Merton Council

Cabinet Agenda

Membership

Councillors:

Ross Garrod (Chair)
Eleanor Stringer
Stephen Alambritis MBE
Billy Christie
Caroline Cooper-Marbiah
Brenda Fraser
Natasha Irons
Andrew Judge
Sally Kenny
Peter McCabe

Date: **Monday 10 October 2022**

Time: **7.15 pm**

Venue: **Committee Rooms DE, Merton Civic Centre, London Road, Morden SM4 5DX**

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda please contact democratic.services@merton.gov.uk or telephone 020 8545 3357.

All Press contacts: communications@merton.gov.uk, 020 8545 3181

Cabinet Agenda
10 October 2022

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

CABINET
22 SEPTEMBER 2022

(7.16 pm - 8.07 pm)

PRESENT	Councillors Councillor Ross Garrod (in the Chair), Councillor Eleanor Stringer, Councillor Stephen Alambritis, Councillor Billy Christie, Councillor Caroline Cooper-Marbiah, Councillor Brenda Fraser, Councillor Natasha Irons, Councillor Andrew Judge, Councillor Sally Kenny and Councillor Peter McCabe
ATTENDING REMOTELY	Councillor Stephen Alambritis
ALSO PRESENT	Adrian Ash (Interim Director, Environment and Regeneration), John Bosley (Assistant Director Public Space Contracts and Commissioning), Tim Catley (S106 Monitoring officer), Robert Cayzer (Interim Head of Cabinet Office), Hannah Doody (Chief Executive), Elizabeth Fitzpatrick (Assistant Director for Education and Early Help), Caroline Holland (Director of Corporate Services), Roger Kershaw (Assistant Director of Resources), Calvin McLean (Interim Assistant Director Public Protection), John Morgan (Interim Director, Community & Housing) and Louise Round (Managing Director, South London Legal Partnership and Monitoring Officer) and Amy Dumitrescu (Democracy Services Manager)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

No apologies were received. Councillor Alambritis attended remotely.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETINGS (Agenda Item 3)

RESOLVED: That the minutes of the meetings held on 18 July and 31 August are agreed as an accurate record.

4 MERTON'S CIVIC PRIDE FUND - INVESTING IN NEIGHBOURHOODS USING NEIGHBOURHOOD COMMUNITY INFRASTRUCTURE LEVY FUNDING (Agenda Item 4)

The Cabinet Member for Civic Pride presented the report

RESOLVED:

1. That Cabinet approve the replacement of the Neighbourhood Fund with a new funding regime called the “Civic Pride Fund – Investing in Neighbourhoods”
2. That Cabinet approve the council’s new overarching priority supported by the three principles set out in paragraph 2.5 as part of bid selection under the new Fund.
3. That Cabinet note the proposed timetable for bidding set out at paragraph 5
4. That Cabinet endorse the heads of terms and note the draft timetable for consideration of priorities and implementation for a new Ward Allocation Scheme set out at paragraphs 2.12 to 2.13 and 5

5 MERTON CIVIC PRIDE FUND: SUPPORTING THE VOLUNTARY AND COMMUNITY SECTOR 2023/26 - COMMISSIONING REQUIREMENTS (Agenda Item 5)

The Cabinet Member for Civic Pride presented the report and thanked organisations for their collaboration and their work on recent issues including the Covid-19 pandemic and assisting Ukrainian refugees.
The funding would cover multi year grants between 2023-26 and brought several funding streams into one fund. The Council were looking to invest over £5m pounds. Following the consultation process it was noted that smaller organisations had struggled to access some of the funding previously and therefore £50,000 a year had also been put aside for Merton Giving to award grants and Merton Connected has been tasked with assisting with targeted bid help.
The Cabinet Member thanked officers for their work and thanked the independent chair of the group.

RESOLVED:

1. That Cabinet approve the aligning of a range of information, advice and preventative support services into an expanded ‘Supporting the Voluntary and Community Sector’ programme which sits under the umbrella of the Civic Pride Fund (see section 1.2-1.5).
2. That Cabinet approve the Prospectus as the basis on which to fund these services (see section 3.11-3.15).
3. That Cabinet note the funding available for 2023-26 and to approve the proposed allocations against each of the programme themes (see section 7).
4. That Cabinet approve the scoring methodology and weighting to select providers (see section 3.19).

6 COST OF LIVING SUPPORT FUND (Agenda Item 6)

The Cabinet Member for Finance and Corporate Services presented the report which set out the proposed approach to distribution of the first half of the Cost of Living Support Fund and the latest tranch of support fund monies from the Government.

The Cabinet Member gave an overview of the distribution including direct grants of £60 cash payments to residents receiving Council Tax support, Free School Meals vouchers during school holidays including the 2023 Easter Holidays and the Sustainable Merton Fridge network and food poverty action plan. The Council was also proposing the addition of two additional debt advisors for the Citizens Advice Bureau for a period of two years.

The effectiveness of these measures would be reviewed in January 2023.

Cabinet Members spoke to the report, thanking officers and members for the report.

RESOLVED:

A. That Cabinet agree the proposal to commit £630,000 of the Household Support fund to free school meal vouchers for the period October 2022 to March 2023 (including Easter holidays) as set out in para 2.6.
B. That Cabinet agree the proposal to commit £100,000 of the Household Support fund to be available for application based referrals from residents as set out in para 2.7
C. That Cabinet agree the proposal to commit £454,000 of the Household Support fund and £200,000 of the council's Cost of Living fund to direct grants with individual payments of £60 to residents in receipt of Council Tax Support by Post Office voucher as set out in para 2.8.
D. That Cabinet agree the proposal to allocate £400,000 to initiatives that reduce heating costs as set out in para 2.11.
E. That Cabinet agree the proposal to commit £100,000 to support arrangements in the voluntary and community sector as set out in para 2.16.
F. That Cabinet agree the proposal to commit £200,000 to fund two Debt Advisors for two years for Citizens Advice as set out in 2.15 and 2.17.
G. That Cabinet agree the proposal to commit £100,000 to Sustainable Merton to support the Community Fridge as set out in 2.18 and 2.19.
H. That Cabinet agree the proposal to keep back £1 million to enable a further review in January 2023 and to implement further initiatives as set out in 2.20

7 LIVING WAGE EMPLOYER ACCREDITATION (Agenda Item 7)

The Cabinet Member for Finance and Corporate Services presented the report which outlined the timeline and plan for the Council to achieve Living Wage Employer Accreditation by the end of January 2023. All in-scope contracts would be included with the exception of care homes which would be addressed at a later date.

It was noted that the proposal included appointing a Living Wage Champion and this would be Councillor Billy Hayes.

The Chair thanked officers and the Cabinet Member for their work.

RESOLVED:

A. Cabinet notes what is required for the Council to achieve accreditation as a Living Wage Employer from the Living Wage Foundation; and
B. Cabinet notes the indicative cost implications of rolling out the Real Living Wage (RLW) and London Living Wage (LLW) across all Merton 'in-scope' contracts; and

C. Cabinet approves Merton seeking accreditation as a Living Wage Employer and agrees to introduce the Real Living Wage into Merton contracts - as and when the contracts come up for re-tendering (excluding Care Home contracts) – Phase I
D. Cabinet agrees that more work be undertaken to ascertain a more realistic cost for implementing the LLW across Merton's Care Home contracts and that this work is carried out after Merton has achieved its Living Wage Employer accreditation – Phase II.
E. Cabinet agrees the appointment of Cllr Billy Hayes as the Living Wage champion so that the Council may build on its status as a Living Wage Employer and become a Living Wage Borough

8 REFERENCE FROM THE SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY PANEL – HOUSING ENFORCEMENT (Agenda Item 8)

The Chair advised that apologies had been received from the Chair of the Sustainable Communities Overview and Scrutiny Panel who was attending Planning Committee at the time of the Cabinet meeting.

The Cabinet Member for Housing and Sustainable Development gave an overview of the recommendations put forward by the Scrutiny Panel and advised that the Cabinet would consider how best these could be supported and report back later in the Autumn.

RESOLVED:

1. That Cabinet noted the reference set out in paragraphs 2.6 to 2.21 of the report and would respond within two months.

9 REFERENCE FROM THE SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY PANEL - COMMUNITY WASTE COLLECTIONS (Agenda Item 9)

The Cabinet Member for Local Environment, Green Spaces and Climate Change thanked the panel for their work and advised the Cabinet would be looking at the recommendation within the report.

RESOLVED:

1. That Cabinet noted the reference set out in paragraph 2.7 of the report and would respond within two months.

10 AWARD OF CONTRACT FOR ARBORICULTURE SERVICES (Agenda Item 10)

The Cabinet Member for Local Environment, Green Spaces and Climate Change presented the report, noting that the proposed company had served in the Borough during Storm Eunice and provided an offer on social values including apprenticeships and work with local schools.

RESOLVED:

A. That Cabinet agreed to award a new contract for the provision of arboriculture services across the Council's administrative area to Barkland Tree Specialists for a period of three (3) years (from 01 November 2022) with potential extensions of up to 36 months (three years). The contract value is set out in Appendix A.
B. That Cabinet delegate the decision to award an extension of the awarded contract to the Director of Environment and Regeneration in consultation with the Cabinet Member, for any period up to 3 years in accordance with CSO 27

That the recommendations within the Exempt Appendix were approved.

11 VAWG STRATEGY (Agenda Item 11)

The Cabinet Member for Civic Pride presented the report.

The strategy had been recently scrutinised by the Overview and Scrutiny Commission and the Cabinet Member thanked them for their input. An action plan would be developed which would outline how the strategy would be delivered.

The Cabinet Member thanked officers for their work and Cabinet Members spoke to the report.

RESOLVED:

A. That Cabinet note the update on the work on the VAWG agenda and agree the new VAWG Strategy 2022-2025 - Merton's Ending Violence Against Women & Girls Strategy 2022–2025.

12 PUBLIC SPACE PROTECTION ORDER (Agenda Item 12)

The Cabinet Member for Civic Pride presented the report. The current Public Space Protection Order (PSPO) was due to expire and therefore following a consultation, it was proposed to extend the current PSPO and to include better enforcement as well as agreeing to consult on extending the PSPO Borough-wide.

The Cabinet Member thanked officers for their work, all those who had responded to the consultation and the Overview and Scrutiny Commission who had recently reviewed the proposal.

In response to questions from Cabinet Members, officers advised that there were a number of workstreams including work within schools on substance misuses and noting that other tools such as dispersal orders can be used in conjunction with PSPOs where these are required.

RESOLVED:

A. That Cabinet note the contents of the Evidence Report, the Public Consultation Findings and the Equalities Impact Assessment (Appendices 1-3).

B. That Cabinet agree the proposal to extend the existing PSPO for alcohol related ASB for a further three years.
C. That Cabinet agree conduct a further consultation, on whether to make Merton a responsible drinking borough and to making a borough wide PSPO for alcohol related ASB

13 JUNE FINANCIAL MONITORING REPORT (Agenda Item 13)

The Chair advised that agenda items 13 and 14 would be presented together.

The Cabinet Member for Finance and Corporate Services presented the reports, noting some adjustments to the Capital Programme. The projected overspend was currently £5.4m at the end of the year, this was largely due to lower than anticipated parking income.

The Director for Corporate Services advised that the outstanding debt analysis had worsened and work was progressing on that.

It was noted that the Month 3 report would be considered by the upcoming Financial Monitoring Task Group. The increase in interest rates may have an impact on investments and this would be monitored.

RESOLVED:

A. That Cabinet note the financial reporting data for month 3, June 2022, relating to revenue budgetary control, showing a forecast net adverse variance at 30 June on service expenditure of£5.444m when corporate and funding items are included and £3.412m of reserves assumed to be used as agreed at last month's Cabinet
B. That Cabinet note the contents of Section 5 and Appendix 5b of the report and approve the adjustments to the Capital Programme in the Table below

	Budget 2022-23	Budget 2023-24	Narrative
	£	£	
Raynes Park – Capital Maintenance	14,500		Vired from the Unallocated Budget
Unallocated Capital Maintenance	(58,250)		Allocation to Lonesome, Melbury and Raynes Park
Lonesome – Capital Maintenance	28,720		Vired from the Unallocated Budget
Merton Abbey – Capital Maintenance	(8,610)		Vired to the Unallocated Budget
Melbury – Capital Maintenance	23,640		Vired from the Unallocated Budget
Medical PRU	(60,000)	60,000	Reprofiled in line with projected spend
Total	**(60,000)**	**60,000**	

C. That Cabinet ask CMT to investigate and report back on measures to reduce the adverse variance, recognising that CSF have set some actions out already in Section 4

14 JULY FINANCIAL MONITORING REPORT (Agenda Item 14)

RESOLVED:

A. That Cabinet note the financial reporting data for month 4, July 2022, relating to revenue budgetary control, showing a forecast net adverse variance at 31 July on service expenditure of £5.448m when corporate and funding items are included and £3.412m of reserves assumed to be used as agreed at the Cabinet meeting on the 18 July.

B. That CMT note the contents of Section 5 and approve the adjustments to the Capital Programme contained in Appendix 5b
That Cabinet note the contents of Section 5 and Appendix 5b of the report and approve the adjustments to the Capital Programme in the Table below:

		Budget 2022-23	Budget 2023-24	Budget 2024-25	Narrative
		£	£	£	
Corporate Services					
Customer Contact - Fix My Streets	(1)	50,000			Priority project from IT Implementation List
Business Systems - Parking System	(1)		95,110		Funded by the OCPB Reserve
Children, Schools and Families					
Joseph Hood - Schools Capital Maintenance	(1)	(66,120)	66,120		Reprofiled in line with projected spend
Dundonald - Schools Capital Maintenance	(1)	(12,000)			Reprofiled in line with projected spend
Raynes Park - Schools Capital Maintenance	(1)	12,000			Reprofiled in line with projected spend
Perseid Lower School - School Expansion	(1)	100,000	1,500,000	2,516,860	Splitting Perseid Lower Expansion from Perseid Upper
Perseid School - School Expansion	(1)	(100,000)	(1,500,000)	(2,516,860)	Splitting Perseid Lower Expansion from Perseid Upper
Mainstream SEN (ARP) - West Wimbledon ARP	(1)	40,000	(40,000)		Reprofiled in line with projected spend
Environment and Regeneration					
On Street Parking - P&D - Pay and Display Machines	(1)	(200,000)			As Emissions based Charging is not being progressed unspent budget being vired back to Car Park Upgrades
Off Street Parking - P&D - Car Park Upgrades	(1)	260,000			Virement of projected unspent budget back to Car P ark Upgrades from Pay and Display Machine Upgrade
Off Street Parking - P&D - Peel House Car Park*	(2)	700,000			Funding Required to undertake structural works
Off Street Parking - P&D - Pay and Display Machines	(1)			(60,000)	Reprofiled in line with projected spend pattern and vired to Car Park Upgrades
Highways and Footways - Bishopsford Bridge	(1)	35,000			Virement from Cycleway schme to fund projected outturn on the

					scheme
Highways and Footways - Cycle Lane Roadway Bishopsford Bridge	**(1)**	(47,000)			Virement to main Bishopsford Bridge Scheme and relinquish projected underspend
Mitcham Area Regeneration - Pollards Hill Bus Shelter	(1)	(100,000)	100,000		Reprofiled in line with projected spend
Morden Area Regeneration - Morden Town centre Imp	(1)	(200,000)	200,000		Reprofiled in line with projected spend
Parks - New water play feature wimb pk	(1)	(226,000)	226,000		Reprofiled in line with projected spend
Parks - Multi Use Sports Areas	(1)	175,000		**(175,000)**	Reprofiled in line with projected spend
Parks - Figges Marsh Ward Allocation - Figges Marsh	(1)	10,020			Table Tennis Table funded by NCIL
Parks - Graveney Ward Allocation - Edenvale Rec	(1)	10,020			Table Tennis Table funded by NCIL
Parks - Lavender Fields Ward Alloc - Lavender Park	(1)	10,020			Table Tennis Table funded by NCIL
Parks - Longthornton Ward Alloc - Long Bolstead Rec	(1)	10,020			Table Tennis Table funded by NCIL
Parks - Colliers Wood Rec Playground	(1)	2,190			Additional NCIL Funding
Total		**463,150**	**647,230**	**(235,000)**	

C. That Cabinet ask CMT to investigate and report back on measures to reduce the adverse variance.

15 EXCLUSION OF THE PUBLIC (Agenda Item 15)

The meeting proceeded entirely in public and therefore this item was not required

Committee: Cabinet

Date: 10 OCTOBER 2022

Wards: All

Subject: **Waste and Street Cleansing Contract**

Lead officer: Adrian Ash, Interim Director Environment & Regeneration

Lead member: Cllr N Irons, Cabinet Lead for Local Environment, Green Spaces and Climate Change

Contact officer: John Bosley, Assistant Director of Public Space and Charles Baker, Waste Strategy & Commissioning Manager

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Recommendations:

A. To agree not to extend the current waste collection and street cleansing contract, following a review of the proposed requirements by the contractor to support an extension of the current contract.

B. To agree to not jointly procure with the SWLP and therefore require officers to develop and manage a new Service Delivery Strategy for the waste collection and street cleansing services while coordinating with the South London Waste Partnership (SLWP) boroughs.

C. To note and agree the resourcing and co-ordination function of the SLWP. The SLWP will coordinate the partnership and help ensure compliance with the London Environment Strategy (LES), while providing technical, financial, and strategic advice.

D. To note the powers held by the Mayor of London under the GLA Act to issue directions to London boroughs in relation to waste management procurement and encourage the project team to develop a working relationship with the GLA Borough Liaison Team to ensure service specifications are in general conformity with the LES.

E. To note the proposed timetable and budget implications.

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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. The current Veolia contract managed through the South London Waste Partnership (SLWP) expires on 31st March 2025. Officers reviewed the current waste collection and street cleansing services along with the proposed terms placed on a contract extension by the contractor, which modify the service provision and increase costs.

1.2. As such, officers have concluded that it is not in the best interest of the Council to extend the current contract past March 2025.

1.3. This is primarily due to the significant changes in global recycling markets, additional risks to the Council for commercial waste disposal costs and the adjustment of contractual indexation due to significant changes in National inflationary impacts.

1.4. In addition, the contract requirements & performance to date have not fully met the evolving needs of our residents; particularly regarding flats above shops and street-cleanliness. Meeting those needs is the council's primary responsibility and has been set by Cabinet as a priority for the new administration.

1.5. Therefore, it is appropriate for the authority to further use the opportunity of re-procurement to ensure contractual performance is matched to the needs of residents going forward.

1.6. The report provides further analysis around the challenges, ambitions, and opportunities facing the Council, and recommends that the Council does not jointly reprocure with the SLWP the range of services currently delivered through the Phase C, Lot 1 Contract.

2 DETAILS

2.1. The Phase C, Lot 1 Contract provides for the provision of waste and recyclate collection and marketing, winter maintenance, vehicle maintenance and street cleansing. The current environmental services contract, also referred to as 'Phase C', was procured by the London Borough of Croydon on behalf of the SLWP partner boroughs as lead and awarded to Veolia (Environmental Services). The initial term of the Phase C Contract is 8 years with an expiration date of 31st March 2025. Any extension must be agreed by both parties to the contract. Croydon as lead and the other SLWP partner boroughs entered into an Inter Authority Agreement (IAA) to manage the relationship between the partners in respect of the Veolia Contract.

2.2. The Parties may extend the Veolia Contract for two further periods (each period lasting up to eight (8) years) by written agreement no later than forty-two (42) Months prior to the end of the then current contract. This would have required agreement to Contract Extension finalised by 30th September 2021 however a new timeline has been agreed with all parties.

2.3. The contract saw all boroughs adopting the same collection methodology for the core areas of the services, including fortnightly residual waste collection, fortnightly paper/card collection, fortnightly dry mixed recyclable collection (glass, cans, plastic), weekly food waste and a charged fortnightly garden waste service. Some differences remain in response to localised needs and demands, such as flats above shops, communal properties, street cleansing and so on. Other areas, such as winter maintenance, are also services that are not provided to all boroughs under the Phase C Contract.

2.4. The annual value of the Phase C Contract across the SLWP is c £30m and the contract continues to be held and administered by the London Borough of Croydon. The council specific annualised costs are outlined in 6.3.

<u>Service Delivery Strategy</u>

2.5. The SLWP undertook a detailed Options appraisal on the recommissioning of the Phase C services on a 'like for like' basis – with all the current Phase C services packaged up and analysed for re-procurement using the same specification. The results of the analysis did not provide a clear 'best-route' to market for a 'like for like' delivery of the current integrated waste collection and street cleansing contract.

2.6. We have a duty to ensure all contracts provide best value and, in reviewing the current proposal, it is evident that a simple contract extension would not provide the

Council with an evidence based 'Best Value' solution taking into account the economic, environmental impact along with the inclusion of social value.

2.7. The Council is recommended to develop and manage their own Service Delivery Strategy for the waste collection and street cleansing services currently delivered under the Phase C Contract while maintaining a coordinated timetable with partner boroughs. Four commissioning strategies would be involved - the Council's in addition to those of the three partner boroughs - meaning that the Council and each partner borough would commission their own services through their own internal governance and procurement processes.

2.8. The recommended approach would provide the Council with greater flexibility in the development and commencement of commissioning activities. Procurement could commence between the 1st of April 2023 through to the 1st of July 2023 should the Council choose this flexible route for any one or more service areas currently delivered under the Phase C Contract.

2.9. Officers will work on a coordinated approach to the market amongst SLWP partners to accommodate the different requirements and challenges that the Council and our partners need to address without overstretching the private sector bidding resources, should this route be chosen. These challenges naturally arise from different service design aspirations, depot requirements, and different member and resident consultation needs in Merton compared to other boroughs. The SLWP will work collaboratively with the Council and partnering boroughs to ensure any applicable synergies are maximised. In addition, this approach can simplify any bidding process by standardising documents that are replicated across separate procurements.

2.10. Officers will maintain the SLWP's central support function throughout this next stage of commissioning to ensure best advice and technical support is sought. It is essential that officers maximise the use of SLWP and realise potential savings can be made through shared knowledge across the partnership during this next stage. The SLWP can assist the Council by maintaining a coordinated timetable with the three partner boroughs in order to highlight pinch-points and facilitate a staggered approach to service design options that prevents bidding resources from being overstretched.

3 ALTERNATIVE OPTIONS

3.1. The primary services delivered within the Phase C contracts, as outlined above, are statutory services. Officers will undertake a review of current services delivered to develop a Service Delivery Strategy that will enable the future delivery of these services from April 2025.

3.2. The findings from the review and the development of a Service Delivery strategy will be presented for consideration by Cabinet. It is anticipated that the review will be available for presentation to Cabinet in January 2023.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. The services delivered through this scope of work impact all residents, workers, and visitors of the borough on a daily basis. Officers are keenly aware of the need to undertake proactive and thorough engagement of residents and key stakeholders, including resident associations, community groups, housing associations, BIDs, representative groups (e.g. MertonVision) and our children and young people, with special focus on the service delivery design phase that includes the preparation of service specifications.

4.2. The Mayor of London - has significant rights and powers conferred by s353-361 of the Greater London Authority Act. The Council has a duty to give the Mayor two years' notice of the expiry of any waste management contract. The Mayor has a right to be consulted on any arrangements proposed to re-procure or otherwise replace a contract, with a view to ensuring that the arrangements made would remain in general conformity with the London Environment Strategy (LES). The Council must give the Mayor at least 56 days' notice of any intention to place a Prior Information Notice on its buyer profile, or 108 days of any intention to place a Contract Notice. The Mayor could issue a direction to the Council in the event that a contract is perceived not to be in general conformity with the LES.

4.3. Member Consultations - Undertaken by officers to review current service delivery challenges, agree future service objectives and identify changes in future service delivery.

4.4. SWLP Consultations - To produce and fine-tune a specification for each of the service areas, informed by the results from intelligence gathering exercises.

4.5. General Resident Consultations - A resident engagement project is being jointly delivered by the SLWP and the Council in autumn 2022 (October – November), providing local people with an opportunity to have their say and help shape future frontline services as part of the recommissioning exercise. The engagement project has two key elements:

4.5.1 Online survey and focus groups / co-design workshops – led by an independent social research company.

4.5.2 Communications and engagement campaigns – led by the Council.

5 TIMETABLE

5.1. The existing contract with Veolia expires in March 2025 and, as outlined above, officers shall develop a Service Delivery Strategy for consideration that will provide options on how the services can be delivered from April 2025. This process will be informed by consultations and ensure future services conform with the LES and meet the ambitions of the Council's climate strategy and action plan.

5.2. A contract notice / PIN will need to be issued by April 2023 if the Council determines that they would like to re-procure a waste collection contract to begin in 2025.

5.3. This means that work on the specification of these services and on contract documentation will need to be carried out in parallel to determining the services that will be procured and/or delivered in partnership.

5.4. Any new service model will need to be awarded and signed no later than April 2024 in order to allow for a 12-month mobilisation period.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. The current combined contract value of the Phase C services in Merton is c£7.6m per annum (excluding capital). It is anticipated that this cost will rise. The project team will continue to review service designs, technology, partnership working, and other market opportunities in order to minimise this increase wherever possible and will continue to report back to Members as the project progresses. The replacement of the fleet vehicles has been built in the capital programme for 2025/26.

6.2. There are also implications to consider for asset management strategies, particularly in regard to the repairs and adaptations that may be required at Garth Road. The current SLWP shared infrastructure provides cost savings across the partnership boroughs through the collective use of depots. However, the service design options available for future services of the Council may potentially impact this efficiency opportunity. Considering potential service delivery options, Officers will work collaboratively with partners in the SLWP to maximise any synergies, whilst ensuring that service delivery efficiencies and achievement of climate reduction strategies for our future fleet are not jeopardised.

6.3. The table below illustrates the current financial cost of providing the waste collection and street cleansing contract over the first 5 years of the contract.

Year	Street Cleansing	Waste Collection
2017/18	£2.674m	£5.417m
2018/19	£2.501m	£4.824m
2019/20	£2.917m	£4.783m
2020/21	£2.990m	£4.593m
2021/22	£3.396m	£4.266m

6.4. For information to Cabinet, the extension proposal was comprised of an increase in costs, reduction in guaranteed income and a change in risk profile. The increase in contract price is 27% which equates to a gross cost increase for Merton estimated at £2.045m of the current annual cost. This follows extensive negotiations with the contractor over the last 18 months (prices submitted in June 2022) and reflects the changes to the marketplace as outlined in section 1.1.

6.5. It is important to note that the current services were procured in a different commercial context with reference to the increase in the cost offered as part of the extension. There have been significant changes in the private sector and the way we live and work due to COVID since the award to Veolia in 2016. Continuous change is likely over the coming years, and it is challenging to confidently agree a finalised specification that we will need, want or can deliver in 2025, which is another difficulty with the option to extend.

6.6. The proposed Service Delivery Strategy will support our aim to manage the increase in the cost of delivering our waste collection and street cleansing services even whilst there are risks around potential service delivery models. The approach will enable the Council to re-evaluate and redesign the services that we are required to deliver, test the market to ensure we are achieving best value for our new designs, and also consider whether we are investing in the right technology and infrastructure that will enable us to maintain, innovate and improve the customer and resident experience.

6.7. Lastly, the Council has a target to become Carbon Neutral by 2030. The realisation of this ambition will require a step change in how we design and deliver our high-profile environmental services. The Council will need to look to the wider market for innovation and technological solutions in order to support the realisation of this objective.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. Local authorities have legal duties with regards the collection of waste, the disposal of waste and to keep Highways and public lands clear of litter under the Environmental Protection Act 1990 and contracts falling under current Phase C contract satisfy those statutory duties.

7.2. Croydon as lead authority to the contract, as set out in section 2 of this paper, entered discussions in 2020 with Veolia regarding a possible contract extension. The amended approach to notification was agreed by all parties to the IAA as members of the SLWP via the Transformation Board reporting to the SLWP Senior Management Group.

7.3. Veolia has made it clear that future service costs would rise significantly and that existing guarantees on commercial waste income and recyclate sales would no longer be provided. As above, this increase is seen across the market.

7.4. External legal advice, through the commissioning authority (LB Croydon), has been sought regarding whether such an extension would be compliant within the terms of the Section 72 modifications allowed under the Public Contract Regulations 2015. That advice has indicated that in the event that the variations are challenged the chance of success of such a challenge is high given the value of the variations in favour of the Contractor.

7.5. When considering options, due consideration shall be given as to what the position is in respect of TUPE and pensions and the cost implications in the event that these apply.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. There are no material equalities implications resulting from the recommendation(s) of this report. However, we will seek to address this in the procurement and delivery of future services and further consultation will be undertaken as the service delivery strategy is drafted.

8.2. A full equalities impact assessment will need to be undertaken and approved prior to any new service provision.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. There are developing risks dependant on the finalised Service Delivery Strategy.

10.2. The cost of delivering these services on a ‘like for like’ basis will increase for the reasons set out in the report. Officers will continue to review service designs, technology, partnership working, and other market opportunities in order to minimise this increase wherever possible.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

12 BACKGROUND PAPERS

12.1. 27th Jan 2020 – Cabinet Report Annual Review

12.2. 4th July 2016 – Cabinet Report Award of Contract

Committee: Cabinet

Date: 10th October

Wards: All

Subject: Update on Selective & Additional Licensing; Empty Homes; and the introduction of an Article 4 Direction

Lead officer: John Morgan, Interim Director of Community & Housing and

Adrian Ash, Interim Director of Environment & Regeneration

Lead member: Councillor Andrew Judge, Cabinet Member for Housing and Sustainable Development

Contact officer: Lesley Barakchizadeh, Lead Programme Consultant Ext: 3099

Recommendations:

1.Approve Consultation on the proposed introduction of Selective Licensing to Figge's Marsh; Graveney; Longthorton; and Pollards Hill Wards

2. Approve Consultation on the proposed introduction of Additional Licensing to Figge's Marsh; Graveney; Longthornton; Pollards Hill; Colliers Wood; Cricket Green and Lavender Fields Wards

3. Approve an Immediate Article 4, noting the possible financial risk to the Council

4. Approve Consultation on the introduction of an Immediate Article 4 Direction for small HMOs in Figge's Marsh; Graveney; Lonthornton; Pollards Hill; Colliers Wood; Cricket Green and Lavender Fields Wards

5. Note that following the consultation exercise, which is scheduled to run from November 2022 to January 2023, a further report will be brought back to Cabinet to agree the way forward following consideration of representations received

6. Note the report on Empty Homes which is for information only

7. Agree that the additional cost of £134k be funded by a transfer from the corporate contingency fund.

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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. This report provides an update on two key projects which were reported to the March, June, and September LSG Meetings.

- Consideration of Selective Licensing and Additional Licensing schemes, which would require a licence for private rented sector (PRS) properties, and for houses in multiple occupation (HMOs) not covered by the mandatory HMO regulations
- An Article 4 Direction, which would require new small house and flat shares (small HMOs) to seek planning permission instead of being covered by Permitted Development (PD). HMOs of 7 or more people, from more than one household, already require planning permission.

- More detailed papers are appended on each of the two projects.
- Additionally, a third paper on a separate project for Empty Homes as part of our overall work on increasing homes is also attached.

1.2 At the June 2022 LSG Meeting, concern was expressed about the long lead in time to introduce both projects.

1.3 It was requested that further consideration be given to bringing forward the timetable for each of the projects where possible, dealing with them separately if this would help matters.

1.4 A further report was then required to be brought back to LSG/Cabinet with revised timescales and to seek Cabinet approval prior to commencing consultation.

1.5 It is important to note that the Council is committed to improving housing conditions in the Private Rented Sector (PRS); and to tackling the many instances of anti-social behaviour and other issues that arise from poorly managed rented properties and in particular HMOs.

1.6 The PRS is an important part of our housing stock and is growing rapidly in Merton. Whilst many landlords operate within guidelines, there are also others who do not, often taking advantage of some of the most vulnerable members of our community. This leads to issues affecting health and safety, the wider community, as well as the environment.

1.7 The Council strongly believes that it is necessary to pursue every action it can take to address the many issues and complaints that it receives resulting from the growth of the PRS in Merton and unscrupulous landlords.

1.8 To this end, the Council is working on a strategy which will include a raft of measures and actions to be taken, including the introduction of Selective and Additional Licensing; the introduction of an Article 4 Direction; as well as targeted and effective enforcement.

1.9 A Supplementary Planning Document (SPD) is also required to ensure that guidance is in place against which planning applications for change of use to HMOs can be assessed and to provide a basis on which applications may be refused. Once approved for consultation, the SPD Consultation Draft would be a material consideration in the consideration of these applications and will set out the circumstances when HMOs are likely to be considered acceptable and unacceptable.

1.10 Additionally, the overarching ambition of the new administration is to rebuild pride in Merton with three strategic themes as follows:

- Creating a Borough of Sport
- Building a Sustainable Future
- Nurturing Civic Pride

1.11 The proposals for selective and additional licensing, as well as the introduction of an Article 4 Direction for small HMOs, would support both the theme of Building a Sustainable Future, and Nurturing Civic Pride.

2 PROGRESS TO DATE

2.1 Since the last LSG Meeting in June, the following progress has been made:

- Both a headline report and more recently a draft final report has been received from Metastreet, the company that was tasked with data analysis and modelling. Review of the information received has shown 5 wards as having the most significant issues collectively, featuring Category 1 Hazards; complaints of Anti-Social Behaviour; and property related complaints. These are:
  - Figge's Marsh
  - Graveney
  - Longthornton
  - Pollards Hill
  - Colliers Wood
- An initial selective licensing scheme will be targeted at the top 4 priority wards within the group of five above, so Figge's Marsh; Graveney; Longthornton; Pollards Hill, keeping to under 20% of the geographical area and the PRS. An Additional Licensing Scheme, requiring small HMO's to be licensed, is also being considered. The proposal is for an Additional Licensing designation in the 7 wards proposed for the Article 4 Direction (see point below), subject to further review.
- Additionally, an Article 4 Direction for small HMO's is proposed for the 5 wards above plus Cricket Green and Lavender Fields.
- Consideration was given to running consultation exercises individually for the two projects, but it was felt that this would not speed up the progress of either project significantly and could lead to a risk to the Local Plan should consultation be started whilst the Examination of the Local Plan was taking place (due to the perceived risk that introduction of an Article 4 Direction could impact upon housing numbers). It could also lead to both consultation fatigue and claims of confusion over the same groups and individuals being consulted.
- Most members of the team identified to assist with moving the projects forward initially have been appointed and a need for an additional officer within Housing to assist with the implementation of selective and additional licensing has been identified at a cost of £32,000. Should members be minded to approve the project it should be noted that further project management staffing costs will be required from December for 6 months at a cost of £72,000.
- Work has now commenced on procuring a specialist agency to undertake the consultation and it is intended that Consultation will take place from November for a period of 10 weeks. This is likely to cost in the region of £30,000. This cost, and the £104,000 identified above, (a total of £134,000) will be funded by a transfer from the Corporate Contingency Fund.

3 DETAILS

3.1. Merton has a population estimated to be 206,453 in 2020 and projected (by the GLA) to be 213,209 by 2030. Currently there are around 85,767 residential properties in the borough and 29,181 are estimated to be in the PRS. Merton's PRS is calculated to be 34% of housing stock. This represents an approximate 37% increase since the 2011 census. All Merton's wards have a PRS of above the average national PRS rate which is around19.6%.

3.2. The size of the sector continues to grow as fewer people are now able to buy their own home and social housing remains difficult to access due to demand far outstripping supply.

3.3. The PRS offers flexibility in respect to tenure enabling people to move their accommodation to meet their requirements e.g., changes to employment, personal circumstances, access to schools and other facilities and moving closer to family and friends.

3.4. Although many landlords provide a good standard of accommodation and service to their tenants, there are a substantial number who do not. Given the demand for housing, unscrupulous landlords take advantage of those who have least choice in the market due to their personal circumstances and offer substandard and poorly managed accommodation.

3.5. Housing conditions in the PRS tend to be worse than in other tenures. Additionally, poorly managed privately rented properties have a negative impact upon many neighbourhoods with high levels of noise complaints and accumulation of rubbish.

3.6. The Housing Act 2004 allows local authorities to require landlords of most privately rented accommodation to license their properties (mandatory, additional and selective licensing). Licensing can be applied to specific areas/wards where evidence suggests there is poor quality, or poorly managed, private rented housing. This can help tenants, residents, and members of the wider community where landlords have failed to responsibly manage their properties.

3.7. Local authorities have the power to introduce additional licensing for Houses in Multiple Occupation (HMO's) not included in the mandatory scheme, in areas where the relevant criterion is met.

3.8. Whilst HMOs play an important role in providing housing and meeting the needs of a wide range of residents, HMO's can often have some of the worst housing conditions. Additionally, HMOs are often cited as a major Anti-Social Behaviour (ASB) issue in wards and many complaints are received by Council enforcement teams.

3.9. Merton is wishing to bring in a Selective and Additional Licensing Scheme, together with an Article 4 Direction requiring smaller HMOs to apply for planning consent (currently small HMO's can be set up under permitted development), to address some of the issues being experienced across Merton both by tenants and members of the community.

3.10. This would be consistent with the White Paper published on 16th June 2022, titled 'A Fairer Private Rented Sector'. The White Paper suggests that 21% of homes in the PRS are non-decent, while Category 1 hazards (which present the highest risk of serious harm or death) exist in 12% of properties. A report published alongside the White Paper, presenting the findings from a study commissioned by the Department for Levelling Up, Housing and Communities, suggested that local authorities face 'significant barriers to tackling poor conditions resulting in an uneven picture of enforcement.'

3.11. The White Paper sets out a 12-point plan of action including a confirmation that it will abolish Section 21 'no-fault' evictions, and a reaffirmation of its aim to halve the number of non-decent rented homes by 2030:

1. We will deliver on our levelling up housing mission to halve the number of non-decent rented homes by 2030 and require privately rented homes to meet the Decent Homes Standard for the first time. This will give renters safer, better-value homes and remove the blight of poor-quality homes in local communities.
2. We will accelerate quality improvements in the areas that need it most. We will run pilot schemes with a selection of local councils to explore different ways of enforcing standards and work with landlords to speed up adoption of the Decent Homes Standard
3. We will deliver our manifesto commitment to abolish Section 21 'no-fault' evictions and deliver a simpler, more secure tenancy structure. A tenancy will only end if the tenant ends it or if the landlord has a valid ground for possession, empowering tenants to challenge poor practice and reducing costs associated with unexpected moves.
4. We will reform grounds for possession to make sure that landlords have effective means to gain passion of their properties when necessary. We will expedite landlords' ability to evict those who disrupt neighbourhoods through anti-social behaviour and introduce new grounds for persistent arrears and sale of the property.
5. We will only allow increases to rent once per year, end the use of rent review clauses, and improve tenants' ability to challenge excessive rent increases through the First Tier Tribunal to support people to manage their costs and to remain in their homes.
6. We will strengthen tenants' ability to hold their landlord to account and introduce a new single ombudsman that all private landlords must join. This will provide fair, impartial, and binding resolution to many issues and be quicker, cheaper, and less adversarial than the court system. Alongside this, we will consider how we can bolster and expand existing rent repayment orders and enable tenants to be repaid rent for non-decent homes.
7. We will work with the Ministry of Justice and Her Majesty's Courts and Tribunal Service to target the areas where there are unacceptable delays in court proceedings. We will also strengthen mediation and alternative dispute resolution to enable landlords and tenants to work together to reduce the risk of issues escalating.
8. We will introduce a new property portal to make sure that tenants, landlords and local councils have the information they need. The portal will provide a single 'front door' for landlords to understand their responsibilities, tenants will be able to access information about their landlord's compliance, and local councils will have access to better

data to crack down on criminal landlords. Subject to consultation with the Information Commissioner's Office (ICO), we also intend to incorporate some of the functionality of the Database of Rogue Landlords, mandating the entry of all eligible landlord offences and making them publicly visible.

9. We will strengthen local councils' enforcement powers and ability to crack down on criminal landlords by seeking to increase investigative powers and strengthen a requirement for local councils to report on the housing enforcement activity and want to recognise those local councils that are doing a good job.

10. We will legislate to make it illegal for landlords or agents to have blanket bans on renting to families with children or those in receipt of benefits and explore if similar action is needed for tother vulnerable groups, such as prison leavers. We will improve support to landlords who let to people on benefits, which will reduce barriers for those on the lowest incomes.

11. We will give tenants the right to request a pet in their property, which the landlord must consider and cannot unreasonably refuse. We will also amend the Tenant Fees Act 2019 so that landlords can request that their tenants buy pet insurance.

12. We will work with industry experts to monitor the development of innovative market-led solutions to passport deposits. This will help tenants who struggle to raise a second deposit to move around the PRS more easily and support tenants to save ownership.

3.12 Bringing in additional controls for the PRS is also in line with Merton's Community Plan and in particular the priorities of:

- Protecting and enhancing the local environment
- Enforcing action against anti-social behaviour

3.13 It is also consistent with the Strategic Themes the new administration is introducing of Building a Sustainable Future; and Nurturing Civic Pride.

3.14 There are different statutory processes to go through for Selective and Additional Licensing which is set out in S80 of the Housing Act 2004, and the introduction of an Article 4 Direction which is covered by the Town and Country Planning (GPD) (England) Order 2015.

3.15 The National Planning Policy Framework (2021) sets out specific circumstances that the use of Article 4 Directions needs to take account of.

3.16 Both Selective and Additional Licensing, and Article 4 Directions require consultation which is set out in a statutory framework.

3.17 Both projects require robust evidence to support their introduction as well as very careful consideration of the geographic areas they are applied to. A blanket approach would be unlikely to achieve approval.

3.18 Selective Licensing will require Secretary of State (SOS) approval for any scheme more than 20% of the PRS or more than 20% of the local authority geographical area.

3.19 It should be noted that in June 2021, Croydon had its bid for selective licensing rejected by the Secretary of State. Croydon had previously had a selective licensing scheme which had run between 2015 to 2020.

3.20 Croydon's Cabinet had agreed to continue with the scheme in 2020 but did not hear back on their bid to the Secretary of State for almost 12 months.

3.21 For Article 4 Directions, the Secretary of State must be informed at 2 stages. At the time consultation begins (in effect when the required Notice is posted), the SOS must be notified and sent a copy of the Direction and any relevant maps. The 2nd stage is when the Direction is confirmed. The SOS has the right to require the Council to amend or stop the Article 4 Direction.

3.22 A bid by 7 London Boroughs to introduce Article 4 Directions to block commercial to residential Permitted Development (PD) rights in a key area of central London was recently rejected by the Housing Minister. Whilst this was for a different PD right than the one under consideration by Merton, it is important to note that the Minister had requested additional evidence to demonstrate the effect on individual streets or smaller areas and to ensure that the Article 4 Direction was proposed only where it would have wholly unacceptable adverse impacts and applied to the smallest geographic area possible.

3.23 The above refusals illustrate the need to ensure:

- Robust Evidence in support of proposals
- Application to the smallest geographical area(s) as opposed to a blanket approach.

4 SPEEDING UP THE TIMESCALE

4.1 Consideration has been given to ways in which the timetable for the introduction of both Selective Licensing and an Article 4 Direction could be brought forward.

Selective Licensing

4.2 For Selective Licensing, it should be noted that Secretary of State consent is only required for any scheme affecting more than 20% of the PRS or more than 20% of the local authority geographical area as stated in point 3.18 above.

4.3 Some local authorities have taken the decision to introduce Selective Licensing in a phased manner. For instance, at the end of last year, Bristol City Council gave approval for it to be introduced to cover 2 wards. As this amounted to less than 20% of the local authority area, this meant that it could be introduced under Section 80 of the Housing Act 2004 and SOS consent was not required

4.4 Ealing introduced Selective Licensing to a small number of wards in 2017. As discretionary licensing schemes can only last for a maximum of 5 years, this meant that it was due to expire in December 2021. Ealing has taken a decision to introduce Selective Licensing in 2 phases – the first phase renewing the licensing for the wards where it was due to expire and the second phase to introduce it to a greater number of wards. The wards in

Phase 1 cover 13.8% of the geographical area of the borough and 18.37% of the PRS in Ealing. Phase 2 will cover 56.89% of the geographical area of the borough and 41.35% of the PRS.

4.5 After careful consideration, it is intended to consider selective licensing in a phased approach with a small number of priority wards being targeted initially, with further consideration to extending the scheme at a later date based on the evidential indicators.

4.6 Should Merton introduce Selective Licensing initially to the wards that experience the most problems, ensuring that no more than 20% of either the geographical area or the PRS within the borough is exceeded, this would result in a number of benefits:

- Secretary of State Consent would not be required, which would considerably speed up the process of introducing Selective Licensing whilst also removing the uncertainty of whether or not consent would be granted
- It would mean that those areas suffering the most acute issues in the borough could be tackled far more quickly than would otherwise be the case
- It would enable the Council to trial the scheme, improving things that don't work as well as they could, whilst continuing to build on the strengths of the scheme, before introducing it across the borough in a phased manner.
- It would also mean that rather than the need to set up a large new team, when it is widely recognised that there are recruitment difficulties in the market, a smaller team could be created

4.7 Merton could then introduce Selective Licensing either in one or more tranches to the rest of borough at a later date.

4.8 As cumulatively further phases would result in 20% of either the PRS or the geographical area being exceeded, it is recognised that Secretary of State consent would be required at that time.

Article 4 Direction

4.9 With regard to an Article 4 Direction, the only way that it could be introduced more quickly is by foregoing the 12 month notice period of commencement and instead opting for an Immediate Article 4 Direction. The main risk with this approach is that in certain circumstances, an immediate article 4 Direction gives rise to the authority being liable for claims for compensation where someone can show they incurred abortive expenditure or otherwise suffered loss or damage as a result of the Direction (i.e., conversion costs, business losses etc).

4.10 Claims could cover such matters as:

- Expenditure in carrying out work which is rendered abortive i.e., costs of then seeking permission

- Loss/damage attributable to removal of Permitted Development (PD) rights i.e., difference between price paid for building with existing use compared with open market value of building with prior approval
- Reduction in profit in carrying out ‘lesser’ development where permission refused
- Cost of complying with Conditions

4.11 Claims would be made to Council and if not agreed, would be determined by the Upper Tribunal of the Land Chamber. It is important to note that the claimant would need to show a loss which needs to crystalise i.e., by sale or redevelopment.

4.12 In order to qualify for compensation there needs to be a refusal of a planning application for development that would have been PD but for the Direction. The refusal also needs to be not more than 12 months from the date that the Direction comes into operation (in effect when the Notice is published).

4.13 It is not possible to quantify the claims that the Council might receive. A typical cost of converting a family home to a small HMO could be anywhere between £10,000 to £30,000. As stated in 4.12, the cost of abortive works would only apply to those properties refused planning consent. All works undertaken and their cost would have to be fully evidenced. Only the work undertaken by the time the Notice is given is likely to be able to be claimed, as work once the Notice is service (at the start of the consultation) could be argued to be undertaken at risk.

4.14 The number of small HMOs that are set up per annum in each of the priority wards is not known. It was impossible to identify this from the data collection exercise undertaken by Metastreet, due to the difficulty of identifying small HMOs.

4.15 Claims could also potentially be made for the loss of value of a property should:

1. It not gain planning consent; and
2. It then be sold as a family home instead of an HMO.

4.16 It has not been possible to identify the difference in value between a small 6 person HMO as opposed to a family home. London property agents have advised that there may well be no difference in value due to a potentially reduced market for an HMO; how well a property has been converted; whether the buyer would need to convert it back to a family home etc. Having said this, as rents are increasing in London, it could be that some purchasers would be willing to pay more for a property with good rental yield. But it certainly is not clear cut that a compensation claim could be successful for any difference in value.

4.17 It is important to note that the majority of local authorities introduce a Non Immediate Article 4 – so giving 12 months’ notice of its intention. This means that no claims can be made. There are, however, some exceptions to this – for instance Trafford introduced a borough wide (21 wards) Immediate Article 4 Direction to control small HMOs in 2018 and did not receive a single compensation claim.

4.18 Whilst there is undoubtedly a financial risk to the Council of opting for an Immediate Article 4 Direction, this should be considered in conjunction with the costs arising during the period a Non Immediate Article 4 is not in force including waste removal; parking issues; dealing with instances of ASB and other issues and of course the non-financial issues impacting upon the health and wellbeing of the community.

4.19 An Immediate Article 4 Direction must be confirmed within 6 months of the Notice (in effect the start of the consultation), or it will expire. Any representations made to the Council as a result of the consultation/Notice, must be duly considered before a decision is made whether or not to confirm the Direction.

4.20 There is no statutory appeal against the making of an Article 4 Direction. The proposed Direction would therefore be open to challenge by way of judicial review.

4.21 The alternative to an Immediate Article 4 Direction is a Non-Immediate one. This would come into effect 12 months from the date it is made, although it also has to be confirmed. This would considerably lengthen the timescale but would mean that no compensation claims from developers could be made.

5 TIMETABLE

5.1 The high-level timetable below (a more detailed one specifically for Selective Licensing is within the appended paper on that project) has been revised (brought forward) from the timetable presented in the LSG report in June 2022. It should be noted that it is still subject to change and is based upon:

- Secretary of State Consent not being required for the introduction of selective licensing due to the wards selected being under the 20% threshold outlined above
- The introduction of an Immediate Article 4 Direction as opposed to a Non-Immediate Article 4 Direction
- IT and Finance Systems being introduced within the timescale outlined
- The Secretary of State not intervening in the Article 4 Direction at either consultation or confirmation stage (the two stages when the SOS must be notified)
- A specialist consultation company being able to undertake the consultation exercise within the timescales set out below

Activity	Timescale
Receipt of Initial Data from Metastreet	July 2022

Analysis & Ward Identification	July/Aug 2022
Report to LSG and Cabinet	Sept/Oct 2022
Consultation Exercise for both projects and Article 4 Notice published – 10 weeks	Nov 2022 to Jan 2023
Review of representations made & scheme changes defined	Feb/March 2023
Publication of representation/consultation responses	Feb/March 2023
Report consultation outcome and update on projects to LSG/Cabinet	March 2023
Confirmation of Immediate Article 4 Direction approved by Council	April 2023
Report to Council on Selective & Additional Licensing proposals	April/May 2023
Commencement of Immediate Article 4 Direction	1st May 2023
Commission preferred licensing and payment processing system	April/June 2023
Financial processes and budget systems set up	April/June 2023
Online Licensing Management System Introduced	April/June 2023
Launch Communications Strategy	June 2023
Team Recruitment for Selective Licensing	June/August 2023
Selective and Additional Licensing Go Live	September 2023

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1 The initial additional staffing costs of the first six months of managing the project (£108,000) have been met by the Corporate Contingency fund. A further £30,000 is required for the Consultation Exercise**.** An additional housing officer is required to assist with the introduction of selective and additional licensing at a cost of £32,000**.** Additionally, should Members opt to continue with the project, further project management costs of £72,000 will be required to extend the project management work from December for a further 6 months. These additional costs of £134,000 will be funded by a transfer from the Corporate Contingency Fund.

6.2 It should be noted that should it be determined that Selective and Additional Licensing goes ahead, further funding will be required to set up a selective licensing team. Although the cost of staff and other day to day expenditure could be estimated, it is uncertain at this stage on what the potential income will be for this service to make it viable and would need to be brought back to a further meeting to agree the funding.

6.3 The cost of £25,000 for Data Collection has been met from Community and Housing who already had provision for this in the budget.

6.4 There will be an increase in the number of planning applications received following the introduction of an Article 4 Direction. It is difficult to quantify how many at this stage but there will additionally be an increase in planning application fees.

6.5 Any compensation claims that may be submitted as a result of introducing an Immediate Article 4 Direction are deemed to be capital expenditure and no provision exists in the capital programme for these.

7 LEGAL AND STATUTORY IMPLICATIONS.

7.1 This report sets out the statutory and regulatory requirements relevant for each of the projects to be implemented. It also highlights the need for robust data in support of the scheme and for both projects to apply to the smallest, clearly defined, geographical areas based upon the evidence to avoid challenge.

7.2 The data will need to constantly be reviewed during the term of the Selective Licensing scheme should it proceed, and Members should be aware of the enforcement powers available to the Council under the Housing Act 2004 to ensure compliance with the scheme.

7.3 The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 makes a change of use from a use falling within Class C3 (dwelling houses) to a use falling within Class C4 (houses in multiple occupation) ‘permitted development’ – i.e., planning permission is no longer needed to do this. Under Article 4 of the General Development Order (as amended) (“GDO”) local planning authorities can make directions withdrawing permitted development rights from development across a defined area listed in Schedule 2 of the same order. For all article 4 directions the legal requirement set out in paragraph (1) of article 4 of the GDO is that the local planning authority is satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application.

7.4 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states that approval to make an Article 4 Direction is not a Cabinet function and therefore should be made by resolution of full Council.

7.5 New PD rules that came in force in July 2021, are set out in the National Planning Policy Framework (NPPF)

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1 For Selective Licensing, an Equality Analysis was undertaken and appended to the June 2019 Cabinet report and will be updated if approval for a licensing scheme decision is granted.

8.2 For an Article 4 Direction, whilst there is no statistical data indicating the profile of HMO residents by age, sex or ethnicity, there may be a potential adverse impact towards people of specific ages, genders or ethnicities if the future growth of HMOs is restricted. The demographic make-up of the wards in the east of the borough is younger and home to more ethnic minorities and in addition some ethnic groups will wish to live in an area that is already culturally diverse. Dialogue with council officers indicates that in officer's experience more men live in HMOs, although we don't have robust statistical data on this.

8.3 Whilst this adverse impact is not proven, it also cannot be wholly discounted due to an absence of accurate equality profiling data. We will continue to review this during the course of this project.

8.4 Consulting on an Article 4 Direction to require all HMOs (shared homes of more than two people) to require planning permission will improve equality of opportunity, resulting in higher standards of HMO accommodation within the borough as new HMOs will be determined against planning policies and potentially reduce overcrowding in below standard HMOs. It should also improve and foster good relations between people who will occupy HMOs and those who occupy properties close to them, especially as the latter will have opportunity to engage with and enjoy rights of representation within the statutory planning process to improve the quality of accommodation.

9 CRIME AND DISORDER IMPLICATIONS

9.1 The selective licensing proposals are intended to reduce incidents of crime and anti-social behaviour related to poorly managed properties in the private rented sector. KPI measures will be set and monitored in relation to these indices if a scheme were progressed.

9.2 There are no direct crime and disorder implications in relation to the introduction of an Article 4 although the requirement to seek planning consent could lead to an improvement through greater awareness and controls.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1 No risks for the Council have been identified at this time relating to Selective Licensing.

10.2 Should Merton choose to introduce an Immediate Article 4 Direction, there is a risk of compensation claims being submitted as outlined in the report.

10.3 There is a risk of the Secretary of State intervening and stopping the Article 4 Direction if it believes there is not adequate robust evidence to support the areas selected or if it believes too large an area has been selected.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Paper on Selective Licensing & Additional Licensing

Paper on Empty Homes

Paper on Article 4 Direction

12 BACKGROUND PAPERS

LSG Report 22 November 2021 – Selective Licensing Options and report on Article 4 Directions

LSG Report 7 March 2022 – Selective Licensing Update and Empty Homes

LSG Report 13 June 2022 - Update on Selective Licensing & Article 4 Directions

LSG Report 22 September 2022 - Update on Selective Licensing & Article 4 Directions

Metastreet Report

Subject: Update on Selective Licensing – LSG September 2022

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 This report provides an update on the work undertaken since the June 2022 LSG meeting pertaining to the viability assessment for a selective licensing scheme. Such a scheme would require a licence for private rented properties, and an additional licensing scheme for houses in multiple occupation (HMOs) not covered by the mandatory HMO regulations.

1.2 The statutory framework for selective and additional licensing is set out in S.80 of the Housing Act 2004, Selective Licensing of Houses (Additional Conditions) (England) Order 2015, and in the MHCLG 2015 publication Selective Licensing in the Private Rented Sector.

1.3 A SL designation may be made if an area meets one or more of the following conditions (a scheme based on one condition would be unlikely to succeed, and for conditions 3-6 an area should have a higher than the average PRS stock (ca.19.6%)):

1. That the area is, or likely to become, an area of low housing demand
2. A significant and persistent problem caused by anti-social behaviour
3. Poor property conditions
4. High levels of migration
5. High levels of deprivation
6. High levels of crime

1.4 Secretary of State approval is required for a selective licensing scheme affecting 20% or more of the PRS, or 20% of the local authority area. The approach being considered is to target the wards reflecting the most serious conditions and environmental impact.

1.5 An Additional Licensing Scheme (ALS) may be introduced if a significant proportion of unlicensed HMOs are giving rise, or are likely to give rise, to problems affecting the occupiers or members of the public. The current mandatory scheme applies to properties rented to five or more people who form more than one household. An ALS would therefore apply to HMOs rented to less than five people. The powers to introduce an ALS are set out in the Housing Act 2004, and do not require Secretary of State approval.

1.6 As not all wards indicate the criteria for introducing licensing, consideration is being given to the small number of wards depicting the most serious issues, for example four wards, with possible further designations as part of a phased approach. This phased approach is being adopted by other councils, most recently Ealing Council.

1.7 As set out in the June LSG report an analytics company was appointed to carry out further detailed analysis of the Council's data, to enable more accurate prediction of current levels of relevant indices relating to the PRS, and HMOs, and the associated ward distribution. Headline data provided to the Council is set out in the details section of the report.

1.8 The data analysis provided is of relevance to the Article 4 Direction proposals, that would restrict permitted development for small Houses in Multiple Occupation (HMOs), addressed in the report under the agenda item cover report.

1.9 The headline data is summarised below:

- All Merton wards have a %PRS level above national average (ca 19.6%)
- Merton %PRS overall is 34.0%
- More PRS complaints are linked to houses in Multiple occupation (HMOs) compared with other tenures
- Merton's HMO related figures are low compared to other London boroughs

1.10 Based on the data analysis provided by the analytics company an initial selective licensing scheme would be targeted at four priority wards demonstrating the most serious PRS related issues such as Category 1 hazards, ASB, and property related complaints within the group of five wards demonstrating the most significant issues, which are:

- Graveney
- Pollards Hill
- Longthornton
- Figge's Marsh
- Colliers Wood

1.11 The four wards that reflect the most serious issues are Graveney, Pollards Hill, Longthornton and Figge's Marsh. A scheme based on these four wards would be below the number of PRS properties required to reach the 20% PRS threshold, and would be below 20% of the Council's geographical area, that would require Secretary of State consent. Consideration will also be given to an additional licensing scheme, requiring small HMOs to be licensed, and this may apply to the wards targeted for selective licensing and consideration of the Article 4 Direction, or alternative a greater range of wards.

2. DETAILS

Progress following the LSG in June 2022

2.1 A data analytics company, Metastreet Ltd, was appointed to undertake more detailed analysis of the Council's data and produce a housing condition report (HCR).

2.2 The resultant PRS data is summarised in the following sections and highlights the five wards with the highest numbers of ASB and PRS related complaints. The proposed selective licensing scheme would target the four priority wards within the group of five presenting the most serious issues in the PRS, which are:

- Graveney
- Pollards Hill
- Longthornton
- Figge's Marsh
- Colliers Wood

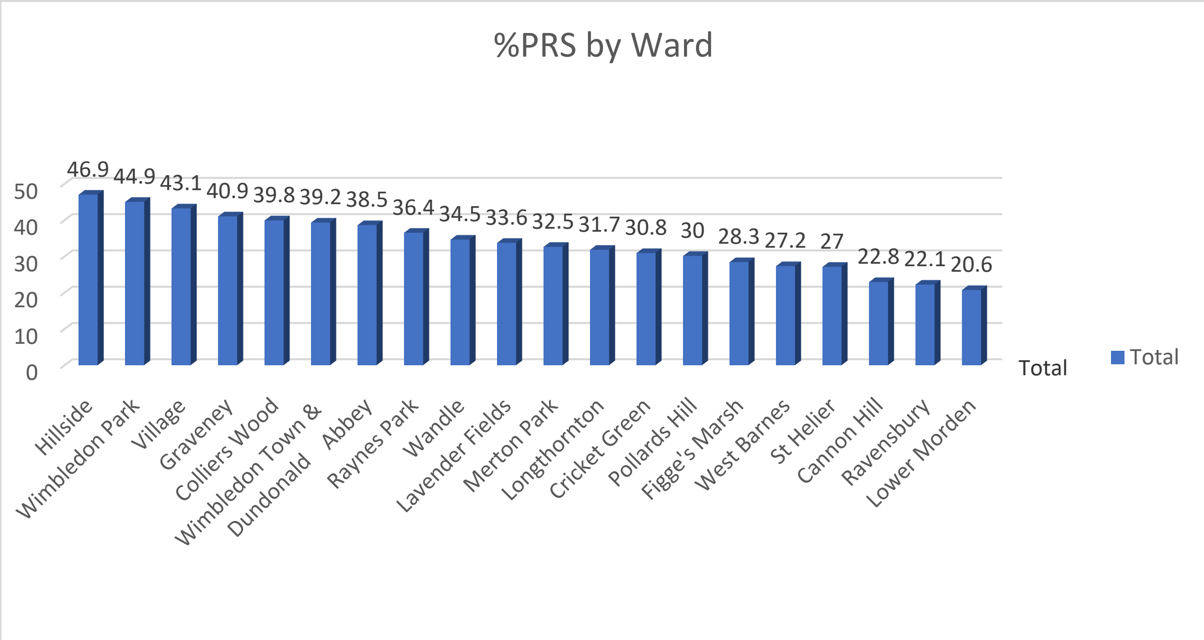
PRS Headline Data

2.3 The latest analysis shows close alignment with the Council's previous analysis, with four out of five of the Council's highest licensing indice wards also featuring in the Metastreet top five wards with the highest levels of PRS and ASB complaints. The latest data presents positive findings in that the increase in the PRS across all wards, enables the Council to consider licensing in wards that reflect the greatest need for further interventions in order to address issues in the sector. However, the need to ensure that any proposed scheme is fully supported by robust data, and addresses key requirements such as linkage with the housing strategy, is paramount in avoiding legal challenge.

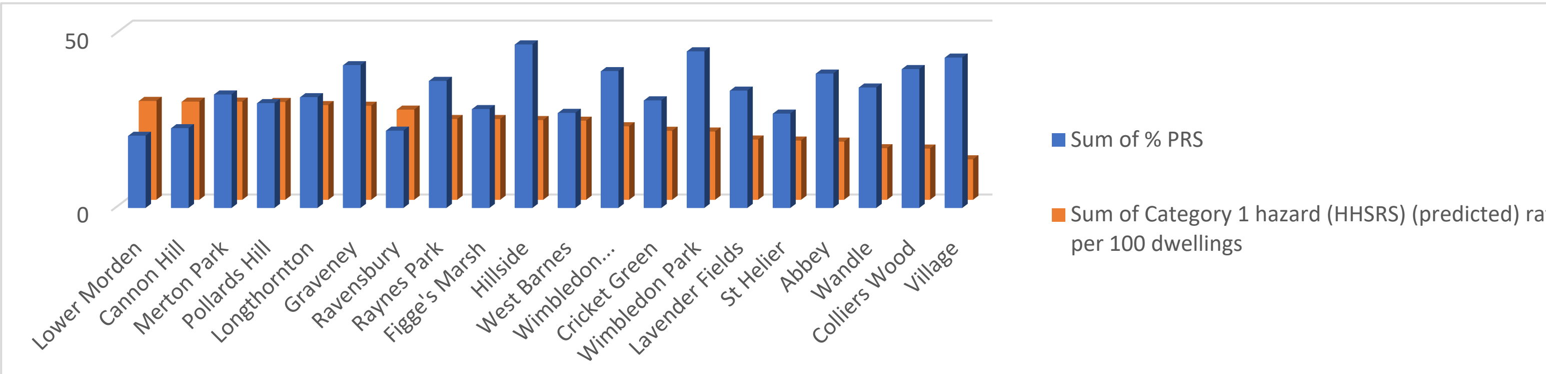
2.4 It should also be noted that the latest data incorporates the ward changes since May 2022.The previous analysis identified the top five licensing indice wards as being:

- Figge's Marsh
- Colliers Wood
- Cricket Green
- Graveney
- Longthornton

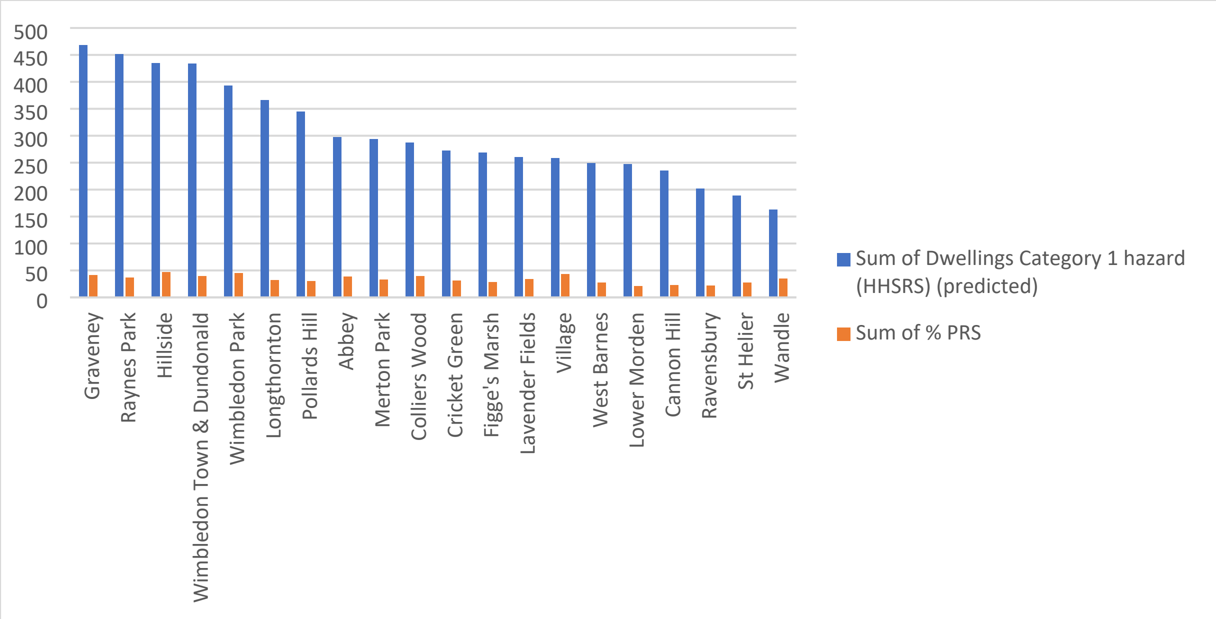
2.5 The percentage of PRS properties by ward is set out below.



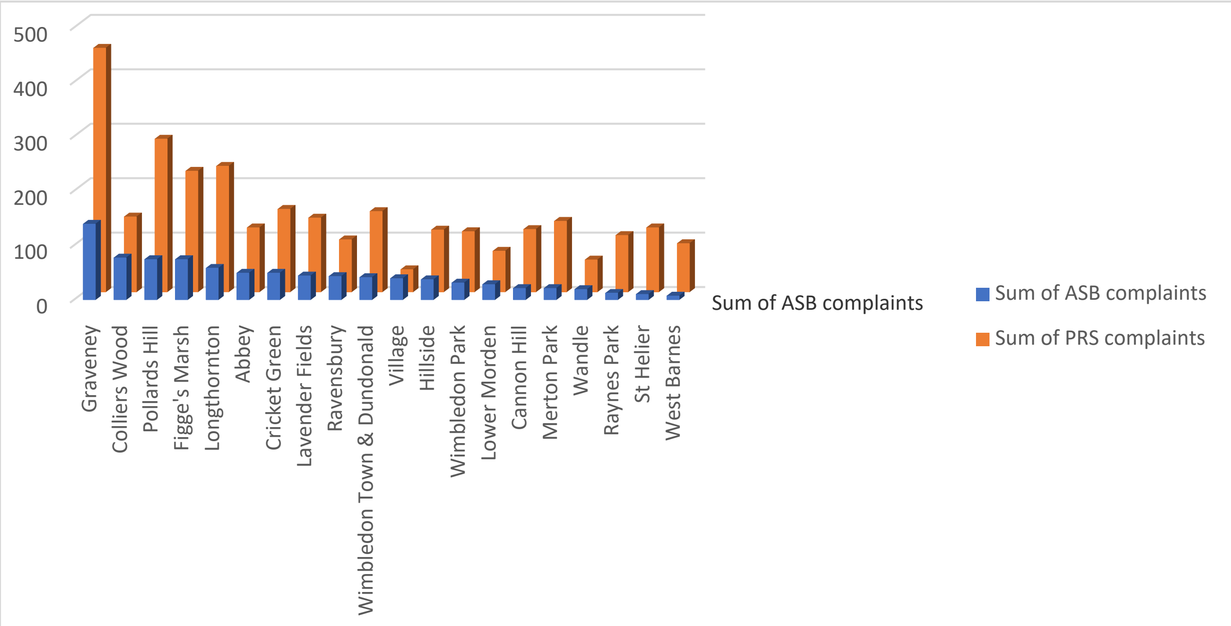
2.6 The sum of predicted Category 1 hazards per 100 dwellings across Merton swards is shown in the chart below.

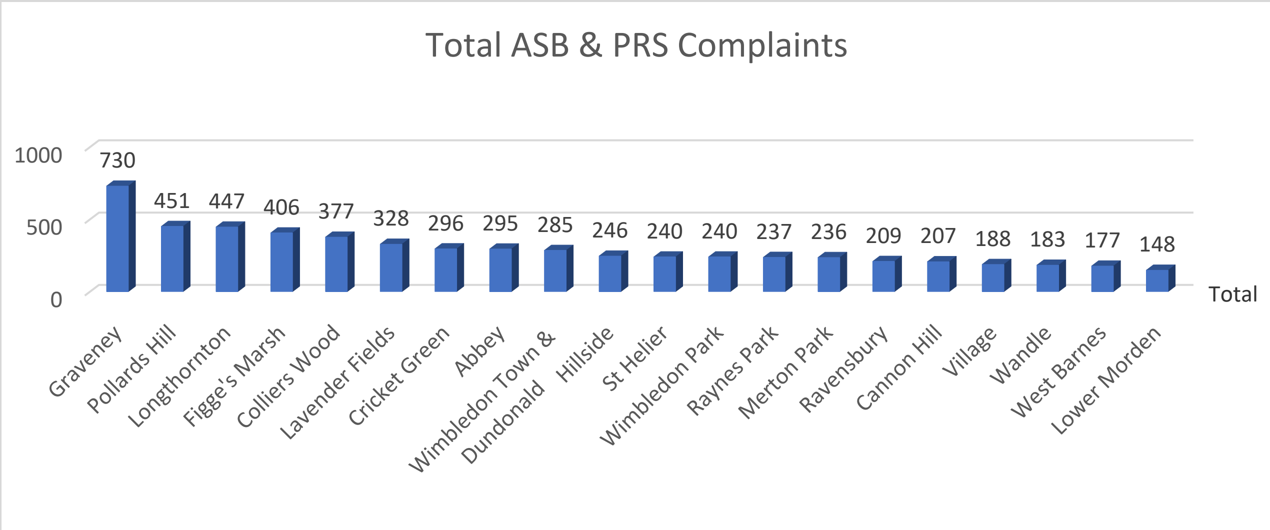


2.7 The number of dwellings with predicted Category 1 hazards in each ward and the corresponding % PRS level is shown in the following chart.



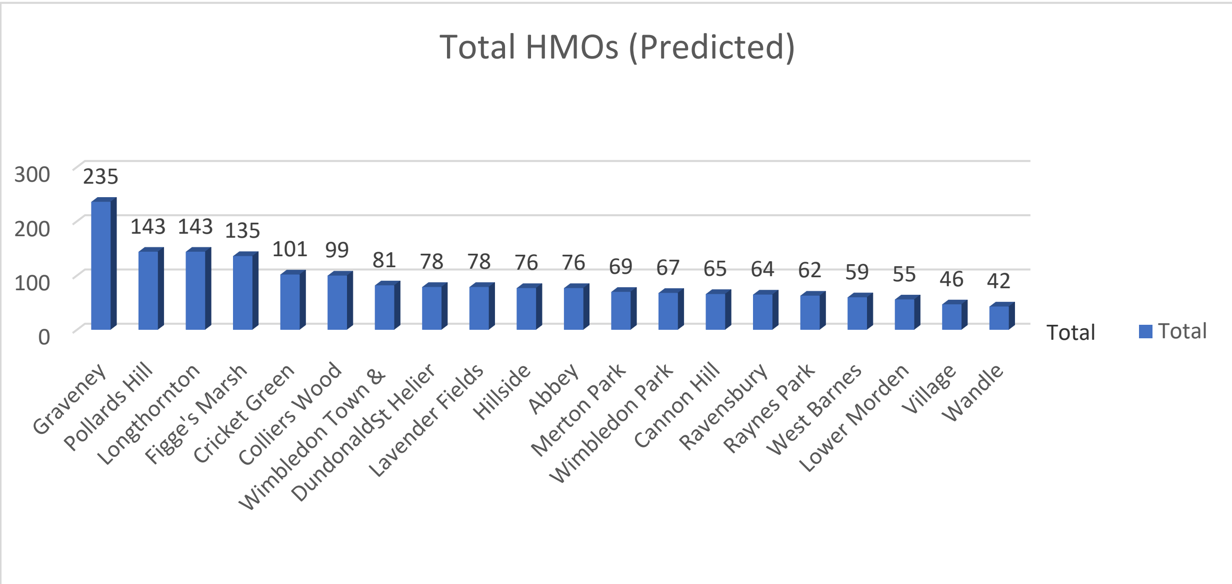
2.8 The total number of ASB and PRS complaints for PRS properties in each ward are shown below. The second charts shows the combined PRS and ASB figures.



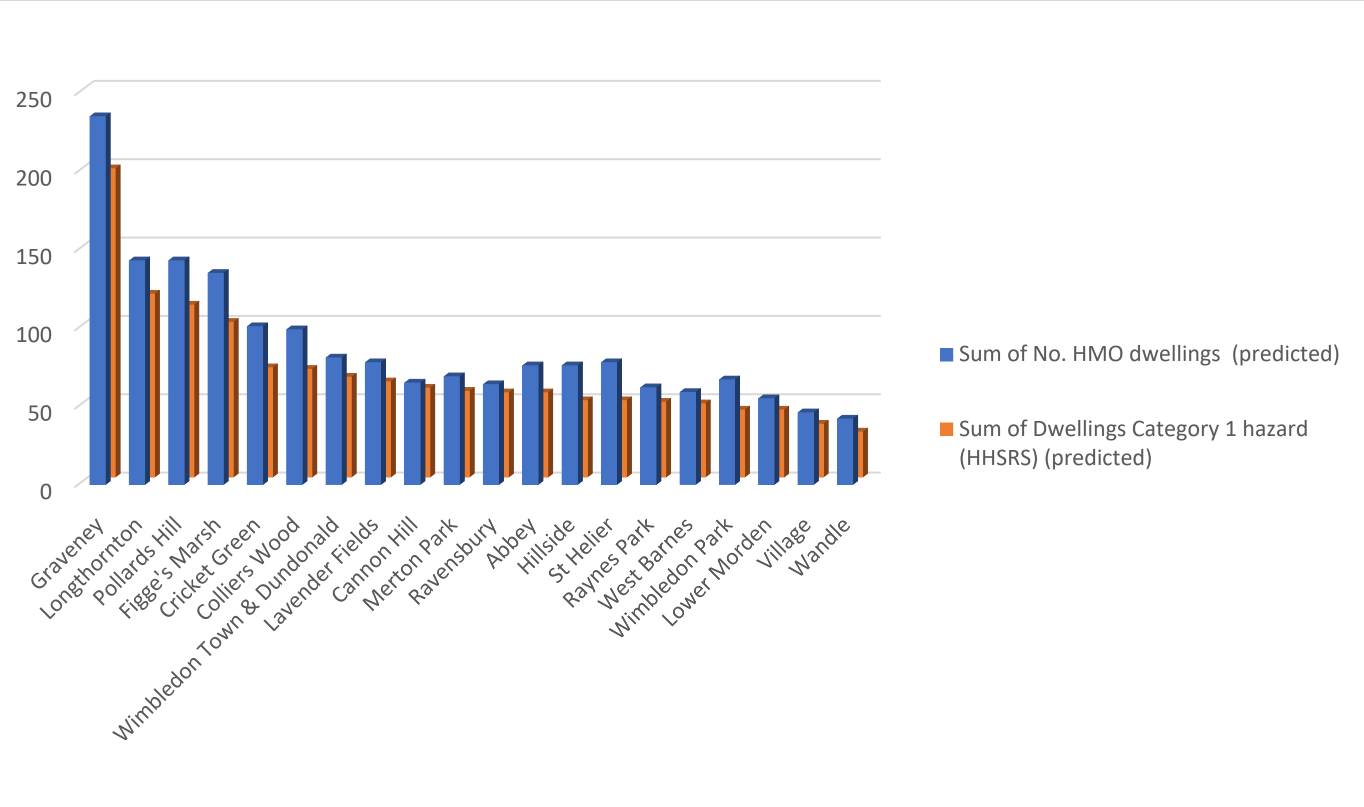


HMO Headline Data

2.9 The number of HMO dwellings predicted across the wards are shown in the chart below.



2.10 There is a clear correlation between the wards with the highest numbers of HMO dwellings and the wards with the highest levels of HMO category 1 hazards, as shown in the following chart.



2.11 There is also a correlation between the wards with the highest HMO numbers and HMO Category 1 hazards, and the wards with the highest PRS and ASB Complaints. Four wards are common to both groups. The tables below show the relationship between the two groups.

Ward	HMO Dwellings (predicted)	Dwelling Category 1 hazard(predicted)
Graveney	235	197
Longthornton	143	117
Pollards Hill	143	110
Figge's Marsh	135	99
Cricket Green	101	70

Ward	Sum of Total ASB & PRS complaints
Graveney	730
Pollards Hill	451
Longthornton	447
Figge's Marsh	406
Colliers Wood	377

2.12 When wards with the highest number of Category 1 hazard dwellings in the PRS are compared to Category 1 hazards within HMOs, only Graveney features in both. The top five PRS category 1 hazard wards features some of the borough's more affluent wards, with lower levels of PRS and ASB complaints. The reason for this is believed to be due to energy performance data whereby larger older properties will generally feature lower thermal energy ratings.

Ward	Dwellings Category 1 hazard (HHSRS) (predicted)	% PRS
Graveney	468	40.9
Raynes Park	451	36.4
Hillside	435	46.9
Wimbledon Town & Dundonald	434	39.2
Wimbledon Park	393	44.9

Next steps for selective licensing

2.13 Scheme licensing viability models including cost modelling have been updated, and are being reviewed by the Finance Team.

2.14 Following the finalising of the wards to be considered for Additional Licensing, final scheme proposals will be reported to LSG.

2.15 The Programme Board consisting of representatives from both Community & Housing, and Environment & Regeneration continues to meet to ensure that the licensing project is managed jointly with the Article 4 Directions project work.

2.16 A key requirement for a selective licensing scheme is that in addition to the evidential data required, the proposals must be consistent with a council's housing strategy. Further work is required to meet this requirement.

3. TIMELINE

2.17 For selective and or additional licensing, an indicative summary timetable, assuming approval for a scheme is set out below. Scheme implementation is dependent on a range of external inputs at key stages, and as these are outside of the Council's control they may impact on the indicated timescale. Discussions are ongoing with Finance and IT teams to identify the scheme support requirements. Viability assessment and project progress work is being monitored by the Programme Board, and the timetable will be kept under review to identify where activities can be expedited.

Summary Activity	Date
Data Analysis & Reporting	

Specialist analysis headline data report delivered to Council	July 2022
Review of specialist analysis & HCR	August 2022
Update scheme viability assessment & costs, based on specialist analysis.	August 2022
Scheme models produced and funding requirement confirmed	August 2022
Full analysis & Housing Condition Report delivered to Council	August - September 2022
DMT / CMT reports & LSG / Cabinet	August 2022 - September 2022
Scheme Consultation	
Commission consultation specialist	August 2022 - September 2022
Consultation specialist appointed	September 2022
Public consultation launch (10 weeks min)	October 2022
Consultation closes	January 2023
Review of representations made & scheme changes defined	January 2023 – February 2023
Publication of consultation responses	February 2023
Final licensing scheme(s) proposals produced subject to IT and Finance inputs confirmed	April 2023
Final licensing scheme(s) published	April 2023
DMT / CMT reports / LSG & Cabinet / Council scheme approval (3-month statutory minimum period required after decision before a scheme can commence)	May - June 2023
Implementation Plan	
Identify IT systems for online licensing and case management	May 2022 – October 2022
Complete option appraisal of online of licensing applications and payments systems	August 2022 -November 2022
Scheme policies & procedures developed	April 2023 – June 2023
Commission preferred licensing and payment processing system	April 2023 – June 2023
Financial & budget reporting systems set up	April 2023 – June 2023
Income management cost centres and transaction management process set up in E5	April 2023 – June 2023
Staff Recruitment	June 2023 – August 2023
Launch of communication strategy	June 2023
Online licensing management system introduced	April 2023 – June 2023
Go Live	**September 2023**

Subject: Update on Empty Homes Scheme Proposal – LSG September 2022

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 This report provides an update on the viability assessment work relating to the proposed empty homes scheme (EHS), following the previous report in June 2022. An empty homes scheme is a discretionary tool that enables councils to fund measures to bring into use long-term empty homes, such as grant funding, loans, and advice for owners to bring qualifying properties up to a required standard for letting. Councils may require that such properties are leased to the council for the provision of accommodation for households owed a housing duty.

1.2 An EHS may utilise existing enforcement powers available such as Empty Dwelling Management Orders (EDMOs) under the Housing Act 2004, and Compulsory Purchase Orders (CPOs) under the provisions of the Compulsory Purchase Act 1965 (CPA 1965). Other relevant powers include the Environmental Protection Act 1990 and the Prevention of Damage by Pests Act 1949, under which a council may deal with waste, pests, and infestations.

1.3 Bringing empty homes back into use may assist councils in a number of ways, such as:

- Helping to meet housing need in the borough through increased supply
- Reducing temporary accommodation expenditure
- Reducing impact of unsightly and nuisance properties on neighbourhood street scene and increasing civic pride

2 DETAILS

2.1. Available data suggests that there are around 1,900 long term empty properties (defined as having been unoccupied or substantially unfurnished for over six months) in Merton that could be considered for targeting within an EHS.

2.2. Councils may provide grant or loan funding to owners to bring properties up to standard for letting, and may require such properties to be leased to the authority for a period of five years at an affordable rent, for example. The benefit of such an arrangement is the increase in availability of affordable accommodation in the borough. The Council currently provides temporary accommodation (TA) for around 230 households at a cost of £3.5m gross annually. For each property brought back into use and utilised by the Council for housing homeless households, a cost reduction of £15,000 per household may be achieved.

2.3. Additional fundng streams have been explored. In particular, the New Homes Bonus (NHB), a grant paid by the DLUCH to local councils based on the amount of additional Council Tax revenue raised for new-build homes, conversions and long-term empty homes brought back into use. However, this grant scheme is under review and it is understood that the number of units expected to be brought back into use would not generate additional NHB income.

2.4. Community Infrastructure Levy (CIL) funding will not be able to be used for an EHS, as affordable housing is specifically excluded from the definition of infrastructure by the CIL Regulations.

2.5. S106 funding could be used for converting market housing into permanent affordable housing that meets the definitions of the Housing Act and Annex 2 of the National Planning Policy Framework - Glossary of Terms, however, further work would be required to work up the detail of the scheme and to assess whether the criteria would be met.

2.6. The previous report recommended that the scheme be established under the RSSP as it already has the organisational infrastructure, systems, processes in place, and operational know-how to establish the scheme in the shortest time. Cost efficiency was also demonstrated by the proposal in that the indicative five-year costs of operating the scheme under the RSSP was £2.3m compared with £2.5m if operated internally. The recommendation was to establish the scheme under the partnership service, for an initial period following which a review would be undertaken to inform the longer-term operation of the scheme.

2.7. Around 200 properties are currently being subject to the empty homes levy generating up to £276k annually. These properties would not be targeted within the scheme. If any of the households placed in the properties acquired qualified under the Council's Council Tax Support Scheme, this would be a further additional cost.

2.8. The assumptions on which the cost estimates are based include:

- 15 units brought back into use annually (5 units in start-up year) totalling 65 after 5 years
- Average grant funding per unit £25,000
- 2% annual inflation (which will be reviewed in light of current CPI rate)

2.9. There may be some savings against the TA budget if households are moved from TA into these properties on both the cost of the accommodation and savings in the cost of housing benefit subsidy. These costs would be kept under review as they could be a future source of funding as the scheme progresses.

Progress following June 2022 LSG Meeting

2.10. The work undertaken since the previous LSG update report are summarised below.

a) A capital funding bid has been prepared to support the proposal.
b) Officers have met with the RSSP to discuss the requirements for a scheme, and an in principle agreement has been reached for the establishment of a RSSP managed scheme, subject to terms and conditions being agreed.
c) Scheme operating model to be agreed.
d) Recruitment of interim RSSP resources to enable scheme set-up to progress.
e) Operating model costs to be reviewed and confirmed.
f) Scheme governance arrangements to be defined.
g) Indicative timescale to be updated.
h) RSSP Board approval to be obtained.

3 ALTERNATIVE OPTIONS

3.1 This report is for information only and no decisions are recommended.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1 Consultation has been undertaken with the following:

- Assistant Director, Strategy & Improvement
- SLLP
- Service Financial Adviser (C&H)
- Head of Regulatory Services Partnership
- LB Wandsworth Empty Property Officer
- Private Sector Housing Manager, Regulatory Shared Service
- Senior Environmental Health Officer (C&H)
- Head Of Business Planning
- Planning Contributions Manager
- Head Of Revenues & Benefits

5 TIMETABLE

5.1 The indicative timescale for a scheme proposal as reported at the June LSG is set out below. However, the RSSP have indicated that the timescale is not tenable and will propose an updated timescale.

Potential Empty Homes Scheme Timescale	
Activity	**Date**
Review Revenue & Benefits data sets	April 2022
Develop borough EH profile and target properties	May 2022
Review funding streams and council resources available	May 2022
Operational costs and Cost benefit analysis	June 2022

Internal & External Scheme inputs defined	June 2022
Submission of a Bid for Capital Resources	June - Aug 2022
Scheme proposal developed / funding confirmed	July 2022
DMT/ CMT reports & LSG /Cabinet decision	Sep – Oct 2022
Staff Recruitment	Oct 2022 – Jan 2023
Implementation Plan	Nov 2022
Communications / consultation Plan	Nov 2022 – Jan 2023
Scheme Policies & Procedures	January 2023
Financial Management systems & processes	Nov 2022 – Jan 2023
IT reporting systems & processes	Nov 2022 – Jan 2023
Scheme Commencement	**February 2023**

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1 This initiative will increase the housing stock available in the borough and will require continuous investment from the borough which over 5 years the gross cost will be £2.3m if the RSSP option is selected or £2.5m for the in-house option. These figures are dependent on the income streams and the number of units brought back into use.

6.2 It would not be possible to use CIL for this scheme as housing as it is not considered infrastructure that addresses the demands of the development of the council's area. Additionally affordable housing is specifically excluded from the definition of infrastructure by the CIL Regulations. The Government is proposing to introduce a new Infrastructure Levy that would eventually replace CIL with its Levelling Up and Regeneration Bill and proposes to provide for Regulations to introduce Affordable Housing to be funded. However, there is much to be worked out in terms of the mechanics of how this would be possible and significant income is not likely to come forward until around 2027 at the earliest.

6.3 S106 could be used for converting market housing into permanent affordable housing that meets the definitions of the Housing Act and Annex 2 of the National Planning Policy Framework - Glossary of Terms. Detail would need to be provided to establish this and work with other London boroughs undertaken to ensure appropriate use.

6.4 Officers will need to bid for capital resources as part of the annual bidding process, and this has been added to the project timetable and the revenue costs if not funded by grant as per the paragraph below.

6.5 Where capital financing is provided for properties not owned by the Merton then this capital expenditure will be deemed as REFCUS (Revenue expenditure funded from capital under statute) for capital accounting &

financing and charged to service budgets as part of year end accounting. This will not affect overall revenue outturn position, but reported as revenue expenditure for year-end financial reporting, however, expenditure will be shown within service activity and financing will remain within the capital element of the balance sheet.

6.6 Local authorities are expected adopt new leasing standard IFRS16 from April 2024, once this is in force, all existing and new operating lease will become finance lease for accounting. This means, value of leased properties will create a lease liability within the Councils balance sheet, which increases the Council's Capital Financing Requirement. This will be reduced over the term of lease using lease repayments.

6.7 As set out in Section 2, the revenue costs will be met from the contingency budget in 2022/23 and built into the MTFS requirements ongoing as growth, subject to any savings in TA costs. Care must be taken in pursuing long term empty properties in balancing the need against the loss of CT.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1 There are no legal implications arising out of the recommendations of this report. The report sets out the broad statutory powers available to tackle the issue of empty homes. Issues relating to a particular property, or exercise of a particular power may require specific legal advice, particularly as there may be broader powers that could be exercised if appropriate (for example under the Environmental Protection Act 1990 or the Prevention of Damage by Pests Act 1949).

7.2 Any works or services contracts to be entered into by the Council to meet the expenditure of the proposed funding will need to meet the Council's procurement obligations stated in the Council's Contracts Standing Orders and the Public Contracts Regulations 2015.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1 No implications arise from the contents of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1 No implications arise from the contents of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1 No implications arise from the contents of this report.

Appendix Update: Article 4 Direction for HMOs

DETAILS

WHERE IN MERTON WILL THE ARTICLE 4 DIRECTION APPLY?

1. The National Planning Policy Framework 2021 (para 53) states that *the use of Article 4 directions to remove national permitted development rights should….*

   1.1. *be limited to situations where an Article 4 Direction is necessary to protect local amenity or the wellbeing of an area"* and

   1.2. *"in all cases be based on robust evidence, and apply to the smallest geographical area possible"*

2. The private rented sector is an important part of Merton's housing market, occupying approximately 30% of the housing stock. The majority of landlords and tenants perform well and the private rented sector offers flexibility and choice for people who do not want or, increasingly, cannot afford to buy a property in Merton.

3. Houses in Multiple Occupation (HMOs) are a key part of Merton's private rented sector, providing low cost, flexible housing for residents who may be on low incomes and are not eligible for housing by the council, for workers that may need to live temporarily in the area.

4. HMOs can have shared facilities such as bathrooms and kitchens and are occupied by people who do not live as one household (e.g. having meals together). Landowners have to seek planning permission to create large HMOs (i.e. those occupied by seven people or more) but can operate a small HMO (occupied by between three and six people) without the need for planning permission. There may be very limited, or no change to the physical fabric of the house or flat before it is occupied as a HMO, particularly for small HMOs where between three and six people may be sharing.

5. However, HMOs need to be properly managed and maintained, as they can be a source of unsuitable accommodation and cause harm to amenity, both for the occupiers and the wider community. The impacts from such changes can include issues related to waste management, noise and disturbance, negative impacts on the physical appearance of the neighbourhood and increasingly, anti-social behaviour (ASB).

6. Over the past few years, the Council has seen a rise in the number of complaints received by members of the public in relation to poorly managed HMOs and identified the need for a joined-up approach across Council departments to manage them. Merton's accessible and attractive location, high housing prices and good quality housing stock has meant there is a huge demand for HMO type accommodation. In those that are poorly managed, the neighbours suffer noise and disturbance from HMOs, and the wellbeing of the occupiers and neighbours may be harmed by overcrowding, inadequate bin storage and insufficient living space.

7. Given the increase in complaints, the council is bringing forward different options available to address some of the most significant concerns across the Council departments. On 19th September 2022 Cabinet will consider reports proposing local changes to the planning system (via the Article 4 Direction) and via the housing

powers (extra licensing powers known as Selective or Additional Licensing on top of the licenses that the council already requires HMO landlords to have)

8. To ensure that the council has robust data as required by the National Planning Policy Framework, the council has analysed its existing planning and licensing records on HMOs. The council's Housing Needs team procured a data management company, Metastreet, to provide information on the private rented sector in Merton. The analysis uses data on council tax records, turnover of council tax names, Anti-Social Behaviour records, receipt of benefits and other statistics and overlays the data to predict the likely numbers and locations of HMOs.
9. As the data demonstrates, HMOs are accessible to many of Merton's residents who are in receipt of housing benefit and who can't afford to access other forms of private rent. The data demonstrates that this is more prevalent in the east of the borough, which is less affluent than western wards.
10. Although this is incredibly extensive data analysis, it is far less likely to pick up shared houses and flats (HMOs) where tenants have no anti-social behaviour records against the property and are in a stable tenancy and are not in receipt of benefits.
11. This helps to identify the poorest performing HMOs but not all HMOs; for example, people renting property on a long-term tenancy that aren't in receipt of housing benefit or don't have anti-social behaviour will not be identified by this data.
12. The data tells us that Graveney, Longthornton, Pollards Hill, Figges Marsh, Cricket Green, and Colliers Wood wards are likely to have more HMOs that are causing harm to the wellbeing of the area. This is illustrated in the map and the graph below and is based on the extensive analysis carried out by Metastreet.
13. While Lavender Fields ward is ninth in the list of wards with the poorest performing HMOs, it is included in the Article 4 Direction as it is surrounded to the north, east and south by wards with worst performing HMOs (with the western side bordering a non residential area), it is the sixth highest ward for numbers of complaints the council receives on the private rented sector and numbers of reports of anti-social behaviour and it is characterised by housing stock that is typically used as Houses in Multiple Occupation. The council considers that this provides robust evidence to require an Article 4 Direction to protect local amenity and the wellbeing of the area.

Figure 1 – map of predicted geographic location of the worst performing HMOs by ward (source: Metastreet; same data as Figure 2 graph)

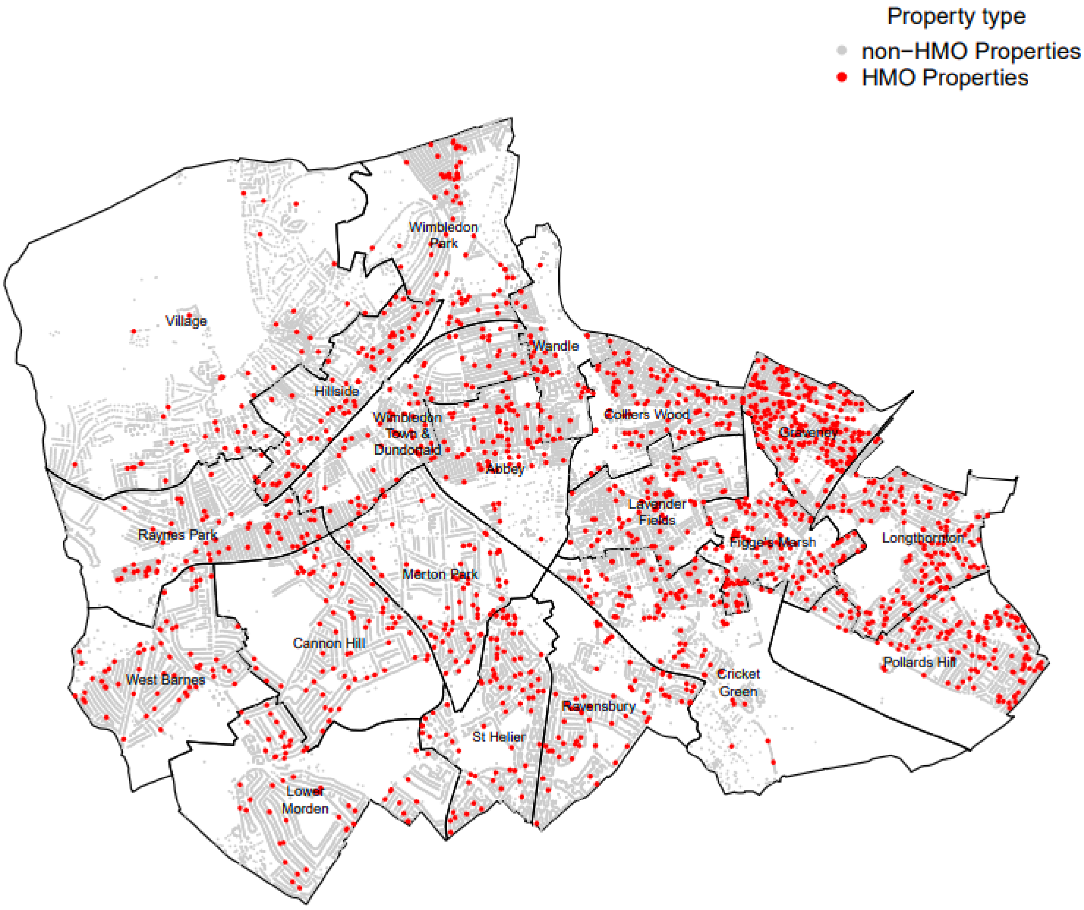


Figure 2: graph of predicted geographic location of the worst performing HMOs by ward (source: Metastreet; same data as Figure 1 graph)

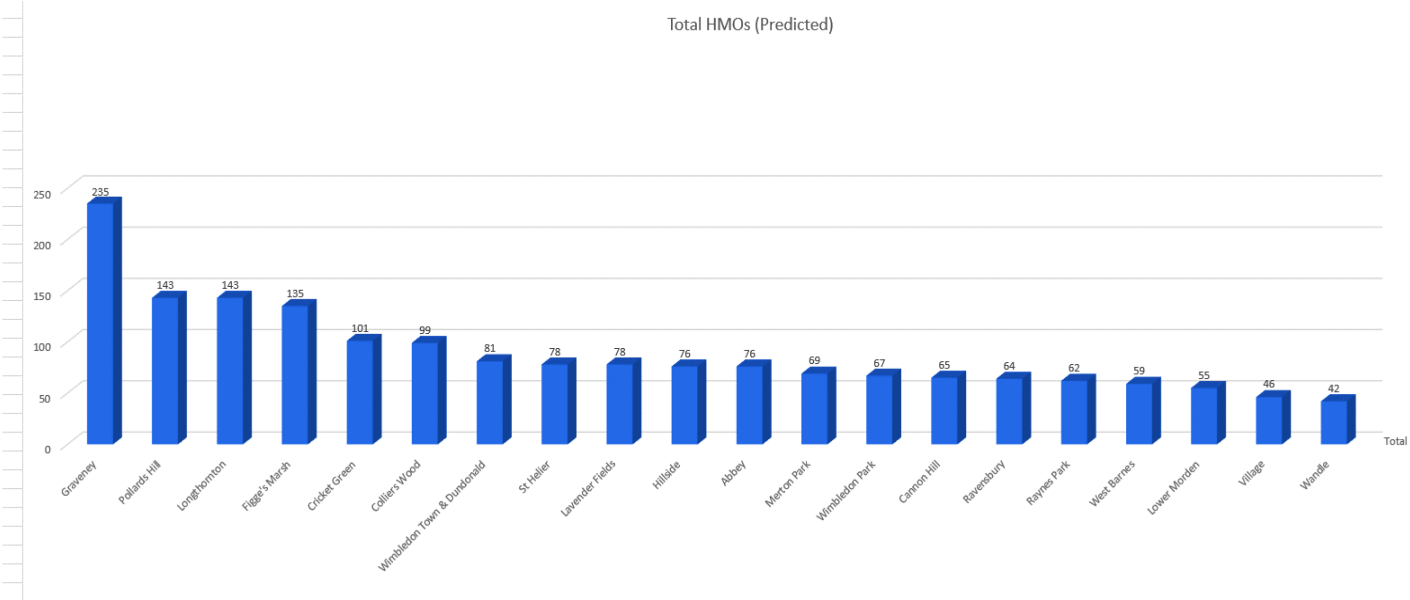
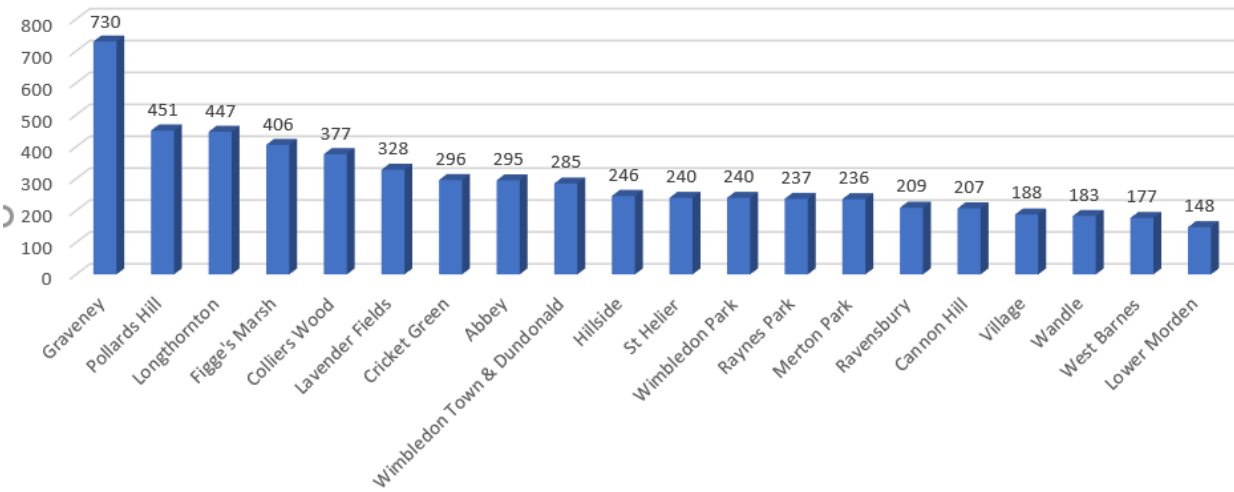


Figure 3: total number of complaints received by the council relating to the private rented sector and on anti-social behaviour



14. Therefore, based on the robust evidence, officers are recommending that an Article 4 Direction to require small HMOs to seek planning permission should be limited to Graveney, Longthornton, Pollards Hill, Figges Marsh, Cricket Green, Lavender Fields and Colliers Wood wards, in compliance with national policy requiring Article 4 Directions to be "*based on robust evidence"* and "*the smallest geographical area possible".*

<u>What size of HMO will now require planning permission?</u>

15. In England, landlords are already required to seek planning permission to change the use from a house or flat to a large HMO (housing seven people or more).

16. In Merton this report recommends undertaking public consultation on an Article 4 Direction which, if approved, would require landlords to seek planning permission any house or flat in the relevant wards rented by more than two people as an HMO.

17. The proposed Article 4 Direction would remove the permitted development rights for small HMOs, requiring new landlords to apply for planning permission to operate a house or flat as a small HMO. Any planning application would need to be assessed in the normal way and a decision made as to whether the proposal complied with the Development Plan, taking into account all material considerations.

18. Article 4 Directions do not apply retrospectively, in other words they can't be used to require any small HMOs that already exist in Merton to now seek planning permission.

19. In making these recommendations, officers have also considered the impact on housing delivery in Merton. As small HMOs in the relevant wards can apply for planning permission in the normal way, it is not considered that the implementation of an Article 4 Direction for small HMOs in seven wards in the borough will affect housing delivery.

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Agenda Item 6

Cabinet

10 October 2022

Wards: Cricket Green, Figges Marsh, St Helier, Wandle,

Housing Delivery Options

Lead officer:	Adrian Ash, Interim Director of Environment and Regeneration
Lead members:	Cllr Billy Christie, Cabinet Member for Finance and Corporate Services Cllr Andrew Judge, Cabinet Member for Housing and Sustainable Development
Contact officer:	Paul McGarry, Head of Future Merton

Recommendations:

A. That Cabinet notes the options appraisal setting out how the Council can achieve its strategic ambition to deliver affordable housing on council owned sites.

B. That Cabinet agrees not to dispose of the first four sites for private sale and instead allocates the sites for affordable homes, delivered either by the Council or a Registered Provider (Housing Association).

C. That Cabinet note the implications for the Council of Merton re-establishing a Housing Revenue Account should it decide to be the direct provider of social needs housing.

D. That Cabinet note the finance, timescale and officer resource implications for the programme.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. The new administration has made clear its ambition to increase the delivery of genuinely affordable housing in the borough utilising council-owned land. Members have set an ambitious target of 400 new homes by 2026.

1.2. One of the administration's strategic priorities is creating a sustainable future for Merton and our service priority is the creation of a new era of high-quality social housing.

1.3. This report sets out a series of options for delivering the affordable housing programme, ranging from open-market site disposal, disposal to a Registered Provider or direct delivery of affordable homes by the Council.

1.4. The report considers the timescales, costs and other resources required for each option. Members are asked to consider the options available and set a direction of travel for the programme.

2 DETAILS

2.1. Merton Council is committed to increasing the supply of genuinely affordable housing in the borough, not only via the planning system but through direct intervention utilising the Council's land and property assets.

2.2. The Council's ambition is to deliver 400 homes by 2026. The Council has identified a number of sites as surplus to operational requirements and these have also been allocated for residential use in Merton's emerging new Local Plan.

THE SITES

2.3. The first four sites in the programme are the former Merantun Development Ltd (MDL) sites which benefit from existing planning permission; granted in 2020.

2.4. The initial four sites will deliver 93 homes and they are:

- Elm Nursery Car Park, Mitcham CR4 3TA (21 homes)
- Raleigh Gardens Car Park Mitcham CR4 2JB (36 homes)
- Land at Canons, Madeira Road, Mitcham CR4 4HD (18 homes)
- Farm Road Church, Farm Road, Morden SM4 6RA (18 homes)

2.5. At the special Cabinet meeting on 31st August 2022, Cabinet agreed a budget provision of £300,000 to update the planning details of the schemes to current building regulations and to enhance the environmental sustainability of the proposals beyond that of the Local Plan requirements. The funding will also allow for the preparation of construction tender packs to speed up the delivery of the developments, whether delivered by the Council or a Registered Provider.

2.6. In addition to the sites listed above; the following sites have also been identified as suitable for housing development and are being assessed for inclusion in the longer-term programme of 400 homes by 2026.

2.7. These sites have been included in Merton's emerging Local Plan where indicative site capacities have been assessed and could accommodate 393 homes. Subject to further detailed design and definition of the mix of homes for each site, there is capacity to achieve the housing programme's target.

2.8. The potential pipeline of sites includes:

- Chaucer Centre, Morden (35-65 homes)
- Gifford House, Morden (20-25 homes)
- Worsfold House, Mitcham (45-65 homes)
- Battle Close, South Wimbledon (50-65 homes)
- Sibthorpe Road, Mitcham (20-40 homes)
- Hallowfield Way (13-30 homes)

2.9. Including the former MDL sites at 93 homes, the subtotal range on LBM available sites is: 276 – 393 homes. 7 additional homes are needed to meet the target which could be achieved through the detailed planning and design process.

OPTIONS APPRAISAL (Council Build)

2.10. A detailed options appraisal is being prepared by the Council's consultant advisors SQW. The full details will be available for the Cabinet meeting on 10th October.

Design

2.11. Weston Williamson and Partners, the original design team of the initial four sites have been appointed to undertake a detailed review of the approved schemes and have issued a mark-up of the plans highlighting areas which will need to be revisited/updated to ensure 2022 Building Regulations Compliance, and potential Passivhaus accreditation – these will be costed and modelled separately to provide Cabinet with the detailed costs.

2.12. Key areas requiring updates to comply with current Building Regulations include reviewing potential thermal bridges (Part L and Passivhaus), the addition of Mechanical Ventilation with Heat Recovery units (Part F and Passivhaus and updating of overheating calculations which might impact on window sizes and the requirement for shading devices (Part O and Passivhaus)

2.13. Additional work required to achieve Passivhaus accreditation has also been highlighted both in terms of process and updates to specifications (i.e. window specification, drawing requirements and differing construction processes required to meet Passivhaus standards)

Cost and Procurement

2.14. The design changes noted above have been discussed and reviewed by WW+P and the cost consultants Warhurst Bourne (WB)

2.15. Initial cost plans for the four sites account for the updated scheme assumptions (based on WW+P work detailed above), revised specification for affordable housing, BCIS baseline cost information and allowance for recent inflationary pressures

2.16. The diagram below provides members with some context to construction cost inflation over the past six months and projected for the next six months which will be of interest.

Work Package Price Movements 2022.

Work Package	Movement last 6 months	Forecast next 6 months	Work Package	Movement last 6 months	Forecast next 6 months
Groundworks	3.35%	3-5%	Tiling	2.15%	1-3%
Steel Frame	10%	5-7%	Pools	11.75%	7-9%
Dry lining	2.5%	3-5%	Washroom Vanities	6%	5-7%
Brickwork	3.5%	3-5%	Soft Flooring	5%	3-5%
Carpentry	1%	5-7%	Bespoke Joinery	6%	5-7%
Timber Frame Building	1%	5-7%	Slate Roofing	7.75%	7.75%
Roofing	3%	5-7%	Lifts	8%	7-9%
UPVC Windows	14%	7-9%	Acoustic Panels	3%	1-3%

2.17. WB and the project manager, Cobalt PM, have engaged informally with contractors with experience on similar scale (and Passivhaus) projects who will provide some programme, risk, procurement and cost views between them – advice will be provided around alternative direct development routes (single-stage, two-stage, framework options etc); SQW will provide commentary re. the alternative approach of disposal/procurement of a Registered Provider as well as direct development by the Council.

2.18. The current assumption is that previous structural strategy (2 sites being built of timber frame, 2 sites being concrete/steel construction) remains applicable and fitting with Passivhaus standards. The cost plans have been issued based on two alternative scenarios: (a) building regulations compliant and (b) allowance for Passivhaus.

2.19. Importantly these construction costs are in draft and subject to review/interrogation by the team – there might be areas to potentially value engineer, including around specification, although this is unlikely to make a material difference to the overall magnitude of cost.

2.20. There are other development costs which need to be included in the viability analysis (design fees, legal fees, financing costs and ongoing management and maintenance costs) which are highly material to the overall viability of the schemes. Therefore the costs set out below represent core construction costs only.

Indicative costs of developing the sites

2.21. The emerging build costs for developing the first four sites are included below.

2.22. The table provides the build costs as of 2020, the costs now in 2022 to meet a building regulation compliant scheme and a 2022 cost if the schemes are built to Passivhaus standard.

2020 (base)	**2022 (Building Regulations)**		**2022 (Passivhaus)**	
Cost	Cost	% uplift	Cost	% uplift

£ 19,789,644	**£28,212,031**	+43%	**£29,561,532**	+49%

Viability

2.23. SQW will model two principal scenarios: (1) Building Regs compliant and (2) Passivhaus compliant

2.24. Within these two scenarios two different tenure mixes will be assumed, for comparison:

(1) 100% social rent and

(2) GLA compliant affordable mix including Social Rent, London Living Rent and Shared Ownership.

2.25. The model will be able to switch 'on' and 'off' GLA grant for all scenarios to model the implications. Assumed grant rates in the GLA affordable housing programme are £100,000 per socially rented home.

2.26. The viability model in the final report will include richer data on the target social rent levels in Merton and will model:

- Valuation (GDV) of the affordable housing
- The development appraisal
- The investment cashflow for the individual completed sites
- The investment cashflow for the overall programme (4 sites)

2.27. Cumulatively this will establish

(a) the cost to the Council of funding the development,

(b) acquiring the affordable homes and

(c) the potential viability funding gap

Summary of the Council build option

2.28. If the Council were minded to develop the first four sites of 93 homes; the estimated build costs would be;

2.28.1 £28,212,031 for a building regulations compliant scheme

2.28.2 £29,561,532 for a Passivhaus standard scheme

2.29. The difference between building regulation compliance and the Passivhaus standard is negligible in cost in terms of the overall programme. This is mainly due to the high sustainability specification adopted by MDL at the time which went beyond the Local Plan Policies at the time.

2.30. The key driver for cost increase is the wider economic climate with increased inflation on build costs, materials, labour and the cost of financing.

2.31. The potential grant available from the GLA could be £9.3m. Therefore the indicative build costs of the programme would range between £18,912,031 and £20,261,532.

OPTION TO DISPOSE TO A HOUSING ASSOCIATION

2.32. At the Cabinet meeting of 6th December 2021, Cabinet agreed to dispose of surplus property assets to facilitate increasing the supply of housing as set out below:

2.33. *Properties declared surplus by the Council be marketed for housing as soon as they are ready for sale provided the Director of Environment and Regeneration, in consultation with the Cabinet Member for Finance, considers that the market is favourable.*

2.34. *That authority is delegated to the Director of Environment and Regeneration, in consultation with the Cabinet Member, to determine which of the properties agreed for disposal be sold on one or more of the following terms:*

- *Option 1. Disposal to maximise capital receipt; or*
- *Option 2. Disposal to provide redevelopment with 50% affordable housing; or*
- *Option 3. Disposal to provide redevelopment with 100% affordable housing.*

2.35. As set out in Recommendation B for this report, Cabinet are invited to consider and agree, for the former MDL sites that options 1 and 2 are discounted as this no longer fits with the administration's priorities.

2.36. Below is an extract from the 6th December 2021 Cabinet Report detailing the anticipated capital receipts for the four MDL sites that could be achieved if they were disposed of to a Housing Association to deliver 50-100% affordable housing. These were indicative valuations arrived at in conjunction with the District Valuer. It would be prudent to obtain an uptodate valuation as part of the decision-making process.

Number of homes	Policy compliant (50% affordable housing)	50% social rented with 100% nomination rights	**100% social rented with 100% nomination rights with GLA grant funding**	**100% social rented with 100% nomination rights without grant funding**	Parking income foregone (per annum)
93	£6,975,000	£6,171,000	**£6,130,000**	**£1,385,000**	£32,846

2.40 Initial feedback from SQW is "*indicative potential land receipts reported then by DVS* [above] *are, in our view, likely now unrealistic given the assumptions made regarding build costs associated with the re-development etc*".

COMPARING OPTIONS

2.41 The Council's ambition is to increase affordable housing supply. This can be achieved utilising LBM owned land through two measures:
1. By the Council developing homes itself, or
2. Disposing of the sites to a Housing Association to develop and provide nomination rights to the Council's housing list.

2.42 The Council developing homes itself would require an investment in the programme of c£21million (assuming GLA grant received; c£29million if not) to meet build costs; with further ongoing investment needed in the staff to manage and maintain the properties and rent collections.

2.43 The option to dispose to a housing association may still result in a capital receipt returned to the council, depending on the levels of GLA grant available to the Housing Associations. A further valuation will be obtained as part of the options appraisal although it will only be possible to know for sure what any actual receipt will be at the point at which the sites are offered to the market. The disposal option remains the lowest risk option for the Council as it would not be undertaking the construction phase itself. This option also reduces the requirement for additional and ongoing staff resources as the properties would be managed by a Housing Association; whilst still delivering much needed homes for those on Merton's housing waiting list.

3 ALTERNATIVE OPTIONS

3.1. In December 2021, Cabinet resolved to agree the disposal of surplus sites to a Housing Association partner (through competitive bidding) to deliver affordable housing on sites (ranging from 50% affordable to 100% affordable.

3.2. This decision remains an approved option for the delivery of homes via a Housing Association partner. (The alternative to LBM self-build)

3.3. The level of affordable housing is delegated to the Director of Environment & Regeneration in consultation with the Cabinet Member; this will now be 100% to meet the administration's ambition.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. None for the purpose of this report.

5 TIMETABLE

5.1. None for the purpose of this report which considers the financial implication of the development options. An indicative programme for development has been provided to the member steering group.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1 Developing Housing Sites In-house

6.1. The Authority transferred its entire housing stock (6,326 dwellings) and associated land to a housing association in March 2010 and closed its Housing Revenue Account (HRA). These dwellings were organised into estates, serviced by suitably experienced/qualified staff in area offices and the Civic Centre and all related staff were TUPEd as part of the transfer. The authority retained a small number of dwellings.

6.2. The purpose of the transfer was to secure a significant level of future investment in the stock to deal with a backlog of repairs and to ensure that the Government's Decent Homes Standard could be delivered for all stock. Since this time there have been significant changes in the way local authorities are required to account for and fund their housing stock, mainly around the expectation that the HRA is self-financing and the removal of the HRA borrowing cap. These changes have paved the way for local authorities to investigate opportunities for the delivery of new housing.

6.3. Under current legislation/regulation the Authority can hold up to 199 housing homes without the need to re-establish its HRA, when this threshold is breached, the authority would need to request to the Secretary of State to set up an HRA. Under Section76 Local Government & Housing Act 1989 the council has a duty to “prevent a debit balance on the HRA”, i.e. avoid the account going into a deficit position - for authorities seeking to re-establish their HRAs this is demonstrated by modelling a break-even position over a 30 year period. Therefore, there is a requirement that any housing development, even that below the threshold, will need to be progressed as cost effectively as possible or any moves to establish an HRA will fall at the first hurdle.

6.4. The table below summarises the estimated costs of developing the proposed homes in-house:

Development and Build Costs	**100 Houses**	***400 Houses**
	£000s	**£000s**
Premises Build Costs incl Project Management	£35,000	£140,000
GLA Funding	£(9,300)	£(37,200)
Total	**£25,700**	**£102,800**

* Would require the establishment of an HRA which would need to demonstrate the ability to break even over a 30 year period

6.5. The revenue financing to service this debt is estimated as:

Debt Costs to Merton	**100 Houses Full Year £**	**400 Houses Full Year £**
Depreciation/Minimum Revenue Provision	877,133	3,508,532
Interest	1,107,670	4,430,680
Total	**1,984,803**	**7,939,212**
Estimated Annual Cost per House		£19,848

6.6. If the Authority can apply Section 106 affordable housing (£4.6m) to the development costs as well as receive GLA subsidy, then this will reduce the debt charges by £337k per annum.

6.7. To break even the Authority would need to generate sufficient rental income to offset the debt charges above, management and maintenance costs and contribute to a renewals and repairs reserve.

6.8. Modelling undertaken by Campbell Tickell during 2021 concluded that to break even a percentage of the developed homes would need to be sold and additional capital funding would need to be made available by the Authority to any scheme to make it viable. The Authority has a finite number of sites to develop, if it has to sell off a percentage of the developed homes this will not maximise the affordable housing developed on the sites.

6.9. Whilst it is recognised that management and maintenance expertise would need to be purchased from external sources, it will be extremely difficult to gain sufficient economies of scale in operation with multiple small sites spread throughout the borough. In addition, it is essential that provision is made for rent collection and debt chasing, where possible this would utilise the existing infrastructure within the Authority, but would be essential to ensure a break even position is achieved. Financial expertise would also need to be developed and resourced to maintain the newly established HRA.

Development by a Housing Association (Registered Provider)

6.10. Under this option it is envisaged that the land will be disposed of via some kind of tendering process, this is likely to be limited to housing associations to ensure that the "100% affordable housing nomination rites in perpetuity" is delivered.

6.11. In August/September 2021 the District Valuer estimated that as well as delivering 100% and nomination rites affordable housing disposal to a housing association may also generate a reduced capital receipt (sale proceeds). It is likely that these estimates will have been adversely affected by changes in the economy since the date of valuation (see 2.40).

6.12. A local authority is required by legislation to not dispose of land for a consideration less than the best that can reasonably be obtained. The Secretary of State has issued the General Consent Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained. This provides that

a) a local authority may dispose of land at an undervalue where the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;

    i) the promotion or improvement of economic well-being;

    ii) the promotion or improvement of social well-being;

    iii) the promotion or improvement of environmental well-being; and

b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

6.13. It is for the council to determine the "well-being" test on a case by case basis taking into account all relevant matters such as policy and fiduciary duty.

6.14. Officers note that no disposal will proceed where there is any reduction in the amount of capital receipt arising as a result of the affordable housing conditions without considering and adhering to the state subsidy legislation.

6.15. It is not envisaged that the Authority would incur any additional costs and would look to invest the £4.6m available from Section 106 Affordable Housing in the scheme. The risks to the Authority would be minimised and the required objective achieved.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The Council has power to provide social housing by virtue of Part II of the Housing Act 1985. If it does so, then the provisions of section 74 of the Local Government and Housing Act 1989 which relate to the establishment of a housing revenue account (HRA) apply. Put shortly, if the Council wishes directly to provide housing either by building it or by purchasing land or buildings for that purpose it will need a direction from the Secretary of State permitting it to do so. If the number of homes provided is 200 or more, then the Council will also need to apply for permission to reopen an HRA. In order to do the latter, it will likely be necessary to produce at least an outline business plan.

7.2. Should the Council wish to dispose of the sites, it has power to do so under section 123 of the Local Government Act 1972. However, if it wishes to do so at an undervalue, which is likely, the consent of the Secretary of State under section 25 of Local Government Act 1988 will also be required. The Secretary of State has issued some general consents under this section and when the structure of any proposal is clearer, further consideration will be given to which consent will apply. Similarly, the Council will have to consider whether the transaction is covered by the provisions of the Subsidy Control Act 2022 (which replaces the old state aid regime).

7.3. If the Council decides to build out the sites itself, it will need to follow the processes that comply with the Public Procurement Regulations and the Council's contract standing orders.

7.4. In reaching a decision about which route to take, the Council should balance its wish to achieve its strategic objectives with the fiduciary duty it owes to the residents and taxpayers of the borough to ensure it is achieving value for money.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purpose of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purpose of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1 From the information contained in this report it is apparent that the in-house development of sites within the borough bears more financial risk for the Council than developing sites via a housing association. This financial risk is heightened by the current and projected economic situation.

10.2 The in-house skills/expertise gap could increase the identified financial risks, time taken to deliver and increase the chance of non-delivery.

10.3 Disposing of sites within the borough via a housing association with nomination rites in perpetuity, minimises the financial risks to the Authority at the cost of ultimate control over the site.

10.4 There is also a risk that utilising a housing association will not be within the subsidy rules permissible by the Secretary of State if the land is sold significantly below market value.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

12 BACKGROUND PAPERS

12.1. Special Cabinet Report 31 August 2022.
https://democracy.merton.gov.uk/ieListDocuments.aspx?CId=146&MId=4316

12.2. Cabinet Report, 6 December 2021: Disposal of surplus property assets to facilitate the increase in the supply of housing.
Agenda Item 7
https://democracy.merton.gov.uk/ieListDocuments.aspx?CId=146&MId=3977

12.3. Planning approvals for LBM owned sites:

- Elm Nursery Car Park
- Raleigh Gardens Car Park
- Land at Canons, Madeira Road
- Farm Road Church, Farm Road

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Committee: Cabinet

Date: 10th October

Wards: ALL

Subject: Climate Accreditation: embedding Merton's climate commitments through senior staff and councillor training

Lead officer: Interim Director of Environment and Regeneration, Adrian Ash

Lead member: Cabinet Member for Local Environment, Green Spaces and Climate, Cllr Natasha Irons

Contact officer: Amy Mallett, 0208 545 3669

Recommendations:

A. That Cabinet approves the commitment of senior council staff and cabinet members to undertake carbon literacy training provided by APSE (Association of Public Service Excellence). Training undertaken by the Chief Executive and Directors will enable the council to achieve 'Bronze Level Carbon Literacy Accreditation'.

B. That Cabinet approves the commitment of Commercial Services staff and those most involved in contract management and commissioning to undertake procurement specific carbon literacy or climate change training.

C. That Cabinet approves volunteering officers to achieve carbon literacy accreditation.

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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. The purpose of this report is to justify the commitment of

- Senior council staff, (the Chief Executive, Directors and Assistant Directors, totalling 17 staff)
- Cabinet members (all 10 Cabinet members)
- Up to 20 volunteering officers and
- Commercial Services, contract management and commissioning colleagues to undertake climate change training.

1.2. This approach to training is necessary to:

- embed Merton's climate commitments in council decision making in line with Merton's Climate Strategy & Action Plan;
- support the achievement of the council's organisational net zero target for 2030;

- ensure the council has the legitimacy and technical understanding to support residents on the journey to a net zero borough by 2050; and
- for senior staff to lead colleagues by example, encouraging wider organisational change

1.3. Approved by CMT, the development and delivery of carbon literacy training is a priority action in the Climate Delivery Plan for 2022 and was allocated funding by CMT in 2021.

2 DETAILS

2.1. In order to deliver the council policy priorities detailed in section 1, Merton's climate change team are looking to appoint APSE to deliver climate change training for council staff and councillors in key lever positions.

2.2. Though there is no uniform definition, 'climate change training' is a broad categorisation for training which covers, but is not limited to the following:

- improves the awareness of council officers and councillors regarding the causes, costs and impacts of climate change;
- helps officers and councillors identify opportunities for reducing carbon emissions and deliver a multitude of co-benefits in their own area of work at the council and beyond; and
- encourages ambitious pledges and commitments through continued engagement and, or accreditation.

2.3. Due to budget and resource constraints, training initially needs to be delivered through identifying 'key levers' i.e., those in positions of significant responsibility, with the most influence who can create a cascade of positive change in their service areas.

2.4. These are identified as:

- Cabinet Members - to ensure those with decision making powers are carbon literate, understand the council's net zero ambitions and can make informed decisions that align with improving sustainability and reducing emissions.
- The Chief Executive Officer, Directors and Assistant Directors– to positively influence decision making to embed sustainability across all services and lead colleagues by example.
- Commercial Services, commissioning & contract management colleagues - to embed carbon reduction, as well as social and environmental value into new contracts and work with suppliers to make council services more sustainable.
- Staff climate champions – individuals who have significant enthusiasm to act as a point of contact in their team to help other colleagues embed more sustainable practices and work on changing council processes in their area of work, to align with net zero (similar to the role of Mental Health Champions.)

2.5. Notably, once senior leadership complete carbon literacy training, the council receives a ‘Bronze Level Carbon Literate Organisation’ accreditation, further demonstrating council commitment to net zero, to our residents.

2.6. 18 members of staff (including one assistant director and one head of service) who responded to a recent survey indicated that they would like to undertake accredited training (appendix 1).

2.7. In addition to senior staff, the volunteering officers should also be a priority as this provides a useful pilot to test and review the utility of the carbon literacy training content for officers.

2.8. This will enable the climate team to consider the extent to which this or similar training should extend to all officers, with an accompanying increase in allocated budget, if necessary.

2.9. Although commercial services colleagues, contract managers and commissioners are identified as key levers, the first tranche of carbon literacy training will not specifically target them.

2.10. Over the coming months, the Climate Team and the Commercial Services Team will be working in partnership with the London Responsible Procurement Network, to consider a joint approach for reducing carbon through London local authority contracts.

2.11. Consideration will be given to adopting a joint approach where it aligns with the council’s priorities and supports in maximising our officer time and financial resources.

2.12. Concurrently the Climate Team and Commercial Services will develop a more specialised approach to training colleagues who are responsible for high value contracts with high carbon impacts.

Accredited training options appraisal

2.13. In addition to a staff survey undertaken in May 2022 to understand staff preferences for training (further details in section 4 and appendix 1), a soft market testing exercise was undertaken in May 2022 to determine which training options would best suit Merton’s requirements (see appendix 2).

2.14. The carbon literacy training delivered by APSE is the only training offer which fulfils all of Merton’s programme requirements (see table 1), including dedicated courses for councillors, council leadership and management staff; more general training for all officers; and flexible evening or lunchtime training sessions.

2.15. APSE offers the best value for money compared to its nearest competitors, as Merton Council benefits from a discounted rate, by being member of APSE. This brings the cost per person down from £133.80 + VAT to £73.15 + VAT, if a group of 20 colleagues are trained at one time.

2.16. The soft market testing demonstrates that there is only one provider capable of performing the contract in a way that meets the council’s programme requirements. As detailed in Section 6 of this report, the cost of the first tranche of training is £4,389. Therefore, the use of direct award to APSE is the preferred route to appointing a supplier in line with the Council’s Contract Standing Orders.

Table 1 – summary of soft market testing for first tranche of Merton Council carbon literacy training				
	APSE – Carbon Literacy Training	Centre for Alternative Technologies – Carbon Literacy Training	IEMA – Sustainability Skills for the Workforce	IEMA – Pathways to Net Zero delivered by Astutis
Local Authority Specific	Yes	Yes	No	No
Learning Objectives Met	Yes	Yes	Partly	Partly
Accreditation Achieved	Yes	Yes	Yes	Yes
Interactivity	Yes	Yes	No	No
Flexible Delivery	Yes	No	Yes	No
Administration Managed	Yes	Yes	Yes	Yes
Cost per person	£73.15	£140	£114.80	£430

2.17. Based on the number of places on a single course, engagement with council staff (Appendix 1) and desire for APSE Bronze Climate Literacy Accreditation, the first tranche of training should target the first three cohorts detailed in Table 2.

Table 2 – staff climate training cohorts		
	Places Occupied	Spaces Remaining
1. Cabinet Members	10	10
2. Chief Executive, Directors and Assistant Directors	17	3
3. Volunteering Officers	16	4
4. Commercial Services, Contract Management and Commissioning Colleagues	See point 2.9 and 2.10	See point 2.9 and 2.10

2.18. Ideally spaces left open for the cabinet member session, should be filled by other interested councillors who are not cabinet members.

2.19. Spaces remaining in the senior staff session should be filled by interested heads of service.

2.20. Vacant spaces on the voluntary session should be filled by the climate team, and procurement leads in Commercial Services who will support in implementing future training opportunities for contract management and commissioning colleagues.

3 ALTERNATIVE OPTIONS

3.1. Alternative options were considered in table 1 (contained in Section 2 of this report.)

3.2. Delivering accredited training in-house by tailoring free-to-use toolkits, such as the Carbon Literacy Toolkit for Local Authorities was also considered an option to train officers and councillors.

3.3. However, with only 2 FTE staff in the Climate Team, dedicating time to tailoring and delivering carbon literacy training workshops, or translating the training materials into e-learning modules, without first trialling a version of the training on a smaller cohort of staff, was not considered a proportionate use of officer time.

3.4. To optimise use of officer time, some London Local Authorities have therefore chosen to work with an external provider in the first instance, with a view to utilising feedback to inform and tailor future training phases, delivered either in-house or by external providers, online as e-learning modules, via workshops, or a combination of these methods.

3.5. To do nothing is not an option, as the development of staff training has been committed to as part of the council's Climate Delivery Plan for Year 2.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. A staff climate survey undertaken in November 2021 indicated that a lack of capacity, time, funding, awareness, training, expertise, senior buy-in and supporting infrastructure were some of the key barriers to staff delivering climate action in their work. Moreover, there was a high level of interest in climate training among LBM staff.

4.2. A follow up survey in May 2022, asking for staff preferences on climate change training options was answered by 40 colleagues, which helped inform the recommendations of this paper.

4.3. 18 colleagues indicated that they would want accredited training including one head of service and one assistant director, with the majority preferring flexible training arrangements, such as e-learning and virtual training spread over multiple sessions (see appendix 1).

5 TIMETABLE

5.1. All recommendations in this paper were approved by CMT on 30th August 2022.

5.2. The recommendations were approved at the Leaders Strategy Group meeting on Friday 23rd September.

5.3. The paper will also go to Cabinet on Monday 10th October for approval

5.4. The procurement process will begin in September.

5.5. If APSE is appointed, training is proposed to take place later in the autumn.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. £60,000 was allocated for climate training from council reserves in 2021/2022, to cover spend across 2022-23 and 2023-24.

6.2. This more than covers the initial three training sessions at an estimated cost of £1,463 per session, or £4,389 in total, with plenty remaining to use as the council's approach to expanding climate change training evolves.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The Council's Contract Standing Orders (CSO) requires either a quick quote or a Request for Quote from any number of bidders but preferably 3 bidders.

7.2. As per the main body of the report, the Council is directly awarding a contract under CSO 16 to one supplier.

7.3. The Responsible Officer has, as per the report, been able to demonstrate that the supplier selected is the only one who can provide the service therefore CSO 16.2.2 provides a compliant route to market.

7.4. The Responsible Officer must be able to demonstrate that the direct award will offer Best Value to the Council.

7.5. Once the contract has been entered into this will need to be recorded on the Council's contract register.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. The council is likely to face reputational risks if we cannot deliver the commitments set out in Merton's Climate Delivery Plan Year 2, by adequately training staff to embed climate change within their plans, policies, teams and communities.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

1. Appendix 1 – Summary of Staff Climate Change Training Survey Results, May 2022
2. Appendix 2 – Draft Specification

12 BACKGROUND PAPERS

12.1. Merton's Climate Strategy and Action Plan

12.2. Merton's Climate Delivery Plan Year 2

Cabinet

Date:

Subject: Draft Business Plan 2023-27

Lead officer: Caroline Holland – Director of Corporate Services

Lead member: Councillor Billy Christie - Cabinet Member for Finance and Corporate Services

Contact Officer: Roger Kershaw

Recommendations:

1. That Cabinet notes the approach to rolling forward the MTFS for 2023-27.
2. That Cabinet confirm the latest position with regards to savings already in the MTFS
3. That Cabinet agrees the approach to setting a balanced budget outlined in Section 4 as the basis for the setting of targets for 2023-27
4. That Cabinet agrees the proposed savings targets based on a standstill position.
5. That Cabinet agrees the timetable for the Business Plan 2023-27 including the revenue budget 2023/24 the MTFS 2023-27 and the Capital Programme for 2023-27.

1. **Purpose of report and executive summary**

1.1 This report presents an initial review of the Medium Term Financial Strategy and updates it for development as part of the business planning process for 2023/24.

1.2 The report sets out the approach towards setting a balanced budget for 2023-2027 and a draft timetable for the business planning process for 2023/24. It also proposes initial targets to be met from savings and income over the four year period of the MTFS.

1.3 There is an update on the current information relating to the timetable for the Government's Spending Review / Budget.

1.4 Given the current high level of uncertainty over a range of factors that have the potential to impact significantly on the MTFS there is a sensitivity analysis of a number of issues including the potential impact across the MTFS period of current issues that impact on local government such as the current high level of inflation and also specific issues such as addressing the DSG deficit.

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1.5 Finally, there is an assessment of the potential impact in 2023/24 and possibly beyond, of the coronavirus pandemic which first impacted at the end of the 2019/20 financial year.

Details

2. Medium Term Financial Strategy 2023-27

2.1 Background

Council on 2 March 2022 agreed the Budget 2022/23 and MTFS 2022-26. Whilst a balanced budget was set for 2022/23 there was a gap remaining in future years which needs to be addressed, as shown in the following table:-

	2023/24 £m	**2024/25 £m**	**2025/26 £m**	**2026/27 £m**
MTFS gap (cumulative)	4,618	18,791	21,659	27,767

2.2 The initial phase of the business planning process is to re-price the MTFS and roll it forward for an additional year. Development of the MTFS in recent budget processes allowed for various scenarios on a range of key variables to be modelled and it is intended to do the same this year and where feasible, to improve the approach to modelling.

Regular updates will be provided throughout the year as part of Business Planning reports for the MTFS period 2023-27 and the estimated impact of inflation, COVID-19 and eliminating the DSG deficit will be modelled and included in this analysis.

2.3 Review of Assumptions

The pay and price calculations have been reviewed using the approved budget for 2022/23 as the starting point.

2.3.1 Pay

Based on pay awards of 2% the provision in the MTFS approved by Council has been reviewed as follows:-

Provision for Pay Inflation:

(Cumulative £000)	**2023/24**	**2024/25**	**2025/26**	**2026/27**
Pay inflation (%)	**2.0%**	**2.0%**	**2.0%**	**2.0%**
MTFS 2022-26 (Council 2/3/22)	1,920	3,840	5,760	7,680
Pay inflation (%)	**3.0%**	**2.0%**	**2.0%**	**2.0%**
MTFS 2023-27 (Latest)	2,974	4,957	6,940	8,923
Change (cumulative £000)	**1,054**	**1,117**	**1,180**	**1,243**

Pay Negotiations 2022/23

For 2022/23 the final pay award has not been agreed but provision of 2% was included in the MTFS, and 2% also for each subsequent year. On 6 June 2022, the three local government unions, UNISON, GMB and Unite, representing 1.4 million council and school employees, submitted a pay claim for staff in England, Wales and Northern Ireland.

The 2022 claim, which would apply from the start of April 2022, would see council employees receive either a £2,000 rise at all pay grades or the current rate of RPI (presently 11.1%), whichever is higher for each individual.

On 25 July 2022, the National Employers agreed to make the following one-year (1 April 2022 to 31 March 2023), final offer to the unions representing the main local government NJC workforce:

- With effect from 1 April 2022, an increase of £1,925 on all NJC pay points 1 and above

- With effect from 1 April 2022, an increase of 4.04 per cent on all allowances

- With effect from 1 April 2023, an increase of one day to all employees' annual leave entitlement

- With effect from 1 April 2023, the deletion of pay point 1 from the NJC pay spine

This offer would achieve a bottom rate of pay of £10.50 with effect from 1 April 2022 (which equates to a pay increase of 10.50 per cent for employees on pay point 1); everyone on the NJC pay spine would receive a minimum 4.04 per cent pay increase; and the deletion of pay point 1 on 1 April 2023, would increase the bottom rate to £10.60 (providing 10p headroom above the current upper-end forecast for the NLW on that date), pending agreement being reached on a 2023 pay award.

Potential rates of pay for London from 1 April 2022 based on the national employers' pay offer to the unions representing Local Government Services employees.

- With effect from 1 April 2022 the national offer is for a pay increase of £1,925 on all NJC pay points.
- In London this translates to an equivalent offer of £2,229 on all Outer London pay points and an increase of £2,355 on all Inner London pay points.
- Allowances to be increased by 4.04%

It is estimated that the overall increase in pay arising from this offer will be c.6.0%

National Living Wage

The offer from the National Employers also made the following comments about the National Living Wage (NLW):-

"At the pay briefings, your council may have been among those who supported a long-term (two years) pay deal, covering the period 1 April 2022 to 31 March 2024. A pay offer of that duration was until recently looking the most likely option for the National Employers. However, the current wider political situation means there is now some uncertainty that the current policy of the NLW reaching 66 per cent of median earnings in 2024 will remain as previously stated.

As was conveyed at the regional pay briefings, since its introduction in 2014, the NLW has presented a huge challenge for local government in managing to maintain headroom between the bottom pay points and the statutory NLW. Local government is almost alone in the public sector in having this challenge. Other public sector pay structures' lower rates of pay are far enough above the NLW for it not to present the same pressure as we face and involve a far smaller proportion of those sectors' workforces than is the case in local government.

The National Employers hold a longstanding principle of not pegging the bottom rate in local government to the NLW, as they do not believe the sector should be a minimum wage employer.

When the NLW was increased to 60 per cent of national median earnings in the last parliament, local government managed to achieve some breathing space by revamping its pay spine in 2018-19. On 1 April 2019, there was 79p headroom between the lowest local government pay rate and the NLW. However, following the General Election in December that year, central government introduced a revised policy for the NLW to increase from a target of 60 per cent of national average earnings, to 66 per cent by April 2024.

Since 1 April 2022, the bottom rate of pay in local government has been at parity with the NLW at £9.50 (pending this year's pay award). 2020 to 2022 saw a 8.94 per cent increase in the NLW, while affordability of pay awards in local government has resulted in pay growth in the sector over the same period at only around half that: 4.55 per cent.

The economic turmoil over the past two years has only increased the volatility of the projections. In April 2020, the Low Pay Commission (LPC) set out that the projected NLW rate for April 2024 was £10.69. Due to the impact on the economy of the COVID pandemic, the OBR revised down this forecast to £10.10 in December 2020, though by April 2021, when the LPC published that year's NLW consultation documentation, the projection had rebounded to £10.33. By the Budget in Autumn 2021, the projection had rebounded once more and stood at £10.70.

The LPC's latest published forecast for the NLW states from March 2022:

Although our recommendations in the autumn will be subject to Commissioners' assessment of economic conditions, our current best estimate for the on-course NLW rate in April 2023 is £10.32, within a range of £10.14 - £10.50. Our current best estimate of an NLW set at two-thirds of median earnings for those aged 21 and over in 2024 would be £10.95 within a range of £10.58 - £11.33. These are based on the latest wage growth forecasts, but actual wage growth may turn out higher or lower, and we will update these ranges in the summer based on changing forecasts. We will publish a report, to coincide with the increase in NLW and NMW rates, setting out this pathway in more detail.

This projection is the highest rate yet predicted for the NLW in 2023 and 2024 and there is no guarantee it won't rise further due to the ongoing economic volatility, potential impact of the international context and expected further increases in the rate of inflation. The lack of a fixed figure to work towards and the volatility of the forecasts of what the NLW rate will be, has made it difficult for local government to plan effectively over the past few years.

The National Employers fully support the increase of the NLW but have made clear to government that in meeting the cost of this policy, additional funding is required. If this is not forthcoming, jobs and services will be at risk as employers struggle to accommodate this additional cost when trying to balance their budgets.

Conclusion

The National Employers are eleven senior elected members, some of whom are Leader of their council. They are all acutely aware of the additional pressure this year's offer will place on already hard-pressed budgets, especially for those councils and schools with large numbers of employees on the lower pay points. However, for the reasons set out above, they believe their offer meets the NLW challenge (at least in the short-term) and is fair to employees, given the wider economic backdrop and is in line with awards made recently to other parts of the public sector workforce. However, they are also aware that without additional funding from central government, meeting the NLW challenge and providing a fair award for local government staff will come at a cost to jobs and / or service provision. The National Employers have written to the relevant government department (DLUHC) to make this point clear."

Unions are balloting their members on the offer. There are three recognised unions involved, Unison, GMB and Unite. Unison members have voted to accept the offer whilst the outcome of the GMB and Unite ballots will not be known until October.

Further details on any progress towards agreeing a pay award for 2022/23 and the impact on the MTFS, will be reported during the Business Planning process as more information becomes available.

Impact of 2022/23 Pay Award on MTFS 2023-27
The cost to the Council of the 2022/23 pay offer outlined above are expected to be c.6%.
Each 1% of pay costs c. £0.990m and if a 6% pay award is made in 2022/23 this will have the following impact on the MTFS 2023-27:-

	2023/24 £000	**2024/25 £000**	**2025/26 £000**	**2026/27 £000**
Additional Impact of a 6% pay award	3,960	4,039	4,120	4,202

2.3.2 Prices
The current assumptions regarding price inflation incorporated into the MTFS are

- 2.5% in 2022/23 and 1.5% in each subsequent year of the MTFS

The MTFS agreed by Council on 2 March 2022 includes the following provision for price inflation

Provision for Prices Inflation:

	2023/24	**2024/25**	**2025/26**	**2026/27**
Price inflation in MTFS (%)	1.5%	1.5%	1.5%	1.5%
Original MTFS 2022-26 (cumulative £000)	2,139	4,278	6,417	8,556

This has been reviewed using the approved budget for 2022/23 and the latest estimate based on 1.5% price inflation is:-

(Cumulative)	**2023/24**	**2024/25**	**2025/26**	**2026/27**
Price inflation (%)	1.5%	1.5%	1.5%	1.5%
Revised Estimate (cumulative £000)	2,282	4,564	6,846	9,129
Change	143	286	429	573

Each 1% of price inflation costs c. £1.5m.

Given the forecast level of inflation is not expected to drop back to 2.5% until 2024, the current 1.5% provision in 2023/24 may not be adequate and an increase to 3% in 2023/24 and 2% in 2024/25 is proposed
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(Cumulative)	**2023/24**	**2024/25**	**2025/26**	**2026/27**
Price inflation (%)	3.0%	2.0%	1.5%	1.5%
Revised Estimate (cumulative £000)	4,564	7,607	9,889	12,172

Net change in Pay and Price inflation provision:

The overall change in inflation provision since Council in March 2022 is

(Cumulative) (£000)	**2023/24**	**2024/25**	**2025/26**	**2026/27**
Latest Inflation estimate	10,507	15,612	19,958	24,306
Original MTFS 2022-26 (Council March 2022)	4,059	8,118	12,177	16,237
Change	6,448	7,494	7,781	8,069

Current inflation
The Consumer Prices Index (CPI) rose by 9.9% in the 12 months to August 2022, down from 10.1% in July. On a monthly basis, CPI rose by 0.5% in August 2022, compared with a rise of 0.7% in August 2021. A fall in the price of motor fuels made the largest downward contribution to the change in both the CPIH and CPI annual inflation rates between July and August 2022. Rising food prices made the largest, partially offsetting, upward contribution to the change in the rates.

The Consumer Prices Index including owner occupiers' housing costs (CPIH) rose by 8.6% in the 12 months to August 2022, down from 8.8% in July. On a monthly basis, CPIH rose by 0.5% in August 2022, compared with a rise of 0.6% in August 2021. The largest upward contributions to the annual CPIH inflation rate in August 2022 came from housing and household services (principally from electricity, gas and other fuels, and owner occupiers' housing costs), transport (principally motor fuels), and food and non-alcoholic beverages.

The RPI rate for August 2022 was 12.3%, which is unchanged from July 2022.

Outlook for inflation:
The Bank of England's Monetary Policy Committee (MPC) sets monetary policy to meet the 2% inflation target and in a way that helps to sustain growth and employment.

At its meeting ending on 21 September 2022, the MPC voted to increase Bank Rate by 0.5 percentage points, to 2.25%. Five members voted to raise Bank Rate by 0.5 percentage points, three members preferred to increase Bank Rate by 0.75 percentage points, to 2.5%, and one member preferred to increase Bank Rate by 0.25 percentage points, to 2%. The Committee also voted unanimously to reduce the stock of purchased UK government bonds, financed by the issuance of central bank reserves, by £80 billion over the next twelve months, to a total of £758 billion, in line with the strategy set out in the minutes of the August MPC meeting.

The next Bank of England MPC base rate decision is on 3 November 2022.

In the minutes to the September meeting, the MPC gave a bleak economic outlook stating that "In the August Monetary Policy Report, the MPC noted that the risks around its projections from both external and domestic factors were exceptionally large, given the very large increase in wholesale gas prices since May and the consequent impacts on real incomes for UK households and on CPI inflation.

Since August, wholesale gas prices have been highly volatile, and there have been large moves in financial markets, including a sharp increase in government bond yields globally. Sterling has depreciated materially over the period.

Uncertainty around the outlook for UK retail energy prices has nevertheless fallen, following the Government's announcements of support measures including an Energy Price Guarantee. The Guarantee is likely to limit significantly further increases in CPI inflation, and reduce its volatility, while supporting aggregate private demand relative to the Committee's August projections. An additional Growth Plan announcement is scheduled to take place shortly after this MPC meeting, which is expected to provide further fiscal support, and is likely to contain news that is material for the economic outlook. Once this announcement has been made, and as part of its November MPC round, the Committee will make a full assessment of the impact on demand and inflation from all these announcements, along with other news, and determine further implications for monetary policy….. Nevertheless, energy bills will still go up and, combined with the indirect effects of higher energy costs, inflation is expected to remain above 10% over the following few months, before starting to fall back.

The MPC's remit is clear that the inflation target applies at all times, reflecting the primacy of price stability in the UK monetary policy framework. The framework recognises that there will be occasions when inflation will depart from the target as a result of shocks and disturbances. The economy has been subject to a succession of very large shocks. Monetary policy will ensure that, as the adjustment to these shocks continues, CPI inflation will return to the 2% target sustainably in the medium term. Monetary policy is also acting to ensure that longer-term inflation expectations are anchored at the 2% target."

On 26 September the Governor of the Bank of England made the following statement:-
"The Bank is monitoring developments in financial markets very closely in light of the significant repricing of financial assets. In recent weeks, the Government has made a number of important announcements. The Government's Energy Price Guarantee will reduce the near-term peak in inflation. Last Friday the Government announced its Growth Plan, on which the Chancellor has provided further detail in his statement today. I welcome the Government's commitment to sustainable economic growth, and to the

role of the Office for Budget Responsibility in its assessment of prospects for the economy and public finances.

The role of monetary policy is to ensure that demand does not get ahead of supply in a way that leads to more inflation over the medium term. As the MPC has made clear, it will make a full assessment at its next scheduled meeting of the impact on demand and inflation from the Government's announcements, and the fall in sterling, and act accordingly. The MPC will not hesitate to change interest rates as necessary to return inflation to the 2% target sustainably in the medium term, in line with its remit."

On 4 August 2022, the Bank of England also published its quarterly Monetary Policy Report for August 2022. In this report the MPC include forecast quarterly CPI inflation rates over the next three years as follows:-

2022	2022	2023	2023	2023	2023	2024	2024	2024	2024	2025	2025	2025
Qtr.3	Qtr.4	Qtr.1	Qtr.2	Qtr.3	Qtr.4	Qtr.1	Qtr.2	Qtr.3	Qtr.4	Qtr.1	Qtr.2	Qtr.3
CPI %	CPI %	CPI %	CPI %	CPI %	CPI %	CPI %	CPI %	CPI %	CPI %	CPI %	CPI %	CPI %
9.9	13.1	12.6	10.8	9.5	5.5	4.3	2.6	2.0	1.4	1.2	0.9	0.8

The MPC's analysis of this forecast are that "the direct contribution of energy prices to CPI inflation alone is expected to peak at 6½ percentage points in 2022 Q4. That is substantially higher than in the Committee's forecasts over the past year, given the successive very sharp increases in global energy prices over this period. Together with higher indirect effects from energy prices, which can affect both goods and services prices, this accounts for most of the much higher outlook for CPI inflation over the first half of the forecast since May. Though responsible for much less of the rise in headline inflation, domestic inflationary pressures have also increased and are projected to be a little stronger than previously expected. In particular, it appears that the labour market is currently tighter than the Committee previously assumed. Together with a little more upward pressure on pay from higher price inflation, nominal private sector regular pay growth rises by more than in May over the first half of the forecast. This is broadly consistent with the Agents' survey on employment and pay, which suggests that firms expect pay settlements to average 6% over the next year, higher than the equivalent survey set out in the February Report. As a result, CPI inflation is a little higher throughout the projection from this judgement."

The latest inflation and unemployment forecasts for the UK economy, based on a summary of independent forecasts are set out in the following table:-

Table: Forecasts for the UK Economy

Source: HM Treasury - Forecasts for the UK Economy (September 2022)			
2022 (Quarter 4)	Lowest %	Highest %	Average %
CPI	7.4	14.0	10.2
RPI	8.7	17.7	13.1
LFS Unemployment Rate	3.6	4.5	4.1
2023 (Quarter 4)	Lowest %	Highest %	Average %
CPI	0.9	7.6	4.0
RPI	1.6	8.9	5.1
LFS Unemployment Rate	3.2	5.0	4.3

Note the wide range between highest and lowest forecasts which reflects the volatility and uncertainty arising from volatile fuel and utility costs impacting on the cost of living and the difficulty of forecasting how the situation will evolve. Clearly where the level of inflation during the year exceeds the amount provided for in the budget, this will put pressure on services to stay within budget and will require effective monitoring and control.

Independent medium-term projections for the calendar years 2022 to 2026 are summarised in the following table:-

Source: HM Treasury - Forecasts for the UK Economy (August 2022)					
	2022	2023	2024	2025	2026
	%	%	%	%	%
CPI	8.3	4.7	1.3	1.6	1.8
RPI	9.1	6.5	2.4	3.1	3.4
LFS Unemployment Rate	3.9	4.2	4.2	3.8	3.7

2.3.3 Provision for Excess Inflation:

There is also a corporate provision which is held to assist services that may experience price increases greatly in excess of the budgeted inflation allowance provided when setting the budget. This will only be released for specific demonstrable demand. This was increased to £2.5m in 2022/23 but reduces to £0.5m from 2023/24 onwards. Whether this is sufficient is dependent on inflation reducing back towards the Government's 2% target by 2023/24 and the extreme volatility in utilities costs and supply being brought under control.

The provision in the MTFS is currently :-

	2023/24 £000	2024/25 £000	2025/26 £000	2026/27 £000
Budget in MTFS 2022-26	500	500	500	500

The cash limiting strategy is not without risks and if the inflation rate fails to return to the Government's 2% target levels of inflation by 2025/26 it will lead to further pressure on service budgets.

2.3.4 London Living Wage (LLW) and Living Wage Employer Accreditation

Merton is seeking accreditation as a Living Wage Employer and will introduce the Real Living Wage into Merton contracts - as and when the contracts come up for re-tendering (excluding Care Home contracts) – Phase I.

More work will be undertaken to ascertain a more realistic cost for implementing the LLW across Merton's Care Home contracts and this work will be carried out after Merton has achieved its Living Wage Employer accreditation – Phase II.

The total additional cost to the Council - for the life of contracts which do not currently cover LLW and excluding Care Homes - is in the region of £7.23m over the next five years. The Living Wage foundation reviews its rates each year. These rates are not in line with RPI and as such it is difficult to predict what the uplift will be year-on-year and the actual increased cost to the Council.

	Financial Year					
Contract	**2022/23**	**2023/24**	**2024/25**	**2025/26**	**2026/27**	**Total**
Corporate Catering	£ 33,288	£ 33,288	£ 33,288	£ 33,288	£ 33,288	£ 166,440
Corporate Cleaning	£ 70,888	£ 70,888	£ 70,888	£ 70,888	£ 70,888	£ 354,440
Corporate Security	£ 56,410	£ 56,410	£ 62,051	£ 62,051	£ 62,051	£ 298,973
School Catering	£ 155,324	£ 155,324	£ 155,324	£ 51,775	£ 155,324	£ 673,071
School Cleaning	£ 169,669	£ 254,504	£ 254,504	£ 254,504	£ 84,835	£ 1,018,016
Home Care	£ 744,123	£ 372,062	£ 1,200,000	£ 1,200,000	£ 1,200,000	£ 4,716,185
	£ 1,229,702	£ 942,476	£ 1,776,055	£ 1,672,506	£ 1,606,386	**£ 7,227,124**

Figures in red are based on new contracts that would include LLW

Some figures vary year-to-year due to contract start / end dates not aligning to full financial year

The MTFS 2022-26 currently includes provision for the additional cost of implementing the LLW for the contracts included in the table above (i.e. excluding care homes) as follows:-

	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	2026/27 £000
Provision in MTFS 2022-26	521	711	2,382	2,430	2,478

The provision will be reviewed and an update provided in a future report once the final increase has been announced.

2.4 **Income**

2.4.1 The MTFS does not include any specific provision for inflation on income from fees and charges, as these have now been subsumed into the overall gap and therefore approach to targets. However, in the business planning process for recent years, service departments have been able to identify increased income as part of their savings proposals and increased income currently makes up c.6.3% of future savings.

2.4.2 It is also the case that the Council's income streams were decimated by COVID-19 in 2020/21 and there is uncertainty about how long it will take to return to pre-COVID19 budgeted levels.

2.5 **Forecast of Resources and Local Government Finance Settlement**

2.5.1 Background

The main elements of financial planning that impact on local government are summarised as follows

Spending Review

The Spending Review 2021 covered the period 2022/23 to 2024/25. It was published on 27 October 2021 at the same time as the Autumn 2021 Budget.

Spending Reviews set out departmental Resource and Capital Departmental Expenditure Limits for forthcoming years. Details from the Spending Review will form the basis of allocations to local authorities for 2023-27 and beyond as announced in the Local Government Finance Settlement 2023-24. The total amount of funding available for local authorities is essentially determined by the amount of resources that Central Government has allocated as part of its annual Departmental Expenditure Limit.

Fair Funding Review

The government first announced that there would be a 'fair funding review' in February 2016 which was followed by consultations in July 2016 and December 2017. The results of the latter were published in December 2018.

At the start of 2022 the government announced that it would be consulting on potential reform on local government finance "in the spring". The Government has stated its commitment to ensuring that funding allocations for councils are based on an up-to-date assessment of their needs and resources. The Government has also noted that the data has not been updated for a number of years and that it will work closely with the sector and other stakeholders to update this and to look at the challenges and opportunities facing the sector before consulting on any potential changes.

The Institute of Fiscal Studies (IFS) state that "the current spending needs formulas use data that is now around ten years ago and were originally devised in the mid-2000s. There hasn't been a well-functioning funding system that takes account of both spending needs and revenue-raising capacity since the mid-2000s either. Funding allocations are therefore based on increasingly out-of-date data and arbitrary and ad hoc decisions.
This is what prompted the Fair Funding Review in the first place. But it also makes it harder to deliver the Review, especially in the context of a funding environment that looks increasingly tight, not least due to rising inflation. That's because the 'fair' funding allocations implied by the new formulas and funding system are likely to differ significantly from the out-of-date and arbitrary allocations local authorities currently receive. Moving to the new allocations would therefore create many big losers who would see their real-terms funding cut – and this group who would likely be much more vocal than those winning."

The MTFS included an adjustment of £3m from 2023/24 on the prudent assumption that the Fair Funding Review and potential Brexit effect including the implementation of the levelling up agenda, would result in a net loss of funding.

<u>Spring Statement 2022 and Autumn Budget 2022</u>

Following the Russian invasion of Ukraine and the significant jump in utilities costs and inflation, the Government issued a Spring Statement on 23 March.

It is expected that there will be an Autumn Budget, probably around October 2022, and this may be accompanied by a Spending Review 2022. The financial implications of these for local authorities will be incorporated into the Provisional Local Government Finance Settlement 2023/24 which is usually issued in mid-December at the earliest. The funding announcements in the provisional Settlement will underpin the Council's funding estimates for 2023/24.

Updates on the expected timetable for these announcements will be reported as part of the Business Planning process when further information is known.

2.6.2 The current level of resources included in the draft MTFS 2023-27 as agreed by Council in March 2022 is as follows:-

DRAFT MTFS 2023-27:				
	2023/24 £000	**2024/25 £000**	**2025/26 £000**	**2026/27 £000**
Revenue Support Grant	0	0	0	0
*Business Rates (inc. Section 31 grant)	*(41,216)	*(41,658)	*(42,105)	*(42,556)
Adult Social Care Grants inc. BCF	(5,010)	(5,010)	(5,010)	(5,010)
Social Care Grant	(6,282)	(6,282)	(6,282)	(6,282)
PFI Grant	(4,797)	(4,797)	(4,797)	(4,797)
New Homes Bonus	(300)	(300)	(300)	(300)
Corporate Funding in the MTFS	(57,605)	(58,047)	(58,494)	(58,945)

* Net of £3m adjustment for Fair Funding Review and Spending Review 2022 potential effect.

These figures currently assume the London Business Rates pool is not reintroduced in 2023/24 and that there is an annual 2% uplift for CPI inflation to the Business Rate multiplier. Funding levels have been netted down by £3m p.a. from 2023/24 to reflect the potential loss of funding (government grant and business rates) arising from the potential ongoing economic impact of COVID-19 and Brexit, and the potential redistribution of resources away from London which could result from the Government's Fair Funding Review and the levelling up agenda.

The Government's aim is to allow local authorities to retain 75% of their Business Rates income but this has been deferred and the deadline for implementation is not yet known.

Updates will be provided in future reports as part of the Business Planning process.

2.6.4 Social Care Funding

Improved Better Care Fund

In 2022/23 the Improved Better Care Fund (iBCF) was increased by £63m (3%) and £10m in London. This was an inflationary uplift on 2021-22 allocations in line with the September 2020 to September 2021 change in the Consumer Price Index (CPI) and the distribution formula was unchanged and the grant will continue to be required to be pooled as part of the Better Care Fund .

Merton's allocation for 2022/23 was

Improved Better Care Fund	**2022-23 £m**
Merton	5.010

Social Care Grant

National Social Care Grant allocations were increased by £636m in 2022-23. This grant is not ringfenced, and there are conditions attached on reporting requirements. In particular, local authorities can determine how much of it should be spent on adult social care and how much should be spent on children's social care.

Merton's 2022/23 allocation is:-

Social Care Grant	**2022-23 £m**
Merton	6.282

2.6.5 Business Rates - Update

As previously reported, due to uncertainty arising from COVID-19 and the collapse in Business Rates income replaced by government Section 31 grant, the London Business Rates pool was discontinued for 2021/22 and 2022/23. Although the economic position is slowly improving for businesses, it is not currently known whether there will be an attempt to reinstate the London pool for 2023/24. Reconciliation of final figures for when the London pool was in operation has not yet taken place as some London boroughs have not yet produced audited Statements of Account.

Updates will be provided as the Business Plan process develops.

2.7 Council Tax and Collection Fund

2.7.1 Council Tax

The Council Tax income forecast in the current MTFS agreed by Council in March 2022 assumes that the Council Tax Base will increase by 0.5% per year with a collection rate 98.75% from 2023/24 to 2026/27. It also assumes the following changes in Council Tax over the MTFS period:-

	2023/24 %	2024/25 %	2025/26 %	2026/27 %
Council Tax increase - General	2.0%	2.0%	2.0%	2.0%
Council Tax increase – ASC*	0%	0%	0%	0%

* Currently no provision to be able to levy an ASC charge but if allowed has no impact on the MTFS gap

On the basis of these assumptions the Council Tax income included over the period of the MTFS is:-

(Cumulative figures exc. WPCC)	2023/24 £'000	2024/25 £'000	2025/26 £'000	2026/27 £'000
Council Tax - No change in rate	105,933	106,507	107,125	107,532
Council Tax – General (2%)	2,119	4,259	6,420	8,603
Council Tax income	108,052	110,766	113,545	116,135

The Council Tax Referendum Principles for 2023/24 will not be known until the Provisional Local Government Finance Settlement for 2023/24 is announced, usually around mid-December.

There are several main issues that need to be considered when formulating a council tax strategy for the MTFS period 2023-27:-

i) To what extent will the high cost of living inflation impact on collection rates in 2023/24 and beyond?

ii) Will the Government revise the referendum principles to enable Councils to set higher council tax levels as part as a move towards balancing budgets from local taxation?

iii) What impact will the high level of inflation have on the level on collection rates in 2022/23 and therefore what level of budget deficit relating to council tax will it be necessary to fund in 2023/24 ? (This will be reflected in a Collection Fund deficit as at 31 March 2023)

The Council Tax Base will be updated later in the year following the return of the Government's CTB statistical return, usually in October, which is based on properties on the valuation list in September. The collection rate will impact on the council tax base.

2.7.2 <u>Collection Fund</u>

In the MTFS approved by Council on 2 March 2022, the shares to preceptors of the collection surplus/deficit for Council Tax and NNDR based on the estimated Collection Fund balance at 31 March 2022 are summarised in the following table:-

	Surplus/ (deficit) as at 31/03/22 Estimate	Surplus/ (deficit) as at 31/03/22 Estimate	Total surplus/ (deficit) as at 31/03/22
	Council Tax	NNDR	
	£000	£000	£000
Central Government	N/A	(4,939)	(4,939)
GLA	554	(5,537)	(4,983)
Merton	2,026	(4,490)	(2,464)
Total	**2,580**	**(14,966)**	**(12,386)**
Payable in 2022/23	3,701	(13,052)	(9,351)
3 year spread to 2023/24	**(1,121)**	**(1,914)**	**(3,035)**

2.7.3 Merton's share of the surplus/deficit for council tax and NNDR were built into the MTFS agreed by Council in March 2022.

2.7.4 Since then, the Council has produced its draft 2021/22 accounts as at 31 March 2022 which are currently being audited. The draft accounts for 2021/22include the following surplus/deficit for Council Tax and NNDR as at 31 March 2022.

	Surplus/ (deficit) as at 31/03/22 Outturn	Surplus/ (deficit) as at 31/03/22 Outturn	Total surplus/ (deficit) as at 31/03/22
	Council Tax £000	NNDR £000	£000
Central Government	N/A	(6,652)	(6,652)
GLA	590	(7,459)	(6,869)
Merton	1,948	(6,051)	(4,103)
Total	2,538	(20,162)	(17,624)

2.7.5 The overall change in shares of surpluses/deficits is:-

	Surplus/ (deficit) as at 31/03/22	Surplus/ (deficit) as at 31/03/22	Total surplus/ (deficit) as at 31/03/22
	Council Tax £000	NNDR £000	£000
Central Government	N/A	(1,713)	(1,713)
GLA	36	(1,922)	(1,886)
Merton	(78)	(1,561)	(1,639)
Total	(42)	(5,196)	(5,238)

2.7.6 The net change in Merton's share of the surplus/deficit is therefore:-

	Estimated Surplus/ (deficit) as at 31/03/22	Outturn Surplus/ (deficit) as at 31/03/22	Surplus/ (deficit) as at 31/03/22 Change
	£000	£000	£000
Council Tax	2,026	1,948	(78)
NNDR	(4,490)	(6,051)	(1,561)
Total	(2,464)	(4,103)	(1,639)

2.7.7 There is no change to the surplus/deficit figures agreed for 2022/23 as all variations are managed via the Collection Fund. However, the net deficit of £1.639m will need to be taken into account when calculating the Merton General Fund's share of any surplus/deficit due to/from the Collection Fund in 2023/24.

2.7.8 The calculation of the estimated surplus/deficit on the Collection Fund as at 31 March 2023 will be made later in the budget process when key variables are firmed up and council tax base and NNDR returns have been completed. Until this time, the increase in the net surplus carried forward from 2021/22 of £1.639m will be included in the draft MTFS for 2023/24.

2.8 **Capital Programme 2023-27 and implications for Treasury Management: Capital Financing Costs and Investment income**

2.8.1 Council in March 2022 approved the following Capital Programme for 2021-26:-

Capital Expenditure	**2021/22 Estimate £'000**	**2022/23 Estimate £'000**	**2023/24 Estimate £'000**	**2024/25 Estimate £'000**	**2025/26 Estimate £'000**
Capital Expenditure	26,872	32,611	18,050	15,949	37,869
Slippage and Underspends	(5,118)	(2,408)	3,921	(119)	(392)
Total Capital Expenditure *	**21,754**	**30,203**	**21,971**	**15,830**	**37,477**
Financed by:					
Capital Receipts	1,856	900	900	900	500
Capital Grants & Contributions	14,778	18,730	10,177	5,756	4,464
Revenue Provisions inc. borrowing	5,120	10,573	10,894	9,174	32,513
Total financing	**21,754**	**30,203**	**21,971**	**15,830**	**37,477**

*Includes Multi-Function Devices finance lease.

2.8.2 Since the capital programme was approved by Council in March 2022 and the revenue implications built into the MTFS, there have been a number of amendments arising from outturn 2021/22, monthly monitoring and a review by project managers. There has been a great deal of effort made to ensure that the capital programme set is realistic, affordable and achievable within the capacity available. This has been accompanied by improved financial monitoring and modelling of the programme's costs over the period of the MTFS which has enabled the budgets for capital financing costs to be reduced and therefore scarce resources to be utilised more effectively.

2.8.3 It is important to ensure that the revenue and capital budgets are integrated and not considered in isolation. The revenue implications of capital expenditure can quickly grow if the capital programme is not contained within the Council's capacity to fund it over the longer term.

2.8.4 Following the closing and preparation of final accounts for 2021/22, the level of slippage required from 2021/22 and the re-profiling of schemes over the programming period has been undertaken to ensure that the level of capital budget is aligned with the Council's capacity to deliver it.

2.9 Reserves – Review of Earmarked Reserves

2.9.1 Reserve for Use in Future Year's Budgets

The Business Plan and MTFS for 2022-2026 approved by Council on 2 March 2022 forecast that a contribution of £8.112m would be required in 2022/23 with the balance of £8.513m applied in 2023/24.

Following the final accounts process for 2021/22 (subject to audit), the balance on the Reserve for use in Future Year's Budgets (subject to audit) on the Reserve as at 31 March 2022, excluding the contribution set aside for 2022/23 of £8.112m is £9.172m. This means that there is c. £0.659m more available to balance the budget over the MTFS period.

The reserve will be applied over the period of the MTFS to reduce the budget gap and enable longer term, strategic management of the budget.

It should be recognised that the use of reserves is a one-off form of funding and alternative ongoing savings would need to be identified to address the budget gap over the long-term.

2.9.2 Review of Earmarked Reserves

The use and availability of Reserves is monitored throughout the year as part of the monthly monitoring process.

It should be recognised that reserves are a one-off source of funding and should not be used to fund ongoing expenditure commitments.

2.10 Review of Outturn 2021/22 and Current Budget and Spending 2022/23

2.10.1 There may be issues identified during the final accounts process and from monthly monitoring, elsewhere on this agenda, that have on-going financial implications which need to be addressed in setting the budget for 2023-27.

2.10.2 Monitoring 2022/23

At period 4 to 31 July 2022 the year end forecast is a net £5.448m unfavourable variance compared to the current budget:-

	Original Budget 2022/23 £000s	Current Budget 2022/23 £000s	Year to Date Budget (July) £000s	Year to Date Actual (July) £000s	Full Year Forecast (July) £000s	Forecast Variance at year end (July) £000s
Department						
Corporate Services	29,209	30,090	10,020	11,709	31,234	1,144
Children, Schools and Families	60,401	60,995	17,699	20,902	61,995	1,202
Community and Housing	66,201	66,539	26,479	22,972	67,387	848
Public Health	(162)	(162)	651	(5,019)	(162)	0
Environment & Regeneration	11,763	11,931	366	(7,814)	16,723	4,792
Overheads		(267)			0	267
NET SERVICE EXPENDITURE	**167,412**	**169,126**	**55,215**	**42,750**	**177,177**	**8,253**
				6		
TOTAL CORPORATE PROVISIONS	**166**	**(1,687)**	**7,969**	**1,349**	**(4,115)**	**(2,428)**
Covid-19	**0**	**0**	**0**	**52**	**52**	52
TOTAL GENERAL FUND	**167,578**	**167,439**	**63,184**	**44,099**	**173,114**	**5,877**
FUNDING	**(167,305)**	**(167,305)**	**(10,317)**	**(14,403)**	**(167,734)**	**(429)**
NET	**273**	**134**	**52,867**	**29,696**	**5,380**	**5,448**

The main reasons for the variance based on July 2022 monitoring are:-

a) Corporate Services: Marketing and communications, Press and publications, bailiffs service income, human resources

b) Children's, Schools and Families: Child Social Care and Youth inclusion including agency social workers and Social Care Placements. Education - high transport costs. DSG budgets in line with Safety Valve Agreement is showing a deficit of £10.4m

c) Environment and Regeneration: Regulatory Services, Parking Services income, waste services, Leisure and culture, Greenspaces, Future Merton, Building and Development Control

d) Community and Housing: Adult Social Care placements, Housing General Fund – Temporary Accommodation

2.10.3 COVID-19

Hopefully the implications of COVID-19 will have been addressed by 2023/24 and not have a significant impact whilst recognising at the same time there have inevitably needed to be some changes to how the Council delivers some services. The most affected services, particularly those to vulnerable groups will continue to be reviewed and monitored to ensure that they are managed effectively.

2.10.4 Savings under pressure

As shown in the following table, the budget monitoring report for July indicates that some savings assumed in the MTFS are under pressure in 2022/23 and this may impact on 2023/24.

Department	Target Savings 2022/23	Projected Savings 2022/23	2022/23 Expected Shortfall
	£000	£000	£000
Corporate Services	550	395	155
Children Schools and Families	1,888	1,338	550
Community and Housing	1,659	305	1,354
Environment and Regeneration	1,898	833	1,065
Total	**5,995**	**2,871**	**3,124**

Monitoring of the delivery of savings is important and it is essential to recognise as quickly as possible where circumstances change and savings previously agreed are either not achievable in full or in part or are delayed. If this is the case, departments will need to identify replacement savings from elsewhere within their overall budgets. If it is not possible to find replacements, if any of the savings included in the MTFS approved by Council in March 2022 are not achieved this will result in an increase in the budget gap and increase pressure on services. The projected shortfall in savings of c. £3.124m in 2022/23 will add to the budget gap and make it more difficult to achieve the balanced budget that is a statutory requirement.

2.10.5 Growth

New proposals for growth in service budgets will be considered at a future meeting.

2.11 DSG Safety Valve Agreement – implications for the MTFS

2.11.1 The DSG deficit was moved to an unusable reserve at the end of 2020/21 and will continue to grow unless action is taken. Resolution of the underlying problem was a consistent cause of uncertainty throughout 2021/22 but, following negotiations, agreement was reached with the government

(Department for Education) and a Dedicated Schools Grant “Safety Valve” Agreement signed in March 2022 with the DfE.

2.11.2 Under the terms of the Agreement it is planned that the DSG deficit will be cleared by 2026/27 and thereafter will need to be effectively managed so that it breaks even, year on year.

2.11.3 As reported in the 2021/22 Outturn report to Cabinet, the first phase of implementing the Safety Valve Agreement has been executed and had a significant impact in 2021/22 with receipt of £11.6m Safety Valve Grant turning an overspend of £0.8m in 2021/22 to an underspend of £10.8m. For the Medium Term Financial Strategy, the Safety Valve Agreement will have an ongoing impact on future years and, subject to successful implementation it will eliminate the deficit by 2026/27.

2.11.4 Although their will continue to be a continuing, but reducing annual deficit until 2026/27, thereafter it should breakeven.

2.11.5 In monitoring and managing the elimination of the DSG deficit, there are four key elements:-

- The DSG Deficit Unusable Reserve
- The Spending Review Reserve containing Merton resources to contribute towards eliminating the deficit
- Merton’s annual revenue budget towards eliminating the deficit
- The Government’s Safety Valve grant payments up to 2026/27

2.11.6 The financial implications of the Safety Valve Agreement if successfully implemented, over the period of the MTFS, are summarised as follows:-

DSG Unusable Reserve	Outturn 2021/22 £m	Forecast 2022/23 £m	Forecast 2023/24 £m	Forecast 2024/25 £m	Forecast 2025/26 £m	Forecast 2026/27 £m
B/F DSG Deficit	24.98	26.93	31.03	32.93	34.03	34.23
In year deficit	13.55	7.10	5.40	4.60	3.70	(0.90)
Sub-total	38.53	34.03	36.43	37.53	37.73	33.33
Safety Valve Payments	(11.60)	(3.00)*	(3.50)	(3.50)	(3.50)	(3.20)
Deficit c/f	26.93	31.03	32.93	34.03	34.23	30.13

* Safety Valve payment £3.5m less £0.5m required for staffing costs

Spending Review Reserve Cover for DSG	Outturn 2021/22 £m	Forecast 2022/23 £m	Forecast 2023/24 £m	Forecast 2024/25 £m	Forecast 2025/26 £m	Forecast 2026/27 £m
B/f Provision	23.74	26.93	31.03	32.93	34.03	34.23
Budget provision for DSG Deficit	14.08	10.54	11.63	12.71	13.80	15.00
Revised balance	37.82	37.47	42.66	45.64	47.83	49.23
Sum Required to meet DSG Deficit	26.93	31.03	32.93	34.03	34.23	30.13
Balance available to be released/(overspend)	10.89	6.44	9.73	11.61	13.60	19.10
Less: Corporate contribution		0.50	0.50	0.50	0.50	0.50
Balance Available for Other purposes		**5.94**	**9.23**	**11.11**	**13.10**	**18.60**

2.11.7 As can be seen, successful implementation of the Safety Valve Agreement will enable c. £58m of revenue resources to be used on other council services whereas failure to implement the Agreement will jeopardise the £28.8m grant that the government has pledged if the Council eliminates the deficit.

3. **Re-priced MTFS 2023-27**

3.1 As indicated in the report, there have been a number of changes to information and data to factors which impact on the Council's MTFS and budget gap.

3.2 The net result of making these adjustments is to amend the forecast budget gap to the following:-

(cumulative)	2023/24 £000	2024/25 £000	2025/26 £000	2026/27 £000
MTFS Gap (Council March 2022)	4,618	18,791	21,659	27,767
- DSG Safety Valve Benefit	(9,228)	(11,114)	(13,099)	(18,600)
- Inflation reprice - Pay and Prices	7,439	8,486	8,773	9,060
- Collection fund deficit revised for 21/22 outturn	1,629	0	0	0
- Capital financing costs (July monitoring, No slippage)	440	405	410	463
- Waste contract	0	0	1,800	1,800
- Parking contract and systems	0	0	900	900
- Use of Reserves	(659)	0	0	0
Revised MTFS Gap 2023-27	4,239	16,568	20,443	21,390

3.3 There has been a substantial improvement in the council's strategic approach to business planning in recent years and it is important that this is maintained. Planning should be targeted towards the achievement of a balanced budget over the four year MTFS period.

3.4 Progress made in recent years in identifying savings over the whole period of the MTFS has reduced pressure on services to make short-term, non-strategic cuts. Hopefully, the impact and uncertainty of COVID-19 and the DSG Deficit issue have been brought under control and although there is currently the problem of high levels of inflation, this will be relatively short term and can be managed over the MTFS period to reduce the budget gap by the end of the four year period.

3.5 However, whilst recognising the great level of uncertainty about future costs and funding, it is still necessary to forward plan and set savings targets aimed at eliminating this gap on an ongoing basis.

4. Approach to Setting a Balanced Budget

4.1 This is the initial report on the business planning process for 2023/24 and there is a great deal of work to be done.

4.2 Savings Targets for 2023-27

4.2.1 In previous years the approach to setting savings targets for departments for the Business Planning process has been based on using controllable budgets and aimed to protect front-line services and services to the vulnerable in line with the 'July principles'. Weightings for each department; Corporate Services, Environment and Regeneration, Community and Housing, and Children, Schools and Families in the ratio (100%) : (100%) : (67%) : (50%), were applied to reduce the impact on Adult Social Care, Children's Social Care and vulnerable groups. The targets set also took into account the level to which departments had achieved savings against targets set for previous years. The balance of unachieved savings targets from last year's business planning process are summarised below:-

	Targets	Proposals	Balance
	£'000	£'000	£'000
Corporate Services	5,222	254	4,968
Children, Schools & Families	3,533	518	3,015
Environment & Regeneration	7,257	624	6,633
Community & Housing	8,033	1,100	6,933
Total	24,044	2,496	21,549

4.2.2 APPROACH FOR 2023-24

It is proposed that the savings targets for 2023-2027 are based entirely on each service department's controllable budgets for 2022/23 which are as follows:-

DEPARTMENTAL SAVINGS TARGETS **USING 2022/23 CONTROLLABLE BUDGETS**	**Controllable Expenditure 2022/23 £000**	**Weighting by dept. No.**	**Weighted Controllable £000**	Weighted Controllable %
Corporate Services	**31,081**	1.50	46,621	23.4%
Children, Schools and Families	**38,032**	0.75	28,524	14.3%
Environment and Regeneration	**38,990**	1.50	58,484	29.4%
Community and Housing	**65,353**	1.00	65,353	32.8%
Total	**173,455**		**198,982**	100%

4.2.3 Savings targets to address the revised gap on the MTFS are then calculated using the latest controllable budgets:-

SAVINGS TARGETS BY DEPARTMENT	**Allocation using controllable budgets**	**Total**
	£000	**£000**
Corporate Services	5,012	5,012
Children, Schools and Families	3,066	3,066
Environment and Regeneration	6,287	6,287
Community and Housing	7,025	7,025
Total	**21,390**	**21,390**

SAVINGS TARGETS BY DEPARTMENT	2023/24 £000	2024/25 £000	2025/26 £000	2026/27 £000	Total £000
Corporate Services	993	2,889	908	222	5,012
Children, Schools and Families	608	1,767	555	136	3,066
Environment and Regeneration	1,246	3,624	1,139	278	6,287
Community and Housing	1,392	4,049	1,273	311	7,025
Total	**4,239**	**12,329**	**3,875**	**947**	**21,390**
Total (cumulative)	**4,239**	**16,568**	**20,443**	**21,390**	

5. Alternative Options

5.1 The range of options available to the Council relating to the Business Plan 2023-27 and for setting a balanced revenue budget and fully financed capital programme will be presented in reports to Cabinet and Council in accordance with the agreed timetable which is set out in Appendix 1.

6. **Consultation Undertaken or Proposed**

6.1 All relevant bodies have been consulted.

7. Timetable

7.1 In accordance with current financial reporting timetables.

7.2 A chart setting out the proposed timetable for developing the business plan is provided as Appendix1.

8. Financial, resource and property implications

8.1 As contained in the body of the report.

9. Legal and statutory implications

9.1 As outlined in the report.

10. Human rights, equalities and community cohesion implications

10.1 None for the purposes of this report, these will be dealt with as the budget is developed for 2023 – 2027.

11. Crime and Disorder Implications

11.1 Not applicable.

12. Risk Management and health and safety implications

12.1 There is a specific key strategic risk for the Business Plan, which is monitored in line with the corporate risk monitoring timetable.

13. Appendices – The following documents are to be published with this Report and form part of the Report.

Appendix 1 – Business Plan Timetable 2023-27
Appendix 2 – Revised MTFS Gap

14. Background Papers

14.1 The following documents have been relied on in drawing up this report but do not form part of the report:

2021/22 Budgetary Control and Final Accounts Working Papers in the Corporate Services Department.
2022/23 Budget Monitoring working papers
MTFS working papers

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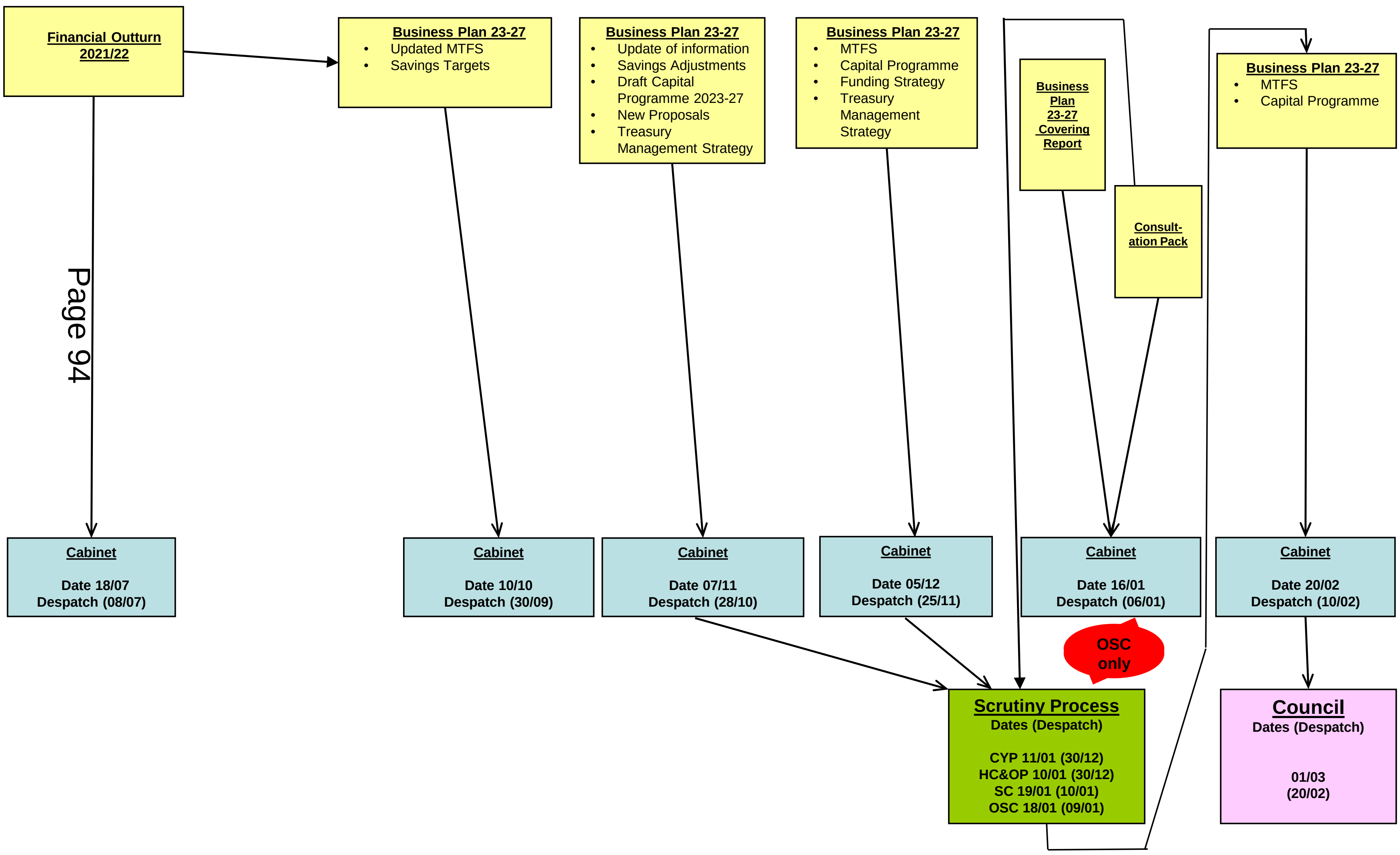
APPENDIX 1

BUSINESS PLANNING TIMETABLE - BUSINESS PLAN 2023-27



DRAFT MTFS 2023-27:				
	2023/24 £000	**2024/25 £000**	**2025/26 £000**	**2026/27 £000**
Departmental Base Budget 2021/22	**173,022**	**173,022**	**173,022**	**173,022**
Inflation (Pay, Prices)	8,229	14,926	19,191	23,456
NI increase	7	16	24	32
Salary oncost increase (15.2% to 17.06%)	48	72	96	120
FYE – Previous Years Savings	(2,218)	(2,166)	(2,063)	(2,072)
FYE – Previous Years Growth	390	390	390	390
Amendments to previously agreed savings/growth	0	0	0	0
Change in Net Appropriations to/(from) Reserves	(3,226)	(3,226)	(3,676)	(3,676)
Taxi card/Concessionary Fares	1,457	4,468	5,712	5,712
Social Care - Additional Spend offset by grant/precept	(479)	(469)	(482)	(477)
Growth	0	0	0	0
DSG Safety Valve	0	0	0	0
Provision - DSG Deficit	2,400	1,600	700	(3,600)
Contract increases	0	0	2,700	2,700
Other	4,440	4,599	4,760	4,922
Re-Priced Departmental Budget	**184,070**	**193,232**	**200,374**	**200,530**
Treasury/Capital financing	11,968	12,989	12,821	16,335
Pensions	0	0	0	0
Other Corporate items	(20,050)	(20,323)	(20,646)	(20,328)
Levies	611	611	611	611
Sub-total: Corporate provisions	**(7,471)**	**(6,723)**	**(7,214)**	**(3,382)**
Sub-total: Repriced Departmental Budget + Corporate Provisions	**176,598**	**186,509**	**193,160**	**197,147**
Savings/Income Proposals 2022/23	0	0	0	0
Sub-total	**176,598**	**186,509**	**193,160**	**197,147**
Appropriation to/from departmental reserves	(752)	(752)	(302)	(302)
Appropriation to/from Balancing the Budget Reserve	(9,172)	0	0	0
ONGOING IMPACT OF COVID-19 (NET)	505	0	0	0
BUDGET REQUIREMENT	**167,179**	**185,757**	**192,858**	**196,845**
Funded by:				
Revenue Support Grant/Covid RNF & LCTS grant	0	0	0	0
Business Rates (inc. Section 31 grant)	(41,216)	(41,658)	(42,105)	(42,556)
Adult Social Care Grants inc. BCF	(5,010)	(5,010)	(5,010)	(5,010)
Social Care Grant	(6,282)	(6,282)	(6,282)	(6,282)
PFI Grant	(4,797)	(4,797)	(4,797)	(4,797)
New Homes Bonus	(300)	(300)	(300)	(300)
Council Tax inc. WPCC	(108,428)	(111,141)	(113,921)	(116,510)
Collection Fund – (Surplus)/Deficit	3,093	0	0	0
Market Sustainability and Fair Cost of Care Fund	0	0	0	0
2022/23 Services Grant	0	0	0	0
TOTAL FUNDING	**(162,940)**	**(169,188)**	**(172,414)**	**(175,455)**
GAP including Use of Reserves (Cumulative)	**4,239**	**16,568**	**20,443**	**21,390**

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