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Friday, 10 July 2020

To: The Members of the **EXECUTIVE**
(Councillors: Alan McClafferty (Chairman), Colin Dougan, Josephine Hawkins,
Rebecca Jennings-Evans, David Lewis, David Mansfield and Adrian Page)

Dear Councillor,

A meeting of the **EXECUTIVE** will be held at Surrey Heath House and
www.youtube.com/user/SurreyHeathBC on Tuesday, 21 July 2020 at 6.00 pm. The agenda
will be set out as below.

Please note that this meeting will be recorded.

Yours sincerely

Tim Pashen

(Acting) Chief Executive

AGENDA

Pages

Part 1 (Public)

- | | | |
|----|------------------------------|-------|
| 1. | Apologies for Absence | - |
| 2. | Minutes | 3 - 6 |

To confirm and sign the minutes of the meeting held on 23 June 2020
(copy attached).

- | | | |
|----|---------------------------------|---|
| 3. | Declarations of Interest | - |
|----|---------------------------------|---|

Members are invited to declare any interests they may have with
respect to matters which are to be considered at this meeting.
Members who consider they may have an interest are invited to
consult the Monitoring Officer or the Democratic Services Officer prior
to the meeting.

- | | | |
|----|-----------------------------|---|
| 4. | Questions by Members | - |
|----|-----------------------------|---|

The Leader and Portfolio Holders to receive and respond to questions

from Members on any matter which relates to an Executive function in accordance with Part 4 of the Constitution, Section B Executive Procedure Rules, Paragraph 16.

5.	Community Infrastructure Levy	7 - 14
6.	Business and Planning Bill 2019-2021: Licensing Implications	15 - 42
7.	End of Year Performance Report	43 - 56
8.	Council Finances as at 31 March 2020 and Requests for Carry Forward of Unspent Budget to 2020/21	57 - 68
9.	Review of the Corporate Capital Programme 2019/20	69 - 76
10.	Monitoring Officer report - Decision to release local land charge over Field 81 Pennypot Lane Chobham Surrey	77 - 80
11.	Exclusion of Press and Public	81 - 82

**Part 2
(Exempt)**

12.	Parks and Grounds Maintenance Contract Renewal Arrangements for 2020	83 - 88
13.	Review of Exempt Items	-

To review those items or parts thereof which can be released as information available to the public.

**Minutes of a Meeting of the Executive
held on 23 June 2020**

+ Cllr Alan McClafferty (Chairman)

- | | |
|-------------------------------|------------------------|
| + Cllr Colin Dougan | + Cllr David Lewis |
| + Cllr Josephine Hawkins | + Cllr David Mansfield |
| + Cllr Rebecca Jennings-Evans | + Cllr Adrian Page |

+ Present

In Attendance: Cllr Rodney Bates, Cllr Cliff Betton, Cllr Sharon Galliford, Cllr Shaun Garrett, Cllr Emma-Jane McGrath, Cllr Sashi Mylvaganam, Cllr Robin Perry, Cllr Graham Tapper, Cllr Victoria Wheeler, Cllr Valerie White and Cllr Kristian Wrenn

14/E Minutes

The open and exempt minutes of the meeting held on 26 May 2020 were confirmed and signed by the Chairman.

15/E End of Suspension of Parking Charges in Camberley Town Centre and Introduction of Low Paid Workers' Season Ticket

The Executive received a report proposing the re-introduction of car parking charges in Camberley Town Centre, which had been temporarily suspended in March 2020 due to the COVID-19 pandemic. It was noted that it was not proposed to re-introduce charges in the Borough's out of town car parks at that time.

Having considered the options, it was agreed to reintroduce parking charges to Knoll Road and Main Square Car Parks from 13 July 2020 until 13 September 2020, at which time the suspension of charges would be further reviewed. However, the tariffs for up to 4 hours parking at these Car Parks would remain suspended.

The Executive discussed a proposed Parking Subsidy Season Ticket aimed at lower paid workers and supported its introduction. Members also discussed the Government's instruction to give NHS and carers free parking. It was agreed to clarify that the term 'carers' referred to those employed in a caring capacity.

Members were advised that these decisions would be subject to a Notice of Variation as required by the Road Traffic Regulation Act 1984, which could affect the date for implementing these decisions.

RESOLVED that

- (i) subject to (ii), between 13 July 2020, or as soon as is practicable after this date, and 13 September 2020, existing parking charges be reintroduced to Knoll Road and Main Square Car Parks;**
- (ii) the tariffs for up to 4 hours parking at Knoll Road and Main Square Car Parks remain suspended until 13 September 2020;**
- (iii) a further review of re-introducing parking charges be**

undertaken before 13 September 2020;

- (iv) parking charges remain suspended in the rural car parks beyond 13 July 2020;**
- (v) a Parking Subsidy Season Ticket be introduced for a 12 month period at £10 per month on 13 July 2020 or as soon as is practicable after this date;**
- (vi) the criteria and eligibility for this Season Ticket be as set out at Annex 2 to the agenda report;**
- (vii) the Parking Subsidy Season Ticket be reviewed after 12 months; and**
- (viii) the continued suspension of tariffs for up to 4 hours parking at Knoll Road and Main Square Car and Parking Subsidy Season Ticket be communicated widely using multiple channels and advertised in the local paper, online and in each car park affected as required by the Road Traffic Regulation Act 1984.**

16/E Kevin Cantlon Fund Repurposing –Economic Recovery

The Executive was reminded that in 2017 a Shopfront Scheme fund of £100,000 had been agreed which would be available for eligible businesses to seek grants to improve their shopfronts. It was reported that there had been a low take up of the fund, with £87,000 remaining in the budget.

It was proposed to repurpose the remaining budget in the Scheme allowing for greater support to be given to businesses following the COVID-19 outbreak. The business support would be in line with the current and future economic development strategies to ensure that the projects delivered were consistent with the borough's needs and wider objectives.

It was noted that the proposed repurposing of the funds would provide sufficient flexibility and scope to award grants as required in the uncertain economic climate; furthermore, it was clarified that repurposing the fund would not preclude eligible businesses from applying for grants to upgrade their shopfronts.

RESOLVED that

- (i) the remaining budget left in the Kevin Cantlon Shop Fronts Scheme be re-purposed for business support projects following the COVID-19 Crisis;**
- (ii) as part of the business support work, Economic Development work with organisations and associations who work with businesses to support and guide the Council in the correct level and type of business support needed;**
- (iii) research be undertaken either at Local Authority level or with Borough and District colleagues to understand the impacts**

and needs of the business community so that support can be targeted; and

- (iv) authority to spend the fund be delegated to the (Acting) Chief Executive in consultation with the Business & Transformation Portfolio Holder.**

17/E EM3 LEP - Bid for funding - Surrey Heath Online Retail Experience (SHORE)

The Executive was informed that Enterprise M3 Local Enterprise Partnership (LEP) had launched a Supporting Town Centres call for projects of up to £100,000 that would help re-start the local economy. The Economic Development team had been working with the world's largest e-commerce company Alibaba and start-up technology company Bubbl to form a bid to the LEP for a borough App that housed a UK first live-commerce and proximity marketing platform, from which businesses would be able to promote and sell.

Members were advised that all LEP bids required a match funded contribution from partners. It was proposed that the Council would contribute £10,000 of monetary contributions and a further £40,000 of other resources, which would primarily involve officer time, to support the initial build and ongoing promotion; Montagu Evans and Collectively Camberley BID had already pledged support for the project.

It was confirmed that the App would be developed alongside partners, but owned by the Council. As the App would be publicly funded there would be no intention to generate revenue for the first 12 months; however, it was anticipated that there would be income from membership once the pilot 12 months had passed and marketing revenue could be achieved.

RESOLVED that

- (i) the bid to the EM3 Local Enterprise Partnership for 'Supporting Town Centre Funds' be endorsed; and**
- (ii) the Council's financial contribution to the overall LEP bid, including staffing resource be noted.**

RECOMMENDED to Full Council that the Capital Programme be amended by £10,000 to fund the Council's contribution towards the Surrey Heath Online Retail Experience project.

18/E Highways liability to support social distancing messaging in the Borough

The Executive was informed that Surrey County Council (SCC) Highways team had been working with borough and district authorities to identify and deliver measures to enable safer active travel in the context of social distancing during the Covid-19 pandemic. Some authorities, including this Council, had approached SCC about installing social distancing stickers/decals on pavements to delineate safe distances for queueing.

It was reported that SCC's original position had been to not allow these measures, given a host of issues they presented in respect of liability and maintenance, but it had subsequently recognised the need to enable spaces to be as safe as possible as people returned to the high street. SCC had agreed to allow these measures, including decals on pavements, for the period of social distancing; however, boroughs and district authorities would be expected to take over the liability required to ensure the Health and Safety of users of the public spaces.

Members agreed to undertake this liability for the duration that these social distancing measures were required, but also agreed to write to the Leader of SCC expressing concern about its decision to require borough and district authorities to take on this liability.

RESOLVED that

- (i) temporary liability be accepted for social distancing decals on the pavements across the borough which have been purchased and provided by the Council and/or Collectively Camberley BID until the removal of the decals;**
- (ii) a letter be sent from the Leader and Acting Chief Executive to the Leader of Surrey County Council expressing concern about the boroughs and districts being asked to take on this liability.**

19/E Exclusion of Press and Public

In accordance with Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the press and public were excluded from the meeting for the following items of business on the ground that they involved the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972 as set out below:

Minute	Paragraph(s)
14/E (part)	1&3

Chairman

Community Infrastructure Levy

The Council has been collecting CIL funding since the Charging Schedule came into effect on the 1st December 2014.

The CIL Regulations require that the Council, as the collecting authority, pay money over to the parishes where development has taken place. It is for the parishes to decide how to use that money. The Regulations require the Council to publish its CIL income and expenditure.

The Council received a total of £1,013,934.13 for the reporting period 1st October 2019 – 31st March 2020.

A breakdown of the CIL receipts received for this reporting period is shown in Annex 1, attached to this report.

Portfolio: Finance

Date Portfolio Holder signed off report: 30 June 2020

Wards Affected

All

Recommendation

The Executive is advised to RESOLVE

- (i) to note the CIL monies received in the reporting period; and
- (ii) to note the likely impacts of Covid19 on income.

1. Resource Implications

- 1.1 CIL includes a contribution toward the cost of administration of the scheme. The monies raised are covering the cost of administration.

2. Key Issues

- 2.1 Section 106 payments have largely been replaced by Community Infrastructure Levy contributions although restrictions on the 'pooling' of section 106 planning obligations to fund infrastructure have now been removed.
- 2.2 In respect of monies collected to date, Annex 1 lists CIL monies collected from sites by parish and ward in the period 1st October 2019 – 31st March 2020. It also sets out how the CIL money is apportioned out according to the priorities in the Section 123 List in particular for SANGs and parishes.
- 2.3 It should be noted that from 1st September 2019, new amendments to the CIL regulations introduced a requirement for Councils to publish "infrastructure funding statements". These statements will replace existing

Regulation 123 lists and should include details of how much money has been raised through developer contributions and how it has been spent. Statements must be published on local authority websites at least once a year. Councils will be required to publish their first statements by 31 December 2020. Work on this has been delayed by Covid 19.

2.4 Payments to parishes' payable from 1st October 2019 for income collected in the last reporting period were as follows:

- a. Chobham £23,641.66
- b. Windlesham Parish £16,246.70

3. Options

3.1 The options for the Executive to agree are:

- (i) To NOTE the income received in the period 1st September 2019 to 31st March 2020 as set out in Annex 1.
- (ii) To NOTE the likely changes to CIL collection to reflect the impact of Covid19 on the development industry

3.2 The Executive is asked to agree options (i) and (ii).

4. Proposals

4.1 In the period 1st October 2019 – 31st March. A total of £1,013,934.13 has been collected for the reporting period 1st October 2019 – 31st March 2020. Of the total amount collected for this period, £293,164.60 is retained by the Council, to be spent on key priorities, with £576,638.26 payable to SANGS.

4.2 The government is concerned at the economic impact of Covid 19 on the development industry and in particular housebuilding. It will be publishing amended regulations to modify the collection of CIL and S 106 payments but is asking local authorities to modify their collection regime in the interim as follows:

- CIL charging authorities are encouraged to consider making use of the ability to introduce an instalment policy (or amend an existing instalment policy); and
- noting the government's clear intention to introduce legislation to permit deferral of CIL payments and disapply late payment interest for SMEs, CIL collecting authorities are encouraged to use their discretion in considering what, if any, enforcement action is appropriate in respect of unpaid CIL liabilities; and
- CIL authorities should take a positive approach to their engagement with SME developers, to ensure CIL liabilities do not cause undue burdens over the period of disruption caused by the coronavirus;
- CIL authorities should note the existing flexibilities they have around enforcing CIL for larger developers, including flexibilities over the imposition

of surcharges. Late payment interest will remain mandatory where such flexibilities are used.

- 4.3 Officers will bring forward a revised collection policy once the amended regulations have been published and in the interim will apply a flexible approach to collection where appropriate.
- 4.4 In addition, as part of the work for the Infrastructure Funding Statement officers will bring a revised infrastructure list and proposals for bidding for project funding in the non-parished wards to Executive later this year.

5. Supporting Information

- 5.1 CIL is only payable on development which creates net additional floor space, where the gross internal area of new build exceeds 100 square metres.
- 5.2 The CIL income received from each development is proportioned as follows:
 - 5% - Administration
 - 15% -to local neighbourhood ward or Parish (25% where Neighbourhood Plan adopted))
 - £125.00 per sqm (charged on net additional floor space created) - to SANG (Suitable Alternative Natural Greenspace)
 - Balance of income allocated to Surrey Heath BC CIL Main Fund for spending on the priorities, as set out in the Council's Section 123 List.
- 5.3 Surrey Heath Borough Council also operates an instalment policy. The Instalment policy requires the SANG element of the charge to be paid on commencement of the development, with the remaining instalment payments allocated, as set out in paragraph 5.2 above.
- 5.4 The expenditure of CIL is governed by regulations. Thus payments must be reported half yearly to Executive and payments to parishes must be made half yearly, the Council has no discretion in this. The Council is also required to report on levy income and spending on its website on 31st December each year.
- 5.5 The CIL Regulations require that no more than 15% of CIL collected within parishes and wards is payable. The payment to parishes and wards, in the absence of a neighbourhood plan, is currently capped at £100 per annum for each existing Council tax dwelling. Where neighbourhood plans have been adopted, 25% of CIL collected within parishes and wards is payable. This is uncapped.
- 5.6 The Windlesham Neighbourhood plan was adopted at Full Council on 12th June 2019. This covers the Windlesham ward only within the Windlesham Parish area. From 12th June 2019, this ward will receive 25% of CIL collected within this ward. CIL collected in the other areas of Windlesham Parish remains at 15%. To date, no CIL has been collected from development in this ward since the neighbourhood plan was adopted.

5.7 Under the CIL Regulations, the Levy portion collected for Parishes and Wards from new development must be spent on infrastructure provision in the local area in which development takes place.

5.8 Funding received for neighbourhoods in excess of the capped limits (currently capped at £100 per annum for each existing Council tax dwelling), is retained by the Council (as the Local Charging Authority) to spend on General Levy funds. This must be spent on infrastructure.

6. Corporate Objectives And Key Priorities

6.1 PLACE - to make Surrey Heath an even better place where people are happy to live.

6.2 PROSPERITY - to sustain and promote the local economy so that our people can work and do business across Surrey Heath by promoting improvements to local transport and infrastructure.

7. Policy Framework

7.1 The ability to set a CIL charge is set out in the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended). A CIL charging schedule will sit alongside the Local Plan, although it does not form part of the statutory development plan.

8. Legal Issues

8.1 The legislation requires that that 15% of CIL funds received are transferred to a Parish Council where development has occurred in that area, 25% where that Parish Council has a Neighbourhood Plan. Payment commenced on 28th October 2015 and six monthly periods thereafter.

9. Governance Issues

9.1 Surrey Heath BC may arrange the transfer of CIL revenue to Surrey County Council as part of a programme to prioritise improvement of infrastructure in the Borough. This will be for projects or assets that are normally delivered through County Council resources. Such projects would be agreed on a case basis by the Executive.

10. Sustainability

10.1 CIL will enable the Borough Council to direct funding to those projects which it believes best meet the needs of the local community and to support a sustainable community with the Borough.

11. Risk Management

11.1 If the housing targets set out in the Council's Core Strategy are not delivered then this would have financial implications in respect of the amount of CIL which would be raised. In addition the prior consent regime takes

development outside of CIL, the government is proposing to extend this regime.

Annexes	Annex 1 - List of CIL Income 01/10/2019 – 31/03/2020
Background Papers	None
Author/Contact Details	Steven Appleby - Community Infrastructure Levy Delivery Officer steven.appleby@surreyheath.gov.uk
Head of Service	Jenny Rickard – Executive Head of Regulatory

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CIL Income received 1st October 2019 - 31st March 2020

Applicati

<u>on Ref</u>	<u>Address</u>	<u>Admin</u>	<u>Ward/Parish</u> 5% 15 or 25%	<u>SANG</u>	<u>Main Fund</u>	<u>CIL Status</u>	<u>Development Details</u>
16/0554	Land South of 24-36 (evens) Kings Road and 6 and 9 Rose Meadow, West End	£71,668.30			£189,452.72	Final Instalment Payment	Residential development for 84 dwellings.
14/0451	Land South of Beldam Bridge Road, West End			£55,558.39 Chobham Woods		First Instalment Payment	Erection of 2no five bed and 1no four bed detached dwellings.
18/0311	Land to rear of Thurdon, Bear Cottage and Homeleigh Beldam Bridge Road West End	£12,732.47			£25,117.41	Third Instalment Payment	Minor material amendment to residential development.
18/0331	Land at rear of 26-38 and 42 Kings Road, West End			£48,976.00 Chobham Woods		First Instalment Payment	Erection of 2no three bed, 3no two bed and 4no one bed maisonettes.
17/0889	Land adjacent to 1 Whitmoor Road, Bagshot			£248,375.00 Chobham Woods		First Instalment Payment	Residential development for 16 dwellings.
17/1132	Former Post Office (No 13) and Land to rear and side of 15, Updown Hill, Windlesham	£4,655.69	£16,246.70 Windlesham Parish		£10,831.13	Final Instalment Payment	Residential development of 8 dwellings and 1 retail unit.
18/0667	24 and Greenways, 26, London Road, Bagshot			£110,300.77 Chobham Woods		Second Instalment Payment	Minor material amendment to residential development.

<u>Applicati on Ref</u>	<u>Address</u>	<u>Admin</u>	<u>Ward/Parish</u>	<u>SANG</u>	<u>Main Fund</u>	<u>CIL Status</u>	<u>Development Details</u>
17/0082	Willow Farm, Bagshot Road, Chobham	£2,930.64	8,791.94 Chobham Pari:	28,125.00 Chobham Woods	£18,765.39	Complete - All monies received	Erection of a detached dwelling.
18/0991	79-81,Windsor Road, Chobham	£4,949.93	£14,849.72 Chobham Pari:	£41,750.00 Chobham Woods	£37,448.50	Complete - All monies received	Residential development for 9 dwellings.
17/0329	26,High Street,Camberley	£1,715.76	£5,147.28 Town Ward	£20,125.00 Chobham Woods	£7,327.19	Complete -All monies received	Change of use of first and second floor offices to 2 two bed flats.
17/0701	Parkgate House,185-187 London Road,Camberley				£2,450.84	Final Instalment Payment	Change of use of first and second floor offices and raise roof to create 14 flats.
17/0430	Former NHS Buildings The Ridgewood Centre Old Bisley Road, Frimley	£110.71	£332.13 Heatherside Ward		£1,771.42	Complete - All monies received	Minor material amendment to residential development.
18/0527	Land adjacent to 4, Coleford Bridge Road,Mytchett				£8,428.10 Chobham Woods	Second Instalment Payment	Erection of a detached dwelling.
19/0042	91,Worsley Road Frimley				£15,000.00 Chobham Woods	First Instalment Payment	Erection of a detached dwelling.
		£98,763.50	£45,367.77	£576,638.26	£293,164.60		
TOTAL RECEIVED		£1,013,934.13					

Business and Planning Act 2019-2021: Licensing Implications

Summary:

The purpose of this report is to brief Members on the likely implications of the Business and Planning Act 2020 following receipt of Royal Assent and to seek a delegation of powers to enable the licensing provisions contained within the Act to be implemented.

Portfolio: Leader

Date signed off: 2 July 2020

Wards Affected: All

Recommendation

The Executive is asked to RESOLVE that

- (i) authority be delegated to the Executive Head of Community to determine any application for a pavement licence made in accordance with the Business and Planning Act 2020;
- (ii) authority be delegated to the Executive Heads of Community, Regulatory and Transformation with regards to the remaining licensing provisions in the Act, including enforcement;
- (iii) the Executive Head of Business be authorised to determine any appeals made against the decisions made at recommendation (i) above;
- (iv) The fee for the Pavement Licence be set at £100.
- (v) the Guidance to Businesses, attached at Annex A, be noted.

1. Background

- 1.1 The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.
- 1.2 On 25 June 2020, The Government announced relaxations to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown. The Business and Planning Act 2020 (The Act) proposes to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

- 1.3 For the hospitality industry these measures will provide some much-needed flexibility as they seek to reopen fully under social distancing requirements from 4 July 2020.
- 1.4 The Bill received its third reading in the House of Commons on 29th June 2020 and is currently progressing through the House of Lords before it receives Royal Assent.

2. Licensing Provisions in the Business and Planning Bill

- 2.1 The Bill sets out two significant changes to licensable activities:
 - i. It transfers authority to grant pavement licences from the Highways authority to the Borough Council and reduces the timescales for the approval of any applications. It is proposed that these arrangements will come to an end in September 2021 unless extended.
 - ii. It modifies provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales.

Pavement Licences

- 2.2 Currently, permission for businesses to place tables and chairs outside their premises on the public highway is granted by Surrey County Council, in its capacity as the Highways Authority. This takes the form of a permit ('pavement licence') issued under Part 7A of the Highways Act 1980. The fee for a 'Pavement Licence' varies between local authorities and there is a time consuming 28 day consultation period that must be adhered to before a decision can be made on whether or not to grant a licence.
- 2.3 The Act introduces a new, temporary, fast-track process for these businesses to obtain permission, in the form of a "pavement licence", from Surrey Heath Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premises which will enable them to maximise their capacity whilst still adhering to social distancing guidelines.

Application Process

- 2.4 Under the Act, an application for a Pavement Licence must be made in writing in a form specified by the local authority and must:
 - i. specify the premises, the part of the relevant highway and the purpose or purposes specified below to which the application relates:
 - a) use of the furniture by the licence-holder to sell or serve food or drink supplied from, or in connection with relevant use of, the premises;
 - b) use of the furniture by other persons for the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises.

- ii. specify the days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- iii. describe the type of furniture to which the application relates,
- iv. specify the date on which the application is made,
- v. contain or be accompanied by such evidence of public liability insurance in respect of anything to be done by the licence-holder pursuant to the licence as the authority may require, and
- vi. contain or be accompanied by such other information or material as the local authority may require.

A draft of the proposed application form is attached to this report as Annex B.

- 2.5 To ensure that businesses can obtain Pavement Licences in a timely and cost effective (for the business) manner aiding to their financial recovery, the Act places an onus on the local authority to determine the application within 14 days which must begin with the day after that on which the application is made
- 2.6 It should be noted that, an application for a Pavement Licence is deemed to have been made on the day it is sent to the local authority by the applicant.

Public Consultation on an Application

- 2.7 Within this determination period of 14 days, provision must be made for a public consultation period of 7 days, which must begin with the day after that on which the application is made.
- 2.8 On receipt of an application the Council must:
- i. Publish the application and any material requested as part of the application
 - ii. Publicise the fact that representations relating to the application may be made to the authority during the public consultation period (indicating when this period comes to an end)
- 2.9 It is proposed that the Council will publish applications on our website with information on how to make representations.
- 2.10 Under the terms of the Act, the applicant must:
- i. On the day that the application is made fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and
 - ii. Secure the Notice so that it remains in place until the end of the public consultation period.

2.11 The Notice must:

- i. be in a form specified by the local authority
- ii. state that an application has been made, the date on which it was made and the date that the public consultation period will end.
- iii. State that representations relating to the application may be made to the local authority during the consultation period and
- iv. Contain any other information or material as the local authority may require.

Determination of Applications

2.12 When determining an application, the local authority must:

- i. Take into account any representations received during the public consultation period
- ii. Consult the relevant highway authority
- iii. Consult any other persons that are considered appropriate.

2.13 In making its decision, the local authority can either grant a pavement licence or chose to reject the application. If a decision is made to grant the licence then the licence can be granted subject to a) any or all of the purposes in relation to which the application is made; (b) some or all of the part of the relevant highway specified in the application

2.14 The local authority can grant a licence subject to such conditions as it considers reasonable and a proposed set of standard licensing conditions are set out in the draft policy attached as annex A to this report.

2.15 It should be noted that if the local authority does not make a decision on an application by the end of the 14 day determination period outlined at paragraph 2.5 above then the licence for which the application was made is deemed, under the Act, to be granted.

Duration of Licence

2.16 The Bill states that a pavement licence may be granted by a local authority for:

- (a) For such period as the local authority may specify in the licence, or
- (b) With no limit on its duration, in which case it expires at the end of 30 September 2021.

If a decision is made to specify a shorter time period as set out at paragraph 2.16(a) above the period specified:

- a) May not be less than three months, and
- b) May not extend beyond 30 September 2021

- 2.17 Where a pavement licence has been deemed to be granted as per paragraph 2.15 above then the licence will last for a period of one year starting with the first day after the determination period or at the end of 30 September 2021 whichever comes sooner.

Cost of Licence

- 2.18 Although it is envisaged that the resources required to process an application is likely to cost in excess of £100 the maximum licence fee allowed under the Act is £100. It is therefore proposed that the licence fee be set at £100.

Right of Appeal

- 2.19 The Act makes no provisions to enable businesses to appeal against a decision not to grant a Pavement Licence. Notwithstanding this, it is considered that to not have an appeal process would go against the tenets of natural justice.
- 2.20 Appeals under the Licensing Act 2003 are currently heard by a three member sub-committee of the Licensing Committee. In view of the tight 10 working day deadline that the Government has set for determination of applications this approach is considered unnecessarily cumbersome and would take up valuable time in the process. It is therefore proposed that any appeals against a decision should be dealt with in the same way as other complaints namely through an appeal to the Executive Head of Business.

Enforcement

- 2.21 There are enforcement powers contained in the Bill to enable the Authority to attach conditions, and revoke licences for breaches of conditions, or if the highway is no longer suitable for this use. It is anticipated that there would be some enforcement required as businesses seek to adjust to the new regime. It is proposed that these enforcement powers be delegated to the appropriate sections of the Council including, but not limited to, Environmental Health, Community development (Anti-Social Behaviour) and Corporate Enforcement etc.

Automatic 'off sales' entitlement

- 2.22 Under the Licensing Act 2003, premises are licensed for the sale of alcohol for consumption either 'on' the premises, 'off' the premises or both. The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. This is a temporary measure to boost the economy, with provisions lasting until the end of September 2021.
- 2.23 The measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption 'off' the premises without making an application or paying a fee. This will allow businesses to trade

whilst keeping social distancing measures in place inside. A more detailed briefing on this aspect of the Bill will be circulated separately to members.

3. Delegated Authorisation

- 3.1 The announcement of a new pavement licence administered by borough and district councils and not the Highways Authority will require that Borough Councils will need to be ready to accept, consult on and determine these applications from a date yet to be announced, but was expected to be before this report was considered by the Executive.
- 3.2 To ensure that the Council was best placed to react appropriately to the introduction of these changes an Urgent Action was agreed on XXX so that the proposed recommendations could be enacted in advance of the Act becoming law. A copy of this Urgent Action is attached at Annex C.
- 3.3 The introduction of automatic 'off sales' entitlement is a modification of the Licensing Act 2003 and under the Council's Constitution the Executive Head: Community has delegated authority to make decisions in relation to the Licensing Act 2003 and any subsequent legislation that affects it.

4. Resource Implications

- 4.1 The Licensing Service is currently working to be ready for the commencement of the Act as part of the wider work to be ready for the reopening of the licensed trade as lockdown restrictions are eased.
- 4.2 The introduction of the new 'pavement licence' administered by Surrey Heath Borough Council however will require the Council to divert significant officer resources into setting up and administering this regime. A draft Guidance note for businesses has been compiled and is attached as Annex A. Officers are working to set up application and consultation procedures.
- 4.3 No other immediate action is required to allow premises to undertake 'off sales, this is an automatic entitlement and the Council does not have to issue another licence.

5. Options

- 5.1 The Council is required to determine applications made in accordance with this Act so there are no substantial alternative options for the Executive to make, although alternative decisions could be taken on the decision maker and the level of fee charged.

Annexes	Annex A – Guidance for Businesses Annex B – Draft Application form Annex C – Urgent Action
Background Papers	Business and Planning Bill 2019-2021 https://services.parliament.uk/Bills/2019-21/businessandplanning/documents.html
Author/Contact Details	Paula Barnshaw, Licensing Administrator Paula.barnshaw@surreyheath.gov.uk
Head of Service	Tim Pashen – Executive Head of Community

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Guidance for Businesses

Business and Planning Act 2020 Pavement Licences

Effective: (date)
Version 1 – First Guidance Draft
June 2020

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1. Introduction

The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.

As the economy starts to re-open, on 25 June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way.

The Business and Planning Act 2020 (the Act) makes it easier for premises serving food and drink such as bars, restaurants and pubs, as lockdown restrictions are lifted but social distancing guidelines remain in place to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

The Act also introduces a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from Surrey Heath Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premises which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

Currently, tables and chairs permissions are granted as Pavement licences by Surrey County Council, the Highways Authority, under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28 day consultation period.

The new temporary measure places a cap on the application fee for businesses, and introduces a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost effective manner aiding their financial recovery.

2. Scope

2.1 Definition of a Pavement Licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

2.3 Eligible Locations

Licences can only be granted in respect of highways listed in section 115A (1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

2.3 Type of furniture permitted by a Pavement Licence

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable and easily cleansed, which in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

2.4 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee of £100, paid by credit or debit card
- a plan showing the location of the premises defined by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence (for e.g. 3 months, 6 months, or a year);
- evidence of the right to occupy the premises (e.g. the lease);

- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

3.2 Fees

The fee for applying for a licence under the new process are set locally, but are capped at £100. The Council has determined that the fee for applications will be £100.

3.3 Consultation

Applications are consulted upon for 7 days, starting with the day after the day on which a valid application has been made to the Council.

The Council will publish details of the application on its website at www.surreyheath.gov.uk/publicnotice

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:

- Surrey Heath Borough Council Environmental Health Service
- Surrey Heath Borough Council Planning
- Surrey Fire & Rescue Service
- Surrey Police
- The appropriate Local Ward Councillor(s)
- The appropriate Parish or Town Council

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the site notice requirement must be supplied to the Council.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;

- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (5 working days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that premises conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
 - the impact on any neighbouring premises
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people and
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

3.6 Determination

Once the application is submitted the Council has 14 days from the day after the application is made (excluding public holidays) to consult on, and determine the application. This consists of 7 days for public consultation, and then 7 to consider and determine the application after the consultation. In real terms this means that we have 10 working days to determine the application.

If the local authority determines the application before the end of the determination period the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,

- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

If the local authority does not determine the application within the 14 day period, the application will be deemed to have been granted.

3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Café Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Café Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Café's between 09:00 and 21:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

3.8 Licence Duration

The Council may determine an application before the end of the determination period (which is 7 days, beginning with the first day after the public consultation period, excluding public holidays) it may specify the duration of the licence, subject to a minimum duration of 3 months.

The expectation from the Government is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. As such, the Council will normally grant applications until 30 September 2021.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a year.

A licence granted or deemed to be granted will not be valid beyond 30 September 2021.

3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Café, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

Although there is no statutory appeal process against decision to refuse an application there will be informal arrangements in place that will allow businesses to seek a review of decisions to refuse a licence.

4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

However, this is not the case for the statutory no-obstruction condition which is as applies to all Licences. The National 'no obstruction conditions is shown in Appendix 3.

5. Enforcement

The Council aims to work closely with businesses to encourage and ensure that they are able to comply with the conditions of Pavement licences.

However where appropriate we will work with other enforcement authorities to ensure that the requirements of all relevant legislation are met. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a Pavement Licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to applying.

If a condition imposed on a licence either by the Council or via a National Condition is breached the Council will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs.

The authority may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
 - There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
 - the highway is being obstructed (other than by anything permitted by the licence);
 - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
 - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
 - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

6. Review Procedures

This guidance note covers the issuing of Pavement Licences under the Business and Planning Act 2020. These arrangements are scheduled to expire on 30 September 2021.

This guidance will be reviewed from time to time should changes occur in any of the following- relevant legislation, the nature of Pavement Licences generally, social distancing measures or as a result of local considerations within Surrey Heath.

For further information or guidance please contact Paula Barnshaw, Licensing Administrative Officer.

Tel No: 01276 707625

Paula.barnshaw@surreyheath.gov.uk

Site Notice Template for display by an applicant for a Pavement Licence.

[Section x] of the Business and Planning Act 2020.

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to Surrey Heath Borough Council for a 'Pavement Licence' at:

(postal address of premises)

known as

(name premises known by)

The application is for:

(brief description of application (e.g. outdoor seating to the front of the premises for serving of food and drink))

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

Environmental Health
Surrey Heath Borough Council
Surrey Heath House
Knoll Road
Camberley
GU14 3HD
Licensing@surreyheath.gov.uk

by: *(last date for representations being the date 5 working days after the date the application is submitted to the local authority (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at: <https://www.surreyheath.gov.uk/council/public-notice>

Signed

Dated *(date the notice was placed which must be the same date as the date of application)*

Standard Pavement Licence Conditions

1. The granting of a Pavement Licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Surrey Heath Borough Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc., or any other reasonable cause. This may mean that the area where a pavement licence operates will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. Surrey Heath Borough Council requires evidence that the licence holder has Public Liability Insurance for the operation of the Pavement Licence. This must indemnify Surrey Heath Borough Council and Surrey County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.
3. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must securely stowed inside a premises away from the highway.
4. Surrey Heath Borough Council and/or Surrey County Council are empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for its safekeeping.
5. The licence holder is not to make or cause to be made any claim to Surrey Heath Borough Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
6. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
7. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Department. Whatever method is agreed a 2 metre clear walkway must be maintained for the use of pedestrians.
8. Emergency routes to the premises and adjacent buildings must not be obstructed by the Pavement Café, which should not, in normal circumstances, extend beyond the width of the premises frontage.
9. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council. Patio heaters must not be used.

10. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.
11. The licensee should ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.
12. The operation of the area must not interfere with highway drainage arrangements.
13. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc.) be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the Facility, for a distance of up to 10 metres from the boundary of the Facility. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc., will be recovered in full from the licence holder by Surrey Heath Borough Council or the Highway Authority.
16. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within licensed area.
17. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the Facility outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café.
19. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.
20. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
21. Surrey Heath Borough Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.

National Conditions

The Secretary of State publishes this condition in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

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BUSINESS AND PLANNING ACT 2020

APPLICATION FOR THE GRANT OF A PAVEMENT LICENCE

APPLICANT DETAILS		
Title:	First name(s):	Surname:
Postal Address:		
Post Town:	Post Code:	
Phone (Home):	Phone (Mobile):	
e-mail address:		
Date of Birth:	NI number:	

BUSINESS PREMISES DETAILS	
Trading Name:	
Postal Address:	
Which of the following is the above premises used for? (please tick one of the following options)	
Use as a public house, wine bar or other drinking establishment	
Other use for the sale of food or drink for consumption on or off the premises	
Both of the above uses	

AREA OF HIGHWAY PROPOSED TO BE USED

Please provide a description of the area of the highway to which this application relates:
(Please note you are required to submit a scale plan of this area with your application)

RELEVANT PURPOSE THE APPLICATION RELATES TO:

Which of the following relevant purposes do you wish to put furniture on the highway for?
(please tick one of the following options)

To sell or serve food or drink supplied from, or in connection with relevant use of, the premises	
For the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises	
Both of the above purposes	

DAYS AND TIMES

During what times do you propose to place furniture on the highway on each of the following days:
Please use the 24hr clock.

Mondays	to	Fridays	to
Tuesdays	to	Saturdays	to
Wednesdays	to	Sundays	to
Thursdays	to		

FURNITURE TO BE PLACED ON THE HIGHWAY

Please provide a description of the furniture you propose to place on the highway
(Please note you are required to provide photographs or brochures of the proposed furniture with your application)

DATE OF APPLICATION

Please state the date that this application for a Pavement Licence is being submitted

DECLARATIONS BY APPLICANT

I understand that I am required to give notice of my application in accordance with the requirements of the Business and Planning Act 2020 and that failing to do so will lead to the revocation of any licence granted.
I understand I must hold and maintain public liability insurance up to a value of £5million.
I understand my application will not be considered to be complete until all the required documents and information have been provided and the application fee of £100 has been paid.
I understand that the application fee paid is non-refundable if my application is refused or if any licence granted is subsequently surrendered or revoked.
I understand that the Authority is under a duty to protect the public funds it administers, and to this end may use the information I have provided on this form for the prevention and detection of fraud. I understand that it may also share this information with other bodies responsible for auditing or administering public funds for these purposes.
I declare that the information given above is true to the best of my knowledge and that I have not wilfully omitted any necessary material. I understand that if there are any wilful omissions, or incorrect statements made, my application may be refused without further consideration or, if a licence has been issued, it may be liable to revocation.
I understand that the Authority is collecting my data for the purposes described on this form and will not be used for any other purpose, or passed on to any other body, except as required by law, without my consent.

Signature:

Print Name:

Date:

Please return this form with all relevant documents and proof that the application fee has been paid to:

Licensing@surreyheath.gov.uk

GUIDANCE NOTES

What should accompany the form plan, images of proposed furniture, public liability insurance certificate.



Surrey Heath Borough Council Scheme of Delegation of Functions to Officers

Urgent Action Form – Executive Function

Consultation by Chief Executive or Executive Head of Service or Head of Service involved with relevant Portfolio Holder or Leader of the Council and Chairman (or Vice Chairman) of the relevant Scrutiny Committee

To Councillor	Alan McClafferty
Portfolio Holder for	Leader
Proposal	<p>It is proposed to authorise the Executive Head of Community to:</p> <ol style="list-style-type: none"> i. Determine applications for Pavement Licences under the Business and Planning Bill 2019-2021 when it receives Royal Assent. ii. Charge a fee of £100 per application to cover the cost of any administration arising from an applications for a Pavement Licence. <p>This urgent action is seeking a temporary delegation until such time as the Executive can consider a full report on the matter. It is scheduled to go to the Executive for decision on 21st July 2020.</p>
Background	<p>The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.</p> <p>On 25 June 2020, The Government announced relaxations to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown. The Business and Planning Bill 2019-21 (proposed to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.</p> <p>For the hospitality industry these measures will provide some much-needed flexibility as they seek to reopen fully under social distancing requirements from 4 July 2020. The Act received its third reading in the House of Commons on 29th June 2020 and is scheduled to be heard by the House of Lords on 6th July 2020.</p> <p>Currently, permission for businesses to place tables and chairs outside their premises on the public highway is granted by Surrey County Council, in its capacity as the Highways Authority, in the form of a Pavement Licences by Surrey County Council under Part 7A of the Highways Act 1980. The fee for a Pavement Licence varies between local authorities and there is a time consuming 28 day consultation period that must be adhered to before a decision is can be made on whether or not to grant a licence.</p> <p>The Bill introduces a new, temporary, fast-track process for these</p>

	businesses to obtain permission, in the form of a “pavement licence”, from Surrey Heath Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premises which will enable them to maximise their capacity whilst still adhering to social distancing guidelines. The Bill transfers authority to grant pavement licences from the Highways authority to the Borough Council and reduces the timescales for the approval of any applications to 14 days. Consequently, procedures need to be put in place to determine any applications for a Pavement Licence before a decision can be made by the Executive.
Options	A procedure needs to be put in place to administer the process in the short term until such time as an Executive decision can be made. In the short term there are no substantial alternative options although a view could be taken on the decision maker and the level of fee charged.
Risk of delaying the decision	Failing to fulfil a statutory duty and possible negative impact on local businesses.
Legal advice	The authority to make this decision is provided by paragraph 4 of section B of Part 3 of the Council’s Constitution (Responsibilities for Functions)
Resource implication	The proposed fee is in line with regulations and would be used to cover officer time.
Contact Officer for further information	Paula Barnshaw Licensing Administrator Paula.barnshaw@surreyheath.gov.uk
Decision Maker	Tim Pashen Executive Head: Community

Signed

Dated

Name: *Tim Pashen*

I agree with the above action proposed

Signed

Dated

Portfolio Holder for Leader

On behalf of the Scrutiny Committee, I agree with the above action proposed. I recognise that if this decision is taken by the appropriate officer as a matter of urgency, there will be no opportunity for the decision to be scrutinised by the Scrutiny Committee before its implementation.

Signed

Dated

Chairman/Vice Chairman of Performance & Finance Scrutiny Committee

End of Year Performance Report 2019/20

Summary:

This Report summarises the performance of the Council in 2019/20 against the corporate objectives, priorities and success measures set out in the Annual Plan.

Portfolio: Leader

Date Portfolio Holder signed off report: 2 July 2020

Wards Affected: All

Recommendation

The Executive is asked to note the 2019/20 End of Year Report.

1. Key Issues

- 1.1 The Annual Plan 2019/20 was agreed by the Executive on 19 March 2019, and set out the key targets, projects and success measures for the year, under the Five Year Strategy themes of Place, Prosperity, People and Performance.
- 1.2 The attached report at Annex A summarises the Council's performance and achievements against these targets between April 2019 and March 2020.
- 1.3 This report was discussed by the Performance & Finance Scrutiny Committee at its meeting on 1 July 2020. At the meeting a number of questions were asked and answers given on topics including the London Road project, the former BHS store, Housing Benefit claims, the Local Plan, assets and investments, the SHAPE programme and 'Land East of Knoll Road' project, the vision for the Town Centre, Gypsy and Traveller transit sites, Air Quality and Climate Change targets. The Committee did not submit any specific recommendations in respect of the report to the Executive.

2. Resource Implications

- 2.1 There are no resource implications arising from this report.

3. Proposals

- 3.1 The Executive is asked to note the attached Year Report 2019/20.

Annexes	Annex A – End of Year Performance Report – 2019/20
Background Papers	Annual Plan 2019/20 Five Year Strategy
Author/Contact Details	Sarah Bainbridge - Senior Organisational Development Advisor sarah.bainbridge@surreyheath.gov.uk
Head of Service	Louise Livingston – Executive Head of Transformation

ANNUAL PLAN 2019/20 - END OF YEAR UPDATE

Place

Target/project	Year End Actual Status	Update / comments
Develop a new Local Plan to guide development in the Borough and address Housing need. Consult with the public, businesses and partners on the draft local plan in January and February 2020.	DELAY	<p>A number of evidence base studies have been produced and updated to inform development options for the draft Local Plan, including the Strategic Land Availability Assessment published in 2019. These studies will ensure the draft Local Plan is based on the most up-to-date and robust information.</p> <p>Public Consultation on the Draft Policies Regulation 18 Local Plan has been delayed for several reasons, including the difficulty in identifying sufficient suitable land for future development.</p>
Reduce our environmental impact by ending the sale and provision of single-use plastics across our estate and operations wherever possible.	ONGOING	<p>The Council has adopted a "Single Use Plastics" Strategy. Actions undertaken include removing single use plastics from Council Chamber and a change to compostable 'veg-ware' for cups, lids and stirrers at the Theatre since Summer 2018. The Theatre has also introduced reusable cups for cold drinks.</p> <p>In the town centre, we have free water replenishment points. Re-useable water bottles were offered at town centre events.</p>
Monitor and manage the new Grounds Maintenance Contract for the Borough to deliver a consistent, flexible and responsive service. Monitor key performance indicators with the contractor on a monthly basis.	AT RISK	<p>The Council's current grounds maintenance contractor, Sodexo Ltd, who were awarded the contract in February 2019, advised that they were unwilling to continue to deliver the contract for the full term. As such, Surrey Heath Borough Council is re-tendering this contract in accordance with the Council's Standing Orders and a recommendation is expected to be brought forward in July 2020.</p> <p>During the course of this process there has been no drop in service and no financial impact, so although shown as 'At Risk' this has been</p>

Target/project	Year End Actual Status	Update / comments
		well mitigated.
Work towards the construction of a new Leisure Centre to deliver a modern and efficient community facility to promote improved wellbeing and healthy lifestyles, with a planning application submitted during 2019.	ON TRACK	The new contract commenced in April 2019. The Arena closed at the end of August 2019 and was demolished. Planning permission for the replacement leisure centre was granted in August 2019. A ground-breaking ceremony for the new centre was held in December 2019. A number of The Arena fitness classes relocated to the Theatre during the building of the new centre (prior to the Theatre's closure due to the Covid-19 outbreak). The programme featured 30 weekly classes including group cycling, Pilates and HIIT. The new centre is on track to open in 2021.
Refurbish play areas across the Borough including at Frimley Lodge Park, Lightwater Country Park and the Old Dean.	Frimley & Lightwater – COMPLETE Old Dean – ON TRACK at year end but likely delay due to Covid-19 outbreak	The new £150k Frimley Lodge Park play-ground opened on 18 July 2019 in time for the school summer holidays. The new £80k Lightwater Country Park playground opened on 8 November 2019. The new play area designs were developed through public consultations involving park users, local schools and residents, and chosen via a public vote. Following public consultation, the design for the new Old Dean playground was revealed in March 2020. Work was due to commence in April 2020 with a target finish date of June, but was reviewed in light of the Covid-19 outbreak. The Borough's play areas were closed on 24 March in light of Government advice on social distancing.
Create vibrant and high quality public spaces by starting work on enhancements in the High Street, Princess Way and Pembroke Broadway. Main construction works will start in July 2019 with a view to completing enhancements by the end of 2021.	ON TRACK	The works started on 6 January 2020. The reschedule was due to a delay in the delivery of materials. The project was also delayed by about five weeks due to problems with statutory services. Covid-19 has since impacted on timescale as the number of workers they can have on site has reduced given proximity to the general public and distancing between workers within the site area. Despite these delays the expected completion of the enhancements is

Target/project	Year End Actual Status	Update / comments
		on target.
Finalise contractual discussions with the developer by September 2019 for the regeneration for the London Road Development Site (along the A30 between Park Street and High Street). Aim for a planning application to be submitted by March 2020 to deliver a mixed-use site.	DELAY	Meetings have been held with tenants and interested parties to keep them updated on progress and transition arrangements. Negotiations with the developer were underway at the end of March and have since been delayed due to the Covid Crisis. This means the planning application has not been submitted.
Complete capital works to the vacant unit (formerly BHS) in Camberley by September 2019 to allow it to be re-let.	DELAY	A public consultation on the future uses of the building took place Summer 2019. Berkley Homes handed the unit back to SHBC on 1 November and an option paper was reported to the Executive in February 2020. Agents have been appointed to market the property to prospective tenants. Different options are being developed and works are on hold until a business case for the future of the unit is developed and agreed.
Promote high quality town centre events for the benefit and enjoyment of all, including the Camberley International Festival, Camberley Carnival and Christmas events. Attract visitors and income to Camberley and increase community engagement.	COMPLETE	The third Film and Animation Festival took place on 7 March 2019. The first Camberley Comedy Festival took place on 11 May 2019, and following its popularity will be repeated May 2020. The Camberley Carnival took place on 22 June 2019. 17 parade entries containing 441 entrants who took part in the parade. An estimated 1500 people watched the parade. The first Camberley Food Festival took place 7 to 9 November 2019 and a Ballroom Dance event happened in The Square on 9 November. The Camberley Christmas Street Party was on 30 November 2019 and Christmas concerts took place on 6 & 7 December.
We will work with partners to assist our vibrant villages looking for every opportunity to help them evolve and add to the community they serve.	ON TRACK	A cross-party Villages Member Working Group was set up and an initial workshop session held 8 October to identify potential challenges, aspirations and work-streams. Further meetings agreed potential projects which are were being explored.

Prosperity

Target/project	Year End Actual Status	Update / comments
Identify projects that will deliver appropriate construction-led growth across the Borough by making the best use of our assets. Prepare a business case by June 2019 for setting up a Development Company.	NOT PROGRESSSED	Feasibility studies undertaken to identify which assets have potential for construction-led growth. Options for Development Company reviewed by the Corporate Management Team but not currently being pursued.
Continue to invest in sound property acquisitions to sustain the local economy and Council services as opportunities arise during the year.	ON-GOING	The Council continues to be active in the market, assessing property investment opportunities as they arise. 27 potential acquisitions were considered in 2019/20 but nothing was purchased. The Treasury Strategy for 19/20 was agreed by the Executive in February 2019.
Support the 'SHAPE' programme of 31 projects across Surrey. This involves using Government funding and working in partnership to deliver housing using already developed publicly owned land.	AT RISK	One Public Estate sustainable loan funding was secured for a number of projects under the SHAPE programme. Discussions are underway with Surrey County Council over the future of the SHAPE programme.
Help businesses across the whole of Surrey Heath to grow and expand ensuring that every opportunity is made to make connections right across the Borough from village to town and beyond. Review and relaunch the KC Shop Front Improvement fund by June 2019 to meet a wider business need.	ON-GOING	The KC Shop Front Improvement fund review was completed. The shop front improvement fund has now been closed to new applicants. Following the COVID-19 Pandemic, a proposal is being developed to re-allocate the funding to wider Economic Development and Recovery projects. The Economic Development team is working with the EM3 Local Enterprise Partnership (LEP) and Department for International Trade (DIT), Business South, Surrey Chambers of Commerce, Surrey County Council and others' to support the changes impacting on businesses as a result of both Brexit and the COVID-19 outbreak.

Target/project	Year End Actual Status	Update / comments
Introduce a Corporate Social Responsibility project by Autumn 2019 across Surrey Heath to benefit the community and local business.	ON TRACK	The Council is working to deliver this with the Community Matters Partnership Project (CMPP); a Farnborough charity that runs corporate social responsibility schemes for business to support communities and schools. This will be available from July 2020 to Council Staff and Borough businesses. Surrey Heath businesses are already able to apply, and the Economic Development team will ensure the Surrey Heath communities and organisations can benefit from the programmes.
Develop detailed proposals for land east of Knoll Road, Camberley, and proposals for office accommodation relocation and a community hub.	ON HOLD / AT RISK	The Council has secured sustainable loan funding from OPE (One Public Estate). Feasibility plans are being considered linked to wider Town Centre projects. This project is linked to the outcomes of discussions regarding the future of the SHAPE programme so is currently on hold.
Open a Log In café / co-working facility by March 2020 to support agile working.	DELAY	This project will now be subject to a review to assess the need. On hold until further notice.

People

Target/project	Year End Actual Status	Update / comments
Move towards a sustainable future for our community services in light of funding reductions and increased need in our population by working in partnership with others.	ON TRACK	Surrey Heath and Runnymede Borough Councils have worked in partnership to deliver services to older and vulnerable residents in both boroughs. A number of benefits have been achieved including <ol style="list-style-type: none"> 1) Extending the range of technology for helping people to remain safe in their homes 2) Increasing the number of community alarm customers by 33% between 2015 and 2019 3) Increasing the number of meals at home customers by 36% between 2015 and 2019 4) Launched "Home safe" at both Frimley Park Hospital and
Support older and vulnerable people to remain independent in their homes by operating services such as Meals at Home, Community Transport,		

Target/project	Year End Actual Status	Update / comments
Community Alarm & Telecare and our Windle Valley Centre in Bagshot.		<p>Farnham Hospitals to allow older patients to be discharged to a “safe” home and prevent bed blocking.</p> <p>The Council is reviewing a number of commercial opportunities which will raise additional income and sustain and improve the service.</p>
Work with Frimley Park Hospital and other partners to prevent unnecessary hospital admissions and facilitate timely discharges.	ON HOLD – awaiting tender	<p>Adult Social Care set up a ‘Surrey Heath’ ward at the hospital as a pilot to support timely discharges and SHBC are providing Homesafe Plus and a hospital discharge transport service as part of the pilot. The ‘Home from Hospital’ contract in Frimley Park hospital was put out to tender in February, but then withdrawn due to the Covid-19 crisis.</p> <p>Discussions are ongoing regarding funding for a Frimley-Park Hospital-wide roll out of Homesafe Plus but currently on hold due to current situation.</p>
Work with partners to improve air quality along the A331 (Blackwater Relief Road) to respond to a Government directive.	COMPLETE	The implementation of a 50 mph speed limit on A331 Blackwater Relief Road was achieved in summer 2019 ahead of schedule. The monitoring of air quality improvements is ongoing.
Continue to work with statutory and voluntary sector partners to support people in Surrey Heath to improve their health and wellbeing and reduce feelings of loneliness and social isolation through the established social prescribing service, especially in rural areas.	COMPLETE	<p>Funding for the service was approved for a further 12 months and discussions about longer term funding are underway. Surrey Heath Federation of GPs have secured funding from NHS England for two Social Prescriber posts (bringing total across Surrey Heath to 5) which are hosted and managed by the Council.</p> <p>Across the year, 790 referrals were received. There were 430 wellbeing surveys completed. This measures the changes in an individual’s wellbeing following the intervention. All surveys demonstrated a positive improvement.</p>
Use our assets such as Camberley Theatre and our parks to hold a range of		The Surrey Heath Show was held 18 May 2019 with an estimated attendance of around 7,000. Almost £3,000 surplus was raised to be

Target/project	Year End Actual Status	Update / comments
community, cultural and sporting events for people living in and visiting the Borough, including Theatre in the Park, Frimley Lodge Live, GoTri and the Surrey Heath show.	COMPLETE	<p>awarded to local good causes.</p> <p>A Treasure Island Panto in the Park was held on 6 July with over 100 attendees.</p> <p>The second Camberley Beer Festival was held 26 – 27 July, exceeding the target of breaking even in year 2 and generating surplus of over £3, 000.</p> <p>Frimley Lodge Live was held 3 & 4 August sold 2,948 tickets across the 2 day event.</p> <p>The Council was planning a 'Duathlon' format (cycle and running) for the GoTri event in March 2020 but this was cancelled due to the Covid-19 crisis.</p>
Continue to prevent homelessness and support those at risk of losing their home through our private sector access scheme, Rent Choice. Work in partnership and commission services that meet local needs of our community such as the Hope Hub.	ON TRACK	<p>The Homelessness and Rough sleeping strategy 2019/23 was agreed by the Executive on 16 July 2019.</p> <p>There has been a 200% increase in homelessness applications since the introduction of the Homelessness Reduction Act. The Housing Team continue to work to prevent homelessness in partnership with organisations such as the Hope Hub. 91 cases of homelessness were prevented in 2019/20.</p> <p>A successful bid was been made for Government funding from the Rough Sleeper Initiative to support single homeless people in the Borough and a suitable purchase property was identified.</p>
Establish a Handyperson service in Surrey Heath, undertaking minor jobs, aids and adaptations to residents in need of support from April 2019.	COMPLETE	<p>It has been confirmed that the Handyperson service will be funded from the Better Care Fund. This service is delivered in partnership with Woking Borough Council.</p> <p>There was a 'soft launch' of the service in January – particularly supporting Adult Social Care and Frimley Park Hospital with a key aim of supporting hospital discharges and other community services that make referrals.</p>

Performance

Target/project	Year End Actual Status	Update / comments
Work effectively and efficiently in partnership to improve our joint waste collection service, reduce waste, increase recycling, reducing contamination and reduce waste management costs. Agree proposals for improving recycling facilities in blocks of flats in summer 2019.	ON TRACK	The restructure of the Joint Waste Solutions team is completed and now fully staffed. Confirmed figure of 61.9% of household waste recycled in 2018/19 up from 61.4% in 2017/18. Funding was identified by the Surrey Environment Partnership for improvement work at flats. Match funding from SHBC to be considered in light of Covid-19. Trialling of food waste collections in nominated blocks of flats. Talks undertaken to community groups about recycling and improving rates. Contract-wide contamination improvement project took place including communications campaigns.
Deliver full Borough elections in May 2019.	COMPLETE	Borough elections held 2 May 2019 and European elections held 23 May 2019. General Parliamentary elections held 12 December 2019.
Enhance digital access to services to improve the customer experience and by encouraging self-service and making them more accessible. Communicate the range of ways that people can access our services efficiently in ways to meet their needs.	ON-GOING	Uniform (a new system covering a range of Council services including Planning, Land Charges, Enforcement and Environmental Health) is in the process of being rolled out. The Planning element, including a new public access self-service portal went live in October 2019. This includes the potential for the public to sign up for an alert system, e.g. for new planning applications. Recently rolled out internal tools including 'Box' document management, 8x8 phone system and new hardware all increase agile working possibilities for staff to improve service delivery.
Continue to work collaboratively with other partners to minimise the impact of funding challenges on services for people who live and work in Surrey Heath.	ON-GOING	There is on-going collaboration via the Surrey Chief Executives Group and other Surrey networks. On-going partnerships with other Surrey Authorities increase resilience and lower costs for example the Joint Waste Solutions Partnership, shared Family Support Team and Community Services partnership.
Take an active part in discussions about		The Council continues to respond to consultations as they are

<p>the transformation of public services in the Borough and respond to consultation that affect Surrey Heath residents.</p>	<p>ON-GOING</p>	<p>received, for example the recent Fire Service Consultation, Heathrow Consultation and The Southampton to London Pipeline Project.</p> <p>The Surrey Heath Partnership continues to meet on a quarterly basis including representatives from the public, private, voluntary and community sectors. The 2019/20 Surrey Heath Community Safety Partnership Plan includes targets under the headings of Safeguarding & Health, Business, Crime and Shared Policies & Procedures.</p>
<p>Relocate the Citizens Advice Surrey Heath (CASH) into Surrey Heath House in April 2019 and the Hope Hub into the former CAB building in May 2019.</p>	<p>COMPLETE</p>	<p>CASH relocated to Surrey Heath House in April 2019 and the Hope Hub charity relocated in May 2019. Positive feedback has been received from both partners.</p>

SUCCESS MEASURES 2019/20

PLACE	Target	Quarter 1 Result	Quarter 2 Result	Quarter 3 Result	Quarter 4 Result	Comments
Percentage of household waste being sent for recycling, reuse and composting	63%	62.8%	62.9%	61.9%	63.2%	Q3 & Q4 figures still provisional.
Percentage of food premises that achieve a hygiene rating of 3 stars or above	95%	96.50%	96.73%	96.69%	96.40%	
Percentage of food premises that are inspected within 28 days of being due	100%	93%	97%	90%	89%	

PROSPERITY	Target	Quarter 1 Result	Quarter 2 Result	Quarter 3 Result	Quarter 4 Result	Comments
Non-major planning applications determined within 8 weeks (Government target 70%)	84%	89%	84%	85%	82%	
Major planning applications determined within 13 weeks (Government target 60%)	72%	67%	50%*	70%	71%	

* Two major planning applications issued in quarter 2, with one out of time.

PEOPLE	Target	Quarter 1 Result	Quarter 2 Result	Quarter 3 Result	Quarter 4 Result	Comments
People reached by the Heritage Service	6,500 (Annual target)	2,302	2,285	1,956	1,872	TOTAL – 8,415
Reduction in the percentage of inactive Surrey Heath residents taking part in less than 30 minutes' physical activity a week (according to Sports England 'Active Lives' survey)	23%	22.70% (Nov 17 – Nov 18 data)	21.0% (May 18 – May 19 data)	-	20.30% (Nov 18 –	Sports England's Lives Survey data is published twice a

					Nov 19 data)	year in April and October covering a rolling years' worth of data.
People attending events at Camberley Theatre	55,000 (Annual target)	10,951	9,551	23,276	7,231	Figures don't include fitness classes relocated from Arena. Total for year 51,009. Theatre closed due to Covid-19 on 18 March.
Number of journeys by community bus	24,000 (Annual target)	4,812 (6,082 booked)	4,884 (6,233 booked)	4,895 (6,834 booked)	4,276 (6,203 booked)	
Meals at Home delivered Cancellation must be made by 10am otherwise clients are charged	28,5000	12,284	12,147	12,081	10,094	

PERFORMANCE	Target	Quarter 1 Result	Quarter 2 Result	Quarter 3 Result	Quarter 4 Result	Comments
New housing benefit claims processed within 20 days and changes to benefits within 10 days	20 days (New)	20.0	17.2	17.50	21.00	
	10 days (Changes)	2.6	2.9	2.5	2.1	

Council Tax collected	99.25% (Annual target)	29.12%	27.81% (56.93% year to date)	23.51% (80.44% year to date)	18.66% (99.1% year to date)	
Business Rates collected	99.25% (Annual target)	29.00%	26.49% (55.49% year to date)	29.24% (84.73% year to date)	14.87% (99.6% year to date)	

Council Finances as at 31 March 2020 and Requests for Carry Forward of Unspent Budget to 2020/21

Summary

To provide Executive with a high level view as to the Financial Performance for the year 2019/20.

The Executive is asked to approve the carry forward requests set out at Annex C to this report.

Portfolio - Finance – Cllr Lewis

Date Signed off: 7th July 2020

Wards Affected

All

Recommendation

The Executive is advised to RESOLVE that

- (i) the Financial Performance for the year 2019/20 be noted;
- (ii) the recommendations of the Performance & Finance Scrutiny Committee, as set out at paragraph 5.1 of the report, be considered; and
- (iii) the Carry Forward requests for 2019/20, as set out at Annex C to this report, be agreed.

1. Key Issues

- 1.1 This report covers the entire financial year to the 31st March 2020 and is intended to give members a high level view as to the financial performance of services for the year highlighting significant variances against budget. The variances reported only include controllable costs. Costs relating to asset charges, revaluations and accrued pensions have been excluded since under local authority accounting rules they do not impact the overall financial outturn.
- 1.2 This has been a challenging year with pressure on income, especially parking, and increases in costs due to inflation. Despite that overall the Council has had a successful year with overall expenditure coming in under budget by £180k. . Details are included later in this report.
- 1.3 The unaudited draft financial statements will be published on the Council's website by the new deadline date 31st August 2020. These have been prepared so as to comply with Local Authority accounting requirements and will be audited during October 2020 for final reporting to members by the 30th November 2020.

2. Resource Implications

Revenue Budget

- 2.1 A review of actuals against budget which have generated a variance greater than £25k at the end of the year is shown in the attached annex A. The vast majority of areas have come in under budget although most significant positive variances are either due to grants being received at the end of the year or work being deferred.

Treasury Investments

- 2.2 The Council currently has £13.853m invested in a variety of banks, building societies and funds. This made a return of £206k which was £66k above budget.
- 2.3 A list of investments held at the 31st March 2020 is shown in Annex B.

Borrowing

- 2.4 The Council has borrowed £160m to fund property acquisitions. Based on the advice of our Treasury advisers £56m is made up of longer term loans from the Public Works Loans Board with the remainder being shorter term loans from other local authorities. The Council has entered into an arrangement to forward fix £50m of debt over the years 2020/21 & 2021/22 to minimise the risk of interest rate increases.

3. Debtors

Sundry Debts

- 3.1 Sundry debts include all debts except those relating to housing benefits. At the 31st March 2020 these amounted to £3.794m compared with £5.455m for the same period last year. The reduction of £1.6m relates to a number of different debts like rentals and joint waste service, where invoices were raised in March 2019 before the year end and paid the following month.

Housing Benefit Debts

- 3.2 The Council pays over £15m in Housing Benefit each year, the nature of the Housing Benefit Scheme means that overpayments arise because of changing circumstances of the recipients. These debts have to be recovered. At the 31st March 2020 the accumulated debt was £554k compared with £583k at the end of the last quarter. During the last 3 months £87k was collected and £58k of new debt was raised.

4. Officer Comments

- 4.1 Overall this has been a good year for Surrey Heath with the vast majority of services coming in on or under budget. Services have monitored their spend over the year using the Civica financial system which gives them real time actual and committed expenditure. Although the surpluses in some areas may appear to be large many of these are due to Government grants being received towards the end of the year or fees for large planning applications which will need to be processed in the coming year.

5. Performance & Finance Committee

- 5.1 The Performance & Finance Scrutiny Committee (P&F) considered the financial performance portion of this report on 1st July 2020. P&F recommended that the Executive should consider that the S151 Officer lead the budget setting process following Zero Based Budgeting principles.

6. Options

- 6.1 The Executive is advised to note the report regarding financial performance for the year 2019/20 and agree the carry forward requests.
- 6.2 The Executive has the option to agree the carry forward requests, with or without any amendments it considers appropriate.

7. Proposals

- 7.1 It is proposed that the Executive notes the financial performance for the year 2019-20 and agrees the carry forward requests.

8. Supporting Information

- 8.1 None

9. Corporate Objectives and Key Priorities

- 9.1 This item addresses the Council's Objective of delivering services efficiently, effectively and economically.

10. Risk Management

- 10.1 Regular financial monitoring enables risks to be highlighted at an early stage so that mitigating actions can be taken.

Annexes	Annex A - Summary Information on the Revenue Budget Position at 31st March 2020 Annex B - Investments at 31.03.2020 Annex C - 2019/20 Carry forward Requests
Background Papers	None

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Summary Information on the Revenue Budget Position at 31st March 2020

Most of the revenue accounts have now been closed so the outturn on an individual service level can now be reviewed. The figures provided to services and reported below exclude asset charges as these are not controllable by service managers.

Individual variances increased at year end due to the current service cost element of the annual IAS19 valuation of the pension fund, over which the Council has no control. These costs are not chargeable to General Fund by statute and are managed through statutory reserves.

The tables below list significant variances against budget greater than £25k together with an explanation. “+” denotes favourable and “-“denotes adverse. Although there are a significant number of underspends some of these will be carried forward to next year.

Summary

	Budget £000	Actual £000	Variance £000
Finance	2,069	2,836	767
Transformation	4,214	3,829	(385)
Corporate	1,860	2,022	162
Business	53	1,598	1,545
Regulatory	2,395	1,774	(620)
Legal/Property Management	(1,341)	(4,309)	(2,968)
Investment & Development	(352)	580	932
Community	4,481	4,867	386
	13,379	13,198	(181)

Finance

Budget £ 2,069,220

Actual £ 2,836,178

Function	Variance	Notes
Corporate Management	-£210k	Abortive fees for property transactions
Pension Compensation Payments	-£216k	Payments to compensate the pension fund for early leavers
Accountancy/Transactions	-£174k	Severance payments & increased IAS19 pension costs

Interest received was £66K higher than the budget

Transformation

Budget £ 4,214,176

Actual £ 3,828,976

Function	Variance	Notes
Community development	+£200k	2018/19 carry forward remains unspent
Economic development	+£93k	Kevin Canlton fund underspend due to low take up of grants from the scheme.
Telephones	-£47k	Increased cost and usage of both fixed and mobile phones..
Counter Fraud fund	+£202k	This is the remainder of an anti-fraud grant and a supplementary estimate relating to Swift lane.

Corporate

Budget £ 1,860,205

Actual £ 2,022,487

There were no individual variances of more than £25k

Business

Budget £ 53,045

Actual £ 1,598,229

Function	Variance	Notes
Theatre	-£256k	Although the level of subsidy remains below that in the identified in 2014 business plan. The net revenue from shows fell short of the budget set at the start of the year.
Car Parks	-£664k	Income did not meet target for 19/20 due to a fall in town centre footfall.
Parks and Open Spaces	+£37k	Increased fees and charges income plus a reduction in premises related costs including e.g. grounds & parks maintenance, gas & electric.
Frimley Lodge Park	+£36k	Increased income from the majority of fees and charges relating to the park, along with a reduction in the contribution to the sinking fund.
Arena	-£586k	The arena closed in the summer of 2019 to enable the building of a new centre. The reduction in income and additional management costs due to this decision was included in the total on the business case. The funding for the project is included in the capital budget. The revenue resources set aside in that budget will meet these costs.

Regulatory

Budget £ 2,394,635

Actual £ 1,774,418

Function	Variance	Notes
Planning Applications	+£175k	Income up on budget due to an increase in large planning applications received.
Chobham Flood Alleviation Scheme	+£41k	Reduced spending on supplies and services due to contract work taking place.
Surrey Heath Local Plan	+£136k	Grant Income and underspend on consultants. Local plan work now being done in 2020/21
Homelessness	+£372k	Savings on grants paid and income higher than budget. .

Legal / Property Management

Budget £ (1,340,765)

Actual £ (4,308,650)

Function	Variance	Notes
Corporate Land Management	+£264k	Lower premises costs and recharges, plus increased Income.
St Georges Industrial estate	+£90k	Increased rental income and reduced premises costs
Vulcan Industrial Estate	+£97k	Surplus Income at year end
Trade City Industrial Estate	+£46k	Surplus Income at year end.
Theta Building	+£793k	Unbudgeted rental income received
Ashwood House	+£390k	Reduced premises and supplies and services expenditure including a large business rate refund plus increased income.

Investment & Development

Budget £ (352,229)

Actual £ 579,618

Function	Variance	Notes
London Road Block	+£264k	Unspent consultant budget, as costs for the project are being capitalised.
Strategic Property Development	+£346k	Lower Salary costs, plus carry forwards from 2018/19 not used.
Town Centre Investment	-£1.2m	Our town centre revenues are under pressure due to the changing nature of retail, with the need to be flexible in rent negotiations and the use of CVAs.

Community

Budget £ 4,480,737

Actual £ 4,866,879

Function	Variance	Notes
Meals at Home	+£42k	Increased Income due to greater take up of the service plus a reduction in vehicle related and salary costs.
Windle Valley Day Centre	-£32k	Reduced sales income and higher supplies and services costs.
Joint Waste Service		
Core Waste Contract (Collection of refuse bins)	+£158k	Savings in main core contract costs due to lower contract inflation.
Waste	-£145k	Higher severance and contractor costs incurred and compensation sum still not agreed.
CMO SHBC Share	-£218k	Reduction in budgeted income and contract mobilisation costs which were charged to the budget in 2019/20 that previously were funded by the recycling equalisation fund.

Business rates and Council Tax

Business rates and Council tax had amongst the highest collection rates in the country at 99.55% and 99.15% respectively.

Annex B Investments at 31.03.2020

	£	£
Banks		
Nat West Central Account	252,526.00	
Nat West Reserve Account SIBA	483,147.00	
	<hr/>	735,673.00
Total Banks		
DMO investments		2,000,000
Money Market Funds Investments		
Aberdeen Investment Cash OEIC Fund	3,000,000.00	
BlackRock	311,231.00	
CCLA Public Sector Deposit Fund - Share Class	700,000.00	
Federated Short-Term Sterling Prime Fund (class 3)	3,000,000.00	
Legal & General (Share Class 4)	2,000,000.00	
	<hr/>	9,011,231.00
Longer term investments		
CCLA property fund	2,106,423.67	
	<hr/>	2,106,423.67
Total Long term Investment		
		<hr/>
Total Investments		<u>13,853,328</u>

Annex C - 2019/20 Carry forward Requests

Service	Description	Amount	Comments
HR	Staff Welfare	£4,800	Residual budget to contribute to occupational health and staff medical schemes
HR	Employee Expenses	£2,042	Residual budget for payment of professional fees.
Regulatory	Homelessness	£12,114	Supports day to day delivery and service objectives
Transformation	Kevin Cantlon Fund	£93,000	Low take up of the fund in its present form
Transformation	Corporate Training Budgets	£15,000	Residual of training budgets to contribute to the employee of Interns for 2020/21
Business	Leisure Facility Project	£43,551	Professional Fees for new Leisure Facility
		£170,507	

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Review of the Corporate Capital Programme 2019/20 and Report Capital Prudential Indicators for 2019/20

Summary

To report on the capital outturn for 2019/20 and to approve any carry forward of budgets into the 2020/21 Capital Programme and report on the actual performance against the 2019/20 capital prudential indicators.

Portfolio - Finance (Cllr David Lewis)

Date signed off : 7 July 2020

Wards affected

N/A

RECOMMENDATION

The Executive is advised to **RECOMMEND** to **COUNCIL** that

- (i) actual capital expenditure for 2019/20 of £7.895m against a budget of £40.328m be noted;
- (ii) the carry forward budget provision of £32.406 million from 2019/20 into 2020/21 be approved;
- (iii) revised 2020/21 Capital Programme of £33.885 million be noted;
- (iv) the final capital prudential indicators for 2019/20 be noted

1. Resource Implications

- 1.1 The Prudential Code for Capital Finance in Local Authorities requires that actual capital expenditure during the year is reported to members. For 2019/20 this was £7.895m.
- 1.2 The budget impact of these schemes was considered and approved when the schemes were incorporated into the capital programme. The total value of schemes is included in the capital budget which by their very nature can be delivered over multiple years, hence the requirement to carry forward.
- 1.3 If the recommendation is approved the loss of investment interest on the £32.406m carry forward sum at current rates would be £324k per annum.
- 1.4 The Capital Reserves available for capital expenditure amounted to £4 million at 31st March 2020. An additional £11 m is held in the revenue capital fund which could be used to support capital expenditure as well

as supporting revenue expenditure in the future. Some of the expenditure is also funded by grant and external contributions

- 1.5 The Council will borrow to acquire assets to assist with economic development and regeneration provided that the assets generate a return adequate to service the loan and any Minimum Revenue Payment.

2. Key Issues

- 2.1 The schemes detailed in Annex 'A' reflect a number of larger projects agreed by the Council throughout the year and annex B sets out the reasons for the carry forwards.
- 2.2 The Council in accordance with the Prudential Code is required to report its performance against the actual capital prudential indicators for 2019/20 (set in February 2019) and these are detailed in Annex 'C'.
- 2.3 A number of capital projects that have being added to the capital programme and which are requested to be carried over, are projects that are intended to be carried out over a number of years, rather than just one single year. Eg Building of the new Arena, London Road block and Property Acquisition strategy.

3. Options

- 3.1 The Executive, where no contractual commitments are identified, has the option of agreeing all of these carry forwards, amending them or rejecting them.

4. Proposals

- 4.1 It is proposed that Executive RECOMMENDS to COUNCIL that
 - (i) Actual capital expenditure for 2019/20 of £7.895m against a budget of £40.328m be noted approx. 20% of the budget be noted;
 - (ii) the carry forward budget provision of £ 32.406 million from 2019/20 into 2020/21 be approved;
 - (iii) the revised 2020/21 Capital Programme of £33.885 million be noted;
 - (iv) the final capital prudential indicators for 2019/20 be noted.

5. Corporate Objectives and Key Priorities

- 5.1 Corporate Objective – Providing services better, faster and cheaper.

Annexes	Annex A – Monitoring statement. Annex B – Background notes on carried forward capital schemes Annex C - Capital Prudential Indicators.
Background papers	None
Author/contact details	Adrian Flynn – Chief Accountant
Head of service	Simon Little – Executive Head of Finance

	Required	Consulted	
Resources			
Revenue	✓	✓	
Capital	✓	✓	
Human Resources	n/a		
Asset Management	n/a		
IT	n/a		
Other Issues			
Corporate Objectives & Key Priorities	✓	✓	
Policy Framework	n/a		
Legal	n/a		
Governance	n/a		
Sustainability	n/a		
Risk Management	n/a		
Equalities Impact Assessment	n/a		
Community Safety	n/a		
Human Rights	n/a		
Consultation	n/a		
P R & Marketing	n/a		

Background notes on carry forward Capital Schemes

Capital Scheme	Purpose	Reason for carry forward
Investment Property Acquisition	To acquire property in accordance with the property acquisition strategy	Council is seeking to acquire further property in 2020/21
Bulking Shed	Improved storage facilities at the Doman Road depot.	Project due to commence in 2020/21
128 London Road	To provide Temporary Homelessness accommodation	Purchase of property to be completed in 2020/21
Arena	Construction of a new leisure centre	Project to continue in 2020/21
London Road block	To redevelopment and regenerate the London Road area of Camberley town centre.	Project to continue in 2020/21
High Street Public realm	Refurbishment and improvements to Camberley High Street.	Project to continue in 2020/21
Refurbishment of the Square (Phase 2)	Refurbishment of the Square shopping centre	Project was delayed and it is hoped to commence later in 2020/21
Camberley Theatre Frontage & lighting upgrade	Upgrade of the lighting system and the Theatre frontage (canopy) has reached the end of its useful life.	Project to continue in 2020/21.
Parks and open spaces	Upgrade of play areas and park improvements.	Projects to continue in 2020/21

PRUDENTIAL INDICATORS - CAPITAL ACTUALS 2019/20

CIPFA's Prudential Code for Capital Finance requires local authorities to prepare Prudential Indicators of their intended capital spending plans for the forthcoming and future years. The indicators are intended to help the decision making process within an authority and must be approved by the full Council before the beginning of the financial year. The indicators are neither comparative statistics nor performance indicators. Different Council's will have different figures reflecting their history and local circumstances.

Financing and Capital Prudential Indicators

	2018/19 Actual	2019/20 Original Budget	2019/20 Actual	
Capital Expenditure	£52.132m	£38.4m	£7.895m	The Council acquired additional investment property over the year which was not envisaged when the original program was set.
Capital Financing Requirement as at 31 st March	£190m	£225m	£186m	The Council's underlying need to borrow is called the Capital Financing Requirement (CFR). This figure is a measure of the Council's debt position.
Ratio of Financing Costs to Net Revenue Stream	6.58%	23.2%	31.13%	This is an indicator of affordability and is the ratio of the Council's General Fund capital financing costs to its net revenue budget in percentage terms.
Operational Boundary	£185m	£245m	£245m	The operational boundary is based on the Authority's estimate of most likely (i.e. prudent but not worst case) scenario for external debt
Authorised Limit	£190m	£250m	£250m	The authorised limit is the affordable borrowing limit determined in compliance with the Local Government Act 2003. It is the maximum amount of debt that the Authority can legally owe

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Project	B/fwd from 2018/19	2019/20 Approved Bids	2019/20 Total Programme	2019/20 Total Spend	Funds Available	C/fwd to 2020/21	2020/21 Approved Bids	2020/21 Revised Approved Budget
REGULATORY								
Openspace Works / Acquisition Land & Buildings	52,333		52,333	46,144	6,189	6,189		6,189
Renovation Grants	382,079	779,000	1,161,079	817,686	343,393	343,393	1,000,000	1,343,393
Drainage Works		60,000	60,000	0	60,000	60,000		60,000
128 London Rd (Connaught Court)		700,000	700,000	1,000	699,000	699,000		699,000
	434,412	1,539,000	1,973,412	864,830	1,108,582	1,108,582	1,000,000	2,108,582
TRANSFORMATION								
Civica Financial System		16,000	16,000	16,685	-685	0		0
Agile Working	1,450		1,450	4,177	-2,727	0		0
Switch Replacement		92,000	92,000	75,551	16,449	16,449		16,449
Filer Storage Replacement		21,000	21,000	0	21,000	0		0
FME Server Replacement		10,000	10,000	10,500	-500	0		0
Member ICT Equipment Replacement		20,000	20,000	19,979	21	0		0
CRM replacement			0	0	0	0	30,000	30,000
Laptop Project			0	0	0	0	30,000	30,000
MFD Replacement			0	0	0	0	24,000	24,000
Civica Financials Live Cloud Upgrade			0	0	0	0	16,000	16,000
Monitor Refresh			0	0	0	0	30,000	30,000
HR/Payroll System			0	0	0	0	30,000	30,000
Internet of Things Sensors			0	0	0	0	50,000	50,000
	1,450	159,000	160,450	126,892	33,558	16,449	210,000	226,449
COMMUNITY								
Bulking Shed - Dorman Road		270,000	270,000	0	270,000	270,000		270,000
Community Bus		40,000	40,000	0	40,000	40,000		40,000
	0	310,000	310,000	0	310,000	310,000	0	310,000
LEGAL AND INVESTMENT & DEVELOPMENT								
Property Acquisition Strategy	2,343,356		2,343,356	0	2,343,356	2,343,356		2,343,356
Ashwood House			0	-9,892	9,892	0		0
The Square Refurbishments	1,628,400		1,628,400	0	1,628,400	1,628,400		1,628,400
London Rd Block	3,993,220		3,993,220	515,314	3,477,906	3,477,906		3,477,906
Theta	135,500		135,500	54,750	80,750	80,750		80,750
4 Sites Project			0	0	0	0		0
Savers Shop Front		15,000	15,000	15,000	0	0		0
Ashwood House (Market Hall)		300,000	300,000	0	300,000	300,000		300,000
Theta 2nd Floor			0	0	0	0	49,000	49,000
Boiler @ Hudson House, Albany Park			0	0	0	0	25,000	25,000
High Street Public Realm Improvements	2,211,863	1,600,000	3,811,863	532,013	3,279,850	3,279,850		3,279,850
	10,312,339	1,915,000	12,227,339	1,107,185	11,120,154	11,110,262	74,000	11,184,262
BUSINESS								
Main Square Car Park Refurbishments	161,174		161,174	104,109	57,065	57,065		57,065
Chobham Car Park Resurfacing Scheme			0	0	0	0	50,000	50,000
Watchetts Road Car Park Resurfacing Scheme			0	0	0	0	40,000	40,000
Arena	24,425,000		24,425,000	5,325,880	19,099,120	19,099,120		19,099,120
Camberley Theatre Improvements	3,183		3,183	0	3,183	3,183		3,183
Theatre Frontage & Lighting Upgrade		149,000	149,000	26,439	122,561	122,561		122,561
Camberley Park & Obelisk	4,580	50,000	54,580	22,103	32,477	32,477		32,477
Lightwater CP Visitors Centre	55,312		55,312	11,275	44,037	44,037		44,037
Deanside DR Woods Play Area	26,980		26,980	3,900	23,080	23,080		23,080
Mytchett Skate Park		54,000	54,000	0	54,000	54,000		54,000
Southcote Play Area		26,000	26,000	25,740	260	260		260
London Rd Rec Disabled Access	11,310		11,310	4,240	7,070	7,070		7,070
Board Sites	16,000		16,000	0	16,000	16,000		16,000
Chobham Rd Play Area	20,000		20,000	0	20,000	20,000		20,000
Frimley Lodge Play Area	150,000		150,000	149,996	4	0		0
Lightwater C Park Play Area	90,000		90,000	90,000	0	0		0
Loman Rd Play Area	35,000		35,000	0	35,000	35,000		35,000
London Rd Rec Play Area	70,000		70,000	0	70,000	70,000		70,000
Old Dean Play Area	100,000	100,000	200,000	0	200,000	200,000		200,000
Watchetts Rec	40,000		40,000	0	40,000	40,000		40,000
Watchmoor Res			0	0	0	0		0
Whitmoor Rd	25,000		25,000	0	25,000	25,000		25,000
Maguire Drive Play Area/Path	44,560		44,560	32,833	11,727	11,727		11,727
Frimley Lodge Pavilion Windows			0	0	0	0	40,000	40,000
Watchetts Recreation Ground Access Road and Car Park			0	0	0	0	65,000	65,000
	25,278,099	379,000	25,657,099	5,796,515	19,860,584	19,860,580	195,000	20,055,580
GRAND TOTAL OF ALL SCHEMES	36,026,300	4,302,000	40,328,300	7,895,422	32,432,878	32,405,873	1,479,000	33,884,873

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Monitoring Officer report – Decision to release local land charge over Field 81 Pennypot Lane, Chobham, Surrey

Portfolio:	Non-executive function
Ward(s) Affected:	n/a

Purpose:

To report to the Council's Executive that the decision to release a local land charge over Field 81 Pennypot Lane, Chobham, Surrey appears to the Monitoring Officer not to have been taken in accordance with the processes and delegations in the Council's Constitution.

1. Background

- 1.1. Field 81 was subject to a local land charge in respect of clearance works undertaken in July 2006. The works were necessary to reinstate the land to its state of repair and condition prior to the occupation by travellers. The charge was registered on 10th July 2007. The original valued secured by the charge was £150,400 and in June 2018 the total amount outstanding was £318,756.32 due to accrued interest. Local land charges are binding on successors in title. It seems there was a second charge over the field which related to legal fees incurred by the Council against one of the now displaced former owners of the land. This charge was registered with H.M. Land Registry but was not binding on successors in title because it was personal in nature and, therefore, only enforceable against the former owner's interest in the land.
- 1.2. In January 2018 the Council received notice from H.M. Land Registry of an application for adverse possession of the field and the Council wrote to H.M. Land Registry in January 2018 to provide additional notice of the registered local land charge to the applicants.
- 1.3. The applicants became the new owners of the field and In May and June 2018 the Council wrote to the new owners to confirm the liabilities under the charge and inviting a payment proposal.
- 1.4. In July 2018 the new owners made further enquiries with the Council regarding the charge and clarification was provided on the basis for the charge, namely that the charge was for works undertaken to clear and reinstate the land.
- 1.5. In November 2018 legal services removed the local land charge following reference to a meeting between the Council's Chief Executive, at the time, and the new owners and the new owner's assertion that they had received legal advice that the charge was not enforceable because it was personal to the previous owner of the land.
- 1.6. A request was made to Land Charges on 14th November 2018 to remove the local land charge and the charge has been removed.

2. Current Position

- 2.1. The costs of the clearance works have not been recovered.

3. Limitations of this report

- 3.1. The information contained in this report has been ascertained from an electronic file held by legal services. The officers involved in the process to remove the local land charge are no longer employed by the Council. Without the opportunity to interview these officers it may be the case that some details and nuances have not been taken into account.

4. Relevant legal considerations

- 4.1. I have not been able to find any evidence on file to indicate the reasons why it was determined that the local land charge was not enforceable against successors in title. The starting position is that works undertaken pursuant to enforcement action are usually recoverable by the registration of a local land charge. Indeed, costs in relation statutory works undertaken by a local authority are usually secured by registration of a local land charge. In this context, it is not clear why a decision was made to release the charge without taking further advice on the claim made by the new owners.
- 4.2. The Constitution of the Council, in force at the time the decision was made, provided no delegation to legal services to remove land charges. The Constitution provided that land charges were within the functions delegated to the Council's Executive Head of Regulatory. Furthermore the Council's Financial Regulations provided that the Executive Head of Finance (Section 151 officer) would critically review outstanding debts on a regular basis and take prompt action to write off debts no longer deemed to be recoverable. The Financial Regulations also provided that no debt above £5,000 may be written off without Committeeⁱ approval. It appears to me that removing the land charge left the Council with no effective means to enforce the debt which can be said to be a form of debt write off. However, the fact that such debts are not recorded in the Council's financial statements perhaps helps to understand how a view could have been formed that these are not debts that apply to the Financial Regulations.
- 4.3. Given that the principal sum secured by the local land charge, together with accrued interest, was in excess of £100,000, then proper consideration was also required on whether the decision was a key decision to be taken by the Executive. One view might be that the release of a security without repayment is analogous to expenditure because it crystallizes the costs of the clearance works as actual expenditure. The schedule of key decisions has been reviewed and there is no record of the Executive making any decision to release the charge or delegate authority to an officer or Sub Committee to make the decision. Nevertheless, I consider that a Committee decision was likely required for the reasons set out in section 4.2.
- 4.4. It appears to me that it would have been appropriate to further examine the claim that the local land charge was not enforceable against successors in

title and that the correct process would have been to refer the matter to the Council's Executive Head of Regulatory and Executive Head of Finance for consideration. It is arguable whether the decision to remove the charge was a key decision because this turns on whether or not the removal of a charge can be defined as expenditure. However, on balance, I consider that the decision was a Committee decision as required by the Council's Financial Regulations and legal services had no delegated authority to make the decision. I would comment that the lack of clarity in the Constitution on how to categorise local land charges may have led to some ambiguity on dealing with the release of such charges.

- 4.5. There may have been a rationale for the release of the local land charge however it appears to me that decision did not adhere to the procedures and delegations set out in the Council's Constitution. My conclusions must be read in light of the limitations set out in paragraph 3 of this report and the basis of this report is that I am satisfied that there only appears to have been a decision which may be deemed procedural ultra vires.

5. Governance

- 5.1. Where it appears to the Council's Monitoring Officer that any omission, in the course of the discharge of functions of the council, by or on behalf of the Executive, constitutes, has given rise to or is likely to or would give rise to a contravention, by the relevant authority's Executive or any person on behalf of the Executive, of any enactment or rule of law with respect to that omission, he or she is required by law to prepare a report to the Executive. The relevant statutory provisions are set out in section 5A Local Government and Housing Act 1989.
- 5.2. The Monitoring Officer is required to consult with the Head of Paid Service and Section 151 Officer on the issues raised in this report and such consultations have been undertaken. A copy of this report has also been circulated to all Members.

6. Options

- 6.1. The Executive is required by sections 5A (6) and 5A (8) of the Local Government and Housing Act 1989:
- 6.1.1 To consider this report at the meeting on the 21st July 2020;
 - 6.1.2 As soon as practicable after it has concluded its consideration of this report, to prepare a report which specifies:-
 - (a) what action (if any) the Executive has taken in response to this report;
 - (b) what action (if any) the Executive proposes to take in response to this report and when it proposes to take that action; and

(c) the reasons for taking the action specified in the Executive's report or, as the case may be, for taking no action.

6.2. In accordance with section 5A (9) of the Local Government and Housing Act 1989, as soon as practicable after the Executive has prepared its report in accordance with Paragraph 6.1.2 above, it shall arrange for a copy of it to be sent to each member of the Council and the Council's Monitoring Officer.

6.3. To be of assistance in relation to paragraph 6.1, I recommend that paragraph 13.3 (b) (i) of Article 13 of the Council's Constitution is updated as follows, with additional wording highlighted in red.

Key Decisions

(i) Key decisions are those:

- likely to result in expenditure, *release of any securities (except where any release is pursuant to a contractual obligation)* or savings of at least £100,000 or £100 million if it relates to treasury management matters *or there may otherwise be an impact on the Council's financial standing*; or
- likely to have a significant impact on people or organisations in two or more wards within the Borough
- which are made in the course of developing proposals to the Council to amend the policy framework.

6.4. I further recommend that:

6.4.1 The Council's Section 151 officer gives consideration to whether it is appropriate that debts secured by local land charges should appear in the Council's accounts as assets; and

6.4.2 The Constitution is updated to confirm specifically that no officer may release any security, warranty or guarantee in favour of the Council, unless contractually obliged to do so, without the written approval of the Council's Section 151 officer or relevant Committee.

7. Recommendation

7.1. The Executive is advised to consider the report and recommendations therein and prepare a report in accordance with the requirements of the Local Government and Housing Act 1989.

Annexes: None

Background Papers: None

Author: Gavin Ramtohal – Monitoring Officer
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Head of Service: Legal Services and Monitoring Officer

ⁱ The Financial Regulations refer to a Committee decision and in practice this would be an Executive decision.

Exclusion of Press And Public

Recommendation

The Executive is advised to RESOLVE that, under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Act, as set out below:

<u>Item</u>	<u>Paragraph(s)</u>
12	3
13	3

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