



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Cabinet

Tuesday, 13 September 2016
6.00 pm
Pittville Room - Municipal Offices

Membership	
Councillors:	Steve Jordan, Flo Clucas, Chris Coleman, Rowena Hay, Peter Jeffries, Andrew McKinlay and Roger Whyborn

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING Minutes of the meeting held on 12 July 2016	(Pages 3 - 10)
4.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
5.	USE OF RIGHT TO BUY RECEIPTS Report of the Cabinet Member Housing	(Pages 11 - 18)

6.		FREE DISTRIBUTION OF PRINTED MATTER Report of the Cabinet Member Development and Safety	(Pages 19 - 30)
		SECTION 6 : BRIEFING SESSION • Leader and Cabinet Members	
7.		BRIEFING FROM CABINET MEMBERS	
		SECTION 7 : DECISIONS OF CABINET MEMBERS Member decisions taken since the last Cabinet meeting	
		SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	
		SECTION 9: LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS	
8.		LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS The Cabinet is recommended to approve the following resolution:- “That in accordance with Section 100A(4)Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraphs 3 and 5, Part (1) Schedule (12A)Local Government Act 1972, namely : Paragraph 3: Information relating to the financial or business affairs of any particular person (including the authority holding that information) Paragraph 5: Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
9.		PROPERTY ACQUISITION- ITEM WITHDRAWN ITEM WITHDRAWN	
		BRIEFING NOTE 159 Fairview Road – Listed Building : The “Banksy” Mural	

Contact Officer: Rosalind Reeves, Democratic Services Manager, 01242 774937
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Cabinet

Tuesday, 12th July, 2016

6.00 - 6.35 pm

Attendees	
Councillors:	Steve Jordan (Leader of the Council), Flo Clucas (Cabinet Member Healthy Lifestyles), Chris Coleman (Cabinet Member ^{Clean} and Green Environment), Rowena Hay (Cabinet Member Finance), Peter Jeffries (Cabinet Member Housing), Andrew McKinlay (Cabinet Member Development and Safety) and Roger Whyborn (Cabinet Member Corporate Services)

Minutes

1. APOLOGIES

None

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF THE LAST MEETING

The minutes of the meeting held on 14 June were approved and signed as a correct record.

4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS

There were none.

5. SALE OF CBC INTEREST IN LAND ADJOINING CHURCHDOWN COMMUNITY CENTRE

The Cabinet Member introduced the report and explained that Cheltenham Borough Council and Gloucester City Council jointly owned the land in question which was currently let on a lease to the Churchdown Community Association who owned the adjoining site. She informed that the lease to the Community Association was granted on 1 June 1985 for 60 years leaving an unexpired term of 29 years remaining. The Community Association had previously been using the council land as an overspill car park which they now no longer needed. The Cabinet Member explained that the NHS had been considering a number of sites in the area for a new doctor's surgery and had previously identified the area as a potential site. An application was made by local residents to have the land registered as a village green which would have prohibited any form of development but following an Inquiry was refused.

Due to the specialist nature of the disposal for a doctor's surgery the councils had appointed GVA to negotiate with the NHS and District valuer. The Cabinet Member reported that agreement had now been reached at £740 000 which represented best consideration. The Community Association were willing to surrender their lease to facilitate the disposal but due to the remaining length of their lease, the proceeds would be split equally so that each party received

£246 666. In addition the Community Association would be granted a lease for 125 years.

The Cabinet Member explained that it had also been agreed that should the site be found to be contaminated the disposal price may be reduced by up to £100 000. Information suggested that the land had been used predominantly as open space/agriculture, so in the unlikely event that the disposal price was reduced then the total sum would reduce to £640 000 (£213,333 each). She informed Members that Gloucester City had already approved the sale through their Cabinet.

Members welcomed the proposal which represented a good use of land and a capital receipt which could be used to finance future capital schemes.

RESOLVED THAT

- 1. the disposal (on the basis of a long lease with the option to purchase the freehold) of the land adjoining the Churchdown Community Association building as delineated on the plan in Appendix 2 be agreed for the sum of £740,000 (which will be shared equally by the 3 parties i.e. £246,666 each) for the purpose of building a new doctors' surgery**
- 2. the disposal at £640,000 (£213,333 each) be agreed if the developer subsequently discovers that the land is contaminated.**
- 3. the Head of Property in consultation with the Borough Solicitor and the Acting Head of Asset Management for Gloucester City Council be authorised to conclude the necessary negotiations and terms and enter into documents as are appropriate to complete the disposal.**

6. REQUEST FOR RENT SUBSIDY FROM GLOUCESTERSHIRE MENTORING AND SUPPORT CIC AND APPROVAL TO DISPOSE OF PUBLIC OPEN SPACE

The Cabinet Member Finance introduced the report and explained that the Council had been asked by Gloucestershire Mentoring and Support (GMAS) to consider a rent subsidy for part of the Ron Smith Pavilion, Springbank and a 20 year lease under the council's Thirds Sector Policy. The building had stood vacant for some time and GMAS was proposing to run a community café during the day and a youth club in the evenings for which planning permission had been gained. She highlighted the high need for youth provision in Springbank which had been impacted by the county council cuts four years ago. The application had been submitted to an officer panel and satisfied 4 of the council's key objectives and, as a result, an 80 % rent subsidy was proposed.

The Cabinet Member Finance then reported that subsequent to this request GMAS was asking Cabinet to consider a two year rent free period. This was in addition to the 80 % rent subsidy. She explained that GMAS was proposing to carry out a number of works to the building, including new doors, security shutters and internal fitting to make it suitable for a café. These works were estimated at £15 000 and were to be completed within 6 months of the term commencement. It was proposed that a 2 year rent free period be granted in order to assist them with the financial outlay which would be incurred. She

asked Cabinet to support an additional recommendation that was specific to this application and the proposed investment as follows :

“Agrees to an initial 2 years rent free as further support to GMAS to enable them to carry out minor works to the building.”

The local ward member for Springbank welcomed the proposal which would provide more security and a dedicated space for youth in the area. Discussions had taken place with organisations in the area and there was support for a long term youth café.

RESOLVED THAT

- 1. the recommendations of the 3rd Sector Panel be accepted and a rent only reduction of 80% be authorised against the lease between Cheltenham Borough Council and GMAS.**
- 2. the land and buildings that are highlighted in red be declared surplus to GMAS for a term of 20 years**
- 3. an initial 2 years rent free as further support to GMAS be granted to enable them to carry out minor works to the building.**
- 4. authority be delegated to the Head of Property and Asset Management, in consultation with the Borough Solicitor, to agree the terms of the lease and to agree the terms of any future rent review.**

7. REQUEST FOR RENT SUBSIDY FROM CHARLTON KINGS YOUTH AND COMMUNITY CENTRE

The Cabinet Member Finance introduced the report and explained that a request from Charlton Kings Youth and Community Centre (CKYCC) had been received under the third sector policy for a reduction in their rent. The application had been considered twice by the council's third sector panel and was found to meet two of the objectives as set out in paragraph 2.1 of the report. As a registered charity it was also eligible for a further 20 %. She highlighted that the report was also considered at the Asset Management Working Group on 16 June.

RESOLVED THAT

the recommendations of the 3rd Sector Panel be accepted and the Director of Resources and Projects be authorised to administer a rent reduction of 60% against the lease between Cheltenham Borough Council and Charlton Kings Youth and Community Centre.

8. REVIEW OF THE COUNCIL'S PERFORMANCE AT END OF 2015-16

The Leader introduced the report which reviewed the corporate performance of the organisation at the end of the financial year 2015-16. It had been a good year despite difficult circumstances. Where targets were not met was mostly out of the council's control. The report had been submitted to overview and scrutiny for consideration and they had expressed their concern with regard to the increase in homelessness in the town. This increase reflected the national picture and potential causes could include the changes to the benefits system. A homelessness scrutiny task group would be set up to better understand the issues.

RESOLVED THAT

the review of performance in 2015-16 be endorsed

9. GREENSPACE DEVELOPMENT PLAY AREA ASSESSMENT AND CAPITAL IMPROVEMENT PROGRAMME 2016 TO 2021

The Cabinet Member Clean and Green Environment introduced the report which sought agreement for a five year enhancement and improvement programme with capital expenditure for play areas of Cheltenham. He explained that capital sums have been previously approved and allocated for this use at budget setting. The focus of foreseeable work has been on health and safety, play value, inclusivity, and play assessment in terms of overall look and feel.

The Cabinet Member highlighted some of the play areas for investment :

- the Pump Track at Burrows Fields
- play equipment at Benhall
- £500k of capital funds at the Pittville Park Play Area
- £37 k at Humpty Dumps
- investment in play facilities at Swindon Village
- skate facilities at Clyde Crescent
- recycling of some Pittville Park equipment to be installed at King George V playing field

The Cabinet Member emphasised that this was a living document and having the opportunity to improve the condition of play areas with the support of friends groups and parish councils was valued. There were a large number of play areas across the town which would benefit from the council's allocation of funds and use of S106 allocation as well as potential external funding.

The Cabinet Member wished to place on record his thanks to Adam Reynolds, Green Space Development Manager and his team for their valuable input.

Members welcomed the proposals which they regarded as a positive programme going forward.

RESOLVED THAT

- 1. the programme 'Greenspace Play Assessment and Capital Improvement Programme 2016 – 2021' attached as Appendix 3 be approved, and**
- 2. any changes arising under £10,000 be delegated to the Cabinet Member Clean and Green Environment in consultation with the Director of Planning**

10. FINANCIAL OUTTURN 2015-16 AND BUDGET MONITORING REPORT APRIL-JUNE 2016

The Cabinet Member Finance introduced the report. She said that it had been another challenging year. In December 2015 a possible under-spend of £307 900 was forecasted. In February 2016 Cabinet made recommendations to Council that this be transferred to the Budget Support Reserve which was approved and therefore formed part of the revised budget for 15/16. She went on further to explain that government funding arrangements and changes,

together with the economic climate, presented ongoing concern for this council's budgets, particularly in light of Brexit and the uncertainty surrounding the next steps. It was important that this council looked to grow its economy at the same time as ensuring that it used underspends to support economic growth, the budget strategy reserve and general balances, bearing in mind the Medium Term Financial Strategy.

The Cabinet Member Finance was delighted to inform Members that an underspend of £239,020 had been achieved. She paid tribute to the hard work and sound financial management by officers and reported that this saving had been transferred into the budget strategy support reserve. She welcomed the increased income from car parking, the settlement from the council's deposit in the Icelandic Bank of Glitnir and the fact that the business rate pool had come out of deficit. She reported that the Housing Revenue outturn statement showed a net positive variance and that the capital programme had delivered the boiler scheme ahead of schedule. She highlighted the ongoing costs of the Joint Core Strategy which were within the control of the Government's Inspector.

In response to a question as to whether the council had recovered more than anticipated in terms of its investment in Glitnir bank, the S151 Officer reported that officers had negotiated a deal at a favourable exchange rate of €1.19 but was not aware how we compared to other authorities.

The Cabinet Member Housing welcomed the income received on the HRA account from the Feed in Tariff from PV Installations.

RESOLVED THAT

Council be recommended to :

- 1. Receive the financial outturn performance position for the General Fund, summarised at Appendix 2, and note that services have been delivered within the revised budget for 2015/16 resulting in a saving (after carry forward requests) of £239,020.**
- 2. Approve £40,000 of carry forward requests (requiring member approval) at Appendix 5.**
- 3. Approve the use of the budget saving of £239,020 as detailed in Section 3.**
- 4. Note the annual treasury management report at Appendix 7 and approve the actual 2015/16 prudential and treasury indicators.**
- 5. Note the capital programme outturn position as detailed in Appendix 8 and approve the carry forward of unspent budgets into 2015/16 (section 7).**
- 6. Note the position in respect of Section 106 agreements and partnership funding agreements at Appendix 9 (section 9).**
- 7. Note the outturn position in respect of collection rates for council tax and non-domestic rates for 2015/16 in Appendix 10 (section 10).**

8. **Note the outturn position in respect of collection rates for sundry debts for 2015/16 in Appendix 11 (section 11).**
9. **Receive the financial outturn performance position for the Housing Revenue Account for 2015/16 in Appendices 12 to 13 and approve the carry forward of unspent budgets into 2016/17 (section 12).**
10. **Note the budget monitoring position to the end of June 2016 (section 13) and approve the budget virement of £60,000.**

11. REGULATORY AND ENVIRONMENTAL SERVICES - COMMERCIAL TRANSFORMATION PROGRAMME

The Cabinet Member Development and Safety introduced the report which proposed the next stage of the transformational programme for the Council's regulatory and environmental services. The programme would review all resources to identify options to create a commercially focused, flexible and resilient service. This would enable the delivery for the financial savings over a longer term.

The report highlighted the need for initial investment to support the creation of a business culture, installing mechanisms and processes that allowed more effective performance and financial management. Opportunities would be provided for staff to work across existing functions to deliver the priority workstreams. This flexibility would allow the service to react more readily to the constantly changing financial and economic landscape.

The Cabinet Member went on to explain that dedicated roles were proposed to support the delivery of key workstreams whilst the review was underway. These would be funded from existing vacancies across the organisation. To enable these cultural changes and commercial focus to become embedded, a transitional period was required before savings were fully realised. This would allow existing functions to be reviewed and assessed against priorities whilst income streams improved, costs reduced and support could be provided to the local economy and the delivery of the emerging Place Strategy.

This invest to save initiative would require the deferral of the £157k saving identified for 2017/18. It also recognised that Executive Board and Cabinet would work with the MD for Place and Development in meeting the longer term economic growth target of £500k by 2019/20, which also needed to be considered in light of the other challenges set out in the MTFs. Given issues currently arising in the economy and the impact of a growing budget deficit within the Council, careful consideration as to how this target was to be delivered would need to be collectively agreed by officers and members as a priority. He said that the proposed cultural shift to a commercially focused organisation would be difficult to achieve with ongoing financial and economic uncertainty. The challenging financial targets set would only be achieved if some resources could be re-focused and re-prioritised to support activities that were more cost effective and/or generated greater financial return. Executive Board and Cabinet should review how this shift could be achieved and which resources and activities were to be identified and refocused to support the delivery of the new service.

The Cabinet Member Development and Safety highlighted the priority workstreams as identified in Section 6 of the report : Business Management/financial performance monitoring; Car Parking; Economic Development/Tourism; Fundraising/Inward Investment; Events; Anti-Social Behaviour/ Homelessness/ Street Begging. There would be significant improvements in the way regulatory services were delivered making them more cost effective and more efficient.

RESOLVED THAT

- 1. the transformational programme for the Council's regulatory and environmental services as proposed in this paper over an initial two year period be approved and proceeded**
- 2. the Managing Director for Place & Economic Development in consultation with the Cabinet Member for Development and Safety be authorised to drive forward the transformation programme and implement the interim changes to the existing organisational structure to support the refocusing of resources where appropriate.**
- 3. the Managing Director for Place and Economic Development, in consultation with the Cabinet Member for Development and Safety be authorised to develop and implement such income generating / cost recovery initiatives and measures as he considers appropriate to assist in the delivery of the financial targets.**
- 4. the deferral of the £157.5K saving for 2017/18 to 2018/19 be approved.**

12. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Healthy Lifestyles informed Members that she had now met the Public Art Officer and explained that there was a proposal to change the configuration of monies which were available for public art. In the short term there was a proposal for public art dedicated to the role of women in Cheltenham.

The Cabinet Member Healthy Lifestyles informed that she was planning to hold a first meeting of a culture partnership in September. Plans for the WW1 commemorations continued to be developed and would involve a range of partners including the twin towns.

The Cabinet Member Development and Safety told Members he had attended a Brexit seminar with the Leader and stakeholders convened by the council. It was a very well attended and positive meeting with those involved looking for extra initiatives and opportunities in the light of Brexit.

The Cabinet Member Housing said that the Gloucestershire Safeguarding Childrens Board Serious case review had now been published and he would be meeting with the HOPS and the Independent chair to discuss the report in detail. He also made reference to the work streams on homelessness and explained that he had requested to sit on the scrutiny task group on homelessness as an observer.

The Cabinet Member Corporate Services said that following discussions with managers of services in his portfolio he wished to highlight that the Elections Manager had highlighted that there had been substantial numbers of late registrations to vote in the recent EU referendum. There remained concern with regard to registration of young people but the council did have a number of measures it could take in terms of obtaining data without breaching data protection. This included asking existing registrants whether anyone else may be residing in their property. The process was subject to funding. Voting was fundamental to democracy so it was important that people were registered and willing to vote.

The Cabinet Member Clean and Green Environment wished to remind Members that the official opening of Pittville Park Play Area would take place on Sunday 17 July at 10.30. He also reminded members of the ongoing consultation on waste and recycling services. The response rate was good and he encouraged all Members to promote the consultation in their wards as it represented an opportunity for residents to shape the future service for the town.

The Leader of the Council announced that the JCS Inspector had now considered the responses from the June meetings of the JCS Councils. The Extraordinary meeting scheduled for 14 September had now been cancelled and it was likely that the review of the main modifications to the JCS would take place in mid-October. In January 2017 the Inspector would consider all representations made on the modifications to enable interested parties to have their say.

13. CABINET MEMBER DECISIONS TAKEN SINCE THE LAST MEETING

The Cabinet Member Finance reported that she had taken a Member Decision relating to the disposal of the freehold interest in land at Kingsley Gardens. The Asset Management Working Group had been consulted on this.

Chairman

Cheltenham Borough Council Cabinet – 13 September 2016 Use of Right to Buy Receipts

Accountable member	Cabinet Member Housing, Councillor Peter Jeffries
Accountable officer	Martin Stacy
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>In April 2012 the Government introduced a self-financing model for the HRA, leading to new freedoms and flexibilities over the way Councils were able to invest in their social housing stock, as well as enabling them to deliver new affordable homes and provide enhanced services for their tenants.</p> <p>The Government also allowed Councils to retain their Right to Buy Receipts on the understanding that these receipts must be used to deliver new affordable housing.</p> <p>These Right to Buy Receipts can be used in a number of ways to bring about the delivery of new affordable housing. The Council's preferred approach is to use the receipts for delivering new build on council-owned land, as this option provides the greatest value for money.</p> <p>This option can however be complex and the timing of delivery can be uncertain, which is not ideal given that these receipts have to be spent within strict deadlines. If the deadlines are not met, the receipts must be repaid to the government with interest.</p> <p>In view of this, it is proposed that the Council keeps open the alternative option of using the receipts to purchase homes from the open market, which will then be converted to affordable housing. This will ensure that repayments of receipts to the government can be avoided. It should be noted that this alternative option will remain secondary to the preferred option of using the receipts for delivering new build on council-owned land.</p>
Recommendations	<p><u>Cabinet Resolves:</u></p> <ol style="list-style-type: none"> 1. To authorise the Head of Property and Asset Management (in consultation with the section 151 Officer), to purchase dwellings that are considered to be suitable for use as affordable housing (in accordance with the parameters as set out within Section 4.4 of this report), subject to a total cap on the consideration paid of £0.5 million (this is additional to the £1m already authorised by Cabinet in November 2015);

2. To authorise the Borough Solicitor to negotiate and complete such documents as she deems necessary or desirable to conclude the transactions negotiated by the Head of Property and Asset Management under Resolution 1 above;
3. To authorise the Section 151 Officer to use the Right to Buy receipts where necessary to fund the acquisition of the properties purchased under Resolution 1 above.

Financial implications	<p>As detailed within Sections 3 and 4 of this report.</p> <p>Contact officer: Paul Jones, paul.jones@cheltenham.gov.uk, 01242 775154</p>
Legal implications	<p>The Council has power under Section 9 of the Housing Act 1985 to acquire houses for the purpose of providing housing accommodation. The houses so acquired must then be dealt with in accordance with the provisions of the Act, and may become subject to the Right to Buy.</p> <p>The procedure for acquiring a house in the open market can be time consuming, especially if the property is part of a conveyancing chain. A transaction can prove abortive if one link in the chain fails for any reason.</p> <p>Some properties have a restriction in the title that prevents them from being used for social housing. It would be advisable for title to be obtained at the earliest opportunity to prevent wasted time and costs.</p> <p>Contact officer: Rose Gemmell, rose.gemmell@teWKesbury.gov.uk, 01684 272014</p>
HR implications (including learning and organisational development)	<p>None as a direct result of this report.</p> <p>Contact officer: Richard Hall, richard.hall@cheltenham.gov.uk, 01594 812634</p>
Key risks	<p>See Appendix 1 of this report</p>
Corporate and community plan Implications	<p>This proposal supports our corporate outcome of people living in stronger, safer and healthier communities.</p>
Environmental and climate change implications	<p>Neutral</p>
Property/Asset Implications	<p>The proposal ensures that the right to buy receipts are kept and invested locally; it not only adds to the housing stock but overcomes the possibility of having to hand monies back to central government.</p> <p>Contact officer: David Roberts David.Roberts@cheltenham.gov.uk, 01242 264151</p>

1. Background

- 1.1** In April 2012 the Government introduced a self-financing model for the Housing Revenue Account (HRA), leading to new freedoms and flexibilities over the way councils were able to invest in their housing stock and services for their tenants.
- 1.2** The Government also supported the councils' aspirations to deliver more new affordable homes by allowing them to retain their Right to Buy Receipts, provided that these receipts are used to bring about more affordable housing.

2. The Use of Right to Buy Receipts

- 2.1** Right to Buy (RtB) Receipts can be used to increase the provision of affordable housing in any of the following ways:

- Building new affordable housing on council-owned land;
- Acquiring new build from a developer or from existing private stock for conversion to social/affordable rent;
- Acquiring land for future schemes; and
- Funding a Registered Provider (other than Cheltenham Borough Homes) to build new affordable housing in the area.

- 2.2** The Council's preferred approach to increasing the provision of new affordable housing in Cheltenham is to build affordable homes on council-owned land, as this provides a future revenue stream to the HRA (in terms of rental income) at lowest cost. As such, this approach provides the Council with the greatest value for money.

- 2.3** On behalf of the Council, Cheltenham Borough Homes (CBH) continues to progress a number of new build developments across the Borough. The redevelopment of four former garage sites at Coniston Road, Haweswater Road, Redgrove Road and Parkbury Close, completed in August 2016 providing ten new homes for affordable rent. A further ten new homes, which are to be prioritised for veterans, at the Swindon Road site in the Town centre will be completed by February 2017. In addition the intention is for construction works to commence to redevelop a total of five more redundant garage sites by April 2017, which will deliver nineteen new homes. The redevelopment of the Whaddon Road/Cakebridge Place site is at the initial feasibility stage, with circa twenty homes proposed comprising affordable rent and shared ownership tenures.

- 2.4** In conjunction with the council, CBH continues to identify new opportunities to maximise the use of HRA assets and RTB receipts to deliver much needed affordable housing in the Borough.

- 2.5** Building new homes in this way can however be complex and time consuming, as a number of the sites are affected by various rights of way issues which need to be negotiated prior to commencing works. The complexity and time consuming nature of resolving these issues have led to delays against original projected dates for commencing construction on four garage sites and therefore delays in incurring eligible spend on these sites.

3. Reasons for the recommendations

- 3.1** Right to Buy Receipts must be spent within 3 years of the receipts becoming available. If the Council fails to spend the receipts by then, it is required to repay the receipts to the government with interest at 4% above the base rate.

- 3.2** Right to Buy Receipts can only be retained if they are used to fund the delivery of new affordable housing in the ratio 100/30. In other words, when using Right to Buy Receipts, additional resources to the tune of 70% of the eligible spend are required from the HRA (or through borrowing against the HRA) to meet the remaining costs. This means that use of the receipts

must be used proportionately throughout the build period.

3.3 Delivering new build affordable housing is complex. There are a range of issues that can affect the pace of delivery. These include:

- Negotiating with third parties over rights of access and right to roam issues. This is a particular issue on garage sites, for instance, where finding resolutions to these issues can be long and protracted, leading to the potential for a scheme to either not go ahead or for a scheme redesign to be implemented.
- Rehousing of tenants on sites where it is proposed that existing homes will be replaced with new homes can sometimes lead to delays if the needs of households cannot be easily met.
- Undertaking relevant approval processes such as Planning, along with the necessary procurement processes all need to be built into the timeframe.
- Some sites may have commercial links which can involve the need to carry out complex commercial negotiations and these too can take time.

3.4 The rate at which Right to Buy Receipts are received, as well as the amount received over any given period is unpredictable (this is illustrated within Appendix 2 of this report). This adds to the complexity in timing their use in accordance with the projected delivery of new build. The result is additional uncertainty over whether the receipts will be spent within the required timeframe.

3.5 There are also a number of other limitations over the way in which the Council is able to use Right to Buy Receipts. These are detailed as follows:

- Receipts cannot be used in combination with grants from the Homes and Communities Agency (HCA). This means that where grants are potentially available, a choice must be made over which funding mechanism makes greatest financial sense on any given site. In the absence of other options for using Right to Buy Receipts, the Council's default position is always likely to be to use the receipts over any potential grant provision, because of the pressures to spend the receipts within the 3 year timeframe. Having an alternative means by which the receipts can be used to deliver new affordable housing will therefore allow the Council greater freedom to consider the use of grants from the HCA as an alternative funding stream, where this is more appropriate.
- Right to Buy Receipts can only be used if the site generates 'additionality'. In other words, where the receipts are used on a site with previous social housing, the receipts can only be used to fund the cost of additional dwellings over and above the previous number of social/affordable homes on the site.
- Right to Buy Receipts cannot be used to acquire new affordable housing on Section 106 sites.

4. Acquiring new homes from the Open Market

4.1 Having considered alternative options open to the Council for the use of these Receipts (see Section 5 below) it is proposed that the Council will use any Right to Buy Receipts, which might otherwise have to be repaid back to the government, to acquire additional homes from the open market. These homes will be converted to affordable housing, and the rents received will provide revenue for the HRA.

4.2 In November 2015, Cabinet authorised the use of £1m to purchase properties suitable for affordable housing, to ensure Right to Buy receipts are retained by the Council in Cheltenham. To date the purchase of three 3-bed properties has been completed using £0.6m of the approved

£1m. The residual balance of £0.4m will be used for additional purchases before the end of December 2016.

- 4.3** Due to the delays experienced on four garage sites, as noted in section 2 above, a further £0.5m will be required to purchase properties before the end of March 2017 to ensure Right to Buy Receipts are used by the relevant deadline.
- 4.4** In order to ensure that we achieve value for money when pursuing this option the Council will purchase new homes on the following basis:
- Only 2 or 3 bedroom houses will be purchased. Flats have been discounted on the grounds that it is likely to mean acquiring single dwellings within existing blocks of private flats, and owning just one flat within a block has implications on the cost of management and maintenance of that dwelling and associated complications of taking on a lease with maintenance cost liabilities and service charges.
 - The Council will only purchase properties that are of a standard construction and that are preferably either new build or built after 1990 in order to minimise any immediate or ongoing major repair costs.
 - Maximum price of £250k for a 3 bed and £190k for a 2 bed, each being £10k lower than the estimated high value property thresholds identified by the National Federation of ALMOs and the Association of Retained Council Housing as the basis of their survey on the potential impact of the Government's high value property disposal policy to support extended right to buy for housing associations.
 - A range of operational criteria will be met to ensure that the property purchased is fit for purpose as social/affordable housing.
 - Former social housing properties cannot be purchased with Right to Buy Receipts (unless under a Compulsory Purchase Order) and therefore have been discounted.
- 4.6** Consideration has been given to using the Right to Buy Receipts to purchase long term empty homes as part of our Empty Homes Strategy. However the potential timescales involved in acquiring such properties (via a Compulsory Purchase Order) in combination with the strict timescales by which these receipts must be spent, means that using the receipts in this way would not be appropriate.

5. Alternative options considered

- 5.1** Acquiring land for a future scheme. This has been rejected on the basis that it would require the Council to identify appropriate sites with planning permission and outbid private developers in a competitive market, or identify sites without planning permission with the associated risks of gaining planning approval. There are also uncertainties and risks associated with the purchasing process in terms of timescales, etc., which means this option is not to be recommended in view of the potential requirement to complete a purchase relatively quickly.
- 5.2** Funding a Registered Provider (other than CBH) to build new affordable housing in the area. Given the relatively short timescales to pursue alternative strategies the development of a new build scheme through a private Registered Provider is unlikely to deliver sufficient eligible expenditure to prevent potential loss of receipts. In addition, funding a Registered Provider is less preferable than using the Receipts to increase our own affordable housing stock, because of the additional revenues the latter can later generate to the HRA in rent.

6. Consultation and feedback

- 6.1** The proposed alternative use of Right to Buy Receipts has been discussed with and has the support of the new build Operational Working Group (OWG). This group is made up of senior

officers from both the Council and Cheltenham Borough Homes.

7. Performance management –monitoring and review

7.1 JPG OWG will continue to monitor the use of the Right to Buy Receipts against the delivery of new build and, where necessary, will support the acquisition of new properties from the open market, with the final decision resting with the s.151 Officer.

7.2 The decision to purchase homes will be delegated to the s.151 Officer.

Report author	Contact officer: Martin Stacy, martin.stacy@cheltenham.gov.uk, 01242 775214
Appendices	1. Risk Assessment 2. Right to Buy Sales Data
Background information	Cabinet Report Right to Buy Receipts November 2015

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Council's Right to Buy Receipts are not spent within the required timeframe of 3 years from their receipt, then the Receipts must be repaid to the Government, with interest.	Tim Atkins	7.10.15	3	5	15	Reduce	Cabinet approves alternative option to spend Receipts on purchasing homes from the open market.	31.3.17	Martin Stacy	
<p>Explanatory notes Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical) Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability) Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

Right to Buy Sales Data

Year	Number of Sales	Sale Price (Total) £'000	Sale Price (Average) £'000
2012/13			
Quarter 1	0	0	0
Quarter 2	2	136	68
Quarter 3	5	370	74
Quarter 4	6	376	63
Total for Year	13	882	68
2013/14			
Quarter 1	6	468	78
Quarter 2	7	512	73
Quarter 3	6	366	61
Quarter 4	9	464	52
Total for Year	28	1,810	65
2014/15			
Quarter 1	3	210	70
Quarter 2	3	185	62
Quarter 3	6	483	80
Quarter 4	1	50	50
Total for Year	13	928	71
2015/16			
Quarter 1	5	298	60
Quarter 2	6	393	66
Quarter 3	5	248	50
Quarter 4	6	380	63
Total for Year	22	1,319	60
2016/17			
Quarter 1	3	222	74

Cheltenham Borough Council

Cabinet – 13 September 2016

Free distribution of printed matter on designated land

Accountable member	Councillor Andy McKinlay, Cabinet Member for Development & Safety
Accountable officer	Mike Redman, Director of Environment
Ward(s) affected	Lansdown, College, All Saints, St. Pauls, Pittville & Prestbury
Key/Significant Decision	Yes
Executive summary	<p>Schedule 3A of the Environmental Protection Act 1990 empowers a principal litter authority to designate land on which it can control the distribution of free printed material.</p> <p>There is currently no formal regulation of the distribution of free printed matter in the borough. It has become necessary to adopt formal regulations due to the increasing number of issues associated with this activity.</p> <p>This report seeks permission to designate land by order on which the council can control the distribution of free printed matter.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. approve the proposed designation of land as outlined in Appendix 2; 2. delegate authority to the Director of Environment to publish the necessary notices in accordance with paragraph 2(4) of schedule three of the Environmental Protection Act 1990; 3. subject to there being no objections received: <ol style="list-style-type: none"> a. to approve the proposed fees and charging structure set out in Appendix 2; b. to approve the adoption of the proposed conditions set out in Appendix 2; c. to further delegate to the Director of Environment (in consultation with the Cabinet Member for Development and Safety) authority to do whatever is necessary to implement the designation of land including authority to: <ol style="list-style-type: none"> i. publish notices of the decision in accordance with paragraph 2(6) of schedule three of the Environmental Protection Act 1990; and ii. designate officers as authorised persons under Schedule 3A of the Environmental Protection Act 1990.

Financial implications	<p>Introducing a new licensing scheme will generate additional revenue for the Council. It is not envisaged that any additional resource requirements will exceed the income generated.</p> <p>Contact officer: Myn.Cotterill@cheltenham.gov.uk, 01242 774958</p>
Legal implications	<p>As contained within the body of the report.</p> <p>Contact officer: Vikki.Fennell@teWKesbury.gov.uk, 01684 272015</p>
HR implications (including learning and organisational development)	<p>The HR implications are as detailed in the key risks section of the report. Management will monitor closely the additional resource demands and take appropriate action.</p> <p>Contact officer: Carmel.Togher@cheltenham.gov.uk, 01242 775215</p>
Key risks	<p>The council can charge reasonable fees to cover the costs of operating and enforcing this scheme. Since this is a new scheme officers do not have the specific data to inform fee setting in terms of levels that will fully recover costs. There is therefore the risk that in year one income may not be adequate to fully recover cost. This can however be addressed in year two when fee levels will be adjusted to recover any deficit from year one. The same will apply if there is a surplus.</p> <p>The new scheme will place additional resource requirements on staff to administer and enforce the scheme. The administration of this scheme is not expected to place substantial administrative demands on officers and a “soft touch” enforcement approach will be adopted in year one to manage the enforcement resource requirements. Whilst there are risks associated with additional resource demands on staff, this will be offset by the income generated and will reduce demand on resources elsewhere.</p>
Corporate and community plan Implications	Cheltenham has a clean and well-maintained environment
Environmental and climate change implications	None
Property/Asset Implications	<p>N/A</p> <p>Contact officer: David Roberts@cheltenham.gov.uk</p>

1. Background

- 1.1 Section 94B and Schedule 3A to the Environmental Protection Act 1990 ("1990 Act"), as inserted by the Clean Neighbourhoods and Environment Act 2005, empowers a principal litter authority to designate land by order on which it can control the distribution of free printed matter. Land that can be designated consist of:
- 1.1.1 relevant land of the authority;
 - 1.1.2 all or part of any relevant highway for which the authority is responsible; or
 - 1.1.3 both.
- 1.2 The definition of "principal litter authority" is contained within section 86 of the 1990 Act and includes a district council. Therefore Cheltenham Borough Council ("council") is the relevant "principal litter authority" for the borough.
- 1.3 The effect of designating land for this purpose is that it will be an offence for anybody to distribute free printed matter unless consent has been obtained from the council.
- 1.4 The council may only designate land where it is satisfied that the land is being defaced by the discarding of free printed matter which has been distributed there.
- 1.5 The following are exempt from licensing requirements:
- 1.5.1 the distribution of printed matter by or on behalf of a charity within the meaning of the Charities Act 1993, where the printed matter relates to or is intended for the benefit of the charity;
 - 1.5.2 where the distribution is for political purposes or for the purposes of a religion or belief.
- 1.6 The council can require the payment of a fee before giving consent. The amount of a fee can be determined by the council but may not be more than what is reasonable to cover the costs of operating and enforcing this scheme.
- 1.7 There is no statutory definition of "free printed matter". Guidance by the Department for Environment, Food and Rural Affairs in 2006 specified however that free newspapers, leaflets, flyers, pamphlets, stickers and promotional supplements (if distributed and not within newspapers) should be included in the definition. Other free promotional matter such as scarves, hats and glasses containing logos, for example, could reasonably come within the meaning too.
- 1.8 This report seeks permission to designate land by order on which the council can control the distribution of free printed matter.

2. Designation proposal

- 2.1 **Appendix 2** sets out the designation proposal.
- 2.2 It is being proposed that the fee structure be based on a points scoring system. The reason for this is to ensure a proportionate approach is adopted.

3. Enforcement powers

- 3.1 Under the 1990 Act, authorised officers will have authority to:
 - 3.1.1 seize printed matter where the distributor does not have consent to distribute the matter;
 - 3.1.2 issue a fixed penalty notice for offences; and/or

3.1.3 prosecute for offences.

3.2 Having these powers available to the council will greatly assist with controlling the distribution of free promotion material particularly during the Cheltenham Gold Cup week.

4. Reasons for recommendations

4.1 To designate land by order on which the council can control the distribution of free printed matter.

4.2 There is currently no formal regulation of the distribution of free printed matter in the borough. It has become necessary to adopt formal regulations due to the increasing number of issues associated with this activity:

4.2.1 **Race meetings** – Race meetings have historically caused significant problems with litter and nuisance caused as a result of the distribution of free printed matter such as leaflets, stickers, scarves and other relevant promotional material. This is specifically problematic around the town centre and Evesham Road. Attendance at race meetings has consistently increased over the last few years which has continued to exacerbate the problem of excessive litter.

4.2.2 **Night time economy (NTE)** – Leafletting in the NTE has recently become increasingly problematic due to the fiercely competitive nature of the NTE. As a consequence of this there has over the last number of years been an increase in marketing activity, primarily in the form of leaflets, printed cards and stickers which has caused problems associated with littering as people drop large quantities of unwanted promotional material.

4.2.3 **Marketing and promotions** – There has also been an increase in the number of enquiries for promotional activity in the town during shopping hours. These requests are currently being dealt with informally which renders the council and its partners unable to regulate and control litter that is being caused as a result.

4.3 The culmination of the factors mentioned above has promoted the need for the council to deal with the issue of the distribution of free promotional material in the town more formally.

5. Alternative options considered

5.1 The council can decide not to adopt formal regulations to regulate the activity.

6. Consultation and feedback

6.1 The 1990 Act sets out the required procedure to follow in adopting an order to control the distribution of free printed matter.

6.2 There is a requirement to publish a statutory notice setting out the council's proposal to adopt an order.

6.3 The notice must specify:

6.3.1 the land proposed to be designated;

6.3.2 the date on which it is proposed that the order is to come into force (which may not be earlier than the end of a period of 28 days beginning with the day on which the notice is given);

6.3.3 the fact that objections may be made to the proposal, how they may be made and the period within which they may be made (being a period of at least 14 days beginning with the day on which the notice is given).

6.4 If after giving notice and taking into account any objections received, the council decides to adopt

the order, it must publish a further notice specifying the date on which the order is to come into force.

7. Performance management –monitoring and review

7.1 If adopted, the performance of the new scheme will be measured against its ability to effectively regulate the distribution of free printed matter in the borough and the council to recover its costs in administering and enforcing the scheme.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 264217
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Designation proposal
Background information	<ol style="list-style-type: none"> 1. Environmental Protection Act 1990 2. Clean Neighbourhoods and Environment Act 2005 3. DEFRA Code of Practice on Litter and Refuse (April 2006)

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council does not designate land to control the distribution of free promotional material then it will be less equipped to deal with the problem of, at times, excessive litter resulting from it.	Director of Environment	July 2017	3	3	9	Accept				
	If the council is not able to effectively control the distribution of free promotional material then it risks adversely affecting the town's reputation as a clean and welcoming place to visit.	Director of Environment	July 2017	2	3	6	Accept				
Explanatory notes											
<p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

Appendix 2 – Free distribution of printed matter on designated land

Fees

It is proposed that fees be based on a points scoring system:

- 5 points = £50
- 6 -10 points = £175
- 11-15 points = £250
- 16+ points = £350

1. On average, how many days do you want to distribute free printed material?

1 day per week	1 point
2 days per week	2 points
3-4 days per week	3 points
5 days per week	4 points
6-7 days per week	5 points

2. How many zones do you want to distribute in?

Area 1 only	1 point
Area 2 only	5 points
Both Areas	10 points

3. When do you want to distribute free printed material?

Monday to Friday (09:00 – 17:00)* *Excluding Gold Cup Festival week	1 point
Saturday to Sunday (09:00 – 17:00)* *Excluding Gold Cup Festival week	2 points
Daily (09:00 – 17:00) during Gold Cup Festival week	5 points
Evening/Night (17:00 onwards) during Gold Cup Festival week	5 points

4. What will your free printed material be promoting?

A single product/event/venue	1 point
Several different products, events, venues, or premises	2 points

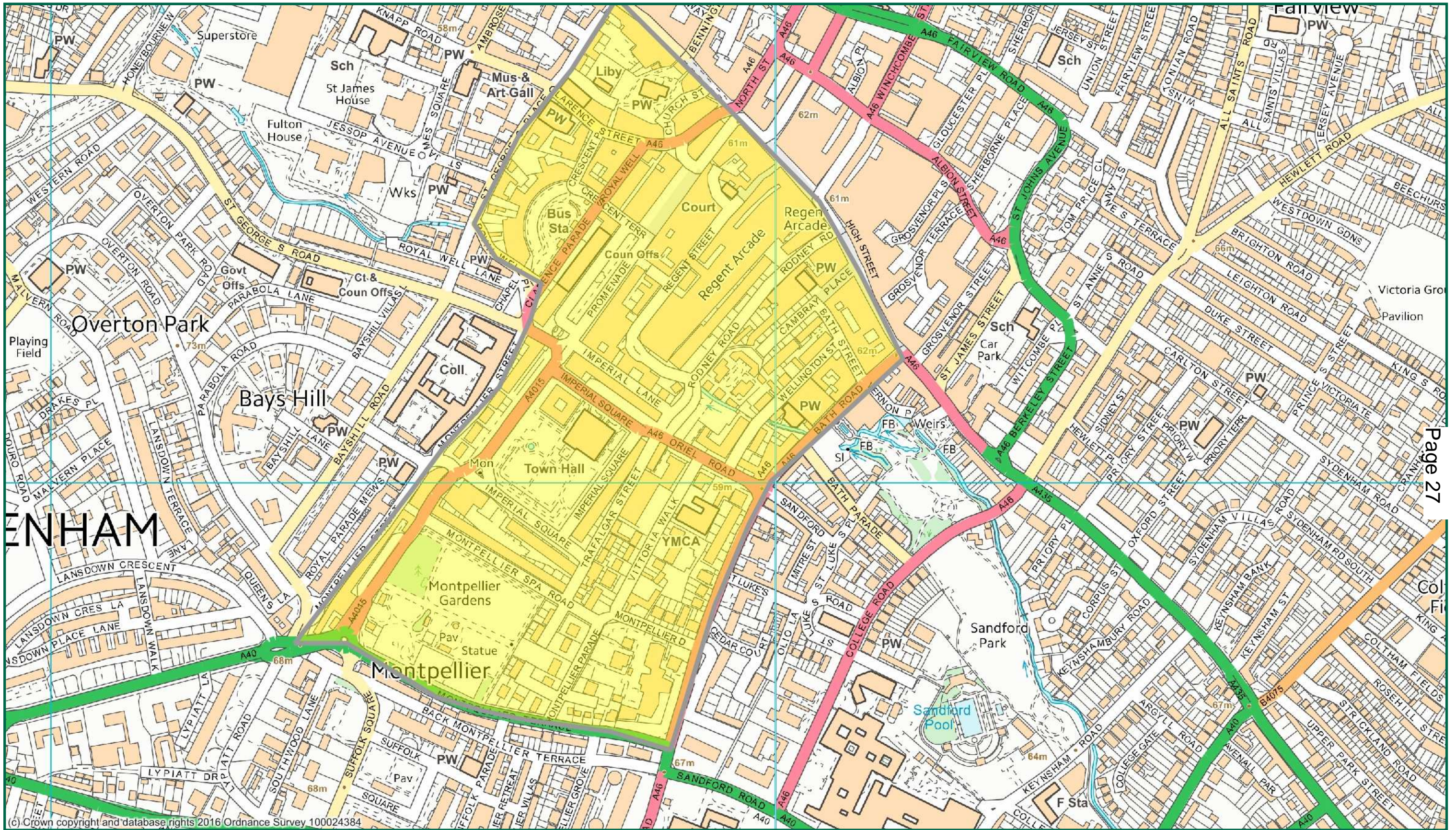
5. How many people will be distributing free printed material?

Two or fewer	1 point
Three to five	2 points
More than five	5 points

Proposed conditions

The following consent conditions are proposed:

1. Any person engaged in the distribution of free literature shall wear a clearly visible authorisation badge issued by the council.
2. The above authorisation shall be produced on demand to an authorised officer of the Council or a Police Constable/Community Support Officer.
3. Authorisation badges are not transferable between Consent holders and all distributors using them must be directly employed by the Consent holder.
4. No free literature shall be left unattended by staff for the general public to take at their discretion.
5. Free printed matter should only be offered to passers-by and they can be invited to take one. Free printed matter must not be forced into their hands when they have indicated that they are not interested.
6. All free printed matter must meet the standards of the Advertising Standards Authority. Marketing communications should contain nothing that is likely to cause serious or widespread offence.
7. All places in which free literature has been distributed are to be cleansed forthwith by the consent holder to a radius of 50 metres from the distribution point of any litter caused by the distribution of the said literature.
8. The free literature must bear the name and address of the consent holder who is responsible for its distribution.
9. Any person engaged in the distribution of free literature shall provide on demand to an authorised officer of the Council or a Police Constable/Community Support Officer any information reasonably required to enable compliance with consent conditions to be verified. This may include:
 - their full name and address
 - details of any person(s) commissioning them to distribute free literature [where applicable]
 - details of their employer or agent [where applicable]



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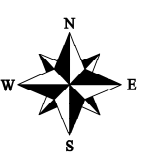


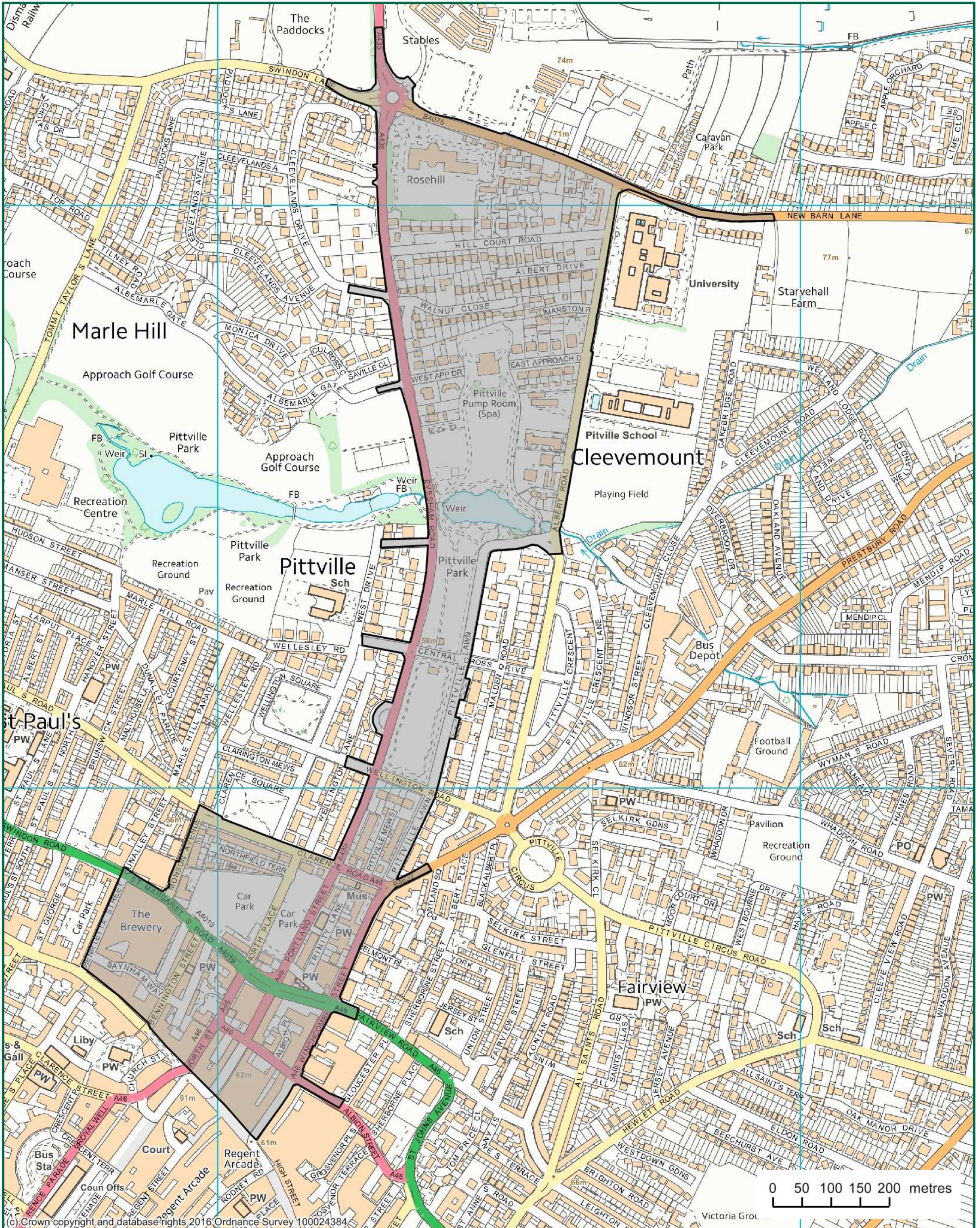
Free printed material (Designated area 1)

1:5000

05 July 2016

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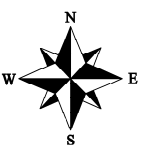


CHELTEMHAM
BOROUGH COUNCIL

Free printed material (Designated area 2)

1:6000

13 July 2016



Briefing Notes

Committee name: Cabinet

Date: 13/09/16

Responsible officer : Mark Nelson

This note contains information to keep Members informed of matters relating to the work of the Cabinet or a committee but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

159 Fairview Road – Listed Building The “Banksy” Mural

159 Fairview Road is a Grade II Listed Building (listed on 5th May 1972).

The legislation relating to listed buildings is the Planning (Listed Buildings and Conservation Areas) Act 1990.

In February 2014, the property, which was then tenanted, was the subject of intervention by the Council under the Housing Act 2004. A hazard awareness notice was served on the owner requiring the hacking off of loose, cracked, unkeyed, or perished render on the front and gable elevations, and keying all exposed brickwork and re-rendering.

The property became vacant shortly after the service of the notice.

In April 2014, a “Banksy” mural appeared on the gable wall. Its retention was subsequently authorised by the Planning Committee on 19 February 2015 when listed building consent was retrospectively granted.

In May 2014, the Heritage and Conservation Manager met with the owner to discuss the repair of the listed building. Following on from that meeting a letter was sent from the Heritage and Conservation Manager to the owner. The letter concluded:

“The historic maps show that a house at the end of the terrace was demolished as part of road widening works. So interestingly, your property was never intended to be the end house and the current flank external wall with the poor external render would have originally been an internal wall between two houses. Finally, it is apparent that the external render to this flank wall is in a poor state and the render is potentially unstable. Whilst the council is keen to see the Banksy artwork on the flank retained, advice on this type of work is beyond both my area of expertise and the council’s remit. However, my colleague has spoken to a specialist who suggests that it may be possible to detach the render with the artwork intact, stabilise it and replace it in situ within a repaired wall. However, you will need to satisfy yourself as to the efficacy of the method and take your own advice. The council is willing to work with you to identify specialists, but can offer you neither funding nor a guarantee of success and you need to make your own arrangements to satisfy yourself that the working method and the craftsmen are up to the job.”

In July 2014, following the covering up of the Banksy by hoarding, a Temporary Stop Notice was served as the Council had reason to believe that unauthorised works had taken place in an attempt to remove the Banksy.

In August 2014, the hoarding was removed and the mural was itself subject to graffiti with silver paint. A Perspex cover was subsequently put over the mural. Four drill holes were visible in the four corners of the mural. A warrant was obtained by the council to gain access to the interior of the property whereupon it was discovered that substantial damage had taken place to the internal wall behind the Banksy which had been stripped down to the outer leaf of brickwork and the chimney breast had been removed, thus leaving a single skin of brickwork supporting the Banksy. The holes in the walls were where i-beams were put through, in what appears to have been an attempt to remove the wall from the inside.

An application submitted by a local businessman for the Banksy mural to be listed was granted by the Planning Committee on 19 February 2015. Subsequent to this counsel opinion had been sought as to the statutory options to secure the preservation of the building. The render on the end gable wall had started to crumble and fall onto the pavement. The render was cracked, unstable and not weatherproof. To address this, and in the absence of any action by the owner of the property to carry out works of maintenance to the building, the Council erected fencing to prevent a risk of injury to the public.

The legal advice obtained strongly pointed to the council's use of powers under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990, by serving an Urgent Works Notice. Under this section a local authority may execute any works which appear to be urgently necessary for the preservation of a listed building.

There then followed a long period of discussion between the owner and interested parties regarding the sale of the property which came to nothing. The property was subsequently also put on the open market for sale, but was later withdrawn by the owner.

The primary purpose of an urgent works notice is to act as a stopgap. It is not a long-term solution for the building. The owner was notified that the Council was considering serving an urgent works notice, giving the owner the opportunity to undertake the necessary works. The urgent works notice was served in January 2016 and the owner has been undertaking works to prevent further deterioration to the fabric of the building. The notice required the following works:

'Carefully remove all loose, cracked, unkeyed, and perished render on the front and gable elevations including the parapet walls with due regard being given to the protection of the Banksy mural.

Key all exposed brickwork, prepare and re-render where the loose, cracked, unkeyed and perished render had been removed, or fallen off the building, to match the existing flush with adjacent surfaces.

Leave the whole sound and weatherproof upon completion'.

In paying 'due regard' to protecting the Banksy mural, the render area above it was cut using an angle grinder. Notwithstanding this, the render including the Banksy mural itself was unkeyed and we are advised, consequently fell off the building.

The urgent works notice does not address the poor internal condition of the building and the unauthorised works carried out, which included the removal of internal brickwork, flooring and skirting by persons unknown. The process for addressing this was by way of the service

of a Listed Building Enforcement Notice to require their reinstatement. This notice was served in October 2015. Officers are continuing to work with the owner to secure the repairs and reinstatement of the Listed Building and if this cannot be achieved, consideration will be given to prosecution for non-compliance with the Enforcement Notice. At this stage, we have no reason to believe that the owner will not complete the works.

One Legal has been requested to comment on the legal implications of the removal of the Mural and they have advised as follows:-

Section 9 of the Listed Building Act 1990 provides that no person shall execute any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. Section 9 creates an offence to carry out works that require listed building consent without such consent being obtained.

In this case, works were carried out to the listed building in accordance with a Statutory Notice served by the Council under section 54 of the Listed Buildings Act 1990. This was served following advice from Counsel on the most appropriate way of preserving the listed building and having regard to the safety of pedestrians, who were in danger of being hit by falling masonry.

The removal of the Banksy Mural in the course of execution of the works required by the Notice are still the subject of investigations by the Enforcement team and once these are completed, a decision will need to be taken in conjunction with the Solicitor to the Council on the merits of a prosecution.

Contact Officer: Mark Nelson
Tel No: 01242 264165
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