.uk**

| | | |
|---|--------------------------------------|-------------------------|
| 17 June 2020 | | ITEM: 3 |
| | | Decision: 110511 |
| Cabinet | | |
| Procurement of a Contract to deliver a Local Full Fibre Network on behalf of ASELA | | |
| Wards and communities affected: All | Key Decision: Key Decision | |
| Report of: Councillor Rob Gledhill, Leader of the Council and Portfolio Holder for Public Protection and Anti-Social Behaviour | | |
| Accountable Assistant Director: Margaret Gozna, Senior Category Manager | | |
| Accountable Director: Jackie Hinchliffe, Director of HR, OD & Transformation | | |
| This report is Public | | |

Executive Summary

The formation of ASELA was approved by Cabinet in January 2018. One of the key work streams is the delivery of enabling infrastructure that will underpin Thurrock 2050: A Smart Place based on the rollout of a Local Full Fibre Network (LFFN) connectivity across around 130 sites in South Essex, including around 70% of Thurrock Council Wide Area Network (WAN) sites.

The LFFN work stream, led by the council, submitted a grant bid to the DCMS. This was successful and a grant of £4.436m has been awarded to Thurrock Council for the programme, covering the full costs of improvements.

The procurement for the delivery of this next stage is proposed via the Suffolk Cloud Partnership Agreement, which is owned by Suffolk County Council as the anchor tenant. Other procurement options were explored but this approach was favoured because:

- Given the limited time allowed by DCMS for rollout of the LFFN project, the timeliness of the procurement process was seen by DCMS to be key.
- The Suffolk Cloud Partnership was used by Suffolk County Council for their LFFN project procurement, and approved as a desirable route for procurement by DCMS.
- This was found to be the most cost effective procurement route.

This report requests approval from Cabinet to award the contract for delivery of the LFFN project to MLL Networks Ltd via the Suffolk Cloud Partnership Agreement.

1. Recommendation(s)

Cabinet is recommended to:

- 1.1 Agree delegated authority for award of contract for the delivery of a Local Full Fibre Network (LFFN) to MLL Networks Ltd, via the Suffolk Cloud Partnership agreement, to the Director of HR, OD & Transformation in consultation with the Leader of the Council. The total cost of this project is £4.436M for the rollout of Dark Fibre connectivity and an Irrevocable Right of Use (IRU) of that fibre for 15 years. There is no additional ongoing cost for use of the dark fibre for the 15-year period.**

2. Introduction and Background

- 2.1 The Department for Digital, Culture, Media and Sport (DCMS), has a major programme Building Digital UK (BDUK), to help drive the government agenda of high speed broadband rollout across the country. Superfast coverage across the UK as a whole at December 2019 was 96% of homes and businesses, (which is defined as ability to get at least 30Mbit/s download speed), with full fibre penetration at just 10%. Thurrock currently has a 97% Superfast coverage, but just 6% full fibre penetration.
- 2.2 One of the BDUK initiatives is a Local Full Fibre Network (LFFN) programme, which has £740m of funding, designed to stimulate commercial investment in full fibre networks in both rural and urban locations across the whole of the UK. However, in order to comply with state aid rules the business case for an accepted bid must relate purely to the benefit that will be realised by the public sector organisation directly in the delivery of its services. LFFN is about delivering dedicated point-to-point gigabit capable fibre direct to the premise from the local serving exchange.
- 2.3 An ASELA wide bid for LFFN funding for £4.436m was approved in principal by the DCMS investment panel in January 2019. Subsequently ASELA successfully progressed through the three compliance gateways to finally secure the grant funding in April 2020. This grant is to roll out full fibre around 130 sites across the ASELA authorities (with the exception of Southend).
- 2.4 The Thurrock sites within this programme account for around 70% of the Thurrock WAN. A key part of the LFFN business case is that DCMS expect the LFFN investment to drive WAN savings. In addition to this in the strategic case that was approved by the DCMS investment panel, ASELA made clear an aspiration to create a single fibre based connectivity platform across the South Essex Corridor. This would lead to consequent opportunities for driving shared services, service aggregation, and aggregation of operational cost.

3. Issues, Options and Analysis of Options

Scope of Procurement

3.1 The value of the tender over the life of the contract exceeded the EU Threshold value for Services of £189,330. Therefore, within the Public Contracts Regulations' 2015 the LFFN services needed to be procured through:

- a) a public sector framework suitable for local authorities, such as those made available by the Crown Commercial Services,
- b) as an open opportunity through advertisement in OJEU
- c) via use of another form of accessible framework such as the Suffolk CC Partnership Agreement, where the scope of usage covers all ASELA member authorities of which Thurrock is one.

3.2 This route to procurement was chosen because:

- Given the limited time allowed by DCMS for rollout of the LFFN project, the timeliness of the procurement process was seen by DCMS to be key.
- The Suffolk Cloud Partnership was used by Suffolk County Council for their LFFN project procurement, and approved as a desirable route for procurement by DCMS.
- This was found to be the most cost effective procurement route.

Contract Cost

3.3 The total contract cost for the LFFN project is £4.436M for the rollout of Dark Fibre connectivity and an Irrevocable Right of Use (IRU) of that fibre for 15 years. There is no additional ongoing cost for use of the dark fibre for the 15-year period. The full project cost is covered by a DCMS Grant that has already been secured.

3.4 It is proposed that the LFFN project is procured via the Suffolk Cloud Partnership Agreement.

3.5 The main benefits of the LFFN project will be:

- To drive significant WAN cost savings
- To provide significant uplift in capacity for the WAN.
- An enabler for a single ASELA wide public sector WAN.

Procurement Options

3.6 It is recommended that the LFFN project be procured via the Suffolk Cloud Partnership agreement. This would:

- Allow maximum leverage of the LFFN project in WAN re-procurement.
- Significantly reduce delivery time

- Simplify the delivery process
- Provide best value through a recently procured OJEU partnership agreement.
- Act as an enabler for a single ASELA wide public sector WAN.

4. Reasons for Recommendation

- 4.1 This report is submitted to Cabinet for approval to award a contract with a whole life cost valued at £4.436m which is above the £750K value threshold for approval by a delegated officer (Director of HR, OD & Transformation).
- 4.2 Delegated authority to award is requested in order that DCMS prescribed delivery timescales can be met to have the LFFN project completed by end of May 2021. Failure to achieve this would mean some sites might not be delivered. In addition ability to meet these timescales is required for the timely delivery of the overlay new WAN.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The procurement of the LFFN represents a new project for delivery of connectivity to be utilised by the Thurrock WAN. Hence, this project must be linked to the WAN re-procurement, which must stipulate usage of the LFFN fibre connections. Relevant departments have been consulted over the proposal.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 Delivery of LFFN and the subsequent WAN upgrade will support corporate priorities through the provision of connected public services with a commercial focus for the Council.

7. Implications

7.1 Financial

Implications verified by: **Dammy Adewole**
Senior Management Accountant – Central Services

This report seeks approval to spend £4.436m of grant-funded monies to rollout a Local Full Fibre Network across South Essex.

7.2 Legal

Implications verified by: **Kevin Molloy**
Principal Solicitor – Law and Governance

This report is seeking permission to proceed to a direct award for the LFFN project through the Suffolk County Council Cloud Partnership Agreement and that the procurement process has been compliant with the Regulations.

Taking the above into account, on the basis of the information in this report, the proposed procurement strategy does comply with the Regulations and the Council's Contract Rules.

The report author and responsible directorate are advised to keep Legal Services fully informed at every stage of any subsequent variations to contract or additional tender exercises required that are associated with or dependent upon the Council achieving its corporate vision of achieving a "Digitally Smart Borough". Legal Services are on hand and available to assist and answer any questions that may arise.

7.3 Diversity and Equality

Implications verified by: **Natalie Smith**
Strategic Lead – Community Development and Equalities

This is a service with both external and internal implications; however, provision of a modern, robust and effective network will support service delivery across the council, accessibility to all staff, and help the wider community of Thurrock obtain a greater level of digital connectivity particularly in the more rural areas of the borough.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None

9. Appendices to the report

None

Report Authors:

Graham Brace

Traded Services Consultant

Margaret Gozna

Senior Category Manager (ICT and Corporate Procurement)

| | |
|--|--|
| 17 June 2020 | ITEM: 10 Decision: 110512 |
| Cabinet | |
| Grays South Regeneration Area: Appropriations | |
| Wards and communities affected: Grays Riverside | Key Decision: Key |
| Report of: Councillor Mark Coxshall, Portfolio Holder for Regeneration and Strategic Planning | |
| Accountable Assistant Director: David Moore, Interim Assistant Director of Place Delivery | |
| Accountable Director: Andy Millard, Director of Place | |
| This report is Public | |

Executive Summary

The Grays South Regeneration area comprises a range of interventions that will support the economic and social vitality of Grays. In December 2018, Cabinet agreed proposals for an extension to Civic Offices providing space for Council functions as well as other ancillary and associated uses. This scheme forms the first phase of the Grays South Regeneration Area. In September 2019 planning permission was granted and the project has now moved into delivery.

The Council own all the land required for the scheme, however, the land known as Mulberry Square now needs to be appropriated to planning purposes from its existing use as informal open space to enable delivery to commence.

This report outlines the purpose of appropriation and describes the public consultation undertaken and the legal considerations that have been assessed in order to determine that the appropriation is proportionate and justified.

The report concludes that the process undertaken satisfactorily addresses these considerations and therefore seeks approval for the appropriation of the site to facilitate the redevelopment of the land and to address any residual rights over it.

1. Recommendation(s)

1.1. That Cabinet resolves to:

- a. approve the appropriation of the area of land referred to in this report and shown edged red on the plan at Appendix 2, for

planning purposes to facilitate the redevelopment of land to extend the Civic Offices.

- b. in respect of the area of land shown edged red on the plan at Appendix 2 to this report:**
- (i) to note that it is necessary to use Section 203 of the Housing and Planning Act 2016 to facilitate the development and improvement of the land as part of the planning permission in order for any and all private rights and restrictions that affect the land to be overridden.**
 - (ii) to note that no objections were received as a result of the public consultation exercise.**
 - (iii) to authorise Officers to take such necessary administrative and accounting steps to give effect to the appropriation (including settling claims for compensation arising out of the extinguishment of any rights in the appropriated land pursuant to Section 203 of the Housing and Planning Act 2016).**

2. Introduction and Background

- 2.1 In December 2018, Cabinet approved a scheme for an extension of the Civic Offices in Grays and authorised Council officers to submit a planning application for the extension. In September 2019, the Council's Planning Committee resolved to grant planning permission for the Civic Office scheme under the Council's planning reference 19/00617/FUL.
- 2.2 The Site of the scheme is shown on the plan at Appendix 1. The Council has acquired 1-3 New Road, 81 and 83 High Street to enable delivery of the scheme. Mulberry Square is held by the Council as informal open space and needs to be appropriated from its current use as informal open space to planning purposes to enable the delivery of the scheme (as shown on the plan at Appendix 2). The demolition of buildings immediately outside the area of Mulberry Square has already started and construction of the new extension is expected to be completed in Spring 2022.
- 2.3 The Grays Town Centre Framework Refresh (approved in November 2017) provides a regeneration framework that highlights the role of Grays town centre as the main town centre serving the Borough and as the centre for the Borough's civic and administrative services. The Civic Office extension is the first phase of the Grays South Regeneration Area (GSRA) programme, and subsequent phases will include an underpass to replace the level crossing in High Street, new public realm and developments for new residential, leisure and retail units in Grays town centre.

Description of the site for redevelopment

- 2.4 The site to be developed is shown outlined red on the plan that accompanied the planning application (in Appendix 1). Part of the site shown on the plan in Appendix 2 is an informal area of open space owned by Thurrock Council and known as Mulberry Square; it covers an area of c.1,800 sq.m and was created following the demolition of buildings in the early 1990s. The area has not been designated formally as public open space although it has been laid out as a park and has been used informally as such since the early 1990s. This part of the site now needs to be appropriated from an informal open space to planning purposes for the purpose of delivering the scheme.
- 2.5 The rest of the site required for the scheme was a terraced block of two storey, commercial units with postal addresses of 81 and 83 High Street and 1 to 3 New Road. These have been acquired by the Council to enable the scheme, following negotiation and agreement with the previous owners. The buildings on this part of the site have now been demolished.

Proposals for Development

- 2.6 The scheme comprises the current Civic Offices (CO) 2 building, which was built in the early 1990s, and land to the west, including informal open space known as Mulberry Square and properties at 81-83 High Street and 1-3 New Road.
- 2.7 The development will be a three-storey building, facing High Street and New Road, to provide Council Services, including customer services with an enhanced self-service offering and purpose-built confidential meetings rooms, and a public cafe. Members' accommodation, Council Chamber, committee rooms and the Registry Office would be relocated into the new building from other locations.

3. Issues, Options and Analysis of Options

Use of Powers

- 3.1 The Council has already acquired 1-3 New Road and 81 and 83 High Street to enable the delivery of the scheme. Mulberry Square has been held as informal open space and this report seeks approval for its appropriation from that use to enable delivery of the scheme. The statutory powers for this purpose are discussed in detail later in this report. In summary, the Council needs to show that appropriation is necessary and required for the redevelopment.
- 3.2 Appropriation enables easements and other third-party rights to be addressed and overridden. Appropriation translates any rights which might exist into an entitlement for compensation.

Legal Provisions and considerations

- 3.3 The Council is authorised by Section 122 of the Local Government Act (“the Act”) to appropriate land within its ownership for any purpose if the land is no longer required for the purpose for which it was held immediately prior to its appropriation. The appropriation of the Council-owned land known as Mulberry Square for planning purposes is to enable the use of the land for the redevelopment scheme. The Act requires that the intention to appropriate the open space is advertised for a period of at least two weeks in a local newspaper, and that any objections received are considered before proceeding with the appropriation.
- 3.4 To enable the appropriation of land, it is necessary to demonstrate that there is a public interest case to use the powers and that the use of the powers is proportionate and justified. Where land has been appropriated for planning purposes, the consequence (under Section 203 of the Housing and Planning Act 2016) (“HPA 2016”) is that the erection, or carrying out of other works in accordance with a relevant planning consent is authorised notwithstanding that it may involve interference with third party rights.
- 3.5 In this case, there are a number of rights that either may exist or may be inferred. These are described in detail in Appendix 3 and include rights of access to and across the land, Rights to Light, and easements. Under Section 204 of the HPA 2016 there is a liability to pay compensation for any interference with a relevant right or interest or breach of a restriction that is authorised by Section 203 of the HPA 2016. Most rights across the land passed to the Council when it acquired 1-3 New Road, and 81 and 83 High Street, however, some residual rights remain where the beneficiary is not specified. The Rights to Light Report submitted with the planning application indicated that there may be residual rights to light for some properties.
- 3.6 Best Practice in cases where Rights to Light may be affected suggests six ‘considerations’ that apply;
1. Whether the use of Statutory Powers is necessary
 2. Whether the use of Statutory Powers will facilitate the carrying out of the development and that the land would have been compulsorily purchased had that been necessary.
 3. Whether the development will contribute to the promotion and improvement of the economic, social, or environmental well-being of the area.
 4. Whether the benefits of the development could not be achieved without giving rise to the infringements of the identified rights
 5. Is it in the public interest that the development is carried out?
 6. Is the public interest to be achieved proportionate to the private rights being infringed?
- 3.7 An assessment of the appropriation of the land against these legal considerations is contained in Appendix 6 to this report. This assessment provides the basis for the conclusions and recommendations contained in this report.

3.8 The following paragraph contains comments taken from the detailed responses in Appendix 6, in answer to the six considerations set out above, suggesting that the considerations are met:-

1. *Whether the use of Statutory Powers is necessary*

“The appropriation of the land for the planning purposes of delivering the scheme is necessary to enable the scheme to progress.”

“Compensation would have to be negotiated with those who can prove the benefit of these rights but the Council is taking steps to ensure that it does not carry the risk of the scheme being stopped or changed with any ongoing costs and delays associated with legal challenges.”

2. *Whether the use of Statutory Powers will facilitate the carrying out of the development*

“The land would have been included in a Compulsory Purchase of all land required to deliver the scheme, but such action is no longer required because all the land not previously owned by the Council has been acquired by private agreement and is now owned by the Council.”

3. *Whether the development will contribute to the promotion and improvement of the economic, social, or environmental well-being of the area.*

“The development maintains and enhances the Council’s civic presence in Grays town centre. The extension is the first phase of the transformative redevelopment of the town centre which will bring further and significant planned benefits for the town centre economy”.

4. *Whether the benefits of the development could not be achieved without giving rise to the infringements of the identified rights*

“The Council’s Planning Committee have balanced the impact of the scheme and its benefits and found it to be a positive benefit in planning terms. These processes have established that the scheme is the best way in which the benefits can be realised”.

5. *Is it in the public interest that the development is carried out?*

“In conclusion, the appropriation of this land for planning purposes is wholly necessary, to enable the redevelopment scheme to progress and to offer all its important benefits for the public.”

6. *Is the public interest to be achieved proportionate to the private rights being infringed?*

“It is therefore clear that the public interest in this case outweighs any potential impact on private rights and the use of Section 203 is proportionate”.

4. Reasons for Recommendation

4.1 Taking all the above into account, it is recommended that the Council confirm the appropriation of the land for planning purposes. The appropriation is necessary in order to facilitate the delivery of the proposed scheme, which is a

priority objective of the Council. There is a clear need and justification for proceeding with the appropriation as soon as practicable, and the potential interference with third party rights is considered to be proportionate and justified in the circumstances.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The scheme has been the subject of previous reports to Overview and Scrutiny Committee and to Cabinet throughout the development of the design.
- 5.2 As required under Section 122 of the Local Government Act, notices were placed in two consecutive editions of the Thurrock Gazette (on 23 and 30 April 2020) and in the public notices section of the Council's website on 23 April 2020 (see Appendix 4). The consultation period ended at 5 pm on the 14 May 2020.
- 5.3 The Council received one response to the public consultation by the deadline for the end of the period of consultation, and the response is detailed in Appendix 5. The response was a request from a property company to provide a map for the area to be appropriated. This was provided and no further correspondence was received.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The development supports the Council's Local Plan and Town Centre Framework which identify Grays as a Growth Hub where development and regeneration activity will be concentrated. These policy documents identify the role of Grays as the Civic heart of the Borough as a key element for growth and for sustaining the role of the town centre as the principle town centre serving the whole Borough.

7. Implications

7.1 Financial

Implications verified by: **Rosie Hurst**
Interim Senior Management Accountant

In December 2018, Cabinet reviewed the costs of the project and approved the funding required, based on the cost work that has supported design. Compensations have been included in the budgets for land acquisition if required. Insurance is in place to address any costs arising from challenge.

7.2 Legal

Implications verified by: **Tim Hallam**
Deputy Head of Law and Deputy Monitoring Officer

Section 122 of the Local Government Act 1972 enables the Council to appropriate land for any statutory purpose for which it is authorised to acquire the land, provided that the Council is satisfied that the land is no longer needed for its current purpose.

In addition under section 122(2A) of the Local Government Act 1972, the Council may not appropriate any land comprised in open space without first advertising its intention to do so, and considering any objections received. As referenced in the body of the report, notices of the Council's intention to appropriate the land were published in the Thurrock Gazette on 23rd and 20th April 2020. The consultation period concluded 14th May and one representation was received.

The benefit of section 203 of the Housing and Planning Act 2016 is that third party interests in land are overridden and converted to a right to claim compensation where land is either acquired or appropriated for planning purposes. In practice, this means that any beneficiaries of third party rights that are interfered with as a result of the carrying out of the development cannot prevent the development from proceeding by seeking an injunction from the courts, and as a result the development proposed can proceed.

An appropriation is the equivalent of compulsory purchase for "planning purposes" under sections 226 or 227 of the Town and Country Planning Act 1990 (TCPA). In this case it is necessary to consider whether the land would have been capable of being acquired under section 226 of the TCPA.

Section 226 empowers a local authority, on being authorised to do so by the Secretary of State, to acquire compulsorily land in its area:

- if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land (section 226(1)(a)); or
- which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which that land is situated (Section 226(1) (b)).

The power conferred by section 226(1) (a) is the most appropriate for the planning purposes to be realised and Section 226(1A) of the TCPA provides that a local authority must not exercise its power of compulsory acquisition under section 226(1) (a), unless it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives:

- the promotion or improvement of the economic well-being of the area;
- the promotion or improvement of the social well-being of the area; and/or
- the promotion or improvement of the environmental well-being of the area

As set out above, Officers consider that the land within the area shown on the plan at Appendix 2 is no longer required for the purpose for which it is currently held, because it is required instead to meet important planning purposes, namely, to facilitate its development and use, in conjunction with other land, to deliver the scheme approved under Planning permission reference 19/00617/FUL which in turn will deliver economic, and social for the area.

Human Rights

Consideration must be given to the interference with rights protected by the Human Rights Act 1998. In this case a decision to override easements and other rights represents an interference with rights protected under Article 1 of the Protocol to the European Convention on Human Rights. (the right to peaceful enjoyment of possessions) and Article 8 of the European Convention on Human Rights (right to respect for private and family life, home and correspondence). Any decision to interfere with such rights must strike a fair balance between the public interest associated with the development proposals referred to above and the interference with private rights.

Given the clear and substantial public benefits associated with the development proposals referred to in the body of the report and the appendices, the fact that there is no feasible alternative means of achieving those public benefits, and a compelling case in the public interest for the use of the powers to override rights and the availability of compensation to those whose rights are overridden, it is considered that the interference with the private rights of those affected would be lawful, justified and proportionate.

7.3 **Diversity and Equality**

Implications verified by: **Becky Lee**

Team Manager - Community Development and Equalities

The Council has a duty under S.149 of the Equality Act 2010 to ensure that the equalities impact of the scheme is properly defined and addressed. Consultation to date has included the council's in-house networks and the Corporate Workforce Group. However, all new build and interior design will meet or exceed current access and use standards. Diversity and Equalities issues will need to be addressed through a Community & Equality Impact Assessment informed and developed by appropriate stakeholder engagement during the design stages.

The appropriation outlined in this paper is supported by a statutory process that is compliant with all relevant equality legislation including the Equality Act 2010.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Grays Town Centre Framework
- Previous Cabinet reports

9. **Appendices to the report**

1. Site Plan; Planning application site plan
2. Site Plan: Land to be appropriated
3. Press notice and Council's website notice
4. Description of Rights across the land
5. Summary and review of responses received.
6. Assessment of considerations

Report Author:

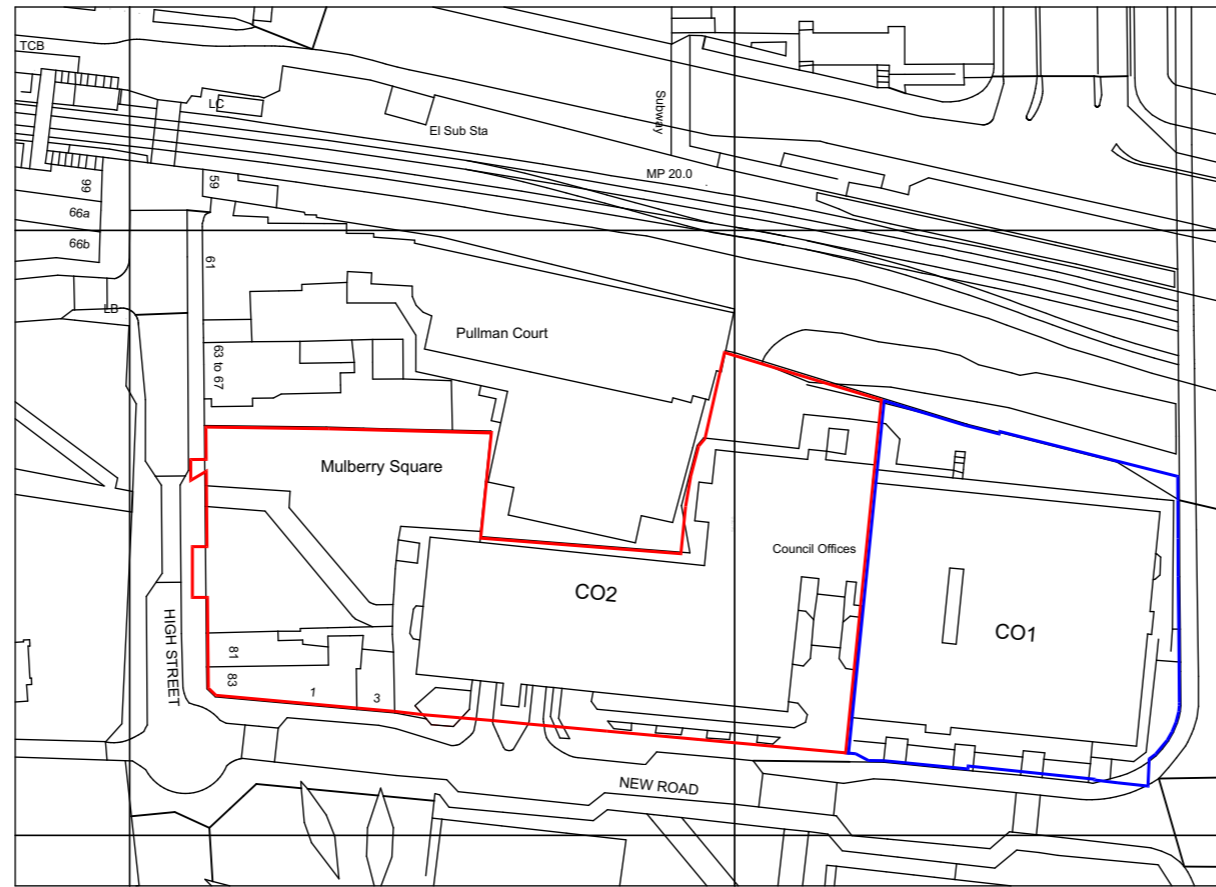
David Moore

Interim Assistant Director of Place Delivery

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Appendix 1

LSI Ref | 18124-LSI-A1-ZZ-M3-A-0001-TCO Stage 3
18124
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| B | JLe | 30.04.19 | Issued for Planning |
| A | JLe | 26.04.19 | Issued for Planning |
| Rev | Init | Date | Revision |



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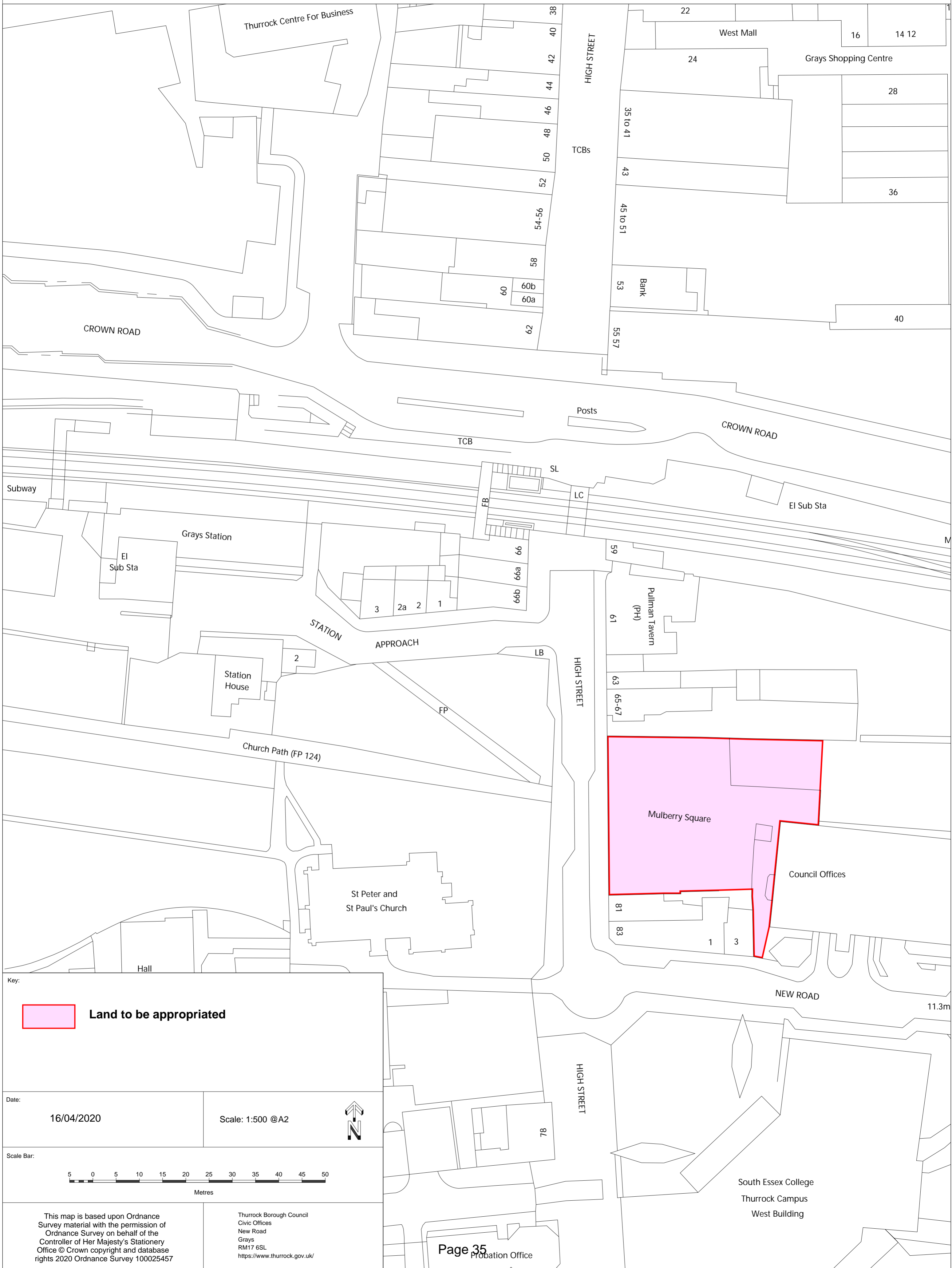
Project
Thurrock Council Civic Offices

Title
Site Location

| | | |
|---------------------------|----------|-------|
| Scale @ A3 | Date | Drawn |
| 1:1250 | 08/11/18 | JLe |
| Purpose of issue | | |
| For Planning | | |
| Drawing Code | Suit | Rev. |
| 18124-LSI-A1-ZZ-DR-A-1170 | S2 | B |

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Plan referred to in Notice of Intention to Appropriate Land at Mulberry Square



Key:

Land to be appropriated

Date: 16/04/2020

Scale: 1:500 @A2

Scale Bar: 5 0 5 10 15 20 25 30 35 40 45 50 Metres

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Thurrock Borough Council
Civic Offices
New Road
Grays
RM17 6SL
<https://www.thurrock.gov.uk/>

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APPENDIX 3

THURROCK BOROUGH COUNCIL
PUBLIC NOTICE OF INTENTION TO APPROPRIATE LAND AT
MULBERRY SQUARE, HIGH STREET, GRAYS.
LOCAL GOVERNMENT ACT 1972 SECTION 122 (2A)
HOUSING AND PLANNING ACT 2016 SECTIONS 203 & 204

This notice relates to land at **Mulberry Square, High Street, Grays**, Thurrock ("the Site")

Notice is hereby given on behalf of the Mayor and Burgesses of Thurrock Borough Council ("the Council") that:

1. On September 2019 planning permission was granted by the local planning authority for the comprehensive mixed use redevelopment of land at New Road, Grays, Essex RM17 6SL which land **includes the Site** for the refurbishment and extension of the Council Offices, new office floor space, registry office, meeting rooms, and café facilities pursuant to planning application reference 19/00617/FUL ("the Planning Consent");
2. The Council's Cabinet will consider a report on the appropriation of the Site for planning purposes on 10th June 2020 in order to enable redevelopment to be carried out in accordance with the Planning Consent.

The Site has an area of c.1800 sq.m, a plan showing the extent of the Site can be provided on request to email regeneration.delivery@thurrock.gov.uk. A copy of the Planning Consent may be inspected online at <https://regs.thurrock.gov.uk/online-applications/> (Use the Planning reference 19/00617 in the search box).

The benefits of the redevelopment of the Site include the comprehensive redevelopment of the Council Offices, the provision of new public facilities, regeneration and the promotion of the economic and social well being of the area.

In the event that the appropriation proceeds and development is undertaken in accordance with the Planning Consent, private third party rights affecting the Site will be overridden pursuant to section 203 of the Housing and Planning Act 2016

Anyone who wishes to obtain further information should contact the Councils Place Delivery Department by email: regeneration.delivery@thurrock.gov.uk in good time before the final date for written representations.

Anyone who wishes to make representations to the Council in respect of the proposed appropriation of the Site for planning purposes should email them to regeneration.delivery@thurrock.gov.uk, OR write to Place Directorate, Support Services, Second Floor, Civic Offices, New Road, Grays RM17 6SL **by 5pm on the 14th May 2020** and include details of their representations and of any right or interest they hold which they consider may be affected by the redevelopment. Please quote reference

“Land Appropriation, Mulberry Square”. Representations received by that date and time will be considered by the Council’s Cabinet before a decision on the appropriation is reached.

Dated this 23rd day of April 2020

Andy Millard,
Director of Place
Thurrock Council,
New Road,
Grays
Essex. RM17 6SL

APPENDIX 4

Summary of Rights across the Land

Report on Title summary

- a. Part of the property is subject to rights of way in favour of land which has been acquired by the Council and which the existing Civic Offices are built upon.
- b. The title states that part of the land is subject to a right of way. The title to the property does not contain any further details as to who has the benefit of the right of way, although the course of the right of way is clearly marked on a plan. It appears that much of the area over which the right of way exists has been built on already.
- c. The property is subject to rights of drainage and rights in respect of water, gas, electricity and other services. The title does not contain any further information as to the extent of those rights or who has the benefit of them.
- d. The title states that the property is subject to rights of support, the passage of water, gas, fuel, light and air, drainage of water and the use or maintenance of cables over any adjoining properties which may have been granted over the property in favour of any adjacent residential leasehold properties pursuant to the Housing Act 1980 and Housing Act 1985.
- e. The property is subject to a right of way which was granted on 8 March 1900 and which grants full and free liberty, at all times by day and by night and for all purposes with or without horses, carts carriages or wagons, laden or unladen, to go and repass from and to New Road to and from the property which was transferred by an indenture dated 27 February 1900 over and along a road or way of a uniform width of at least seven feet to be or to be situate between the property known as 5 New Road on the one side and the yard or garden belonging to 81 High Street and the shop known as 3 New Road on the other side (but so that the exact locus or course of the road shall be determined within 1 year of 8 March 1900 and so that such right shall not extend beyond 12 feet above the surface of the road or way as it was in 1900); together with right and liberty to lay make and maintain in and under such road or way sewers drains and pipes for water gas electric lighting and other purposes together with all such rights of entry and support as are necessary. The exact extent of the land benefitting from this right is unclear.
- f. The property is also subject to the following rights which were created in 1920 and which are stated to be for the benefit of 'land to the north' of the title owned by the Council. We cannot confirm the extent or exact location of the area which benefits from these rights:
 - i. A full right at all times whether by day or by night and for all purposes with or without horses carts carriages waggons motor or mechanically driven vehicles to go pass and repass to and from the (land to the north of the Council property) over and along a road or way of a uniform width of at least 10 feet across the area shown shaded pink and yellow to and from New Road. The conveyance from 1920 states that the exact locus or course of such road shall from time to time be determined in writing, but that until that time the road shall be:

- i. as near as may be in a direct line from the land to the north to the way between 3 and 5 New Road; and
 - ii. that such right shall not extend beyond a distance of 12 feet above the level of such road or way as was in place on 8 March 1900.
- g. Full right and liberty to plan to lay make and maintain in or under the road or way sewers drains and pipes for water gas or electric lighting and other pipes with such rights of entry necessary to lay and maintain such pipes, the people exercising such rights doing no unnecessary damage and making good all damage done.

Rights to Light

A report was produced by Waldrams Ltd, Chartered Surveyors, entitled "Thurrock Council Offices, Mulberry Square Rights of Light" dated 30th April 2019 and this was produced to support the design and the planning application. The report concludes that there are potential Rights of Light impacts, valued in a range of £180,000 to £300,000 and possibly higher, depending on development profit.

APPENDIX 5
SUMMARY OF RESPONSES TO PUBLIC NOTICES RECEIVED

1. Request from a property company to provide a map for the area to be appropriated. This was provided and no further correspondence was received.

Copy of request received 23rd April 2020:

Good afternoon,

I am hoping to obtain a copy of the plan for the following;

PUBLIC NOTICE OF INTENTION TO APPROPRIATE LAND AT

MULBERRY SQUARE, HIGH STREET, GRAYS.

LOCAL GOVERNMENT ACT 1972 SECTION 122 (2A)

HOUSING AND PLANNING ACT 2016 SECTIONS 203 & 204

This notice relates to land at Mulberry Square, High Street, Grays, Thurrock

("the Site")

Notice is hereby given on behalf of the Mayor and Burgesses of Thurrock

Borough Council ("the Council") that:

1. On September 2019 planning permission was granted by the local planning authority for the comprehensive mixed use redevelopment of land at New Road, Grays, Essex RM17 6SL which land includes the Site for the refurbishment and extension of the Council Offices, new office floor space, registry office, meeting rooms, and cafe facilities pursuant to planning application reference 19/00617/FUL ("the Planning Consent");
 2. The Council's Cabinet will consider a report on the appropriation of the Site for planning purposes on 10th June 2020 in order to enable redevelopment to be carried out in accordance with the Planning Consent.
- The Site has an area of c.1800 sq.m, a plan showing the extent of the Site can be provided on request to email regeneration.delivery@thurrock.gov.uk.

As advertised in the Thurrock Gazette on the 23rd of April 2020.

Thank you for any help,

Kind regards,

-----**END**-----

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APPENDIX 6

ASSESSMENT OF SCHEME AGAINST CONSIDERATIONS OF THE PUBLIC INTEREST CASE FOR APPROPRIATION

1. The use of Statutory Powers is necessary

The development has the benefit of planning permission and there is a financial budget in place for its delivery. The statutory provisions require appropriations for the planning purposes of delivering the scheme of required land and specifically allow for the appropriation of land previously used as open space. While Mulberry Square has not been formally designated as open space it has been generally used as such since the 1990s. The appropriation of the land for the planning purposes of delivering the scheme is necessary to enable the scheme to progress.

Appendix 4 describes rights that have been identified which could impact on the deliverability of the scheme. Many of these rights have passed to the Council as owner of relevant land with the recent acquisitions of adjacent sites. But some rights either cannot be identified or are not clearly defined and so it is not known in every case who might or would benefit from the rights. This has limited the Council's ability to discuss any specific rights with possible relevant beneficiaries. However some rights as they exist may still impact on the deliverability of the scheme.

The Rights to Light Report that supported the planning application indicated that there may be some impact from the development upon some rights to light although it is difficult to ascertain the position without knowing more details. If any such rights do exist they will need to be properly addressed and the appropriation under Section 203 would allow any beneficiaries to be compensated if indeed they do. Such compensation would have to be negotiated with those who can prove the benefit of these rights but the Council is taking steps to ensure that it does not carry the risk of the scheme being stopped or changed with any ongoing costs and delays associated with legal challenges.

2. The use of statutory powers will facilitate the carrying out of the development

The Council owns all the land required and has secured planning permission for the scheme. There remains the need to appropriate the open space from its current purpose (on the basis that it is no longer required) to the planning purpose in order to be able to deliver the development. In conclusion, the appropriation addressed in this report is required under the statutory provisions described elsewhere in this report and is necessary to enable residual rights to be addressed and to enable the implementation of the planning permission for the scheme. The land would have been included in a Compulsory Purchase of all land required to deliver the scheme, but such action is no longer required because all the land not previously owned by the Council has been acquired by private agreement and is now owned by the Council.

3. The development will contribute to the promotion and improvement of the economic, social, or environmental well-being of the area

Benefits arising from the development were set out in the reports to Cabinet in November 2017 and December 2018 and Corporate Overview and Scrutiny Committee in November 2018. The development will enable consolidation and improvements in the way the Council provides its services and other benefits described elsewhere in this report.

As a major employer and service provider, the Civic Offices supports the economy of the town centre and the extension would further consolidate that support. There is a range of potential economic benefits for Grays town centre arising from the proposed extension, including;

- Direct net additional Full Time Equivalent Jobs=22.5
- Indirect Net Full Time Equivalent Jobs=2
- Direct net additional GVA over 10 years=£9million
- Indirect net additional GVA=£0.9million
- Additional household expenditure from residential redevelopment of the CO1 site.

The development maintains and enhances the Council's civic presence in Grays town centre. The extension is the first phase of the transformative redevelopment of the town centre which will bring further and significant planned benefits for the town centre economy.

The extension enables a permanent shift in service provision towards self-service, which has proven to be beneficial through current approaches used in CO2, improving resident's interactions with the Council, reducing waiting times, providing information at the level required and reducing the costs of service provision.

It will also provide meeting and events spaces which will be hired out to business and community groups, meeting a qualitative need for such space that is not currently available in Grays town centre.

The relocation of the Registrars to a new purpose built facility enables consolidation that provides more space for services to customers. As a modern purpose built facility, it will be better suited to the provision of this important, sensitive and statutory service. It also will offer more free space within the Thameside complex to enable the realisation of other objectives of the Council's regeneration strategy for Grays.

4. **The benefits of the development could not be achieved without giving rise to the infringements of the identified rights**

The selected option was identified as the only one that would maximise the benefits from the scheme. This report has discussed the economic and social benefits which were also considered by the Council's Cabinet as previously referenced, including the approach to service provision, and the benefits of the scheme to the public realm and economy of the town centre provided by the scheme. The Council's Planning Committee have balanced the impact of the scheme and its benefits and found it to be a positive benefit in planning terms. These processes have established that the scheme is the best way in which the benefits can be realised.

5. Is it in the public interest that the development is carried out

The public benefits of the scheme have been considered in detail at previous cabinet meetings and by Planning Committee, as previously referenced and discussed throughout this report. The discussion at item 3 of this appendix identifies the economic and social benefits of the project. These show a clear public interest case supporting the scheme.

The scheme is the first phase of the GSRA and would result in the loss of a relatively small area of informal open space. In April 2017, Cabinet approved a budget and scheme for an underpass and new public squares which will be phase 2 of the redevelopment scheme. These public squares will replace the informal open space lost in Mulberry Square, and larger areas of open space will be made available to the public on both sides of the rail line.

The scheme for redevelopment has the benefit of a planning permission and there is a financial budget in place for its delivery. The statutory provisions allow for the appropriation of required land for the planning purposes of delivering a scheme and this can specifically include land previously used as open space.

While Mulberry Square has not been formally designated as open space, it has been of some use to the general public since the Council demolished some old buildings on the land in the early 1990s and laid the space out to avoid it being seen as unkempt and untidy. This area is not a very big piece of open space and not very well utilised but provides some use, more as a walk-through and access area for pedestrians who pass to and from the High Street during certain hours of the day. It is not perceived to be a valuable area that can be enjoyed by several members of the public at all times, because it is closed during certain hours.

The Civic Offices extension (the subject of this report) is the first phase of the Council's Grays South Regeneration Area ("GSRA"). In April 2017, the Council's Cabinet agreed a project and budget for the delivery of the second phase of the GSRA, comprising a replacement means of access across the rail line and larger areas of public open space. These open space areas are larger than the space that exists at present, and are purpose-designed as town centre squares, and will be accessible at all times. In conclusion, the appropriation of this land for planning purposes is wholly necessary, to enable the redevelopment scheme to progress and to offer all its important benefits for the public.

A number of memorial benches have been placed in Mulberry Square which can be relocated in the new public squares to be provided as part of the wider Grays South Regeneration Area.

6. Whether the use of Section 203 is proportionate with any interference with the human rights of those persons affected

Human Rights issues arise in respect of the proposed arrangements. The Government guidance on compulsory purchase process and the Crichel Down rules

advises that compulsory acquisition and therefore appropriation for planning purposes under Section 122 (1) of the Local Government Act 1972 or Section 122 (2A) Local Government Act 1972, which have the effect, by virtue of Section 203 of infringing convention rights should consider:

“.....When making and confirming an order acquiring authorities and authorising authorities should be sure that the purposes for which the compulsory purchase order is made justify interfering with the Human Rights of those with an interest in the land affected. The officer’s report seeking authorisation for the compulsory purchase order should address human rights issues...”

Furthermore, under the Human Rights Act 1998, the council is required to act in accordance with the European Convention on Human Rights (“ECHR”) in deciding whether to implement the arrangements. Article 1 of the first protocol of the ECHR provides that every natural or legal person be entitled to peaceful enjoyment of his or her possessions.

Engagement of Section 203, to allow interference with private rights, involves interference with a person’s rights under this Article. However, the right to peaceful enjoyment of possessions under Article 1 is a qualified rather than an absolute right as the wording permits the deprivation of an individual’s possessions where it is in the public interest and is subject to the conditions provided for by law, and (in relation to the right to respect for private and family life and a person’s home) Article 8 (2) allows for interference which “is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country for the protection of health and morals, or for the protection of the rights and freedoms of others.”

There must therefore be a balancing exercise between the public interest and the individual’s rights whereby any interference in the individuals’ rights must be necessary and proportionate. “Proportionate” in a context means that the interference must be more than is necessary to achieve the identified legitimate aim. A “fair balance” must be struck between the rights of the individual and the rights of the public. It is for the council to consider the issues raised in this Report and to strike that “fair balance” in coming to its decision.

The Right to Light report that informed the design process and the planning application established that the possible impacts on light are within acceptable parameters. Impacts on rights of access are limited and alternatives are, where required, available along High Street and New Road. Weighed against these impacts must be the considerable benefits discussed earlier in this report of implementing the scheme.

It is therefore clear that the public interest in this case outweighs any potential impact on private rights and the use of Section 203 is proportionate.

| | |
|--|---------------------------------|
| 17 June 2020 | ITEM: 11 |
| Cabinet | |
| Appointments to Outside Bodies, Statutory and other Panels | |
| Wards and communities affected: None | Key Decision: Non-key |
| Report of: Councillor Robert Gledhill, Leader of the Council & Portfolio Holder for Public Protection and Anti-Social Behaviour | |
| Accountable Assistant Director: Ian Hunt, Assistant Director for Law and Governance and Monitoring Officer | |
| Accountable Director: Lyn Carpenter, Chief Executive | |
| This report is Public | |

Executive Summary

This report requests that Cabinet confirm the nominations for appointments to outside bodies, statutory and other panels. Due to the current global COVID-19 pandemic, and the agreement not to hold an Annual Council in May 2020 where committee and outside body allocations would normally be made for the year, it is recommended that Cabinet appointments to outside bodies made during 2019/20 remain in place unless a need to change an appointment is necessary.

1. Recommendation(s)

1.1 Due to the ongoing COVID-19 pandemic it is recommended that all current appointments, as listed in Appendix 1, remain for 2020/21, unless otherwise advised by Group Leaders and/or Cabinet.

2. Introduction and Background

2.1 Both the Full Council and the Cabinet have powers to appoint Members, officers and others to serve on Outside Bodies in a variety of capacities. Chapter 12, Part 2, of the Council's Constitution provides details of those Outside Bodies, Statutory and Other Panels where appointments are to be made by either Full Council or by the Cabinet.

2.2 Due to the ongoing COVID-19 pandemic, it is being recommended that all current appointments remain for the 2020/21 municipal year, subject to approval by Group Leaders and Cabinet.

3. Issues, Options and Analysis of Options

- 3.1 Group Leaders have been consulted on the suspension of Cabinet appointments to outside/statutory bodies for 2019/20, and if any changes are necessary, these will be noted at the Cabinet meeting on 17 June.
- 3.2 Any future changes to the appointments made will require the approval of the appointing body, be this Full Council or Cabinet.
- 3.3 There is an expectation that Members appointed to represent the Council on Outside Bodies will report back to the Council at least annually.

4. Reasons for Recommendation

- 4.1 The Cabinet should ensure that it continues to nominate representatives to sit on Outside Bodies, Statutory and other Panels so that its interests can be properly represented, together with those of the wider community.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 In the course of seeking postponement of nominations, consultation has been undertaken with the Leaders of each of the political groups represented on the Council.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 It is important for the Council to nominate to such bodies in order to ensure that it continues to represent the interests of both the Authority and the wider community.

7. Implications

7.1 Financial

Implications verified by: **Dammy Adewole**

**Senior Management Accountant –
Central Services**

There are no financial implications arising from this report.

7.2 Legal

Implications verified by: **Ian Hunt**

**Assistant Director Legal and
Governance, and Monitoring Officer**

It is important that Members are correctly appointed, through the relevant Council or Cabinet meeting, to enable them to be indemnified in appropriate circumstances.

7.3 **Diversity and Equality**

Implications verified by: **Becky Lee**

**Team Manager – Community
Development & Equalities**

The Council is under a statutory duty to ensure that equality and diversity is embedded within the decision making process of the Council. Therefore attention is drawn to the importance of ensuring that appointments to Outside Bodies, Statutory and Other Panels are underpinned by appropriate training on the statutory equality framework.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

- None.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

9. **Appendices to the report**

- Appendix 1 – Cabinet Appointments to Outside Bodies, Statutory and Other Panels 2020/21

Report Author:

Lucy Tricker & Kenna-Victoria Healey

Democratic Services

Legal & Democratic Services

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Cabinet appointments to Outside Bodies, Statutory and Other Panels 2020/2021

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| Organisation | No. to be appointed by Cabinet | Appointees |
|--|--------------------------------|--|
| Anglian (Eastern) Regional Flood & Coastal Committee (1 seat held jointly, bi-annually, with Southend) | 1 | 1. Councillor Insert Name (2019 – Councillor Rice) |
| Association for Public Services Excellence | 1 | 1. Councillor Insert Name (2019 – Councillor Gledhill) |
| Mid and South Essex NHS Foundation Trust Board of Governors | 1 | 1. Councillor Insert Name (2019 – Councillor Van Day) |
| Essex Partnership for Flood Management | 1 | 1. Councillor Insert Name (2019– Councillor Collins) |
| Essex Pension Fund Advisory Board | 1 | 1. Councillor Insert Name (2019 – Councillor Hebb) |
| Essex County Traveller Unit | 1 | 1. Councillor Insert Name (2019 – Councillor Gledhill) |
| High House Production Park Board of Trustees (Portfolio Holder for Education and Chief Executive) | 1 | 1. Councillor Jefferies (2019 – Councillor Halden) |
| Local Government Association | 2 | 1. Councillor Insert Name (2019 – Councillor Johnson) 2. Councillor Insert Name (2019 – Councillor Abbas) |
| Opportunity South Essex (Leader and Chief Executive) | 1 | 1. Councillor Gledhill (Leader of the Council) (Leader and Chief Executive appointed for a 5 year term in 2016) |
| South East Local Enterprise Partnership – Strategic Board | 1 | 1. Councillor Insert Name (2019 – Councillor Gledhill) |
| South East Local Enterprise Partnership – Accountability Board | 1 | 1. Councillor Insert Name (2019 – Councillor Gledhill) |
| Thurrock Arts Council | 1 | 1. Councillor Insert Name (2019– Councillor Huelin) |

| Organisation | No. to be appointed by Cabinet | Appointees |
|---|--------------------------------|--|
| Thurrock Sports Council | 1 | 1. Councillor Insert Name (2019 – Councillor Watkins) |
| Thames Estuary 2100 Strategic Programme Board | 1 | 1. Councillor Insert Name (2019 – Councillor Coxshall) |

STATUTORY AND OTHER PANELS TO BE APPOINTED

| Organisation | No. to be appointed by Cabinet | Appointees |
|---------------------------------------|--------------------------------|--|
| Thurrock Community Safety Partnership | 1 | 1. Councillor Insert Name (2019 – Councillor Gledhill) |