

# Public Document Pack

## Executive Board

Thursday, 12 March 2020

Time: 6.00 pm

Venue: Meeting Room A

Address: Blackburn Town Hall

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### AGENDA

Information may be provided by each Executive Member relating to their area of responsibility

1. **Welcome and Apologies**
2. **Minutes of the Previous Meeting**  
**Executive Board Minutes February 2020** **4 - 12**
3. **Declarations of Interest**  
**DECLARATIONS OF INTEREST FORM** **13**
4. **Equality Implications**  
The Chair will ask Members to confirm that they have considered and understood any Equality Impact Assessments associated with reports on this agenda ahead of making any decisions.
5. **Public Forum**  
To receive written questions or statements submitted by members of the public no later than 4pm on the day prior to the meeting.
6. **Questions by Non-Executive Members**  
To receive written questions submitted by Non-Executive Members no later than 4pm on the day prior to the meeting.
7. **Youth MPs Update**  
To receive an update from the Youth MPs along with any issues they would like to raise.
8. **Executive Member Reports**  
Verbal updates may be given by each Executive Member.

#### Leader

- 8.1 **Establishment of a Joint Health and Overview Scrutiny Committee**

	<b>Establishment of a Joint Health Overview and Scrutiny Committee Jt Cttee for the ICS Terms of Reference FINAL v2</b>	<b>14 - 22</b>
<b>Adult Services and Prevention</b>		
<b>Children, Young People and Education</b>		
<b>Environmental Services</b>		
<b>Public Health and Welbeing</b>		
<b>Digital and Customer Services</b>		
<b>8.2</b>	<b>Update on RIPA Activity, Procedural Guide and Desktop RIPA Inspection EB Update on RIPA Activity Procedural Guide</b>	<b>23 - 29</b>
<b>Growth and Development</b>		
<b>8.3</b>	<b>LTP 3 2020/21 Detailed Programme Local Transport Plan 3 202021 detailed programme part 1 report</b>	<b>30 - 34</b>
<b>8.4</b>	<b>Fishmoor Drive Land Disposal Fishmoor Drive Land Disposal P1 Appendix 1 for Fishmoor Drive Land Disposal_v1</b>	<b>35 - 40</b>
<b>Finance and Governance</b>		
<b>8.5</b>	<b>Treasury Management Strategy Treasury Mgt Strategy</b>	<b>41 - 57</b>
<b>9.</b>	<b>Corporate Issues</b>	
<b>9.1</b>	<b>Sale of Minority Shareholding in BSF Project Companies BSF Share Sale P1</b>	<b>58 - 61</b>
<b>9.2</b>	<b>Disposal of Council land at Lomond Gardens, Blackburn, Site Appropriation and Disposal of Open Space P1 Disposal of Council Land at Lomond Gardens, Blackburn, Site Appropriation and Disposal of Open S Appendix 1 Disposal of Land at Lomond Gardens Red Line Boundary</b>	<b>62 - 71</b>

**10. Matters referred to the Executive Board**

**PART 2 – THE PRESS AND PUBLIC MAY BE EXCLUDED DURING  
CONSIDERATION OF THE FOLLOWING ITEMS**

<b>11.1</b>	<b>Fishmoor Drive Land Disposal</b>	
	<b>Fishmoor Drive Land Disposal Part 2</b>	<b>72 - 76</b>
<b>11.2</b>	<b>Disposal of Council land at Lomond Gardens, Blackburn, Site Appropriation and Disposal of Open Space</b>	
	<b>P2 Disposal of Council Land at Lomond Gardens, Blackburn, Site Appropriation and Disposal P2</b>	<b>77 - 85</b>
<b>11.3</b>	<b>LTP 3 2020/21 Detailed Programme</b>	
	<b>Local Transport Plan 3 2020/21 detailed programme part 2 report</b>	<b>86 - 90</b>
<b>11.4</b>	<b>Sale of Minority Shareholding in BSF Project Companies</b>	
	<b>BSF Share Sale 2</b>	<b>91 - 94</b>

Date Published: Wednesday, 04 March 2020  
Denise Park, Chief Executive

## EXECUTIVE BOARD Thursday, 13th February, 2020

### PRESENT

#### **COUNCILLOR:**

Councillor Maureen Bateson MBE  
Councillor Mustafa Desai  
Councillor Mohammed Khan OBE  
Councillor Vicky Ellen McGurk  
Councillor Phil Riley  
Councillor Damian Talbot

#### **PORTFOLIO:**

Children, Young People and Education  
Adult Services and Prevention  
Leader of the Council  
Finance and Governance  
Growth and Development  
Public Health and Wellbeing

### **ALL IN ATTENDANCE:**

Zara Hayat  
Khalid Omar  
Muhammed Bapu

Youth MP  
Deputy Youth MP  
Deputy Youth MP

	Item	Action						
1	<p><b><u>Welcome and Apologies</u></b></p> <p>The Leader of the Council, Councillor Mohammed Khan, welcomed all to the meeting, in particular the new Youth MPs. Apologies had been received from Councillors Jim Smith, John Slater and Quesir Mahmood.</p>							
2	<p><b><u>Minutes of the Previous Meeting</u></b></p> <p>The Minutes of the Meeting held on 9<sup>th</sup> January 2020 were agreed as a correct record.</p>	<b>Agreed</b>						
3	<p><b><u>Declarations of Interest</u></b></p> <p>There were no Declarations of Interest submitted.</p>							
4	<p><b><u>Equality Implications</u></b></p> <p>The Chair asked Members to confirm that they had considered and understood any Equality Impact Assessments associated with reports on the agenda ahead of making any decisions.</p>	<b>Confirmed</b>						
5	<p><b><u>Public Forum</u></b></p> <p>In accordance with Part 4 of the Executive Board Procedure Rules for questions/statements by members of the public, the following questions/statements have been received, details of which are set out below:-</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="width: 33%;">Name of Person asking the Question</th> <th style="width: 33%;">Subject Area</th> <th style="width: 33%;">Response by</th> </tr> </thead> <tbody> <tr> <td style="height: 40px;"> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Name of Person asking the Question	Subject Area	Response by				
Name of Person asking the Question	Subject Area	Response by						

		Item		Action						
		Vicki Harris, 6 Whitehall Road	Local Green Space, Whitehall, Darwen	Phil Riley, Growth and Development						
		Tony Hopwood, 6 Whitehall Road								
		Kamran Khaliq, 1 Ravenswing Ave								
		Anser Amin, 14 Whitehall Road								
		Yasir Amin, 15 Whitehall Road								
		Rahana Ismail 213 Revidge Road								
		<p>Councillor Riley gave responses to the questions and supplementary questions arising, advising that the site was currently being reviewed, with the findings to be made publically available alongside the draft Local Plan, and that residents would be able to make comments and representations, and also attend the Public Inquiry and again make representations.</p>								
<b>6</b>		<p><b><u>Questions by Non-Executive Members</u></b></p> <p>In accordance with Part 4 of the Executive Board Procedure Rules for questions/statements by Non-Executive Members, the following questions/statements had been received, details of which are set out below:-</p>								
		<table border="1"> <thead> <tr> <th>Name of Non-Executive Member asking the Question</th> <th>Subject Area</th> <th>Executive Member and Portfolio</th> </tr> </thead> <tbody> <tr> <td>Councillor John Pearson</td> <td>Flooding – south side of Livesey Branch Road, Blackburn</td> <td>Councillor Phil Riley, Growth and Development</td> </tr> </tbody> </table>			Name of Non-Executive Member asking the Question	Subject Area	Executive Member and Portfolio	Councillor John Pearson	Flooding – south side of Livesey Branch Road, Blackburn	Councillor Phil Riley, Growth and Development
Name of Non-Executive Member asking the Question	Subject Area	Executive Member and Portfolio								
Councillor John Pearson	Flooding – south side of Livesey Branch Road, Blackburn	Councillor Phil Riley, Growth and Development								
		<p>Councillor Riley gave a response to the question and supplementary question arising, reporting that there had been 8 case of internal flooding the previous weekend, with no cases</p>								

	Item	Action
7	<p>confirmed in/around the Gib Lane area, and outlined the temporary and permanent drainage improvements agreed by Kingswood Homes for Livesey Branch Road.</p> <p><b><u>Youth MPs Update</u></b></p> <p>The new Youth MPs updated the Executive Board on their recent election, and on the campaign issues they would be focussing on in the coming year. Members of the Executive Board welcomed the new Youth MPs and advised that they were looking forward to working them in the year ahead.</p>	Noted
8.1	<p><b><u>Impact of National Policy of Austerity in Blackburn with Darwen</u></b></p> <p>The Leader submitted a report which updated Members on the impact on the Borough of the Government's austerity programme since 2010.</p> <p>The headline changes for Blackburn with Darwen Council over the period were outlined as follows:</p> <ul style="list-style-type: none"> <li>• 36% reduction in funding income - £65.6million</li> <li>• £542 reduction in real-term local government spending per head of population 2009/10-2017/18</li> <li>• Largest reduction in Core Spending Power of all Unitary Authorities at 30.5% - £51.7million</li> <li>• £13million increase in social care costs, vulnerable adults and children</li> <li>• IMD ranked 9<sup>th</sup> most deprived local authority in the Country</li> <li>• 5<sup>th</sup> lowest level of reserves compared to all other Unitary Authorities</li> <li>• Real-term reduction in resources was significantly more due to absorbing costs of inflation, increase demand, pay awards.</li> </ul> <p>The Executive Board were advised that despite these cuts, the Council's statutory responsibilities to citizens remained the same.</p> <p>The Leader advised that the Council needed Ministers and Civil Servants to fully engage and listen the concerns and challenges facing the Borough and would be asking that they engage with the Council to find solutions to funding mechanisms that work for areas such as Blackburn with Darwen, with low tax receipts and high demand and to direct new money to local authorities.</p> <p><b>RESOLVED –</b></p> <p>That the Executive Board:</p> <ol style="list-style-type: none"> <li>a) Note the contents of this report which highlights the impact of the Government's austerity measures over the last 10 years.</li> <li>b) Agree that the Leader write to the Government to outline our concerns and request engagement in future policy development and funding allocations.</li> </ol>	<p>Noted</p> <p>Approved</p>

	Item	Action
	<p><b>CHILDREN, YOUNG PEOPLE AND EDUCATION</b></p> <p>Councillor Maureen Bateson verbally reported that Ofsted had advised that they would be carrying out a focus visit in the following week, looking at the Children in Our Care system and that Officers were now getting the relevant information together ahead of the inspection.</p> <p><b>8.2 <u>Fostering Report Quarter 2</u></b></p> <p>A report was submitted which provided information on the management and performance of the Local Authority's Fostering Service for Quarter 2. The report provided analysis of the year and reflected upon data and any patterns within the Service to determine development and progress.</p> <p><b>RESOLVED-</b></p> <p>That the Executive Board:</p> <p>Notes the Quarter 2 Fostering Service Report which is available on the Council's website along with Appendix 1.</p> <p><b>8.3 <u>Contract for the sorting and processing of kerbside collected recyclables</u></b></p> <p>The Executive Board received an update on the procurement of the sorting and processing of kerbside collected recyclables and approval was sought for the appointment of the successful bidder as the contractor for the service and make relevant changes to the revenue budgets.</p> <p>The existing kerbside recycling collection and processing contract (begun in 2010) with BIFFA was due to end on 30<sup>th</sup> April 2020, with the collection service moving in-house and a procurement process was followed to secure sorting and subsequent processing of the collected materials. As a Waste Disposal Authority (WDA), the Council had a legal duty to arrange for disposal of municipal waste and recycling from the Borough, and hence the contract was required.</p> <p>The Council received 2 bids in response to the contract notice by the closing date of 22<sup>nd</sup> November 2019 and following evaluation it was recommended that Bidder 2 be selected.</p> <p>The bid from Bidder 2 contained a number of options for the service that could result in savings for the Council which will be explored and reported back to Finance Council.</p> <p><b>RESOLVED -</b></p> <p>That the Executive Board:</p>	<p><b>Noted</b></p>

	<b>Item</b>	<b>Action</b>
	<p>- Approves the appointment of Bidder 2 as the successful bidder  - Notes that the Council shall review options to minimise costs and report the outcome to Finance Council</p>	<b>Approved</b>
<b>8.4</b>	<p><b><u>Replacement of Vehicles for Environment and Highways Teams</u></b></p> <p>Members were advised that the Council's vehicle replacement programme had identified that the Environment and Highways Teams had a number of vehicles that were too old and needed replacing and had a number of hired vehicles on the fleet.</p> <p><b>RESOLVED -</b></p> <p>It is recommended that Executive Board;</p> <ol style="list-style-type: none"> <li>1. authorise the replacement of these old and hired vehicles as part of the Council's vehicle replacement programme and</li> <li>2. authorise an initial increase in the capital programme of £532,000 in respect of the estimated costs, but note that following purchase, Officers would seek to enter into a 'sale and leaseback arrangement' if it was financially beneficial to do so.</li> </ol>	<p style="text-align: center;"><b>Approved</b></p> <p style="text-align: center;"><b>Approved</b></p>
<b>9.1</b>	<p><b><u>Climate Emergency Plan</u></b></p> <p>The Council declared a Climate Emergency in July 2019 and set a target to be carbon neutral by 2030. The report submitted presented for consideration a draft Action Plan to support the Council's carbon neutral ambitions.</p> <p>The Action Plan set out what the Council had done to date to tackle climate change and the actions it proposed to take to achieve its carbon neutral goal.</p> <p>The actions were set out under the objectives for the plan, which were to:</p> <ul style="list-style-type: none"> <li>• Make sound climate-related decisions;</li> <li>• Create a resilient &amp; attractive Borough;</li> <li>• Be lean &amp; clean with resources and energy;</li> <li>• Travel lightly; and</li> <li>• Capture more carbon</li> </ul> <p>Implementation of the Action Plan would be overseen by an officer working group, co-opting members from external organisations as required on a task and finish basis. The group would report to the Council's Management Board through the Director of Growth &amp; Development. Interim progress reports would be made to the Executive Member for Finance &amp; Governance with annual updates provided to the Executive Board.</p> <p><b>RESOLVED –</b></p>	



	Item	Action
	That the Executive Board:	
	i. Approve the draft Climate Emergency Action Plan, enclosed at Annex 1;	<b>Approved</b>
	ii. Note the intention to hold a local Citizens' Inquiry on the Climate Emergency;	<b>Noted</b>
	iii. Note the proposal to submit the Action Plan to the Council Forum meeting in March;	<b>Noted</b>
	iv. Request an annual update report on progress in delivering the Action Plan.	<b>Approved</b>
<b>9.2</b>	<p><b><u>Sale of Plot C, Partnership Way, Blackburn</u></b></p> <p>Approval was sought for the sale of Plot C Partnership Way, Shadsworth, Blackburn, to a special purchaser.</p> <p><b>RESOLVED –</b></p> <p>That the Executive Board:</p> <p>2.1 Approves the sale of Plot C, Partnership Way, Shadsworth, Blackburn subject to the terms and conditions outlined in this report.</p> <p>2.2 Authorises the Director of HR, Legal and Governance Services to complete the necessary legal formalities.</p>	<p style="text-align: center;"><b>Approved</b></p> <p style="text-align: center;"><b>Approved</b></p>
<b>9.3</b>	<p><b><u>Corporate Revenue Budget Monitoring Report</u></b></p> <p>The Executive Board received a report on the overall revenue financial position of the Council, highlighting any significant issues and explaining variations in the third quarter of the financial year.</p> <p><b>RESOLVED –</b></p> <p>The Executive Board is asked to approve:</p> <ul style="list-style-type: none"> <li>• the portfolio budget adjustments outlined in Appendix 1</li> <li>• the Earmarked reserves position shown in Appendix 2</li> <li>• the variations to revenue expenditure, as listed in Section 6, giving rise to a balance of £8.876 million in the unallocated General Fund revenue reserve</li> </ul>	<p style="text-align: center;"><b>Approved</b></p> <p style="text-align: center;"><b>Approved</b></p> <p style="text-align: center;"><b>Approved</b></p>
<b>9.4</b>	<p><b><u>Corporate Capital Budget Monitoring Report</u></b></p> <p>A report was submitted on the overall financial position of the Council in respect of the capital programme as at 31<sup>st</sup> December 2019, highlighting key issues and explaining variations in the first 9 months of the financial year.</p> <p><b>RESOLVED –</b></p> <p>The Executive Board is asked,</p>	

	Item	Action
	<ul style="list-style-type: none"> <li>to approve the revised capital programme as per Appendix 1,</li> <li>to approve the variations to the programme shown in Appendix 2</li> </ul>	<p><b>Approved</b></p> <p><b>Approved</b></p>
10.1	<p><b><u>Petition: Warrington Street, Blackburn</u></b></p> <p>Members were advised of a Petition received from residents of Warrington Street, Blackburn relating to issues with rodents in their homes.</p> <p>The report outlined actions taken to address the issues together with details of waste being left out by some residents, which encouraged rodents.</p> <p><b>RESOLVED -</b></p> <p>That the Executive Board issue a response to the petition received.</p>	<p><b>Approved</b></p>
10.2	<p><b><u>Petition: Application for Local Space Designation (Whitehall Area)</u></b></p> <p>A petition had been received from residents in relation to Council owned land at Whitehall Road, Blackburn. The reported submitted advised that the residents wished to see the land designated as Local Green Space in the Local Plan and thus protected from development.</p> <p>It was reported that the site would be considered for designation through the on-going Local Plan review process. As a result there was no further action required at the present time.</p> <p><b>RESOLVED –</b></p> <p>That the Executive Board:</p> <p>Notes the petition. The site will be considered for designation through the on-going Local Plan review process.</p> <p><b>AT THIS STAGE OF THE PROCEEDINGS THE PRESS AND PUBLIC WERE EXCLUDED FROM THE MEETING</b></p>	<p><b>Approved</b></p>
11.1	<p><b><u>Replacement of Vehicles for Environment and Highways Teams</u></b></p> <p>Further to the report submitted at Agenda Item 8.4, an additional report was submitted containing commercially sensitive information.</p> <p><b>RESOLVED -</b></p> <p>It is recommended that Executive Board;</p>	

	Item	Action
	<p><b>RESOLVED -</b></p> <p>It is recommended that Executive Board;</p> <ol style="list-style-type: none"> <li>1. authorise the replacement of these old and hired vehicles as part of the Council's vehicle replacement programme and</li> <li>2. authorise an initial increase in the capital programme of £532,000 in respect of the estimated costs, but note that following purchase, Officers would seek to enter into a 'sale and leaseback arrangement' if it was financially beneficial to do so.</li> </ol>	<p><b>Approved</b></p> <p><b>Approved</b></p>
11.2	<p><b><u>Contract for the sorting and processing of kerbside collected recyclables</u></b></p> <p>Further to the report submitted at Agenda Item 8.3, an additional report was submitted containing commercially sensitive information.</p> <p><b>RESOLVED -</b></p> <p>That the Executive Board:</p> <ul style="list-style-type: none"> <li>- Approves the appointment of Bidder 2 as the successful bidder</li> <li>- Notes that the Council shall review options to minimise costs and report the outcome to Finance Council</li> </ul>	<p><b>Approved</b></p> <p><b>Noted</b></p>
11.3	<p><b><u>Sale of Plot C, Partnership Way, Blackburn</u></b></p> <p>Further to the report submitted at Agenda Item 9.2, an additional report was submitted containing commercially sensitive information.</p> <p><b>RESOLVED –</b></p> <p>That the Executive Board:</p> <ol style="list-style-type: none"> <li>2.1 Approves the sale of Plot C, Partnership Way, Shadsworth, Blackburn subject to the terms and conditions outlined in this report.</li> <li>2.2 Authorises the Director of HR, Legal and Governance Services to complete the necessary legal formalities.</li> </ol> <p style="text-align: center;">Signed at a meeting of the Board</p> <p style="text-align: center;">on Thursday, 12 March 2020</p>	<p><b>Approved</b></p> <p><b>Approved</b></p>

	Item	Action
	Chair of the meeting at which the Minutes were confirmed	

## DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

**Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.**

**Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.**

MEETING: EXECUTIVE BOARD

DATE: 12<sup>TH</sup> MARCH 2020

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

## EXECUTIVE BOARD DECISION



<b>REPORT OF:</b>	Leader
<b>LEAD OFFICERS:</b>	Chief Executive
<b>DATE:</b>	Thursday, 12 March 2020

### PORTFOLIO(S) AFFECTED:

**WARD/S AFFECTED:** (All Wards);

**KEY DECISION:** N

### SUBJECT:

Establishment of a Joint Health Overview and Scrutiny Committee - Blackburn with Darwen Lancashire, Blackpool and South Cumbria.

### 1. EXECUTIVE SUMMARY

To inform the Executive Board of the requirement to establish a Joint Health Overview and Scrutiny Committee of the upper tier local authorities; Blackburn with Darwen Borough Council, Lancashire County Council, Cumbria County Council and Blackpool Borough Council as required under the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) to consider and respond to consultations relating to “substantial reconfiguration” proposals for health services affecting more than one of the local authority areas.

### 2. RECOMMENDATIONS

That the Executive Board:

1. Notes the report and the requirement to appoint a mandatory joint committee for responding to consultations relating to “substantial reconfiguration” proposals for health services affecting more than one local authority area.
2. Recommends to Council to:
  - i) agree to the establishment of the joint committee and nominate [3] members of the Council to it, as referred to in the report;
  - ii) not to delegate to the joint committee and retain the power to allow the Council to make its own referrals to the Secretary of State, and request that the Terms of Reference be amended accordingly.

### 3. BACKGROUND

Members will be aware of the work of the Lancashire and South Cumbria Integrated Care System which is working on the reconfigurations of health provision in the region. These reconfigurations would aim to improve health outcomes for residents in the area and will lead to changes in the way that services are delivered both in hospitals and in the community.

The establishment of the Joint Committee is a requirement of the Act where a relevant Health Authority consults more than one local authority’s health scrutiny function about substantial reconfiguration proposals. Regulation 30 sets out the following requirements:-

- Only the Joint Committee may respond to the consultation (rather than each individual local authority responding separately)

- Only the Joint Committee may exercise the power to require the provision of information by the relevant NHS body or Health Service Provider about the proposals.
- Only joint committee's may exercise the power to require members or employees of the relevant NHS body or Health Service Provider to attend before the committee to answer questions in connection with the consultation.

The Draft terms of reference for the proposed Joint Health Scrutiny Committee have been drawn up for consideration and are attached at appendix 1. These are being presented to each of the constituent bodies who will make up the Joint Committee. The key points to note are:

- There will be three members from each of the 4 upper tier local authorities' relevant overview and scrutiny committee will be appointed to form the joint committee. For Blackburn with Darwen Borough Council (BwD), three members of the People Overview and Scrutiny Committee would be appointed to the joint committee. Substitutes may be nominated to attend when their primary representatives are unable to and will have the same voting rights.
- The Chair and Vice Chair will be elected by the joint committee from among its voting membership each year and rotate annually. The elected Chair and Vice Chair are to be from different local authorities.
- The Chair and Vice Chair will agree to arrange meetings of the Joint Committee as and when necessary or for the purposes of responding to consultations relating to "substantial reconfiguration" proposals for health services. The Joint committee meetings will be held in public but there will be no public speaking rights. No meetings will be held during election periods for any elections.
- Quorum – 5 voting members from at least three of the affected upper tier local authorities being present.
- Although the current draft ToRs provide for delegated authority to refer contested NHS proposals to the Secretary of State, BwD will seek amendment to this provision and retain the power to make such referrals independently.
- Task and finish groups may be established by the Joint Committee.

#### **4. KEY ISSUES & RISKS**

Joint Health Overview and Scrutiny Committees must be appointed by local authorities where a relevant NHS body or health service provider consults more than one local authority's health scrutiny function about "substantial reconfiguration" proposals. The joint committee would have specific powers, but the power to refer to the Secretary of State would need to be delegated by the individual local authorities.

#### **5. POLICY IMPLICATIONS**

The Council would need to respond to consultations on "substantial reconfiguration" proposals in relation to health services, after considering the impact on the wider council services and the residents of Blackburn with Darwen. For any contested proposals, the Council must be able to directly make referrals to the Secretary of State.

#### **6. FINANCIAL IMPLICATIONS**

None

#### **7. LEGAL IMPLICATIONS**

The National Health Service Act 2006 (amended by the Health and Social Care Act 2012) confers health scrutiny functions on the local authority. The full Council of the Local Authority determines

the arrangement for health scrutiny to be adopted. The Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny) Regulations 2013 enable health scrutiny functions to be delegated to a joint health overview and scrutiny committee.

Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 requires local authorities to appoint “mandatory” joint committees where a relevant NHS body or health service provider consults more than one local authority’s health scrutiny function about “substantial reconfiguration” proposals. In such circumstances, Regulation 30 sets out the following requirements:

- Only the joint committee may respond to the consultation (i.e. rather than each individual local authority responding separately)
- Only the joint committee may exercise the power to require the provision of information by the relevant NHS body or health service provider about the proposal;
- Only the joint committee may exercise the power to require members or employees of the relevant NHS body or health service.

There is also a provision for a Local Authority to refer proposals for substantial development or variations to health services to the Secretary of State in certain specified circumstances. Where a Local Authority is participating in a joint committee the power to refer to the Secretary of State can be delegated to the joint committee or retained by the Council. This report does not seek approval to delegate the power of referral to the Secretary of State to the joint committee and would therefore be retained by the Council for all matters. Note, the Regulations state that if a local authority has delegated this power, then it may not subsequently exercise the power of referral

## 8. RESOURCE IMPLICATIONS

There will be support required from the Governance team.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision.

## 10. CONSULTATIONS

Consultations are taking place with each of the relevant constituent authorities within the area covered by the Integrated Care System footprint.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council’s Code of Corporate Governance.



## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>CONTACT OFFICER:</b>	Paul Conlon, Technical Lead – Governance paul.conlon@blackburn.gov.uk
<b>DATE:</b>	26 <sup>th</sup> February 2020
<b>BACKGROUND PAPER:</b>	Draft Terms of Reference for the Joint Health OSC

## **Joint Health Scrutiny Committee for the Lancashire and South Cumbria Integrated Care System (ICS)**

### **Terms of reference**

#### **1. Title**

The Committee to be named the Joint Health Scrutiny Committee for the Lancashire and South Cumbria Integrated Care System (ICS).

#### **2. Scope and function**

To consider proposed health service changes that will directly affect all four upper tier local authorities within the Lancashire and South Cumbria areas.

To exercise the statutory functions of a health scrutiny committee under the provisions of the National Health Service Act 2006; the Local Government and Public Involvement in Health Act 2007; and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 and to make reports and recommendations to NHS bodies as appropriate in relation to matters which directly affect all four upper tier local authorities within the Lancashire and South Cumbria areas.

The joint committee will establish an annual work plan to determine the specific issues to be addressed for the forthcoming municipal year.

#### **3. Membership**

The membership of the joint committee comprises:

- 3 elected voting Members and up to 3 non-voting district council co-opted members from the Lancashire County Council Health Scrutiny Committee
- 3 elected voting Members from the Cumbria County Council Health Scrutiny Committee
- 3 elected voting Members from the Blackburn with Darwen Borough Council People Overview and Scrutiny Committee
- 3 elected voting Members from the Blackpool Council Adult Social Care and Health Scrutiny Committee

Each local authority to appoint on the basis of two members from the administration and one opposition member.

The Joint Committee shall be appointed annually prior to its first meeting in each municipal year.

When selecting individual members to serve on the Joint Committee, each local authority should consider a member's experience, expertise, and interest in health scrutiny; as well as the ability to act impartially, work as part of a group, and the capacity to serve.

#### **4. Substitutes or replacements**

Any member of the Joint Committee may be represented at a meeting of the Joint Committee by a substitute or replacement appointed by the appropriate local authority. Local authorities in these circumstances are encouraged to ensure the substitute or replacement member's experience, expertise, and interest in health scrutiny is taken into consideration when appointing either on a temporary or permanent basis; notwithstanding the ability to act impartially, work as part of a group and the capacity to serve. Substitutes will have the same voting rights as the member they replace and count towards the establishment of a quorum.

If any Member ceases to be a Councillor of their local authority or if the local authority notifies of any changes to the membership they shall no longer be a member of the Joint Committee.

#### **5. Chair and Vice Chair**

The Chair and the Vice Chair shall be elected by the Joint Committee from among the Committee's voting membership at the first meeting in each municipal year. It is intended that the Chair shall rotate between each local authority for each municipal year. The elected Chair must be a Member of a different local authority to the Vice Chair.

The Chair shall preside at the meetings. In the absence of the Chair, the Vice Chair shall Chair the meeting. In the absence of both the Chair and the Vice Chair, the Joint Committee Members present shall elect a Chair for that meeting from among their number of voting members.

#### **6. Secretary of State Referrals**

In the case of contested NHS proposals for substantial service changes or any NHS proposal which the Joint Committee feels has been the subject of inadequate consultation, by majority agreement, the Joint Committee to have delegated authority to directly refer the matter to the relevant Secretary of State.

That in relation to the function described above, any Joint Committee decision on whether or not a referral should be made to the relevant Secretary of State is not required to be approved by the individual Overview and Scrutiny Committees at those local authorities that may be directly affected by the decision.

#### **7. Scrutiny Arrangements**

Decisions and recommendations may only be made by the Joint Committee. However task and finish groups may be established if the Joint Committee deem this to be the most appropriate method of scrutiny.

The Joint Committee has the following powers:

- To require the following person/s to attend the Joint Committee to answer questions or supply evidence:
  - a) The Chief Officer (or their representatives) of the Lancashire and South Cumbria Integrated Care System, Partnerships and Neighbourhoods;
  - b) Any relevant Chief Executives (or their representatives) of local NHS bodies;
  - c) The relevant Directors of Public Health, Adult and Children's Social Care from the four Local Authorities within the Integrated Care System area;
  - d) Any relevant Chief Officer of third sector organisations;
- To invite to any meeting of the Joint Committee and permit to participate in discussion and debate, but not to vote, any person not an elected Member appointed to the Joint Committee, whom the Joint Committee considers would assist it in carrying out its functions.
- To co-opt or appoint independent technical advisers as and when necessary and under such terms as the Joint Committee thinks appropriate, persons with appropriate expertise in relevant health matters, without voting rights.
- To invite the Chief Officers (or their representatives) from the four Healthwatch bodies within the Integrated Care System area.
- To request findings and recommendations from any Clinical Senate review relating to a proposal.
- Make reports or recommendations to the relevant health bodies as appropriate.

## **8. Review of functions, administration arrangements and terms of reference**

To review at least annually the functions of, and administration arrangements for meetings of the Joint Committee.

To annually review the Joint Committee's terms of reference.

## **9. Conduct of Business Meetings**

The Clerk to the Joint Committee shall, with the agreement of the Chair and the Vice Chair, arrange meetings of the Joint Committee as and when necessary

(discretionary) or for the purposes of responding to consultation by a Responsible Person (mandatory) in accordance with Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. An Annual General Meeting will be scheduled each year.

The public are welcome to attend and observe meetings, however, there are no public speaking rights

No meetings of the Joint Committee shall be held during the notice of election period for any elections.

Any scheduled Joint meeting may be cancelled where the Chair and the Vice Chair of the Joint Committee both agree.

Where possible the venue for meetings of the Joint Committee shall be rotated between the local authorities. Secretarial support for the Committee shall be from the local authority from which the Chair of the Joint Committee is a member of.

**a) Quorum**

The quorum for the Joint Committee shall be five voting members from at least three of the affected upper tier local authorities being present. During any meeting if the chair counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If a date is not fixed, the remaining business will be considered at the next meeting.

**b) Agendas and Items of business**

Agendas for meetings of the Joint Committee shall be circulated at least five working days in advance of the meetings and in accordance with the provisions of legislation relating to Access to Information.

Other than in exceptional circumstances, where agreed by the Chair, the only business to be considered at any meeting will be that which has been notified.

**c) Declarations of Interest**

Any Member having a non-pecuniary interest must disclose that fact and act accordingly. Those Members declaring a pecuniary interest must leave the room and take no part in the discussion or influence that particular item. Members must give reference to the individual code of conduct of their local authority when declaring an interest.

**d) Decisions**

The Joint Committee will seek to make decisions and recommendations by consensus whenever possible. In the event of any disagreement, the Chair will seek to resolve any differences.

Where it is not possible to achieve a consensus, voting is by show of hands.

The Chair shall have a second or casting vote.

**e) Minutes**

The minutes of each Joint meeting shall be submitted for information to the individual Overview and Scrutiny Committees at the respective local authorities.

## EXECUTIVE BOARD DECISION



<b>REPORT OF:</b>	Executive Member for Digital and Customer Services
<b>LEAD OFFICERS:</b>	Director of Digital and Business Change
<b>DATE:</b>	12 March 2020

<b>PORTFOLIO/S AFFECTED:</b>	Digital and Customer Services
<b>WARD/S AFFECTED:</b>	All
<b>KEY DECISION:</b>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

<b>SUBJECT:</b>
<b>UPDATE ON RIPA ACTIVITY, PROCEDURAL GUIDE AND DESKTOP RIPA INSPECTION</b>

### 1. EXECUTIVE SUMMARY

This report updates elected members on:

- RIPA activity/applications
- RIPA training delivered to officers
- The outcome of a recent desktop inspection undertaken by the Investigatory Powers Commissioner's Office ['IPCO']
- Current plans to amend / update our RIPA procedural guide

### 2. RECOMMENDATIONS

That the Executive Board:

#### To note that:

- 2.1 There have been no RIPA applications since the last full inspection in June 2016.
- 2.2 The training delivered to officers as detailed in the body of this report.
- 2.3 The outcome of the IPCO desktop inspection.

#### To recommend:

- 2.4 That the actions required from the observations within the inspection outcome letter should be implemented.
- 2.5 That when completed, the draft updated RIPA Procedural Guide should be reported to the Policy and Corporate Resources Overview and Scrutiny Committee for comments prior to Executive Board approval.

### 3. BACKGROUND

Following an inspection of the Council's use of covert surveillance undertaken by the Office of the Surveillance Commissioner ['OSC'] on 20<sup>th</sup> June 2016 the Council reviewed and updated

its Procedural Guide for the use of covert surveillance and covert human intelligence sources ('CHIS').

The Policy and Corporate Resources Overview and Scrutiny Committee was presented with a report providing an overview of the inspection and report. Following this an amended Regulation of Investigatory Powers Act 2000('RIPA') Procedural Guide was scrutinised by the said Committee before being formally approved by the Executive Member for Resources in March 2018.

Since the last full RIPA inspection, the Council has continued to regularly, review and monitor any RIPA related activity undertaken by the authority. This has included training and review of our Procedural Guide for updates as required.

## **4. KEY ISSUES & RISKS**

### **4.1 RIPA Activity**

There have been no RIPA applications since the inspection in June 2016.

### **4.2 Training Update**

The following training has been delivered by external training companies:

- 26th March 2018- RIPA Training and Social Media. This was a 1 day course targeted at Advanced Social Care Practitioners but was also attended by a number of relevant lawyers from Legal Services.
- 22<sup>nd</sup> January 2019 RIPA Refresher Training was delivered to a number of relevant Council officers over various departments, including our Senior Responsible Officer and RIPA Monitoring Officer. This was prompted by new RIPA guidance to update all practitioners with the latest developments and new guidance.
- 9th October 2019-a full day of CHIS training took place [organised by Public Protection] which mainly focused on enforcement related officers and was also attended by our RIPA Monitoring Officer.
- 29th November 2019-a half day training session was delivered focussing on RIPA CHIS authorisation and management of it. This session specifically focused on social care practitioners but also included other appropriate staff such as our Senior Responsible Officer and RIPA Monitoring Officer.

The latter 2 courses had not taken place when the desktop inspection questionnaire was returned however, the Council's response explained that both courses were already booked and a copy of the subject matter to be included in the session on the 29<sup>th</sup> November was attached to the response.

### **4.3 The Desktop Inspection Process.**

On the 12th September 2019 BWDC received a letter from IPCO [formerly known as the 'OSC'] informing us our authority was due for its next programmed inspection of the use of covert surveillance in accordance with the provisions of the Regulation of Investigatory Powers Act 2000.

The letter explained that it had become apparent in recent years that for a variety of reasons, which included reduced resources, greater access to data-matching and overt rather than covert law enforcement, authorities like our own have granted far fewer RIPA authorisations. Some have actually granted none during these last few years.

Accordingly, IPCO are currently adopting a more flexible approach to the arrangements for inspections of local authorities. The correspondence further stated that where appropriate, our next



inspection would be based on a remote assessment and examination of the relevant documentation, thereby obviating the need for a visit by a Surveillance Inspector.

To demonstrate our current level of compliance with the legislation, the Council was asked to complete a pre-assessment questionnaire and return it, along with the additional materials identified in the form. The circumstances of our authority were then to be assessed and a decision made about the appropriate form of inspection.

The outcome options may have been:

- No visit by an inspector was necessary on this occasion
- Further information or documentation would be required before a final decision about a visit would be made, or
- A visit would be undertaken.

An inspector would always visit if a request was made by an individual authority and these new arrangements will not alter the jurisdiction of IPCO to send an inspector whenever they consider necessary.

A response was requested by 7<sup>th</sup> October 2019.

The questionnaire requested details covering a number of areas including:

- RIPA oversight activity conducted by the Senior Responsible Officer
- a description of the actions taken since the last Inspection to secure compliance with all recommendations made
- all currently designated Authorising Officers
- any covert surveillance equipment retained by our organisation and details of the person responsible for the storage, administration and use of this equipment etc.
- arrangements for the management of Covert Human Intelligence Sources (CHIS)
- ownership or management of a CCTV system including town/city centre systems and for example, adherence to the Surveillance Camera Commissioner's Guidance.
- the organisation's approach to the monitoring of internet and/or social media sites as part of investigations or enforcement activity in compliance with the Code of Practice.

The Council was also required to provide details of RIPA related training provided to our officers as well as a copy of our Procedural Guide.

#### **4.4 Desktop Inspection Outcome**

On the 15<sup>th</sup> October 2019 IPCO wrote to our Chief Executive with details of the Inspector's findings.

The Investigatory Powers Commissioner ['The Commissioner'] thanked the Council for facilitating the inspection through their Solicitor, Sian Roxborough *'who provided an extremely comprehensive reply to the initial request, all the relevant material and documentation and was very helpful throughout the process.'*

It was noted there had been no use of the available covert powers since the last inspection in 2016 and that the recommendations of the previous inspection had been fully addressed, with the learning from those recommendations circulated to relevant staff.

The Commissioner was pleased to further note that RIPA refresher training had been undertaken in 2018 and 2019 with the use of both internal and external providers and processes. However, the Commissioner suggested *'it would be a useful exercise to consider 'real life' RIPA scenarios, possibly by way of a 'table top' exercise, in order to assess not only the knowledge of your staff but also their operational suitability and capability to manage and deal with matters should the Act be engaged with.'*

The Commissioner was encouraged to note that our authority had undertaken training regarding the use of the internet as an investigative tool. He pointed out that this is a developing area and the revised Code of Practice for Covert Surveillance and Property Interference 2018, paragraphs 3.10 to 3.17, contains some useful advice and examples of online covert activity which may be helpful to our staff.

Whilst no covert activity had been undertaken by our Council, there were some observations made by the Inspector, which are detailed below.

Whilst the Commissioner decided there was no need for a physical inspection at this stage, the observations of his Inspector were as follows:

- '1. Documentation submitted by your Council for review and as an indication of the policies referred to when considering the use of covert activity, are draft copies of the relevant Codes of Practice dated 2017. The revised Codes of Practice for both the covert disciplines of surveillance and CHIS were issued in August 2018. These Codes only should be referred to by your staff.*
- 2. Specimen directed surveillance authorisations, used by your Council, were reviewed by my Inspector and found to contain a section for use when utilising the urgency provisions. This section of the form should be removed, to avoid any confusion, as the use of the urgency provisions is no longer applicable to your Council following The Protection of Freedoms Act 2012.*
- 3. No CHIS authorisations have been formed by your Council since the last inspection. Nevertheless, the use and management of information passed to your staff by members of the public, has been the subject of debate and review by your Council. It is refreshing to note that this matter has been considered and processes are being put in place to educate and advise staff on this matter. The revised Code of Practice for Covert Human Intelligence Sources 2018, paragraphs 2.18 to 2.26, contains advice on the management of information from public volunteers. Specifically, paragraphs 2.25 to 2.26, advise what Public Authorities should avoid doing when engaging with a member of the public, and when a Public Authority should consider a CHIS authorisation. These paragraphs are essential reading for those staff who engage with members of the public on a regular basis and can only but assist with their education in this regard, in addition to the processes being proactively undertaken already by your Council.'*

We were reminded of the importance of regular, ongoing internal oversight of the actual or potential use of these powers, which should be managed by our Senior Responsible Officer.

The Commissioner commented that generally, he was *'concerned at the reduction in the use of investigatory powers across England, Scotland, Wales and Northern Ireland and there may be greater scope for considering the use of authorised investigative activity'*. However he acknowledged these were *'operational decisions that are entirely for your Council, but IPCO is a resource to assist in the lawful use of these powers.'*

On the 18<sup>th</sup> December 2019 the Council wrote back to IPCO to update the Commissioner on the recent activity undertaken to address issues raised in the desktop inspection.

We explained that the following actions had been taken:

- the inspection feedback letter was immediately circulated to our Senior Responsible Officer
- it was also sent to all members of our RIPA Monitoring Group and the content discussed at a recent meeting. As a result, it was agreed as one of our actions was that our Public Protection Team would arrange a ‘table top’ exercise as suggested, to assess staff knowledge and operational effectiveness should we engage with the Act. (It should be noted that this has subsequently been booked to take place on the 24<sup>th</sup> March 2020.)
- the Chair and Vice Chair of Policy and Corporate Resources Overview and Scrutiny Committee had also received a copy of the inspection outcome letter and that our RIPA Monitoring Officer was due to meet with them on the 19th December to discuss the contents. Thereafter a report would be submitted to the said committee on the inspection outcome, also incorporating a general RIPA activity update.
- we confirmed observations 1 and 2 would be addressed in our ongoing RIPA procedural guide update
- as regards observation 3, a full day of CHIS training took place on 9th October and a half day on 29th November [this session specifically focused on social care practitioners]. Both activities were delivered by an external training company and the latter focused on RIPA CHIS authorisation and management.

We thanked IPCO for their constructive suggestions and comments and confirmed Blackburn with Darwen Council’s commitment to ensuring we take our responsibilities relating to investigatory powers very seriously under the oversight of our Senior Responsible Officer.

A report was submitted to our Policy and Corporate Resources Overview and Scrutiny Committee on the 21st January 2020 updating elected members on the above activity and the said Committee recommended that a report should be submitted to Executive Board explaining the outcome of the IPCO desktop inspection, recommending that any actions required from the observations within the inspection outcome letter should be implemented.

#### **4.6 Update to Procedural Guide**

Our Procedural Guide was last updated to accord with the last Inspector’s report of 2016 and was in the process of being reviewed when we received the Desktop Inspection Questionnaire. We explained in our inspection response that ‘A number of months ago we instructed an external provider to update our RIPA policy to cover issues including reflecting the fact that IPCO took over the responsibility for oversight of investigatory powers from the Interception of Communications Commissioner’s Office (IOCCO) and the Office of Surveillance Commissioners (OSC) in September 2017. Accordingly, our RIPA Policy will need to reflect this. We are mindful the OSC Procedures and Guidance 2016 is still current.

There are also new RIPA Draft Codes of Practice. One of the biggest changes is that there are now four pages in the COP on Internet Research which we need to reflect in our documentation. Furthermore, we have a new SRO [who has been trained as set out in response to question 6] as our previous one is now our Chief Executive.

The amendments have been drafted but are due to be finally agreed at a meeting on the 8th October 2019. Thereafter they will need to be approved via our formal process of scrutiny and our relevant executive member.'

At the meeting on the 8th October 2019 it became apparent that it would be more pragmatic to completely redraft our procedural guide. Whilst the contents are on the whole sound [except for amendments required as identified above], it would be expedient to revise the lay out etc. for ease of reference.

It is anticipated this piece of work will be completed and reported back to Policy and Corporate Resources Overview and Scrutiny Committee on the 23rd March 2020, with a view to then being reported to Executive Board for approval.

## 5. POLICY IMPLICATIONS

It is imperative that the Council has a procedural guide to cover RIPA applications to ensure officers are aware of our legal obligations and permitted parameters of surveillance.

## 6. FINANCIAL IMPLICATIONS

None.

## 7. LEGAL IMPLICATIONS

Some of the Council's activities necessarily require covert surveillance as part of its enforcement functions. The Council's use of RIPA is restricted to undertaking covert surveillance in limited circumstances. There are very strict guidelines which must be evidenced in detail before authorisation is given to undertake such covert surveillance.

The legal aspects relating to this activity are set out in the body of this report and our procedural guide.

## 8. RESOURCE IMPLICATIONS

None.

## 9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

Not applicable.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with

equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## **12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	<b>Sian Roxborough, Head of Legal Services</b>
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<b>DATE:</b>	18 <sup>th</sup> February 2020
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<b>BACKGROUND PAPER:</b>	
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## EXECUTIVE BOARD DECISION



**REPORT OF:** Executive Member for Growth and Development

**LEAD OFFICERS:** Director of Growth and Development

**DATE:** 12<sup>th</sup> March 2020

**PORTFOLIO/S AFFECTED:** Growth and Development

**WARD/S AFFECTED:** All

**KEY DECISION:** YES  NO

**SUBJECT:** Local Transport Plan 2020/21 programme

**1. EXECUTIVE SUMMARY**

To seek the Executive Board’s approval for the detailed Local Transport Plan 3 (LTP3) programme for financial year 2020/21. The LTP 3 Strategy covering the period 2011 – 2021 was originally approved by the Council Forum on 28th April 2011.

**2. RECOMMENDATIONS**

That the Executive Board:

- 1) Approves the Local Transport Plan 3 detailed programme for 2020/21
- 2) Delegates authority to the Director of Growth and Development, in consultation with the Executive Member for Growth and Development, to amend, seek and accept tenders subject to adequate budget provision.

**3. BACKGROUND**

The Council approved its Local Transport Plan 3 (LTP3) in April 2011 with the following goals, to:

- Support the economy
- Tackle climate change
- Increase safety and security
- Promote equality of opportunity
- Promote quality of life, health and the natural environment
- Promote the management of the Council’s transport assets.

On the 24<sup>th</sup> July 2014 the Department for Transport (DfT) confirmed details of future Integrated Block Allocations for 2015 – 2021 and on 4<sup>th</sup> December 2014 also confirmed the Council’s Local Highways Maintenance Capital Block Funding for 2015 - 2021.

Additional funding has also been confirmed from the DfT in relation to the Highways Capital Maintenance Incentive Fund. The Council has also been successful in securing Local Growth Fund allocations and Section 106 developer contributions to deliver Capital Highways schemes.

The table below summarises the total amount of funding available:

	<b>2020/21</b>
DfT Integrated Transport Block	£1,424,000
DfT Integrated Transport Block – bring forward from 2021/22 as per Jan 2020 Exec Board paper (Local Growth Fund 3 South East Blackburn contribution)	£715,000
Local Growth Fund 3 Furthergate (90% LEP contribution)	£61,650
Local Growth Fund 3 North Blackburn (88% LEP contribution)	£288,663
Local Growth Fund 3 South East Blackburn (78% LEP contribution)	£6,185,000
Blackburn Bus Station performance bond	£410,000
Section 106 Yew Tree Drive (Wainhomes)	£450,000
Section 106 Blackburn North (Wainhomes) – received in 2019/20	£50,000
Section 106 Roe Lee (Persimmon Homes)	£150,000
Section 106 Gib Lane Phase C (Story Homes)	£260,000
Section 106 School Lane (Wainhomes) – received in 2019/20	£36,000
Section 106 Pole Lane North (Kier)	£150,000
Section 106 Spring Meadows (Persimmon Homes)	£200,000
Section 106 Cranberry Lane (McDermott Homes)	£156,000
DfT Highways Capital Maintenance	£1,552,000
DfT Highways Maintenance Incentive Fund	£326,000
Commuted Sum: Wainwright Bridge	£200,000
DfT Capital Maintenance Challenge Fund – bid outcome not yet known	£TBC
<b>Grand Total</b>	<b>£12,614,313</b>

As Growth Deal 3 monies are claimed according to defrayed payments on Growth Deal / LTP split basis, the exact amount of Growth Deal funding claimed and received in 2020/21 will be subject to change and further reporting.

Any additional funds received from Section 106 or monies from third parties will be reported within the 6 monthly LTP update report to be published later in 2020.

#### **4. KEY ISSUES & RISKS**

Proposed schemes have been informed by lifecycle planning factors developed as part of the authority's asset management strategy, where relevant schemes within the resilient network have been prioritised.

The 2020/21 Capital Programme for Transport and Highways will be allocated as follows:

##### **LTP Integrated Transport Block:**

Quality Bus Shelters
Highway Schemes Part 1 compensation claims
Ellison Fold Way: scheme retention and completion – credited in 2019/20
Growth Deal 3 Furthergate Highway Improvements – scheme retention and completion
Growth Deal 3 North Blackburn – scheme retention and completion
Growth Deal 3 South East Blackburn – scheme delivery
Town Centre Transport (Electrical charging points)
DfT National Productivity Investment Fund Fabric Borders – scheme completion
Jubilee Square highways and public realm
Blackburn Bus Station capital maintenance
Cycle routes - Weavers Wheel spurs and spokes
Public Rights of Way Improvement Plan
Local Road Safety schemes including interactive speed signs and Pole Lane
LTP Performance monitoring / Cordon Counts
LTP scheme development and delivery: co-ordination, strategy development and funding bids
West Blackburn Infrastructure: Bank Hey Masterplan
Section 106 Yew Tree Drive: speed reduction, markings and lining, signage, median works, toucan crossings
Section 106 School Lane: pedestrian crossing and slow down markings

##### **LTP Capital Maintenance:**

<b>LTP carriageway maintenance: resilient network resurfacing</b>
Higher Eanam: number 26 to 50 both sides
Brandy House Brow: Rockcliffe Street to Park Lee Road
Aqueduct Road: Red Brick Theatre to Hamilton Street including mini roundabout
Borough Road, Darwen: Post Office to the Green, reconstruction
Preston New Road, Blackburn: Beardwood to boundary

Livesey Branch Road: Catterall Street to 172 Livesey Branch Road
<b>DfT Highways Maintenance Incentive Fund – resilient network surface treatments</b>
Belmont Road, Belmont: Bolton MBC boundary to Egerton Road
Broadhead Road, Edgworth: Gabion Bend to Toby Inn
Hamilton Street, Blackburn: Aqueduct Road to Hollin Bridge Street
Local cycle network capital maintenance
Capital drainage schemes: EA flood wall, Freckleton Street, Blackburn
<b>UTC Capital Upgrades</b>
Audley Range / Queens Park Road: replacement with priority T junction
Bolton Road / Blackpool Street: Convert to zebra crossing
Blackburn Road / Cavendish Street and A666 between Hollins Grove Street and Lorne Street: pedestrian and traffic survey to determine crossing type and location, ped access and parking provision
Whalley Range / Brook House Street / Earl Street: Procurement of site investigation and detailed design / construction package for future scheme development
Preston Old Road / Witton Park: Replacement of clearview sensors
Darwen Street Bridge: Installation of detector feeder cables and connection of loops
Darwen Street / Jubilee Street / Mill Lane: Built out and tactile paving improvements
Controller reconfiguration @ various locations: Changes to controller configuration to improve operational efficiencies
Essential capital signals maintenance
UTC Capital Upgrades: staff contribution
<b>Highways Structures capital maintenance</b>
A666 Blackburn Road, Cadshaw: Repair of highway and retaining structure, funded over 2019/20 and 2020/21. Included in DfT Challenge Fund.
Wainwright Bridge repaint and refurbishment: funded from commuted sum
Essential Bridge Maintenance: Duchess Street Bridge, Cadshaw footbridge, Luddington footbridge
General Bridge Maintenance: Town Hall car park ramp, Beech Hill footbridge
Standard Bridge Maintenance: Bridge height signage upgrade, St Johns Street railway footbridge
Retaining Wall Strengthening: Jumbles Nursery (Turton), Hoddlesden Branch North West
Bridge Assessments: Kings Canal Bridge, Aqueduct Road footbridge, Charnley Street footbridge
Bridge inspections: staff contribution
<b>If DfT Challenge fund is successful:</b>
A666 Blackburn Road, Cadshaw: Repair of highway and retaining structure - contribution
A675 Belmont Road, Grange Brook: Repair of highway and retaining structure - contribution
Greenbank Terrace Slope Remediation: Provision of retaining structure and highways repairs – contribution
<b>2020/21 highways structures reserve schemes:</b>
Garstang Cottages West retaining wall
Rakes Bridge Culvert
Cranberry Lane retaining wall
Sough Road retaining wall
Willow Street culvert
Bay Street Culvert
Greens Arms Road retaining wall
Aqueduct Road footbridge
Lloyd Street Bridge
<b>2020/21 highways carriageway surfacing reserve schemes</b>
Livesey Branch Road, Blackburn, Horden Rake roundabout
Barbara Castle Way, Blackburn, Limbrick to Victoria Street
Barbara Castle Way, Blackburn, Larkhill to Quarry Street
Traditional patching
Spray injection patching

Any changes to the approved 2020/21 programme will be reported via the Council's Executive Member for Growth and Development later in 2020. Changes to the LTP programme as detailed within this report will be resourced from within the programme, and as such there will be no additional impact on Council finances.

In relation to schemes funded from Section 106 and developer contributions, scheme design and delivery will only commence once monies have been received.

The Council is currently developing the next Local Transport Plan (LTP4) strategy covering the period from 2021-2041. Accompanying the strategy will be an implementation plan containing Blackburn with Darwen's provisional capital programme and transport projects from 2021/22 to 2025/26.



## 5. POLICY IMPLICATIONS

All schemes proposed directly accord with the Local Transport Plan 3 2011 – 2021 Strategy.

## 6. FINANCIAL IMPLICATIONS

Funding sources are identified within section 3 of this report. The programme will be closely monitored to ensure full spend and any further variations or amendments will be reported via the Executive Member for Growth and Development.

## 7. LEGAL IMPLICATIONS

All schemes within the programme will be designed and implemented in accordance with relevant highway, transport, traffic and equality legislation; and will need to be procured in accordance with the Council's constitution and; where relevant, European directives; and any grant conditions.

## 8. RESOURCE IMPLICATIONS

All professional fees will be met from allocations detailed, and staff time met from existing resources. External contractors will be procured to deliver schemes that cannot be delivered by internal resources. Procurement will be in line with current best practices identified by HMEP standards.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

## 10. CONSULTATIONS

All schemes will be the subject of detailed individual consultations with the emergency services, stakeholders and the wider community. The LTP3 2011 – 2021 Strategy was the subject of a full consultation exercise which was undertaken prior to the document being approved in April 2011.

The proposed works have been informed by the options expressed in the most recent National Highways and Transport Public Satisfaction Survey. Residents and stakeholders will be informed prior to the start of the proposed works in respect to the nature of the scheme and their anticipated duration. This will be communicated via the Council's website, social media facilities, leaflets and letters as appropriate. Customer feedback will be actively sought on completion of each scheme, with feedback analysed and used to improve the service in the future.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	0.01
<b>CONTACT OFFICER:</b>	Mike Cliffe, Strategic Transport Manager, ext 5310
<b>DATE:</b>	11 <sup>th</sup> February 2020
<b>BACKGROUND PAPER:</b>	Local Transport Plan 3 Council Forum paper dated 28th April 2011

## EXECUTIVE BOARD DECISION



**BLACKBURN**  
with  
**DARWEN**  
BOROUGH COUNCIL

**REPORT OF:** Executive Member for Growth and Development

**LEAD OFFICERS:** Director of Growth & Development

**DATE:** Thursday, 12 March 2020

**PORTFOLIO(S) AFFECTED:** Growth and Development

**WARD/S AFFECTED:** Blackburn South East;

**KEY DECISION:** Y

**SUBJECT:**

**Fishmoor Drive Land Disposal**

### 1. EXECUTIVE SUMMARY

1.1 The Fishmoor Drive area is part of the South East Blackburn Housing Zone (designation granted by Homes England) and is seen as an important growth area that can yield a large number of new homes to meet the Council's needs and aspiration.

1.2 During 2018 the Council granted an exclusivity period to Together Housing and their joint venture partner Countryside Homes (the JV) to develop proposals for building new homes of mixed tenure and type on four housing sites in the Fishmoor Drive area.

1.3 The JV working with the Council have carried out a large number of intrusive surveys and technical assessments on three development sites within the area, two of these sites are in Council ownership and one is owned by Together Housing. These surveys and assessments have been used to prepare development proposals to build around 400 new family homes for sale and rent on the three.

1.4 As part of the due diligence the JV has also looked at and considered opportunities to enhance the local infrastructure, public open space and pedestrian walkways that will benefit existing and new residents in the area.

1.5 The JV has now provided scheme proposals for three of the sites in the area, presented a land offer for the two Council owned sites and prepared a programme of development subject to approvals from the respective boards

### 2. RECOMMENDATIONS

That the Executive Board:

2.1 Notes the development proposals prepared by the Together Housing Association and Countryside Properties Joint Venture (JV)

2.2 Notes the financial offer outlined in the Part 2 report for the two Council owned sites at Fishmoor Drive and Roman Road

2.3 Grants approval to appoint Together Housing and Countryside Homes as preferred developer to initiate the planning and subsequent development programme

2.4 Authorise Council officers to negotiate Heads of Terms to finalise the terms of the disposal

2.5 Delegates authority to conclude negotiations, including terms of any land sale and contracts to the Director of Growth and Development and Growth Programme Director in consultation with the Executive Members for Resources and Finance and Governance, Growth and Development to approve the final heads of terms.

2.6 Authorises the Director of HR, Legal and Governance to complete the necessary legal formalities.

### **3. BACKGROUND**

3.1 The Fishmoor Drive area is part of the South East Blackburn Housing Zone (designation granted by Homes England) and is seen as an important growth area that can yield a large number of new homes to meet the Council's needs and aspiration.

3.2 The Council granted an exclusivity period (*EMD report – Exclusivity Agreement for land at Fishmoor Drive, south-east Blackburn dated April 2018*) to Together Housing and their joint venture partner Countryside Homes (the JV) to develop proposals for building new homes of mixed tenure and type on four housing sites in the Fishmoor Drive area. One of the sites is a previous clearance area in Together Housing's ownership whilst the remaining three sites are in Council ownership.

- The four sites are:
- Site 1 – land north of Fishmoor Drive (circa 5.2Ha), owned by Together Housing
- Site 2 – land south of Fishmoor Drive (Circa 1.7Ha), 1.3Ha in BwD ownership and 0.4Ha THA
- Site 3 – land off Roman Road (Circa 3.9Ha), owned by the Council
- Site 4 – land bottom end of Fishmoor Drive (Circa 8.7Ha), owned by the Council.

3.3 Plans are now developed to a level where the JV has provided detailed scheme layouts for sites 1, 2 and 3 and is ready to submit a formal planning application for the three sites.

3.4 Aligned to this work the JV has considered opportunities to enhance the local infrastructure, public open space and pedestrian walkways to create better connectivity between the existing and new homes.

3.5 The JV partners are keen to work with the Council in delivering a bespoke housing offer that will help regeneration of the Fishmoor area through the provision of new house types and tenure to meet local need and attract new residents to the area.

### **4. KEY ISSUES & RISKS**

#### **4. KEY ISSUES & RISKS**

4.1 Council officers have been working closely with Together Housing and Countryside Homes to develop proposals to provide family homes for new and existing residents to buy or rent.

4.2 Emerging proposals are as follows:

- Site 1 land totalling 5.2 hectares north of Fishmoor Drive, the site is owned by Together Housing and is planned to provide 200 new homes for sale, Private rent and affordable rent.
- Site 2 land totalling 1.7 hectares south of Fishmoor Drive, the site is part Council owned and part Together Housing owned and will provide 69 new homes for private rent.
- Site 3 land totalling 3.9 hectares off Roman Road, owned by the Council. This site is planned to provide around 123 new homes for open market sale and affordable shared ownership.
- Site 4 land totalling 8.7 hectares southerly end of Fishmoor Drive owned by the Council. Plans for this site will be developed at a later stage following development of the first three sites. The JV will be granted exclusivity for this site for an agreed period of time whilst development is progressed on the first three sites.

4.3 All the affordable homes will be owned and managed by Together Housing. The private rented properties will be owned and managed by SIGMA GROUP PLC (one of the largest Private rental providers across the Country). Countryside Homes will market all homes for sale.

4.4 Alongside the new developments it is planned to carry out some enhancements to the local environment and public realm. This is likely to include new street crossings on Fishmoor Drive and Roman Road, re-modelling existing open space to provide better connectivity and usability and provide a quality play area for local residents.

4.5 The JV has carried out a full appraisal of the three developments which has been used to calculate a land value for the Council owned sites which will be exclusive of any S106 contributions required by the Council. The final land offer will also be subject to any further changes to the schemes emerging from the formal planning application.

4.6 The land value is likely to be reduced if any S106 requirements is imposed on the developments through the planning process such as education contribution, POS and highways works etc. There will be no requirement for affordable homes as the proposal provides an appropriate number of affordable homes on site. The JV will also pay the Council's surveyor's fees and legal costs. The sale will be subject to full planning approval, transfer of reasonable title and collateral warranties on any surveys carried out by the Council. The JV plan to submit a planning application following Council Board approval for the land sale.

4.7 All new homes developed will be in line with the Borough's need and aspiration for growth. New homes will contribute to the MTFs by way of Council Tax income and New Homes Bonus. New developments will bring in additional investment and new jobs to the Borough

## **5. POLICY IMPLICATIONS**

5.1 The proposed residential developments will:  
Support delivery of new homes in line with the Local Plan, the Council's 2030 Vision and the Council's Corporate Plan.

5.2 Disposal of the sites will be in accordance with the Council's Disposal Policy and the approved Housing Toolkit.

## **6. FINANCIAL IMPLICATIONS**

6.1 The Council will receive a capital receipt from the sale of the two council owned sites (part site 2 and site 3). The value will be subject to some proposals and the extent of abnormalities.

6.2 Initial proposals for the proposed developments outline around 400 new homes being built on the three sites

6.3 All new homes will contribute to the MTFs by way of Council Tax income and New Homes Bonus (if the latter is still available at the date of completion).

## 7 LEGAL IMPLICATIONS

7.1 The disposal of the site is in line with the Council's disposal policy and is supported by technical input from legal.

7.2 The Council will still need to ensure the proffered consideration is achieving best consideration reasonably obtainable in disposal of land as part of any contractual agreements with developers. It should be emphasised that best value is the overall value of the site to a ready, willing and able buyer and so factors such as possible s106 contributions are considered part of that global figure

7.3 The Council will look to safeguard its interests in ensuring that the land is developed in line with its future revenue benefit projections by agreeing a build programme with the developer which complies with any procurement law.

7.4 Final Heads of Terms for the sale of the land and the completion of contractual terms will be presented to the Executive Members for Resources and Regeneration for approval. It is recommended that Head of Legal Services comments on the early drafts of heads of terms to try and ensure the terms can be legally agreed between parties in a time and cost efficient manner.

7.5 There may be several additional legal activities required in order to dispose of the Council sites which may require separate approvals.

## 8 RESOURCE IMPLICATIONS

8.1 The Growth team will lead on detailed negotiations. Legal resources will be required to support the preparation and discharge of the agreements.

8.2 Additional support will be required from Capita Property to carry out scheme assessments, viability appraisals and preparation of Heads of Terms

## 9 EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision.

## 10 CONSULTATIONS

The Council has carried out a Housing and Economic Needs Assessment for the Borough and has an adopted Local Plan which is currently being refreshed.

These have outlined housing demand and type; further consultation will be carried out with local residents during the planning process for the developments.

## 11 STATEMENT OF COMPLIANCE

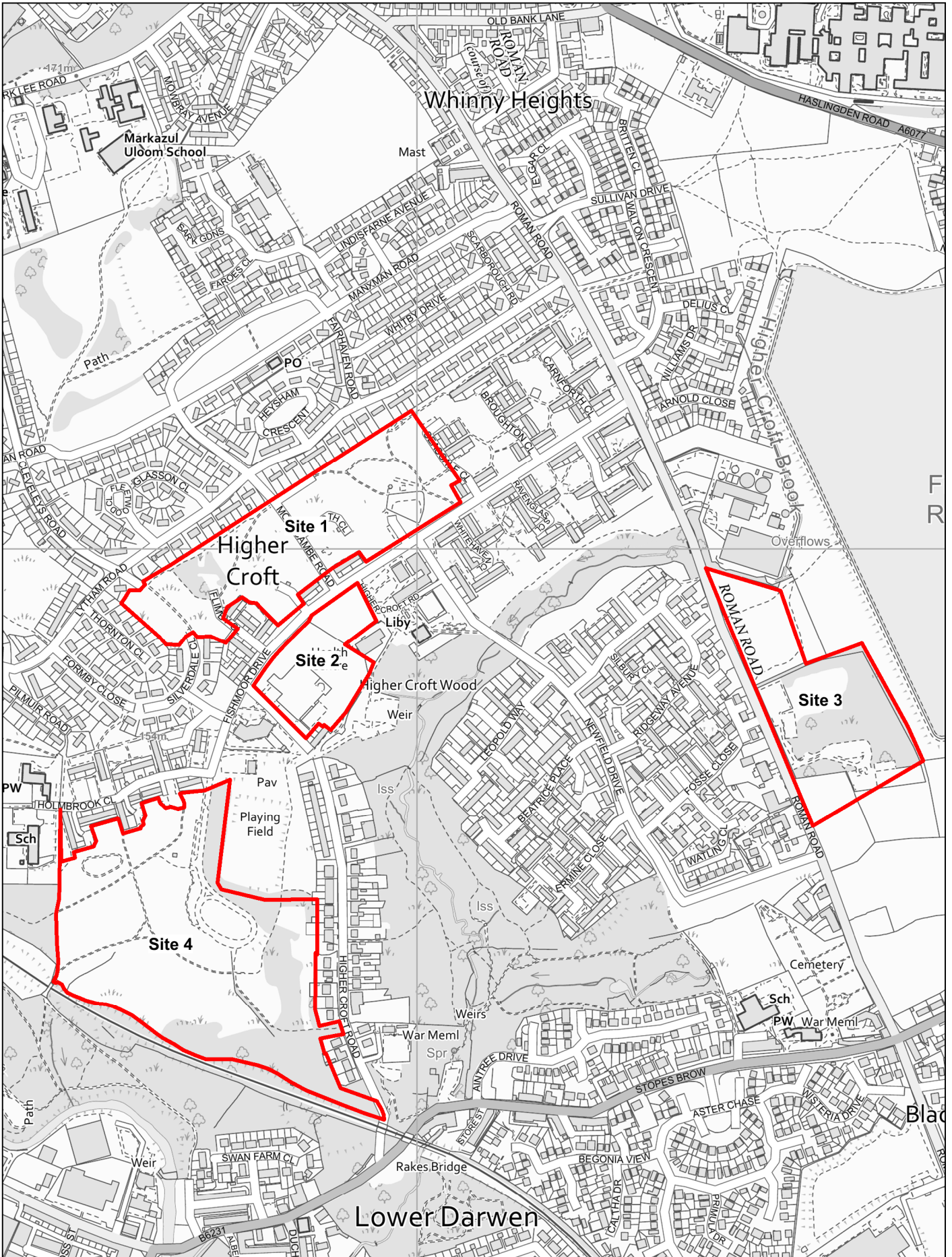
The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12 DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>CONTACT OFFICER:</b>	Subhan Ali, subhan.ali@blackburn.gov.uk
<b>DATE:</b>	
<b>BACKGROUND PAPER:</b>	EMD report – Exclusivity Agreement for land at Fishmoor Drive, south-east Blackburn dated April 2018

# FISHMOOR SITES





## EXECUTIVE BOARD DECISION



<b>REPORT OF:</b>	Executive Member for Finance and Governance
<b>LEAD OFFICERS:</b>	Director of Finance and Customer Services
<b>DATE:</b>	12 <sup>th</sup> March 2020

<b>PORTFOLIO/S AFFECTED:</b>	Finance and Governance
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<b>WARD/S AFFECTED:</b>	All
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<b>KEY DECISION:</b>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
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### SUBJECT: TREASURY MANAGEMENT STRATEGY REPORT 2020/21

#### 1. EXECUTIVE SUMMARY

1.1 Treasury risk management is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice 2017 Edition (the Treasury Management Code) which requires the Council to approve a Treasury Management Strategy before the start of each financial year. This report fulfils the Authority's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.

#### 2. RECOMMENDATIONS

It is recommended that the Executive Board:

2.1 Approves the proposed Treasury Management Strategy for 2020/21, detailed in Appendix 1, including the proposed Treasury Management Indicators.

#### 3. BACKGROUND

3.1 Treasury management is the management of the Council's cash flows, borrowing and investments, and the associated risks. The Council borrows and invests substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of financial risk are therefore central to the Council's prudent financial management.

3.2 Investments held for service purposes or for commercial profit are considered in the Capital Strategy report, approved by Finance Council in February 2020.

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#### 4. RATIONALE

4.1 The Council is required to approve a Treasury Management Strategy before the start of each financial year. It must also set Treasury and Prudential Indicators and a policy for determining a “prudent” level of Minimum Revenue Provision for repayment of debt, which is consistent with the Council’s Medium Term Financial Strategy (MTFS).

#### 5. KEY ISSUES

5.1 Working within the regulatory and professional frameworks, the Council considers and agrees an annual Treasury Management Strategy before the start of each year. This is followed up with a mid-year Strategy Review, considered alongside the Annual Outturn Report, summarising the position for the previous financial year. The key requirements for the Council are to maintain its two investment priorities, the security of capital and the liquidity of investments.

#### 6. POLICY IMPLICATIONS

6.1 The policy implications arising from the Treasury Management Strategy are contained within the overall Budget Strategy of the Council.

#### 7. FINANCIAL IMPLICATIONS

7.1 The financial implications arising from the Treasury Management Strategy are also contained within the overall Budget Strategy of the Council.

#### 8. LEGAL IMPLICATIONS

8.1 Under the Local Government Act 2003, the Council is required to have regard to CIPFA’s *Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes*.

#### 9. RESOURCE IMPLICATIONS

9.1 None as a direct consequence of this report.

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#### 10. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision.

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## 11. CONSULTATIONS

11.1 The issues raised in this report have been discussed previously with Audit and Governance Committee and Treasury Management Group.

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## 12. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

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## 13. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>1.0</b>
<b>CONTACT OFFICER:</b>	<b>Jody Spencer-Anforth (Ext 507748)</b>
<b>DATE:</b>	28 <sup>th</sup> February 2020
<b>BACKGROUND PAPER:</b>	None

## **TREASURY MANAGEMENT STRATEGY 2020/21**

### **1 Introduction**

- 1.1 The Authority both borrows and invests substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk are therefore central to the Council's Treasury Management Strategy.
- 1.2 Treasury risk management for local authorities is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's *Treasury Management in the Public Services: Code of Practice 2017 Edition* (the CIPFA Code) which requires each authority to approve a treasury management strategy before the start of each financial year. This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.
- 1.3 Investments held for service purposes or for commercial profit are considered in a different report, the Capital Strategy.
- 1.4 Should the assumptions on which this report is based change significantly, it may be necessary to seek approval to a revised Treasury Management Strategy. Such circumstances could include, for example, a large unexpected change in interest rates, or in the Authority's capital programme or in the level of investments made or borrowing required.

### **2 Economic Context, Credit Outlook and Interest Rates**

- 2.1 The UK's progress negotiating its exit from the European Union, together with its future trading arrangements, will continue to be a major influence on the Authority's treasury management strategy for 2020/21. The General Election has removed some uncertainty within the market, however following the Withdrawal Bill, uncertainties around the future trading relationship with the EU remain.
- 2.2 Inflation, as measured by the Consumer Price Inflation (CPI) Index, increased to 1.8% year-on-year in January 2020, up from 1.3% in December 2019. This is still below the Bank of England's target level of inflation of 2%. Unemployment rates remain historically low. The 3-month average annual growth rate for pay excluding bonuses was at 3.2% in December 2019, however, adjusting for inflation this means real wages were only up by 1.8%.
- 2.3 Domestic inflationary pressures have abated, as domestic gas and electricity price freezes have taken effect until 2020. The price of oil has fallen through the year, despite a rise in prices in December 2019. The limited inflationary pressure from real wages will likely keep inflation below the Bank of England target of 2%.
- 2.4 The UK's GDP growth was flat in the final quarter of 2019 falling by 0.5% from the previous 3 months with the annual rate falling further below its trend rate to 1.1% from 1.2%. Looking ahead, the Bank of England's Monetary Policy Report (formerly the Quarterly Inflation Report) forecasts economic growth to pick up during 2020 as Brexit-related uncertainties gradually fade and provide a boost to business investment helping GDP reach 1.4% in Q1 2021, 1.6% in Q1 2022 and 2.0% in Q1 2023.
- 2.5 The Bank of England maintained the Bank Rate at 0.75% in January. Despite keeping rates on hold, MPC members did confirm that if Brexit uncertainty drags on or global growth fails to recover, they are prepared to cut interest rates as required. Moreover, the downward revisions

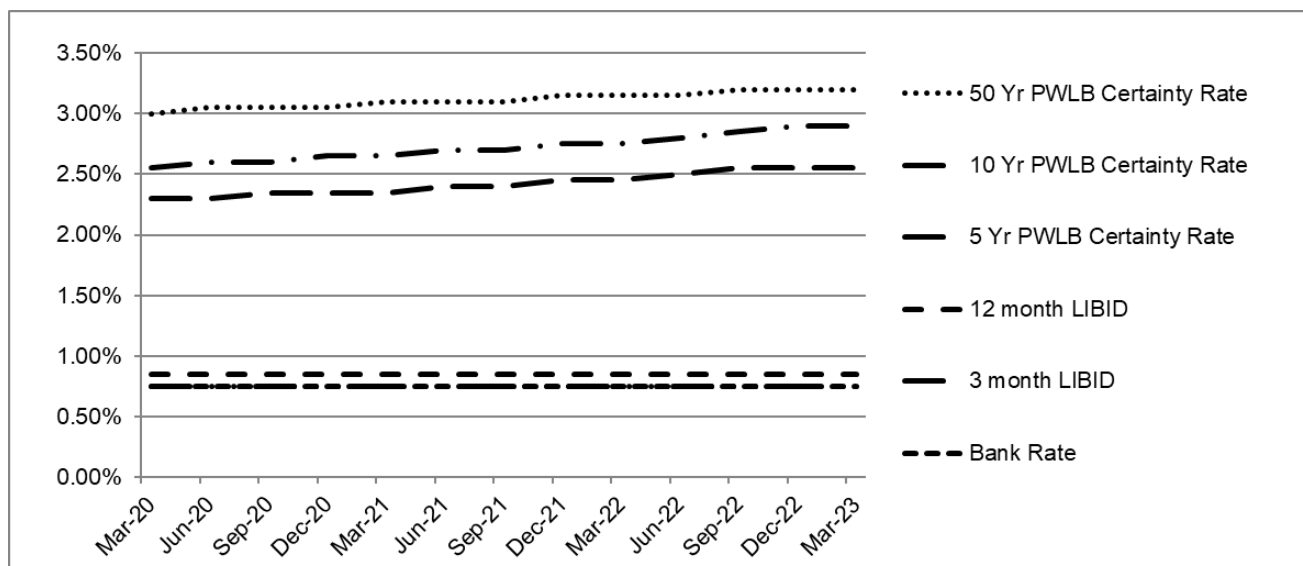
to some of the growth projections in the Monetary Policy Report suggest the Committee may now be less convinced of the need to increase rates even if Brexit related uncertainty declines.

- 2.6 The US economy has continued to perform relatively well compared to other developed nations; however, the Federal Reserve has started to unwind its monetary tightening through 2019. The Federal Reserve has also cut interest rates to stimulate growth as GDP has started to fall.
- 2.7 The fallout from the US-China trade war continues, which risks contributing to a slowdown in global economic activity. Recent suggestions have been an initial compromise and potential unwinding of tariffs; however, this can change quickly. Slow growth in Europe, combined with changes in leadership at the European Central Bank and International Monetary Fund has led to a change of stance in 2019. Quantitative easing has continued and been extended.
- 2.8 The recent Bank of England stress tests assessed all seven UK banking groups. The tests scenarios include deep simultaneous recessions in the UK and global economies that are more severe overall than the global financial crisis, combined with large falls in asset prices and a separate stress of misconduct costs. All seven banks passed the test on both a CET1 ratio and a leverage ratio basis. Major banks have steadily increased their capital for many years now. However, there are a number of shortcomings in the Bank's approach; timeliness as the results are over 11 months of out date when they are published, being based on end-2018 balance sheets; ringfencing, as the tests ignore the restrictions on transferring capital between ringfenced "retail" banks and non-ringfenced "investment" banks within the larger groups and; coverage – the tests should be expanded to cover a wider range of UK banks and building societies. The Bank of England will seek to address some of these issues in 2020, when Virgin Money/Clydesdale will be added to the testing group and separate tests will be included of ringfenced banks.
- 2.9 Challenger banks hit the news headlines in 2019 with Metro Bank and TSB Bank both suffering adverse publicity and falling customer numbers.
- 2.10 Looking forward, the outcome of trade negotiations with the EU and potential of a global recession remain the major risks facing banks and building societies in 2020/21 and a cautious approach to bank deposits remains advisable.
- 2.11 The Authority's treasury management adviser Arlingclose is forecasting that Bank Rate will remain at 0.75% until the end of 2022. The risks to this forecast are deemed to be significantly weighted to the downside, particularly given the continuing uncertainty regarding Brexit and the continuing global economic slowdown.
- 2.12 The Council's latest interest rate forecast, reflecting advice from Arlingclose, is shown below.

The PWLB rates relate to potential long term borrowing, and the LIBID (London Interbank Bid Rate) to short term borrowing and investment.

This is a realistic view of potential rates, however it must be recognised that there is significant uncertainty and risks to both the upside and downside. While assumptions are that some agreement is reached on future trading arrangements before the UK's transition period ends, there is still the possibility that this may not be the case still hangs over economic activity.

As such, the risks to the interest rate forecast are considered firmly to the downside.



For the purpose of setting the budget for 2020/21, it was assumed that:

- any new investments would be at low rates, averaging around 0.6%,
- short-term borrowing would be available at an average of around 1.0% and
- new long-term loans would be available, if required, at rates around 3.0%.

### 3 Borrowing Strategy

3.1 At the end of December 2019 the Council held around £272.2 M of borrowing:

	£M
Short Term Debt – maturing 19/20	25.0
Short Term Debt – maturing 20/21	17.0
Long Term Debt	152.0
Lancashire County Council (LCC) Debt	14.4
Debt re PFI arrangements	63.8
	272.2
This was offset by investments of:	18.4
Net borrowing (gross borrowing less investment)	253.8
If LCC and PFI debt are excluded, net borrowing	175.6

3.2 The Council’s CFR (Capital Financing Requirement) is the key measure of the Council’s borrowing **need** in the long term. It is

the accumulated need to borrow **to finance capital spend** (not funded from grants, etc.)

**LESS** the accumulated Minimum Revenue Provision (MRP) charges already made - councils must make a prudent MRP charge in their accounts, to finance their debt –

**LESS** any capital receipts applied to finance outstanding debt.

The CFR tends to increase if capital spend financed from borrowing exceeds MRP.

3.3 Forecast changes in CFR and borrowing needs are shown in the table below

	<b>31.3.19</b>	<b>31.3.20</b>	<b>31.3.21</b>	<b>31.3.22</b>	<b>31.3.23</b>
	<b>Actual</b>	<b>Estimate</b>	<b>Forecast</b>	<b>Forecast</b>	<b>Forecast</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
General Fund CFR	297.2	299.4	307.3	298.0	289.8
Less: CFR re Other debt liabilities *	-85.3	-84.8	-84.3	-83.8	-83.2
<b>Loans CFR</b>	<b>211.9</b>	<b>214.6</b>	<b>223.0</b>	<b>214.3</b>	<b>206.6</b>
Less: External borrowing **	-154.1	-149.9	-150.7	-146.8	-143.2
<b>Internal borrowing</b>	<b>57.8</b>	<b>64.6</b>	<b>72.4</b>	<b>67.5</b>	<b>63.4</b>
Less: Usable reserves ***	-40.1	-32.6	-30.7	-28.7	-28.7
Plus/Minus: Working capital	-1.2	3.2	29.0	-10.1	-10.4
Remaining Net borrowing NEED	<b>16.5</b>	<b>35.2</b>	<b>70.6</b>	<b>28.7</b>	<b>24.3</b>

<b>Net borrowing NEED addressed by</b>		
Short Term borrowing	<b>41.0</b>	<b>84.0</b>
Treasury Investments	<b>-24.5</b>	<b>-48.8</b>

\* CFR regarding PFI liabilities and transferred debt that form part of the Council's total debt

\*\* only loans to which the Council is committed over the longer term

\*\*\* includes schools balances and grants received in advance of need

The Council's usable reserves and working capital allow less borrowing to be taken than would otherwise be required. This is sometimes termed internal borrowing.

The Council's "Loans CFR" initially increases, due to the levels of prudential borrowing under its Capital Programme plans. Thereafter, unless the level of prudential borrowing is increased beyond current plans, it will start to fall in later years, as the level of MRP being made would then be larger than the increase in CFR resulting from additional spend financed from borrowing.

3.4 CIPFA's *Prudential Code for Capital Finance in Local Authorities* recommends that total debt should be lower than the highest forecast CFR over the next three years. The Council expects to comply with this recommendation during 2020/21.

3.5 The authority will continue to need to take borrowing in support of funding its capital programme. The chief objective when borrowing money is to strike an appropriately low risk balance between securing low interest costs and achieving certainty of those costs over the period for which funds are required.

3.6 Given the significant cuts to public expenditure and in particular to local government funding, the proposed borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio. With short-term interest rates currently lower than long-term rates, it is likely to be more cost effective in the short-term to either use internal resources, or to borrow short-term loans instead. By doing so, the Council can reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk.

3.7 The benefits of internal and short-term borrowing will be monitored regularly against the potential for incurring additional costs by deferring borrowing into future years when long-term borrowing rates are forecast to rise modestly. Arlingclose will assist the Authority with this 'cost

of carry' and breakeven analysis. Its output may determine whether the Authority borrows additional sums at long-term fixed rates in 2020/21 with a view to keeping future interest costs low, even if this causes additional cost in the short-term.

3.8 The Authority has previously raised much of its long-term borrowing from the PWLB, but the government increased PWLB rates by 1% in October 2019 making it now a relatively expensive option.

3.9 One alternative option is that the Council may arrange forward starting loans during 2020/21, where the interest rate is fixed in advance, but the cash is received in later years. This would enable certainty of cost to be achieved without suffering a cost of carry in the intervening period. The authority will continue to maintain a flexible approach to borrowing.

3.10 In addition, the Council may take further short-term loans to cover cash flow requirements.

3.11 The approved sources of long-term and short-term borrowing will be:

- Public Works Loan Board (PWLB) and any successor body
- any institution approved for investments (see below)
- any other bank or building society authorised to operate in the UK
- any other UK public sector body
- UK public and private sector pension funds (except the Lancashire County Council Fund)
- capital market bond investors
- UK Municipal Bonds Agency plc and other special purpose companies created to enable local authority bond issues

In addition, capital finance may be raised by the following methods that are not borrowing, but may be classed as other debt liabilities:

- leasing
- hire purchase
- Private Finance Initiative
- sale and leaseback

The Authority has previously raised much of its long-term borrowing from the PWLB but it continues to investigate other sources of finance, such as local authority loans and bank loans, which may be available at more favourable rates.

3.12 Debt Rescheduling The PWLB allows authorities to repay loans before maturity and either pay a premium or receive a discount according to a set formula based on current interest rates. Other lenders may also be prepared to negotiate premature redemption terms. The Authority may take advantage of this and replace some loans with new loans, or repay loans without replacement, where this is expected to lead to an overall cost saving or a reduction in risk.

3.13 The Council still has £13 M of LOBO (Lender's Option Borrower's Option) loans where the lender has the option to propose an increase in the interest rate at set dates, following which the Council has the option to either accept the new rate or to repay the loan at no additional cost. These options may be exercised during 2020/21; whilst it is unlikely that the options will be exercised in the current low interest rate environment, there remains an element of refinancing risk. The Authority may take the option to repay LOBO loans at no cost if it has the opportunity to do so. It is not currently expected that the Council will take any further LOBO loans - however in order to allow for some flexibility, the Council will limit its total exposure to LOBO loans to £25 M.



3.14 The UK Municipal Bonds Agency plc was established in 2014 by the Local Government Association as an alternative to the PWLB. Blackburn with Darwen BC was one of a number of local authorities investing in the Agency to help to establish it. It plans to issue bonds on the capital markets and lend the proceeds to local authorities.

This would be a more complicated source of finance than the PWLB for two reasons:

- (a) borrowing authorities may be required to provide bond investors with a joint and several guarantee over the very small risk that other local authority borrowers default on their loans and
- (b) there will be a lead time of several months between committing to borrow and knowing the interest rate payable.

Any decision to borrow from the Municipal Bonds Agency will be subject to a separate report to Executive Board.

#### 4 Investment Strategy

- 4.1 On a day to day basis the Council can hold significant surplus funds representing income received in advance of expenditure requirements, in addition to balances and reserves held. In the past 12 months, the Council's investment balance has ranged from £15 to £50 million, reflecting in particular the profiles of capital spending, grant funding, short term borrowing levels and long term debt repayments.
- 4.2 Both the CIPFA Code and the MHCLG Guidance require the Council to invest its funds prudently, and to have regard to the **security** and **liquidity** of its investments before seeking the highest rate of return, or **yield**. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving low investment income. Where balances are expected to be invested for more than one year, the Council will aim to achieve a total return that is equal or higher than the prevailing rate of inflation, in order to maintain the spending power of the sum invested.
- 4.3 If the UK enters into a recession in 2020/21, there is a small chance that the Bank of England could set its Bank Rate at or below zero, which is likely to feed through to negative interest rates on all low risk, short-term investment options. This situation already exists in many other European countries. In this event, security will be measured as receiving the contractually agreed amount at maturity, even though this may be less than the amount originally invested.
- 4.4 The Council uses a cash flow model to determine the period for which funds may prudently be committed. The forecast is compiled on a prudent basis, to minimise the risk of the Council being forced to borrow on unfavourable terms to meet its financial commitments. Furthermore, a prudent level of funds is maintained in 'instant access' investments, to cover most likely eventualities. However to mitigate risk further, it is possible to borrow funds to cover short-term needs.
- 4.5 Given the increasing risk and very low returns from short-term unsecured bank investments, the Authority aims to diversify into secure higher yielding asset classes during 2020/21. This is especially the case for amounts estimated to be available for longer-term investment. All of the Authority's surplus cash is currently invested in short-term unsecured bank deposits and money market funds along with fixed term deposits with other local authorities and the Debt Management Office (DMO). This diversification will represent a change in strategy over the coming year.

- 4.6 In order to prioritise the security of investments, the Council sets limits on the amounts placed with different institutions and as to the duration of the investment. This is to maintain a diversified investment portfolio and to align amounts and durations of investments to the perceived risks associated with different counterparties.
- 4.7 When deteriorating financial market conditions give cause for concern, the Council will further restrict its investments to those institutions of higher credit worthiness and reduce the duration of its investments to seek to maintain the required level of security. The extent of these restrictions will be in line with prevailing financial market conditions. If these restrictions mean that insufficient commercial organisations of high credit quality are available to invest the Authority's cash balances, then the surplus will be deposited with the UK Government (via the DMO or invested in government treasury bills for example) or with other local authorities. This may reduce the level of investment income earned, but will protect the principal sum invested.
- 4.8 The Council uses credit ratings from all the three main rating agencies (Fitch Ratings Ltd, Moody's Investors Service Ltd and Standard & Poor's Financial Services LLC) to assess the risk of loss of investments. The lowest available credit rating will be used to determine credit quality. In order to make the limits straightforward to manage, limits are based on the Long-term ratings, as these ratings are those that address credit risk directly. Long-term ratings are expressed on a scale from AAA (the highest quality) through to D (indicating default). Ratings of BBB- and above are described as investment grade.

The ratings are obtained and monitored by the Council's Treasury Advisers, Arlingclose, who will notify the Council of changes as they occur.

- 4.9 Credit ratings are a significant factor in assessing the creditworthiness of organisations however the Council understands that they are not perfect predictors of investment default. Full regard will be given to other available information on the credit quality of banks and building societies, including credit default swap prices, financial statements, information on potential government support and other market information. No investments will be made with an organisation if there are substantive doubts about its credit quality, even though it may meet the specified criteria.
- 4.10 Investment limits are applied at the point at which new investments are made. They are set at cautious levels, allowing for the fact that circumstances may change while investments run their course

It is proposed that if the investment criteria for a counterparty are no longer met, then:

- no new investments will be made,
- any existing investments that can be recalled at no cost will be recalled and
- full consideration will be given to the recall or sale of all other existing investments with the affected counterparty.

- 4.11 Where a credit rating agency announces that it is actively reviewing an organisation's credit ratings with a view to downgrading, and as a result it is likely to fall below the specified minimum criteria, then no further investments other than into instant access accounts will be made until the outcome of the review is announced. This policy will not apply to negative outlooks which indicate a long-term direction of travel rather than an imminent change of rating.

Where a credit rating agency awards a different rating to a particular class of investment instrument as opposed to the credit rating of the counter-party as a whole, the Council will base its investment decisions on the instrument credit rating rather than the counterparty credit rating.

#### 4.12 Investment Criteria for 2020/21

The proposed criteria are at essentially the same levels as were agreed for last year. The distinctions previously applied in MHCLG Investment Guidance between Specified and Non-Specified Investments have changed, so those categories are no longer reflected in the proposed limits. It is proposed that the Council may invest its surplus funds with any of the counterparty types in the table immediately below, subject to the cash and time limits shown AND to other limits also set out successively below.

Approved Investment Counterparties	Cash Limit	Time Limit
<b>Banks and Building Societies – Secured</b>		
long-term credit ratings no lower than AA- (or equivalent)	£5M each	364 days
long-term credit ratings no lower than AA (or equivalent)	£4M each	364 days
long-term credit ratings no lower than A- (or equivalent)	£3M each	364 days
<b>Banks and Building Societies – Unsecured</b>		
long-term credit ratings no lower than AA- (or equivalent)	£5M each	9 months
long-term credit ratings no lower than AA (or equivalent)	£4M each	6 months
long-term credit ratings no lower than A- (or equivalent)	£3M each	4 months
The Council's <b>current account banker</b> – provided long-term credit rating no lower than BBB- (or equivalent)	£3M each	next day
<b>Corporates or Registered Providers</b> with long-term credit ratings no lower than A- (or equivalent)	£3M each	4 months
<b>Unrated institutions</b> , such as building societies	£nil	n/a
<b>Company Shares</b> where no direct service benefit arising, for prudent management of its financial affairs	£100,000	n/a
<b>Pooled Funds and Real Estate Investment Trusts</b> (incl. money market funds)		
long-term credit ratings no lower than A- (or equivalent)	£5M each	n/a
unrated or long-term credit ratings under A- (or equivalent)	£4M each	n/a
<b>UK Government</b>	No limit	364 days
<b>Other Government</b> with long-term credit ratings no lower than A- (or equivalent)	£5M each	364 days
<b>UK Local Authorities*</b> (irrespective of credit rating)	£5M each	364 days
* as defined in the Local Government Act 2003		

Other Investment Limits	Cash Limit
Any single organisation, except the UK Central Government	£5M each
UK Central Government	unlimited
Any group or organisations under the same ownership	Group or overall limit same as would be set for parent company
Foreign Countries – limited to those with sovereign credit rating of AA+ or better (from all agencies)	£5M each
UK investments will not be limited by the UK's sovereign credit rating	
Foreign investment limits will not apply to investment in pooled funds which may be domiciled overseas. Sovereign credit rating criteria and foreign country limits will also not apply to investments in multilateral development banks (e.g. the European Investment Bank and the World Bank)	
Registered providers and registered social landlords	£5M in total
Unsecured investments with building societies	£6M in total
Money market funds	£20M in total

#### 4.13 Secured and Unsecured Investments

**Unsecured Investments** include accounts, deposits, certificates of deposit and senior unsecured bonds with banks and building societies, other than multilateral development banks. These investments are subject to the risk of credit loss via a bail-in should the regulator determine that the bank is failing or likely to fail.

Unsecured investments with banks rated below A- (but no lower than BBB-) will be restricted to overnight deposits with the Council's Current Account bank, if applicable. A high level of monitoring of the credit-worthiness of the Current Account banker will be maintained if its ratings fall this low and this option will not be taken up if there are serious concerns.

In addition to investment balances, the Council may incur operational exposures, for example through current accounts, collection accounts and merchant acquiring services. These are not classed as investments, but are still subject to the risk of a bank bail-in, and balances will therefore be monitored and minimised, so far as practicable. The Bank of England has stated that in the event of failure, banks with assets greater than £25 billion are more likely to be bailed-in than made insolvent, increasing the chance of the Authority maintaining operational continuity.

**Secured Investments** include covered bonds and other collateralised arrangements with banks and building societies. Such investments are secured on the bank's assets, which limits potential losses in the unlikely event of insolvency and means that they are exempt from bail-in. Where there is no investment specific credit rating, but the collateral upon which the investment is secured has a credit rating, the highest of the collateral credit rating and the counterparty credit rating will be used to determine cash and time limits.

#### 4.14 Investment in Other Government, Corporate and Registered Providers

**Other Government** – this covers loans, bonds and bills issued or guaranteed by national governments, regional and local authorities and multilateral development banks. These investments are not subject to bail-in and there is an insignificant risk of insolvency.

**Corporates** – this covers loans, bonds and commercial paper issued by companies other than banks and registered providers. These investments are not subject to bail-in but are exposed to the risk of the company going insolvent.

**Registered Providers** – this covers loans and bonds issued by, guaranteed by or secured on the assets of Registered Providers of Social Housing, formerly known as Housing Associations. These bodies are tightly regulated by the government and, as providers of public services, they retain a likelihood of receiving government support if needed.

#### 4.15 Unrated Institutions

To allow the option to invest in the Municipal Bonds Agency, and to continue to retain the option to invest in other unrated counterparties, it is proposed to set the limits as set out in 4.12 above.

#### 4.16 Pooled Funds (including Money Market Funds)

Pooled Fund investments are investments in diversified investment vehicles consisting of any of the above investment types, plus equity shares and property. These funds have the advantage of providing wide diversification of investment risks, coupled with the services of a professional fund manager in return for a fee.

The regulatory environment for pooled funds has changed how money market funds operate. The Council has had regular advice from its Treasury Adviser on the risk position for pooled funds, as the proposals have been enacted, and will continue to monitor the position for such funds.

Short-term Money Market Funds that offer same-day liquidity and very low or no volatility will be used as an alternative to instant access bank accounts.

Pooled funds whose value changes with market prices, and/or have a notice period, will be used for longer investment periods.

Bond, equity and property funds offer enhanced returns over the longer term, but are more volatile in the short term. These allow the Authority to diversify into asset classes other than cash without the need to own and manage the underlying investments. Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Authority's investment objectives will be monitored regularly.

#### 4.17 Real Estate Investment Trusts

Shares in companies that invest mainly in real estate and pay the majority of their rental income to investors in a similar manner to pooled property funds. As with property funds, REITs offer enhanced returns over the longer term, but are more volatile especially as the share price reflects changing demand for the shares as well as changes in the value of the underlying properties. Investments in REIT shares cannot be withdrawn but can be sold on the stock market to another investor.

#### 4.18 Strategy for 2020/21

Cash flow surpluses can be considered as falling into three categories -

- (a) **Short-term funds** that are required to meet cash flows occurring in the next month or so, and for which the preservation of capital and liquidity is therefore of paramount importance. Generating investment returns is of limited concern here, although should not be ignored. Instant access AAA-rated money market funds and bank deposit accounts will be the main methods used to manage short-term cash.
- (b) **Medium-term funds** that may be required in the next one to twelve months will be managed concentrating on security, with less importance attached to liquidity but a slightly higher emphasis on yield. The majority of investments in this period will be in the form of fixed term deposits with banks and building societies. A spread of counterparties and maturity dates will be maintained to maximise the diversification of credit and interest rate risks.
- (c) **Long-term funds** that are not required to meet any liquidity need and can be invested with a greater emphasis on achieving higher returns. Security remains fundamental however, as any losses from defaults will impact on the total return. Liquidity is of lesser concern, although it should still be possible to sell investments with due notice if large cash commitments arise unexpectedly. This is where a wider range of instruments, including structured deposits, certificates of deposit, gilts, corporate bonds and pooled funds in bond, equity and property funds, which could be used to diversify the portfolio.

The overall Investment Strategy will be to prioritise security of funds and maintain a mix of short-term (largely instant access) and medium-term investments to generate investment

income as market conditions permit. As the Council expects to have funds available for long-term investment, the Council will consider its options for such funds, including potential investment in additional pooled funds.

With short-term interest rates still significantly lower than long-term rates, due consideration will also be given to continuing to use surplus funds to defer making long-term borrowing or even make early repayments of long-term borrowing. In addition to the savings on the interest rate differential, this strategy will also reduce the Council's exposure to credit risk and interest rate risk. In the context of the borrowing strategy, it is likely that most investments will continue to be in instant access and short term deposits, to manage the Council's liquidity.

The counterparty limits set out above, do allow for a wider range of investment opportunities to be taken up than have been used by the Council to date. Should the circumstances arise under which this would be appropriate, this would allow an increased diversification of the overall portfolio and in some instances, increase the security of investments made. The take up of any new investment opportunities will be closely managed by TMG, following advice given by the Council's Treasury Management Advisers.

## **5 Budget Implications**

5.1 Excluding PFI costs (which are offset by Government grant funding), the budget for debt interest payable in 2020/21 is £6.9 million (including the interest element of payments to LCC for debt managed on our behalf), reflecting:

- (a) £6.0 million interest payable, at an average interest rate of around 4.0%, on the long-term debt portfolio (forecast to average £152 million over the year),
- (b) up to £0.9 million for short-term borrowing, at interest rates averaging 1.0%.

Projected investment income in 2020/21 is around £110,000, based on an average investment portfolio of circa £18 million, and interest rates averaging 0.6%.

If actual levels of investments and borrowing and/or actual interest rates differ from those forecast, performance against budget will be correspondingly different.

## **6 Using Derivatives**

6.1 A derivative is a financial instrument whose value is derived from changes in the value of an asset or an index. Local authorities (including this Council) have previously made use of financial derivatives embedded into loans and investments both to reduce interest rate risk (e.g. deals agreed for future dates) and to reduce costs or increase income at the expense of greater risk (e.g. LOBO loans).

Section 1 of the Localism Act 2011 included a general power of competence that removes the uncertain legal position over local authorities' use of standalone financial derivatives (i.e. those that are not embedded into a loan or investment). The CIPFA Code requires authorities to clearly detail their policy on the use of derivatives in the annual strategy.

The Council will only use standalone financial derivatives (such as swaps, forwards, futures and options) where they can be clearly demonstrated to reduce the overall level of financial risks that the Council is exposed to. Additional risks presented, such as credit exposure to derivative counterparties, will be taken into account when determining the overall level of risk. Embedded derivatives, including those present in pooled funds and forward starting transactions, will not be subject to this policy, although the risks they present will be managed in line with the overall Treasury Risk Management Strategy.

6.2 Financial derivative transactions may be arranged with any organisation that meets the approved investment criteria. The current value of any amount due from a derivative counterparty will count against the counterparty credit limit and the relevant foreign country limit.

## 7 Treasury Management Indicators

The Council measures and manages its exposures to treasury management risks using the following indicators:

### **Refinancing Risk - Maturity Structure of Borrowing**

This indicator is set to control the Council's exposure to refinancing risk - i.e. to prevent too much debt maturing at any one time, with a risk the Council will have to refinance at the rates then prevailing. The limits for up to 24 months continue to be relaxed to allow for a higher level of short term borrowing.

The upper and lower limits on the maturity structure of fixed rate borrowing will be:

	Upper	Lower
Under 12 months	50%	0%
12 months and within 24 months	30%	0%
24 months and within 5 years	30%	0%
5 years and within 10 years	30%	0%
10 years and above	95%	25%

This indicator applies to the financial years 2020/21, 2021/22, and 2022/23, from the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment. Where there is a prospect that a LOBO may be called, this has been reflected in setting these limits.

### **Principal Sums Invested for Periods Longer than a Year**

The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the total principal sum invested to final maturities beyond the period end will be:

	2020/21 £M	2021/22 £M	2022/23 £M
Limit on principal invested beyond year end	7.0	5.0	3.0

The Indicators above are "standard" Treasury Management Indicators that are generally adopted by local authorities, in line with individual circumstances. These indicators have not directly addressed the key treasury priorities of Security and Liquidity, though these issues are already closely tracked throughout the year. However, working in conjunction with the Council's Treasury Advisers, options for the formal monitoring of performance in regard to these priorities remain under consideration.

### **Interest Rate Risk**

CIPFA has withdrawn the previous recommendation for standard indicators for Upper Limits on Fixed and Variable Interest Rate Risk. Nonetheless, this Council recognises that it must have regard to the risk that fluctuations in interest rates could create an unexpected burden on its finances, and will therefore continue to monitor its exposure to Fixed and Variable Interest

Rate Risk. In addition, without setting a formal limit, this Council will also monitor, on an ongoing basis, the potential impact of a 1% change in interest rates on its current borrowing and investment portfolio.

The upper limits on fixed and variable rate interest rate exposures, expressed as an amount of net principal borrowed will be:

	2020/21 £M	2021/22 £M	2022/23 £M
Upper limit on Fixed Interest rate exposures	267.2	247.7	227.4
Upper limit on Variable Interest rate exposures	116.4	107.2	97.6

## 8 Other Matters

### Markets in Financial Instruments Directive (MiFID)

The Authority has opted up to professional client status with its providers of financial services, including advisers, brokers and some fund managers, allowing it access to a greater range of services but without the greater regulatory protections afforded to individuals and small companies. Given the size and range of the Authority's treasury management activities, the Director of Finance and Customer Services believes this to be the most appropriate status.

## 9 Other Options Considered

The MHCLG Investment Guidance and the CIPFA Code of Practice do not prescribe any particular treasury management strategy for local authorities to adopt.

Some alternative strategies, with their financial and risk management implications, are listed below.

Alternative	Impact on income and expenditure	Impact on risk management
Invest in a narrower range of counterparties and/or for shorter times	Interest income will be lower	Reduced risk of losses from credit related defaults
Invest in a wider range of counterparties and/or for longer times	Interest income will be higher	Increased risk of losses from credit related defaults
Borrow additional sums at long-term fixed interest rates	Debt interest costs will rise; this is unlikely to be offset by higher investment income	Higher investment balance leading to a higher impact in the event of a default; however long-term interest costs will be more certain
Borrow short-term or variable loans instead of long-term fixed rates	Debt interest costs will initially be lower	Increases in debt interest costs will be broadly offset by rising investment income in the medium term, but long term costs will be less certain
Reduce level of borrowing	Saving on debt interest is likely to exceed lost investment income	Reduced investment balance leading to a lower impact in the event of a default; however long-term interest costs will be less certain



The Director of Finance and Customer Services, having consulted with the Executive Member for Finance and Governance, believes that the above strategy represents an appropriate balance between risk management and cost effectiveness.

## EXECUTIVE BOARD DECISION



<b>REPORT OF:</b>	Executive Member for Finance and Governance Executive Member for Children's Young People and Education
<b>LEAD OFFICERS:</b>	Director of Finance and Customer Services Director of Children's Services and Education
<b>DATE:</b>	12 March 2020

<b>PORTFOLIO/S AFFECTED:</b>	Finance and Governance Children's Young People and Education		
<b>WARD/S AFFECTED:</b>	All	(Please Select...)	
<b>KEY DECISION:</b>	YES	<input checked="" type="checkbox"/>	NO <input type="checkbox"/>

**SUBJECT: Sale of minority shareholding in BSF Project Companies**

### 1. EXECUTIVE SUMMARY

As part of the Building Schools for the Future Programme ("BSF") the Council became a minority shareholder in two project companies. The Council has received an offer from the majority shareholder, Amber Infrastructure, to purchase the Council shares.

### 2. RECOMMENDATIONS

That the Executive Board:

1. Notes the consequences of selling the shares outlined in this report
2. Approves the sale of the shares to Amber Infrastructure.

### 3. BACKGROUND

As part of the BSF Programme, three new schools were procured through two PFI (Private Finance Initiative) Contracts. The schools were delivered in two phases and both achieved Financial Close in 2010:  
Phase 1 – Pleckgate High School.

Phase 2 - Witton Park High School and Blackburn Central High School with Crosshill.

On the 21<sup>st</sup> September 2009, Balfour Beatty Education was appointed as the Council's selected partner to form the Blackburn with Darwen and Bolton Local Education Partnership to deliver the BSF investment programme across the Borough.

On the 12<sup>th</sup> July 2016 the Local Education Partnership (LEP) formally notified the Council of Balfour Beatty's Investment's decision to sell its shares in the PFI Project Companies and the LEP; the shareholding was then subsequently sold to Amber Fund Management.

Under the BSF programme the commercial structure of the arrangements involved the setup of a Project Company for each phase of the programme. For the Council's BSF programme two project companies were set up. The arrangements provided for the Council to take a minority (9.5%)

shareholding in each company. Bolton Metropolitan Borough Council also own a minority (0.5%) shareholding as a result of their investment in the LEP.

Amber Infrastructure have now made an offer to buy both Council's shares in the two PFI Project Companies.

The Council has appointed Asteros Advisors Limited, who are financial advisors that specialise in PFI contract financing, and DAC Beachcroft who provided legal advice on the original BSF programme, to advise the Council on whether the financial valuation is appropriate and on the legal implications of the share sale.

#### **4. KEY ISSUES & RISKS**

The Council's financial advisors Asteros have produced a letter of assurance setting out their analysis of the offer received from Amber. The letter considered the underlying financial models, macro-economic assumptions, future cash flows, sensitivity analysis and other factors. Asteros has engaged with Amber to clarify the basis of the offer.

The letter from Asteros confirmed that, having reviewed the financial models for the two projects, the valuation has been undertaken using a valid methodology and in all material respects, the financial models have been updated with actuals in the manner they would expect. They have received satisfactory responses to several questions they have raised with Amber in relation to the financial models. Asteros have advised that any changes to the valuation resulting from a re-run of the models would be minimal and that the sensitivity analysis supports moving forward on a timely basis, should the Council wish to proceed. Asteros concluded that the basis of the calculation, and the discount rate proposed, are appropriate in the context of achieving a fair valuation of the equity held by Blackburn with Darwen and consider the offer by Amber to be fair and value for money

The Council has received legal advice from DAC Beachcroft on the share sale and the proposed agreements provided by Amber, namely the Share Purchase Agreement (SPA) and the Observer Letter. They advise the SPA is a purely mechanical document and does not contain any provisions that they consider unusual or onerous. By reason of the sale of the shares, the Council would lose the following rights under the original Shareholders' Agreement - the right to appoint a director and veto rights in respect of the matters referred to in Schedule 3 of the Shareholders' Agreement. However, even where the Council has a director on the board of the project and holding companies, that director needs to act in the best interests of those companies and not the Council. Decisions of the boards would also be subject to majority vote so the Council's director could not in any event unilaterally exercise control, therefore the Council would not be losing much in the way of control of the companies. DAC did not flag up anything of concern in the Observer letter but have suggested some minor amendments.

The Council has advised the ESFA that it is exploring the option to proceed with the sale of its shares. The department has no issues with the sale and require notification for their records, if and when the sale proceeds to completion. They also require reassurance that the Council has taken appropriate financial advice on the valuation from experienced financial advisers familiar with this type of equity sale, which we have provided to them in the form of the letter of assurance from Asteros.

#### **5. POLICY IMPLICATIONS**

There are no specific policy implications arising from this report.

#### **6. FINANCIAL IMPLICATIONS**

The Council has received dividends from its shareholdings in the BSF Project Companies since

December 2013 (excluding the dividends that have resulted from the recent refinancing exercises). If the shareholdings were sold there would be no further dividend payments.

## 7. LEGAL IMPLICATIONS

The Council's shareholding does come with certain voting rights as a member of the company. However as a minority shareholder, the Council could be outvoted. The Council will retain the right to appoint an observer to attend company meetings.

DAC Beachcroft will support the Council through the process and will review and advise on any legal documentation that the Council will be a party to as a result of the share sale.

## 8. RESOURCE IMPLICATIONS

There are no specific resource implications arising from this report.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

## 10. CONSULTATIONS

Not applicable.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>2</b>
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<b>CONTACT OFFICER:</b>	<b>Chris Bradley</b>
<b>DATE:</b>	27 <sup>th</sup> February 2020
<b>BACKGROUND PAPER:</b>	N/A

## EXECUTIVE BOARD DECISION



**REPORT OF:** Executive Member for Finance and Governance,  
Executive Member for Growth and Development

**LEAD OFFICERS:** Director of Growth & Development

**DATE:** Thursday, 12 March 2020

**PORTFOLIO(S) AFFECTED:** Growth and Development

**WARD/S AFFECTED:** Livesey with Pleasington;

**KEY DECISION:** Y

### SUBJECT:

Disposal of Council Land at Lomond Gardens, Blackburn, Site Appropriation and Disposal of Open Space

### 1. EXECUTIVE SUMMARY

1.1 This report outlines the outcome of the Informal tender for the Council owned land at Lomond Gardens, Blackburn and seeks approval to dispose of the site for housing development to the recommended preferred bidder.

1.2 This report seeks the Executive approval to authorise the Director of Growth and Development to appropriate the Council owned land known as the Land at Lomond Gardens for planning purposes under section 122 of the Local Government Act 1972.

The appropriation is for the purpose of enabling the construction of up to 35 new family homes.

1.3 Executive approval is also required to authorise the Director of Growth and Development for the consideration of any objections and approval for the disposal of 'open space' under section 123(2A) of the Local Government Act 1972.

1.4 The land at Lomond Gardens was previously used as an all-weather pitch for St Bede's RC High school. The former all weather pitch has not been used by St Bede's RC High School for any sports or recreational purposes since at least 1997. An options assessment was undertaken during 2019 which identified the site as being suitable for housing development. Outline planning consent was secured in August 2019 to develop new homes on the site and the site has been offered for sale through an informal tender exercise with tender's scheduled to be returned January 2020.

### 2. RECOMMENDATIONS

That the Executive Board:

2.1 Approves the appointment of Bidder A as preferred bidder.

2.2 Approves the appointment of Bidder B as reserve bidder.

2.3 Grants permission for Council officers to negotiate Heads of Terms to finalise the terms of the disposal.

2.4 Delegates authority to conclude negotiations, including terms of any land sale and contracts to the Growth Programme Director and Director of Finance and Customer Services in consultation with the Executive Member for Finance and Governance and Executive Member for Growth and Development to approve the final heads of terms.

2.5 Authorises the Director of HR, Legal and Governance to complete the necessary legal formalities.

2.6 Delegates authority to agree a contribution from the purchase price to St Bede's RC High School's Capital programme to the Growth Programme Director in consultation with the Executive Member for Finance and Governance and Executive Member for Growth and Development.

2.7 Authorise the Director of Growth and Development to appropriate the land at Lomond Gardens shown edged red on plan attached Appendix A from the Education and Environment portfolios to Growth & Development in accordance with section s.122 of the Local Government Act 1972 and subsequent use of the Council's powers under s.203 – 206 of the Housing and Planning Act 2016 to override any third party rights and easements on the land.

2.8 Authorise the Director of HR, Legal and Governance to advertise the proposal to appropriate in accordance with the statutory process under Section 122 of the Local Government Act 1972

2.9 Authorise the Director of HR, Legal and Governance to advertise the proposal to dispose of 'open space' in accordance with the statutory process under Section 123(2A) of the Local Government Act 1972

2.10 Note that in authorising the commencement of the appropriation process of the Lomond gardens site, the Council has considered the provisions of the Equalities Act 2010 and the Human Rights Act 1998 as set out in this report.

2.11 Authorise the Director of Growth and Development for the consideration of any objections to both the appropriation proposal and 'open space' disposal.

2.12 If the appropriation is approved, authorise the negotiation and payment of any compensation claims potentially emerging from the appropriation.

### **3. BACKGROUND**

3.1 The land (shown edged red on the attached plan Appendix A) has been identified as surplus by the Council's Education department. The former all weather pitch has not been used by St Bede's RC High School for any sports or recreational purposes since at least 1997, which has been confirmed in writing by the current Head teacher.

3.2 Outline planning permission for up to 35 Class C3 dwellings and associated works was successfully secured in August 2019 under application number 10/19/0542.

3.3 The plot of land has been marketed for sale by informal tender as outlined in the Executive Board Decision - Growth Programme 2019/20: Site Disposal & Development Projects March 2019 as this has been identified as a priority.

3.4 The tender period was from 20th November 2019 to 13th January 2020.

3.5 A 'Data Room' was set up on the Council's website which contained all tender information along with a host of technical reports and surveys commissioned on the site by the Council. Over 100 developers were e-mailed directly by the Growth Team with full marketing particulars, and follow up calls being made.

3.6 The informal tender form required interested parties to:

- Make an offer for the housing site using the technical surveys provided whilst still carrying out their own due diligence
- Make an offer conditional on planning, including s106 contributions which will be determined by the Planning Authority.
- Show proposed layout, house types and numbers.
- Demonstrate previous housing development experience
- Demonstrate financial resources and source of finance
- Outline timeframe for development

3.7 The tenders have been evaluated in accordance with the criteria referred to under paragraph 3.6 above.

#### 4. KEY ISSUES & RISKS

##### 4.1 Land Disposal

4.1.1 The Council received significant interest in the Lomond Gardens site. Seven informal tenders were received by the closing date 12.00 pm 13th January 2020. Tenders were opened at 3.30 pm on the 13th January 2020 and all bids were compliant.

4.1.2 Five of the tenderers have previously never built in the borough and were attracted by the quality of the site on offer and the comprehensive data pack.

4.1.3 The tenders are summarised as follows:

\* Financial offer includes agreed s106 contributions, for which the amount is yet to be determined, and will be done so by the Planning Authority. The agreed s106 contribution will be deducted from the purchase price.

Bidder ID Number	Scheme Proposal	Conditions of Offer / Bid Summary
<b>Bidder A</b>	29 No. 3 and 4 bed large family homes for sale.	Subject to planning, excludes S106. Good experience of house building.
<b>Bidder B</b>	31 No. 3 and 4 bed large family homes for sale.	Subject to planning, excludes S106. Good experience of house building.
<b>Bidder C</b>	28 No. 3 and 4 bed large family homes for sale.	Subject to planning, excludes S106. Good experience of house building.
<b>Bidder D</b>	35 No. 2, 3 and 4 bed homes for sale.	Subject to planning, excludes S106. Good experience of house building.
<b>Bidders E</b>	45 No. 2, 3 and 4 bed homes.	Subject to planning, excludes S106. Limited experience, proposals do not match Council's aspirations.
<b>Bidder F</b>	31 No. 3 and 4 bed large family homes for sale.	Subject to planning, excludes S106.
<b>Bidder G</b>	41 No. 2, 3 and 4 bed homes. 50 % Shared Ownership and 50% Affordable Rent.	Subject to planning, excludes S106. Unknown developer, proposals do not match Council's aspirations.



4.1.4 Following initial assessment Bidder A and Bidder B were shortlisted, both offers being above the Growth team's informal valuations.

4.1.5 A post tender clarification meeting was scheduled in January with Bidder A and Bidder B to discuss their offers.

4.1.6 Bidder A and Bidder B were formally requested to submit their final offers by on Thursday 6th February 2020 reconfirming their acceptance to the conditions of sale and completing the requested information.

4.1.7 The Council received final offers from Bidder A and Bidder B by the closing date. Tenders were opened at 15.05 pm on the 6th February 2020 and all bids were compliant.

4.1.8 The tenders are summarised as follows:

\* Financial offer includes agreed s106 contributions, for which the amount is yet to be determined, and will be done so by the Planning Authority. The agreed s106 contribution will be deducted from the purchase price.

<b>Bidder ID Number</b>	<b>Scheme Proposal</b>	<b>Conditions of Offer</b>
<b>Bidder A</b>	29 No. 3 and 4 bed large family homes for sale	Clean offer, subject to planning.
<b>Bidder B</b>	31 No. 3 and 4 bed large family homes for sale	Clean offer, subject to planning.

4.1.9 Analysis of recent land sales in West Blackburn of similar development size and density highlights that Bidder A's offer represents a significant offer for the land and the Council will have achieved best value by disposing of the site for the offered amount.

4.1.10 Bidder A's offer represents the highest price and best value following full evaluation of conditions of offer. Bidder A also provided a good level of detail showing a scheme layout, house types, floor sizes, previous experience of high quality housing delivery and 'open space' proposals. Bidder A is an established, trusted local developer and has been active in the borough for many years.

4.1.11 For these reasons it is recommended that the Council accept the Bidder A offer and appoint them as preferred bidder. Bidder A has provisionally accepted the conditions of sale and draft Heads of Terms in the tender documentation.

The draft heads of terms are as follows:

**Vendor**

Blackburn with Darwen Borough Council

**Purchaser**

Bidder A

**Description**

Council owned land at Lomond Gardens (see attached plan Appendix A)

**Method of Disposal**

Freehold subject to planning approval

### **Development Timescale**

Still to be finalised but confirmed full build within the required 3 years

### **Costs**

The purchaser will be responsible for the payment of the Council's surveyor's fees and legal costs to a maximum a cap.

### **Risk**

The sale will be subject to planning approval, the developer plans to submit a planning application Spring 2020.

#### **4.1.12 Reserve Bidder**

Bidder B's offer represents a very competitive price following full evaluation of conditions of offer. Bidder B also provided a good level of detail showing a scheme layout, house types, floor sizes and 'open space' proposals.

4.1.13 For these reasons it is recommended that the Council appoint Bidder B as reserve bidder, allowing the Council to appoint Bidder B if negotiations cannot be concluded with Bidder A.

#### **4.2 Appropriation**

4.2.1 The Council can appropriate land for any purpose for which it is authorised to acquire land by agreement. The appropriation process is set out in section 122(1) of the Local Government Act 1972 (1972 Act).

4.2.2 The Council should only resolve to appropriate land for another purpose if it is satisfied that the land is not required for the purpose for which it is currently held. The former school playing field, has been declared surplus for redevelopment as it has not been used for this purpose since 1997. The land at Lomond Gardens site is included in the Council's Growth programme and has outline planning permission for up to 35 residential dwellings and so the proposed appropriation complements this permission and planning status. To expand on the process, which is stated briefly in the recommendations, any objection on the proposed appropriation will need to be formally considered by a subsequent formal decision. This will be in the form of an executive member approval.

4.2.3 The Council considers there could be a small chance of some informal private rights of way and other informal easements having accrued over time over the development site due to the site being 'open' for a considerable period. Where land is appropriated for planning purposes, the Council may rely upon the provisions of Section 203 of the Housing and Planning Act 2016. The Council has this statutory power to override easements or rights of way affecting land.

#### **4.3 Disposal of Open Space**

4.3.1 As the land at Lomond Gardens can be considered to have been reasonably open to the public for use, it considers that it is best to act cautiously and deem this site suitable as one to which ought to be considered as 'open space'. A proposed disposal of open space must follow on from the process provided for under section 123(2A) of the Local Government Act 1972. This requires the Council to advertise the proposal twice over two consecutive weeks in a newspaper circulating in the area in which the land is situated, erect site notices, and consider any objections to the proposed disposal which may be made to them..

4.3.2 It is recommended that the council delegates authority to the Director of Growth and Development, in consultation with the Executive Member for Finance and Governance and

Executive Member for Growth and Development, to consider any objections or comments raised to the proposed disposal of 'open space' at Lomond Gardens and if appropriate approve the proposed disposal of 'open space' at Lomond Gardens for the proposed housing development.

## 5. POLICY IMPLICATIONS

5.1 The disposal is in accordance with the Council's disposal policy and will meet the strategic aims of the Council's Growth Programme.

## 6. FINANCIAL IMPLICATIONS

6.1 A purchase price will be received from the transaction. This purchase price consists of; s106 contributions to be received by the Council, a contribution towards the capital programme at St Bede's RC High School and a capital receipt to be received by the Council.

6.2 The Council will also receive Council Tax income and New Homes Bonus for 29 homes.

6.3 Section 204 of the Housing and Planning Act 2016 provides that compensation will be payable to those parties whose interests have been affected by any appropriation.

This is generally based on a diminution of property value bases. The primary liability for the compensation is the party interfering with the right and the Council can decide to take on that limited risk or seek an indemnity from the successful bidder before enabling the development to proceed should appropriation be approved.

## 7. LEGAL IMPLICATIONS

7.1 The proposed development site has been owned by the Council or Lancashire County Council since 1967.

7.2 The National Planning Policy Framework has replaced the National Planning Policy on Housing (PPS3). However, requirements still remain with the Council to demonstrate the provision of an adequate mix of housing developments and setting of targets for affordable housing. As any future proposed disposal is likely to be for the freehold of the land, then various aspects of S123 of the Local Government Act 1972 ("the Act") are considered to apply.

7.3 Firstly, the Council should be seeking to achieve best consideration reasonably obtainable for the site, unless the Council can apply the exemptions permitted by Government Circular. Although the Council has a general power of competence pursuant to s1 of the Localism Act 2011 to do anything that individuals can legally do, the Local Government Act 1972 and General Disposal Consent (England) 2003 to seek Best Consideration still applies and so this must be minded when the Council makes any decision to sell via any process, including an informal tender process.

7.4 Secondly, to the extent that the land to be disposed of is considered to be "open space" then s123 (2A) of the Act shall apply. This requires the Council to advertise the proposal twice over two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.

7.5 "open space" is defined in section 336(1) of the Town and Country Planning Act 1990 as: "means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground" (emphasis added). The conclusion in the body of the report that

much of the site is reasonably likely to fall into that category to the extent that it would be prudent for the Council to treat it as such. While there is case law on such matters, it may be sufficient to only look at the plain English language meaning of the phrase in this case.

7.6 Section 122(1) of the 1972 Act states: "Subject to the following provisions of this section, a principal Council may appropriate for any purpose for which the Council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by a Council by virtue of this sub-section shall be subject to the rights of other persons in, over or in respect of the land concerned."

7.7 This appropriation process is a helpful avenue for the Council where agreement cannot be reached or the beneficiaries of any (possible) rights are unknown. Section 203 authorises the overriding of any private rights affecting the use of land which is held for planning purposes where development is carried out in accordance with planning permission. The power extends not only to development by the local planning authority itself but also to any person authorised by that authority. The ability to interfere with these (possible) rights is important in the context of enabling any development to proceed. The power to override such rights does not prevent such rights being compensated.

7.8 Section 122(2) of the 1972 Act requires the Council, prior to any appropriation, to advertise the proposal twice over two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them.

7.9 The land off Old Gates Drive is subject to an electricity substation long lease and so any developer will have to adhere to such covenants under that lease.

7.10 For completeness, this land is considered to be informal open space because the all-weather pitch ceased to be used over 20 years ago, it is not considered that the ambit of guidance on disposal of former playing fields is at all applicable here.

## **8. RESOURCE IMPLICATIONS**

8.1 Existing staff resources will be provided from the Council's Growth, Property, Planning and Legal teams.

## **9. EQUALITY AND HEALTH IMPLICATIONS**

The Human Rights Act 1998 (HRA) has been in force since late 2000.

9.1 Provisions of the HRA which are relevant in relation to the proposed appropriation are:

(1) The European Convention on Human Rights (the Convention) is an international treaty signed under the auspices of the Council of Europe.

(2) The HRA still does not incorporate the Convention into UK law but what it does is to enable individuals to invoke Convention rights for certain purposes and for certain effects.

(3) The main article of the Convention which is of importance in circumstances where the Council is considering appropriating land is Article 1 of Protocol 1 – the protection of property.

(4) In appropriating land an authority must show that the appropriation is justified in the public interest.

9.2 Article 1 of Protocol 1 provides that:

- (1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions.
- (2) No one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law.
- (3) However, the above rules shall not prevent a State enforcing such laws as it deems necessary to control the use of property in accordance with the general interest.
- (4) The Council must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The right to compensation is a relevant factor in considering the balance.
- (5) With regard to Article 1 of Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the works particularly taking into account the fact that there is a legal right to compensation for the interference with rights arising from the appropriation.

9.3 In addition to the HRA, the Council is required to comply with the Equalities Act 2010. Section 149 of the Equalities Act 2010 requires the Council to have due regard to the need to:

- (1) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

9.4 The Council has carried out an equality impact analysis checklist. This first of all assessed from a relevance perspective whether a full impact assessment was needed. This assessment concluded that the proposed appropriation would not negatively impact on any particular group in a disproportionate way. As such no full assessment was required. The Council considers that it has complied with its duty under the Equalities Act 2010.

**Please select one of the options below.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision.

## 10. CONSULTATIONS

Stakeholder consultations have been undertaken during the Outline Planning process for the development and further statutory stakeholder consultation will be undertaken during the reserve matters/full planning process.

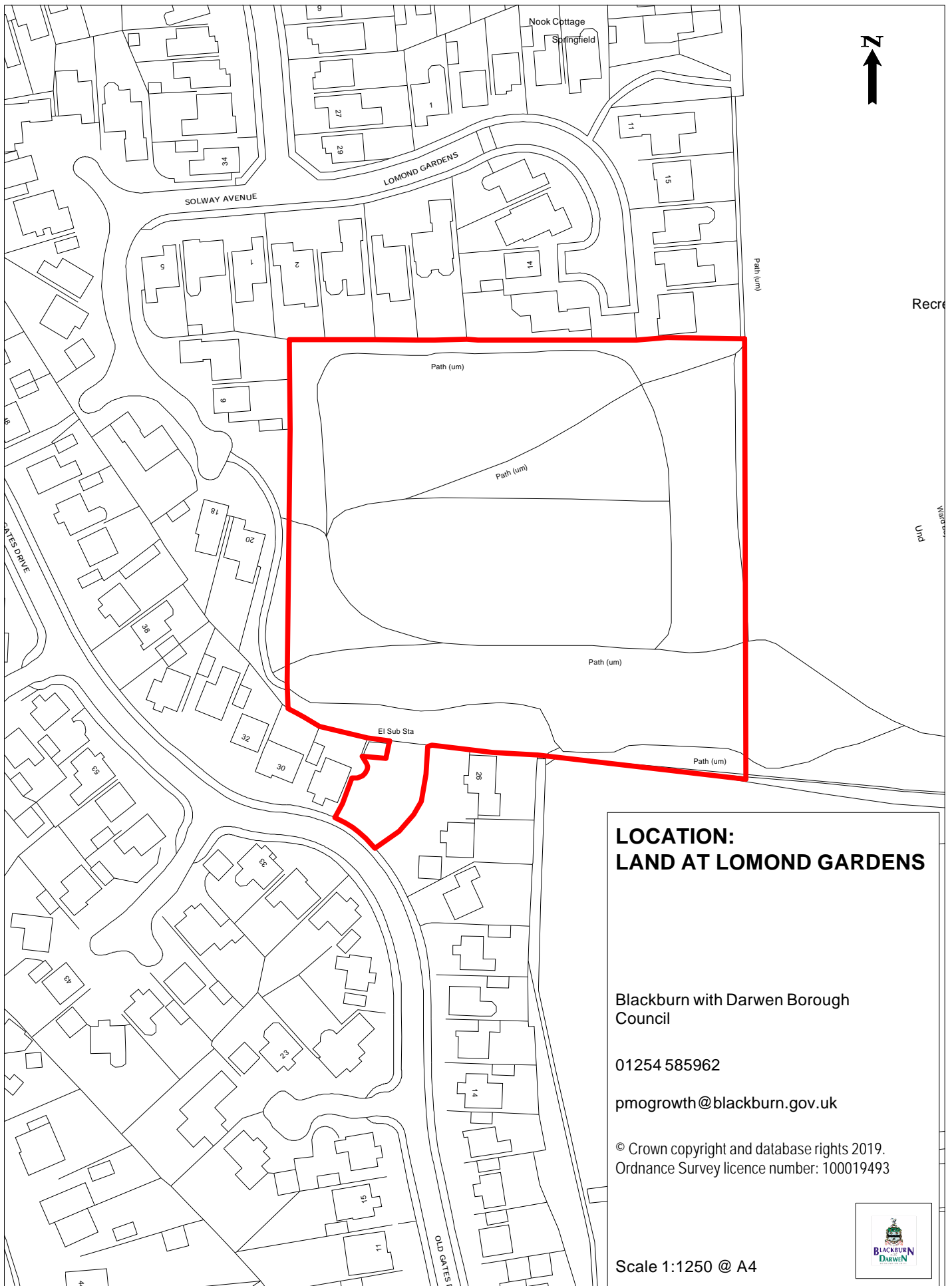
The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>CONTACT OFFICER:</b>	Simon Jones – Growth Programme Director
<b>DATE:</b>	13/02/2020
<b>BACKGROUND PAPER:</b>	Growth Programme 2019/20: Site Disposal & Development Projects – EBD March2019

# Appendix A - LAND AT LOMOND GARDENS COUNCIL OWNERSHIP PLAN



## LOCATION: LAND AT LOMOND GARDENS

Blackburn with Darwen Borough  
Council

01254 585962

[pmogrowth@blackburn.gov.uk](mailto:pmogrowth@blackburn.gov.uk)

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