

# Public Document Pack



## AYLESBURY VALE DISTRICT COUNCIL Democratic Services

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29 February 2016

### CABINET

A meeting of the **Cabinet** will be held at **6.30 pm** on **Tuesday 8 March 2016** in **The Olympic Room, Aylesbury Vale District Council, The Gateway, Gatehouse Road, Aylesbury, HP19 8FF**, when your attendance is requested.

**NOTE:** There will be an informal session starting at 6.15 pm to give Members the opportunity to comment on issues on the Agenda. The press and public may attend as observers.

**Membership:** Councillors: N Blake (Leader), S Bowles (Deputy Leader), J Blake, A Macpherson, H Mordue, C Paternoster and Sir Beville Stanier Bt

Contact Officer for meeting arrangements: Bill Ashton; [bashton@aylesburyvaledc.gov.uk](mailto:bashton@aylesburyvaledc.gov.uk);

### AGENDA

#### 1. APOLOGIES

#### 2. MINUTES (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting held on 9 February 2016, attached as an Appendix.

#### 3. DECLARATIONS OF INTEREST

Members to declare any interests.

#### 4. PRIVATE SECTOR HOUSING REGENERATION POLICY (Pages 5 - 30)

**Councillor Sir Beville Stanier Bt**  
**Cabinet Member for Environment and Waste**

To consider the information attached.

Contact Officer: Lindsey Hone: (01296) 585152

#### 5. WATERSIDE NORTH (Pages 31 - 36)

**Councillor Steve Bowles**  
**Deputy Leader and Cabinet Member for Economic Delivery**

To consider the information attached.

Contact Officer: Teresa Lane (01296) 585006

**6. EXCLUSION OF THE PUBLIC**

The following matter is for consideration by Members "In Committee". It will therefore be necessary to

RESOLVE –

That under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the Paragraph indicated in Part 1 of Schedule 12A of the Act: -

Item 7: Waterside North (Paragraph 3)

The public interest in maintaining the exemptions outweighs the public interest in disclosing the information because the report contains information relating to the financial or business affairs of organisations (including the Authority holding that information) and disclosure of commercially sensitive information would prejudice negotiations for contracts and land disposals/transactions.

**Restricted reports**

**7. WATERSIDE NORTH (Pages 37 - 38)**

**Councillor Steve Bowles**  
**Deputy Leader and Cabinet Member for Economic Delivery**

(Category – Paragraph 3 of Part 1)

To consider the information attached.

Contact Officer: Teresa Lane: (01296) 585006

## CABINET

held at Haddenham

9 FEBRUARY 2016

**PRESENT:** Councillor N Blake (Leader); Councillors S Bowles (Deputy Leader), J Blake, H Mordue, C Paternoster and Sir Beville Stanier Bt

**IN ATTENDANCE:** Councillors C Adams, M Edmonds and B Foster.

**APOLOGY:** Councillor Mrs Macpherson

### 1. MINUTES

RESOLVED –

That the Minutes of 11 January, 2016, be approved as a correct record.

### 2. PUBLIC QUESTION TIME

Prior to the commencement of the formal business of the meeting, the relevant Cabinet Member(s), and officer(s) responded to questions from members of the public. In the main, these revolved around the possible level of housing growth the Vale might have to accommodate generally and in particular that which Haddenham might be expected to accommodate.

A brief explanation of the process leading up to the formal adoption of the Vale of Aylesbury Plan was given, which included the “duty to co-operate” with other local authorities in identifying their unmet housing needs that might need to be accommodated within the Vale, the process for the review of land designated as green belt, and the weight accorded to neighbourhood plans within the context of determining site allocations within the District Plan. Members noted the concerns expressed by some individuals about a perceived lack of consultation about planning applications for sites outside of those identified within the neighbourhood plan and concerning community infrastructure provision which it was proposed would be funded by Planning Obligation Agreements (commonly referred to as Section 106 Agreements). Comments from some individuals about difficulties with interrogating the Council’s website in relation to both the Local Plan process and individual planning applications were also noted.

The Leader of the Council acknowledged that there might be a case for reviewing the parish/town council consultation arrangements and would ask officers to look into the possibilities. Overarching all else however, the audience was assured that AVDC took extremely seriously the interests of all stakeholders within the Vale within the context of the formulation of the Local Plan. In particular, it needed to be appreciated by local communities that in order to achieve Central Government’s aspirations for housing growth across the United Kingdom would involve AVDC in some very challenging and inevitably difficult discussions. Consultation was however considered to be a key factor in the process as a whole.

At the end of the public question session, a number of complimentary remarks were made about the Council’s refuse and recycling service, particularly the garden waste scheme.

### 3. CONTRACT PROCEDURE RULES

The Council's Contract Procedure Rules formed part of the Constitution. They regulated how contracts for the provision of supplies, services or the execution of works were procured on the Council's behalf. The aims of the Rules were to ensure:-

- Commitment to the principles of transparency, fairness, proportionality and equal treatment within the procurement process.
- Value for money and propriety in the spending of public money.
- That supplies, services and works were delivered effectively and efficiently without compromising the Council's ability to make strategic decisions.
- That the Council was not exposed to unnecessary risk or challenge arising from non-compliant procurement activity.
- Compliance with legislation and relevant guidance, including Procurement Policy Notes issued by Cabinet.
- The delivery of economic, environmental and social value through procurement.

The existing Rules were very detailed and officers using them had found them difficult to navigate and to locate the information that they needed. The Rules had been in use since 1 January, 2014, but were largely based on the Rules that had been in use since 2007. The Public Contracts Regulations 2015 had come into force on 26 February, 2015, which implemented the new EU Directive on Public Procurement. The Rules were clearly out of date and it was therefore appropriate to bring them into line with the new legislation and at the same time take the opportunity to make them much more user friendly. A draft revised set of Procurement Rules had been prepared and a copy was submitted. The new Rules no longer took the form of a Procurement manual, but rather provided the governance structure within which the Council would procure services, supplies and works.

A draft Procurement Code of Practice would be the process document behind the Rules and would provide a more detailed explanation of procurement best practice, procedures, processes, associated Council policies and required contract terms. A copy of the draft Code was also submitted. This would be a background document to the proposed new Rules and as such, would not form part of the Council's Constitution. The principal changes to the current Rules were as follows:-

- Revision of the EU Thresholds effective from 1 January, 2016:-
  - Supplies Contracts - £164,176 (previously £172,514)
  - Services Contracts - £164,176 (previously £172, 514)
  - Works Contracts - £4,104,394 (previously £4,322,012)
- A reduction in the number of pages from 128 to 18.
- Removal of the sections on preparing a contract.

- The sections on general principles and the procurement procedure had been reduced significantly.
- The section detailing the four broad procurement categories, by reference to the value or estimated value of the procurement had been removed and the key details had been inserted into a quick reference authorisations table at the end of the Rules.

It was reported that the Rules would be subject to an annual refresh to ensure the appropriateness of the financial thresholds, to take account of any changes required as a result of a change in the law and to ensure that all non-material changes were addressed. However it was proposed to introduce a speedy mechanism to enable minor changes that might be required from time to time to reflect changes in the Council's officer structure.

Having noted the intention to correct a number of minor typographical errors in the Rules and other minor changes for the purposes of clarification, before they were submitted to full Council for approval, it was,

RESOLVED –

- (1) That Council be recommended to approve the proposed revised Contract Procedure Rules as outlined in the Cabinet report for implementation with effect from 1 June, 2016.
- (2) That Council be recommended to give authority to the Director with responsibility for Finance, after consultation with the Cabinet Member for Finance, Resources and Compliance, to make any necessary changes to the Rules from time to time to reflect changes in officer operational arrangements.

#### **4. WOODLANDS PROJECT**

AVDC and Buckinghamshire County Council were joint promoters of the Woodlands Project in Aylesbury which was being taken forward as one of the Aylesbury Vale Advantage Legacy Board projects. The work on the initiative had to date been funded from the monies held by Aylesbury Vale Advantage when it existed as a "local Delivery Vehicle" (LDV). This had been initiated with funds received from the Government as part of the growth deal proposals and funding for the LDV.

The Aylesbury Vale Legacy Board had been established when the Aylesbury Vale Advantage Company had been expanded to become the Buckinghamshire Advantage Company. Those funds associated with Aylesbury Vale Advantage at the time of dissolution had been ring fenced for Aylesbury Vale related projects.

Woodlands had been the key project that the Aylesbury Vale Legacy Board had been progressing and this initiative had now reached a crucial stage in that additional funds were required to enable the project to be progressed to detailed planning stage. There were a number of on-going commercial and planning related matters concerning the application; in connection with Section 106 Agreements; reserved matters discharges; detailed design and on-going survey work. The work on these activities was being led by Buckinghamshire Advantage on behalf of the Aylesbury Vale Advantage Legacy Board.

Both this Council and Buckinghamshire County Council had each been asked to contribute £500K to help support the project going forward. This would be supported by

a legally binding funding agreement, which would detail any conditions about how the funds would be paid, and the repayment terms.

It was reported that in 2007, the Council had agreed that the funds received from the Local Authority Business Growth Incentive Scheme (LABGI) should be committed to projects that supported economic development and growth in the District. This fund had been used to help support a number of projects in the past, including the Enterprise and Innovation Centre in Aylesbury, the “Golden Welcome Scheme” and land purchase in Aylesbury Town Centre. The uncommitted balance of this fund stood at £534K and Cabinet agreed that £500K of this should be used to fund the next stages of the work associated with the Woodlands Project.

To assist with the consideration of this matter, Members received a copy of a report from Bucks Advantage on the project budget position, as referred to in the confidential section of the agenda. This commercially sensitive information included details of the key components of the work that needed to be taken forward.

RESOLVED –

- (1) That approval be given to the use of £500K of the remaining Local Authority Business Growth Investment (LABGI) funds to support the next stages of work relating to the Woodlands Project subject to a legally binding funding agreement being entered into securing repayment.
- (2) That the Director with responsibility for finance, after consultation with the Cabinet Member for Resources, Finance and Compliance be authorised to approve the details of the funding agreement for this investment.

**NOTE:** Councillor Bowles, as the Council’s representative on Bucks Advantage, declared a prejudicial interest and left the meeting whilst this matter was discussed.

## **5. EXCLUSION OF THE PUBLIC**

RESOLVED –

That under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the Paragraph indicated in Part 1 of Schedule 12A of the Act:-

Commercially sensitive financial information relating to the Woodlands Project (Paragraph 3).

The public interest in maintaining the exemption outweighed the public interest in disclosing the information because it contained details of the financial or business affairs of the organisations (including the Authority holding that information) and disclosure of commercially sensitive information would prejudice negotiations for contracts and land disposals or transactions.

## **6. WOODLANDS PROJECT**

In connection with the request for funding to support the Woodlands Project, Members received commercially sensitive information in relation to the financial position of Bucks Advantage.

## PRIVATE SECTOR HOUSING REGENERATION POLICY

### 1 Purpose

- 1.1 Under the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 Local Authorities can adopt policies that enable local discretionary spend of disabled facilities grants (DFG) budgets (in addition to the provision of the mandatory DFG scheme outlined in the Housing Grants, Construction and Regeneration Act 1996), as well as discretionary grant and loan schemes to regenerate private sector housing stock in their area.
- 1.2 This policy sets out the existing private sector housing grant and loan schemes currently offered by AVDC and suggests additional and alternative schemes that should be adopted to better enable regeneration of the private sector housing stock in the Vale. The policy focuses particularly on assisting target groups of residents including older people, disabled people, vulnerable groups (e.g. those on low incomes living in poor quality housing). It also suggests the provision of a landlord loan scheme to help improve conditions in rented private sector housing stock.

### 2 Recommendations

That members:

- 2.1 Note the contents of the Private Sector Housing Regeneration Policy
- 2.2 Agree a discretionary approach to the spend of DFG budget to widen the grant schemes that are available from solely Mandatory DFG to Mandatory DFG, Relocation Grants, Discretionary DFG top-up and Urgent Hospital Discharge Adaptations Grants
- 2.3 Agree the reallocation of £100,000 underspent capital budget to set up a landlord loan scheme in the Vale
- 2.4 Agree the set up of an Essential Repairs Grant (to replace Minor Works Grants) and the reallocation of £50,000 of capital budget spend towards this scheme.

### 3 Supporting information

- 3.1 National, regional and local policies and objectives provide AVDC and its partners with a broad strategic framework to work within. These include a focus on growth and investment in the private housing sector as key to increased choice, access and better standards.
- 3.2 Government advise that it is important that the private rented sector is seen as an attractive alternative to owner occupation and have recommended a number of measures to improve and develop the sector. These include simplifying the regulatory framework, raising standards by providing Councils with increased flexibility to enforce housing law, regulating agencies, longer tenancies and increased housing supply.
- 3.3 This policy focuses on the provision of grants and loans to support private sector housing regeneration. It is important to note that alongside this AVDC use enforcement powers under the Housing Act 2004 to raise standards in the private rented sector and deal with rogue landlords. AVDC also operates mandatory and additional licensing schemes for houses in multiple

occupation which aim to improve standards and protect vulnerable tenants living in this type of housing stock.

- 3.4 The Private Sector Housing Regeneration Policy sits below, and contributes to the objectives outlined within the AVDC Housing and Homelessness Strategy 2014-17. Private sector housing stock includes houses in private ownership and occupation as well as privately rented properties.

#### **4 Housing Profile**

The private sector housing sector plays a valuable role in the housing market in the Vale comprising of 61,500 of the 77,000 total dwellings in the Vale. At the time of the last stock condition survey in 2007 16.8% of private sector housing stock did not meet a 'decent' standard.

- 4.1 Poor housing conditions in the Vale are associated with households in social and economic disadvantage. This affects the ability of households to repair and improve their dwellings. At the time of the Survey 25.6% of all households living in non-decent housing were elderly. Economically vulnerable households accounted for 33.8% of all households living in non-decent housing. In the private rented sector 39% of vulnerable households were living in non-decent housing.
- 4.2 Aylesbury Vale has an aging population with increasing numbers of people living with a limiting long term illness or disability. At the last census in 2011 68,000 people in Buckinghamshire reported having a limiting long term illness or disability (an increase of 12.4% from the previous census).
- 4.3 There is a significant link between housing quality and health. Factors such as damp and mould, overcrowding and excess cold are associated with long term conditions such as heart disease, stroke, respiratory disease and mental illness as well as an increased risk of mortality.

#### **5 Regulatory Reform (Housing Assistance) (England and Wales) Order 2002**

- 5.1 To use these powers the Local Authority must adopt and publish a policy setting out how the powers will be used. The Housing and Homelessness Strategy 2014-17 and the Private Sector Housing Regeneration Policy fulfil this obligation. The Order contains important protections relating to the giving of assistance, whether it is given as a grant, loan or another form of help.
- 5.2 Currently AVDC offer the following private sector grant and loan assistance (these are outlined in more detail within the report at section 6):

- Minor works grant up to £2500
- Mandatory disabled facilities grant up to £30,000
- Empty Homes loan
- Flexible Home Improvement Loan (FHIL)

It is recommended that the Minor works Grant is replaced with an Essential Repairs Grant of up to £10,000. In addition the following grants and loans will be offered alongside the mandatory DFG, Empty Homes Loan and FHIL:

- Discretionary DFG top-up of up to £20,000
- Relocation Grant up to £30,000
- Urgent Hospital Discharge Adaptations Grant up to £10,000



- Landlord Loan Scheme up to £10,000

## **6 Resource implications**

- 6.1 The policy sets out the financial resources required. In summary DFG funding is provided jointly via the Better Care Fund at Buckinghamshire County Council and AVDC capital spend budgets.
- 6.2 Since 2011/12 there has been a year on year underspend of AVDC capital funds on mandatory DFGs. The reasons for this are not due to decreased demand (in fact there is an increasing demand for DFGs) and are in part due to the lack of flexibility AVDC currently has available to meet the differing needs of applicants and facilitate the spend of the budget.
- 6.3 In future years it is imperative that AVDC have flexibility and discretion within the grants process to facilitate budget spend and ensure that vulnerable tenants in private sector housing are able to access support. The policy sets out an increased range of discretionary grant and loan proposals to better meet the needs of those in relevant target groups. This will require the reallocation of some capital funding.
- 6.4 The introduction of additional discretionary grants alongside the mandatory DFG will increase the range of grant options available and allow AVDC to better tailor grant support to meet individual needs. It is proposed that mandatory DFG funds and AVDC capital funds allocated for DFG spend are maintained in one budget stream, funding mandatory DFGs, Discretionary DFG top-up, Relocation Grants and Hospital Discharge Urgent Adaptation Grants.
- 6.5 In order to provide a reasonable level of funding for the new Essential Repairs Grants it is proposed that in addition to the £30,000 budget previously allocated to Minor Repairs Works, £50,000 of the capital funding allocated to DFGs is reassigned to Essential Repairs Grants, increasing the total grant funding available to £80,000.
- 6.6 In addition it is proposed that the historical £100,000 capital fund underspend is used to establish a landlord's loan scheme.

Contact Officer	Lindsey Hone ext 5152
Background Documents	None

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## **Private Sector Housing Regeneration Policy – Aylesbury Vale**

### **1. Introduction**

- 1.1 The purpose of this policy document is to assist officers of the Council with the interpretation and implementation of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, Housing Act 2004 and Housing Grants, Construction and Regeneration Act 1996 so far as it relates to the improvement of private sector housing stock in Aylesbury Vale.

### **2. The Policy in Context**

- 2.1 National, regional and local policies and objectives provide AVDC and its partners with a broad strategic framework to work within. The key policies and objectives that have informed the draft of this policy are detailed below:

#### **2.2 Laying the Foundations: A Housing Strategy for England 2011**

This document provides a clear directive from Government on its approach and priorities on housing policy, focusing on the development of a thriving, active and stable housing market that supports choice, flexibility and affordable housing. The strategy outlines the link between housing and economic growth as well as health and well-being and states that the private rented sector is continuing to grow in both size and importance. The Government supports growth and investment in the private sector housing market and considers this key to increased choice, access and better standards in the sector. Alongside this it also supports tough enforcement against rogue landlords who do not provide adequate housing for their tenants.

#### **2.3 The Private Rented Sector – CLG Select Committee Report 2013**

This Select Committee report states that it is important that the private rented sector is seen as an attractive alternative to owner occupation and recommends a number of measures to support the growth and development of the private rented sector including:

- Simplify regulation – the provision of a more straightforward regulatory framework for the sector
- Raise standards – provide Councils with the flexibility required to enforce the law and raise standards particularly with regard to the licensing of landlords
- Regulate agencies – develop new regulation to deal with abuses by letting agents
- Longer tenancies – ensure that the market offers longer tenancies to those that need them, particularly families
- Increase supply – across all housing tenure types.

#### **2.4 Welfare Reform Act 2012**

The Act sets out a number of fundamental reforms to welfare provision which will impact on some households living in the private rented sector (see AVDC Housing and Homelessness Strategy 2014-17)

## **2.5 Localism Act 2011**

This Act enables Local Authorities to discharge their homelessness duty through an offer of accommodation in the private rented sector (see AVDC Housing and Homelessness Strategy 2014-17)

## **2.5 The Energy Act 2011**

The Energy Act introduced the Green Deal scheme. It also places an obligation on energy companies to help the poorest and most vulnerable households with saving energy. A range of energy efficiency measures are also introduced by the Act including smart meters, energy performance certificates and clearer energy bills (see Buckinghamshire County Fuel Poverty Strategy which aims to enable residents in Buckinghamshire to achieve affordable warmth). Aylesbury Vale District Council work with the National Energy Foundation (NEF) to provide an affordable warmth service for residents in the Vale.

## **2.6 The Housing Act 2004**

The Housing Act introduced powers to improve the management of the private rented sector through licensing, the return to use of long-term empty homes and to improve the health and safety of occupants in dwellings. Measures include:

### **The Housing Health & Safety Rating Scheme (HHSRS)**

The HHSRS is a risk rating tool used to assess the potential risks to the health and safety of occupants, potential occupants and visitors to a residential property. The system assesses 29 prescribed hazards within a property which are scored as either Category 1 (serious) hazards or Category 2 (less serious) hazards. Where a Category 1 hazard is identified in a property the Council has a legal duty to take action. The Council has discretion to take action on Category 2 hazards where appropriate to do so.

### **Licensing of Houses in Multiple Occupation (HMOs)**

The licensing of HMOs aims to raise standards in some of the highest risk residential properties where tenants are often most vulnerable. The two schemes in operation in Aylesbury Vale are:

- Mandatory licensing scheme – this is a national mandatory licensing scheme for some types of HMO.
- Additional licensing scheme – in 2015 an additional HMO licensing scheme was introduced in Aylesbury Vale which means that all houses in multiple occupation with 3 or more occupants require a licence from the Council. The scheme aims to improve standards across the private rented sector in the Vale and to ensure a supply of good quality, affordable housing in this tenure type.

## Empty Homes

This enables the Council to bring privately owned properties that have been empty long-term (over 6 months) back into use via enforcement measures such as Compulsory Purchase, Empty Dwelling Management Orders and Improvement Notices.

### 2.7 Housing Grants, Construction and Regeneration Act 1996

This Act provides for grants from local housing authorities to be made towards the cost of works required for the provision of facilities for disabled people.

### 2.8 Regulatory Reform (Housing Assistance) England and Wales Order 2002

The Order provides powers to Local Authorities to provide assistance to any person in their area for the purposes of acquiring living accommodation and adapting repairing or improving living accommodation.

## 3. Local Context

The Private Sector Housing Regeneration Policy sits within a corporate framework and below the Housing and Homelessness Strategy. It contributes towards meeting the objectives outlined within the strategy predominantly by maximising the use of private sector housing.

Corporate objectives	AVDC Housing and Homelessness Strategy 2014-17 objectives	Private Sector Housing Regeneration Policy objectives
To secure the economic, social and environmental wellbeing of the Vale.	Maximise the supply of affordable housing  Prevent and reduce homelessness  Maximise the use of private sector homes  Respond to the challenges of welfare reforms	Improve the quality of the private housing stock in the Vale  Positively impact the health and wellbeing of those living in non-decent private dwellings  Enable disabled people to live independent, healthy lives for longer  Reduce the number of long term empty properties in the Vale  Actively tackle rogue landlords

#### 4. Housing Profile

- 4.1 Private sector housing stock includes houses in private ownership and occupation as well as privately rented properties. The private housing sector plays a valuable role in the housing market in the Vale with the majority of properties in owner occupation. Generally housing conditions in the Vale compare favourably to the national picture.
- 4.2 Aylesbury Vale, along with the rest of Buckinghamshire, has an aging population. At the last census in 2011 68,000 people in Buckinghamshire reported having a limiting long term illness or disability (an increase of 12.4% from the previous census). The number of people with long term health conditions is likely to continue to increase with the aging population in Buckinghamshire (Director of Public Health for Buckinghamshire Annual Report 2012/13). There is a significant link between housing quality and health. Factors such as damp and mould, overcrowding and excess cold are associated with long term conditions such as heart disease, stroke, respiratory disease and mental illness, as well as an increased risk of mortality. People living in poor quality housing are more likely to suffer with poor health than those people living in good quality housing. Overcrowded households can encourage the spread of certain medical conditions, such as tuberculosis. Households without central, or other adequate heating, can suffer from damp and mould growth, which can lead to respiratory problems. Poorly heated households can suffer from excess cold, which in turn can increase the likelihood of premature mortality ('a ward level analysis of the housing and health profiles of Aylesbury Vale', Feb 2015).
- 4.3 Periodically the Council carries out a stock condition survey of private sector housing stock. The last Private Sector Housing Condition Survey was carried out in 2007 and at this time private sector housing stock in the Vale numbered 61,500 dwellings (the total number of dwellings in the Vale as of 31/03/2015 was 77,000).
- 4.4 Of these 16.8% (10,355 dwellings) did not meet satisfactory of 'decent' standards (Category 1 HHSRS hazards, failure to be in reasonable repair, failure to provide reasonable modern amenities, failure to provide effective insulation and/or efficient heating all are considered to be indicators of non-decent housing). Although this figure is well below the national average (37.5%) there remains a need to improve standards in this area
- 4.5 The Survey indicated that poor housing conditions in the Vale are associated with households in social and economic disadvantage. This affects the ability of households to repair and improve their dwellings. At the time of the Survey 25.6% of all households living in non-decent housing were elderly. Economically vulnerable households accounted for 33.8% of all households living in non-decent housing. In the private rented sector 39% of vulnerable households were living in non-decent housing.
- 4.6 At the time of the Survey 6,317 (10.9%) private sector households were living in fuel poverty (the equivalent national average at the time was 11.1%). However rates

were above average in some areas of the Vale, particularly in the private rented sector (14.4%) and for inter-war housing (21.2%).

## **5. Housing Assistance**

### **5.1 Housing Grants, Construction and Regeneration Act 1996**

This Act places a mandatory duty on the Local Housing Authority to provide grants to be made towards the cost of works required for the provision of facilities for disabled people. Disabled Facilities Grants (DFGs) are provided to adapt a home environment to restore or enable independent living for individuals with a disability. The maximum amount of grant funding that can be awarded under a mandatory DFG is currently £30,000.

### **5.2 Regulatory Reform (Housing Assistance) England and Wales Order 2002**

The Order provides powers to Local Authorities to provide assistance for housing renewal to any person in their area for the purposes of acquiring living accommodation and adapting repairing or improving living accommodation.

In order to use these powers the Local Authority must adopt and publish a policy setting out how the powers will be used. The Housing and Homelessness Strategy 2014-17 and the Private Sector Housing Regeneration Policy fulfil this obligation. The Order contains important protections relating to the giving of assistance, whether it is given as a grant, loan or another form of help. It requires that:

- authorities set out in writing the terms and conditions under which assistance is being given; and
- before giving any assistance the authority must be satisfied that the person has received appropriate advice or information about the extent and nature of any obligation (financial or otherwise) that they will be taking on; and
- before making a loan, or requiring repayment of a loan or grant, the authority must have regard to the person's ability to afford to make a contribution or repayment.

The discretionary spending powers within the Regulatory Reform Order 2002 can be used alongside the mandatory DFG framework to top up mandatory grants or to facilitate solutions that enable flexibility, quality and choice for the applicant to meet their specific needs.

### **5.3 Policy Priorities: Target groups**

Information from sources such as the Private Sector House Condition Survey 2007 and Public Health Buckinghamshire provide an evidence base for targeting housing assistance to particular groups within the community in Aylesbury Vale:

- Older people - older people are more likely to live in substandard and poorly heated homes, and can be vulnerable to home accidents including slips, trips and falls.

- Disabled people – discretionary housing assistance can provide a package of additional assistance measures outside of the mandatory DFG system which allows more flexibility based on the disabled persons needs
- Vulnerable groups – those on low incomes may not be able to carry out essential repairs to their properties resulting in impacts on their health and wellbeing. The HHSRS can be used to risk rate hazards in dwellings to determine where repairs are required to improve health outcomes.
- Landlords – housing assistance for landlords can be provided to help kick start improvements in standards in privately rented properties, benefitting vulnerable individuals and families.

#### **5.4 Working in Partnership**

AVDC currently operate a Staying Put service which assists DFG grant applicants with the spend of the grant by coordinating building works and assisting with the sourcing of contractors to carry out works. This is an optional service that a grant applicant can choose to take from AVDC. A fee of 15% of the total grant is charged for the Staying Put service. The benefit of this service is that applicants who may otherwise have struggled to organise works, benefit from timely adaptations made to their properties. The uptake of the Staying Put service in AVDC is high with 68% of grant applicants taking up the service in 2013/14 generating an income of £48,000 towards the cost of providing the service during this period.

Staying Put Officers also administer Flexible Home Improvement Loans and Minor Works Grants, providing financial advice and assistance to applicants.

AVDC jointly fund the National Energy Foundation to provide advice and assistance to residents in the Vale on energy efficiency measures and schemes available to residents, including those in fuel poverty. AVDC promote this through our website and via Officers who come into contact with residents in need of assistance in these areas.

AVDC are members of the Buckinghamshire Joint Housing Adaptations Group which brings together the District Councils, County Council (including adult and children services) and representatives from the Registered providers who operate in the Vale including VAHT.



## 6. Types of assistance currently offered

Currently the following forms of housing assistance are available to private owners and tenants within the Vale:

Tool	Key Outcome	Eligibility criteria	Conditions	Max £/case	Annual budget	Proposal
Minor repairs grant	Minor but essential repairs to make non-decent properties safer for occupants	Owner occupier in receipt of means tested state benefit, Aged 60+ or Under 60 with 1+ child under 10 years.	Interest free, land charge repayable if property sold within 5 years	£2500, Not more than £5000 in any 5 year period	£30,000	Discontinued and replaced by Essential Repairs Grant
Mandatory Disabled Facilities Grant (DFG)	Adaptations to enable independent living	Referral via County Council Social Services, Means tested contribution towards costs (adults only), Works must be necessary and appropriate to meet needs of disabled person, Works must be reasonable to age/condition of dwelling.	Part repayable within 10 years on sale of property (in some cases)	£30,000	£741,000 (£417K from Better Care Fund at BCC, £324K AVDC capital funding.	Retain alongside new additional discretionary grants
Empty Homes Loan	To facilitate the return of long-term empty homes to the housing market	Homeowner or person wishing to purchase an empty property, Property empty over 2 years, Owner can live in or let property.	Loan secured against property, Interest charged at 2% over base rate (capped at 7%, collared at 3.5%), Loan with interest repayable within 5 years or when the property is sold (if sooner)	£30,000	£240,000 (shared loan scheme pot with FHIL)	Retain

Flexible Home Improvement Loan (FHIL)	To help make the home safer, warmer or healthier during retirement	Aged 60+, Homeowner	Loan secured against property, Interest charged at The Bank of England base rate with a 'cap' and a 'collar' i.e. lowest interest rate is 3.5% and highest 7% , Loan repayable if home is sold or owners cease to occupy it (if sooner)	£30,000 (in majority of cases)		retain
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## 7. Additional housing assistance measures proposed

The existing housing assistance grants and loans will remain in place (other than the Minor Repairs Grant which shall be replaced with Essential repairs Grants as detailed below). To enable flexibility and the targeting of resources where they can be most effective there are a number of additional assistance proposals AVDC should consider adopting. These are detailed as follows:

<b>Tool</b>	<b>Key Outcome</b>	<b>Eligibility criteria</b>	<b>Conditions</b> (see appendix 1 for benefits eligibility information)	<b>Max £/case</b>	<b>Annual budget</b>
Essential Repairs Grant	Essential repairs to make a non-decent home safe, warm and watertight for vulnerable occupiers	Owner occupier in receipt of means tested state benefit  Must have owned property for minimum of 2 years  Category 1 HHSRS hazard or multiple Category 2 hazards identified that pose a risk to health	Interest free, land charge placed on property equivalent to level of assistance provided	£10,000,  Not more than £10,000 in any 5 year period	£80,000 (2016/17)
Landlord Loan Scheme	To provide incentives for landlords to improve standards for tenants in privately rented property.  Works to include fire protection, energy efficiency measures and works to address HHSRS category 1 and 2 hazards	Must be a landlord and the own property  Property must be tenanted and let, or available to let, for a period of 5 years from the date of the loan	Repaid if the Council carries out works in default or prosecutes the landlord within 5 years from the date of the loan  Loan secured against the property. Loan with interest repayable within 5 years or when the property is sold (if sooner)	£10,000  Not more than £10,000 in any 10 year period	£100,000 (2016/17)

Discretionary DFG top-up	Top-up to mandatory DFG where cost of work exceeds maximum grant	<p>Must be eligible for a mandatory DFG</p> <p>Where applicant is a child one parent must be in receipt of a means tested benefit.</p>	<p>Cost/benefit analysis of options available including relocation to a more suitable property</p> <p>Interest free, land charge placed on property equivalent to level of assistance provided, repayment, repayable within 10 years (in some cases) or when the property is sold (if sooner)</p>	£20,000	£691,000 (2016/17 budgets TBC)
Relocation Grant	Financial assistance for disabled people towards the costs of relocation to a more suitable home	<p>Must be eligible for a mandatory DFG</p> <p>OT report that new home is suitable to meet needs of disabled person</p> <p>Council must deem rehousing as most suitable and cost-effective option</p>	Interest free, land charge placed on property equivalent to level of assistance provided, repayment, repayable within 10 years (in some cases) or when the property is sold (if sooner)	£30,000	
Hospital Discharge Urgent Adaptations Grant	Financial assistance to carry out urgent adaptations to a home to facilitate hospital discharge	<p>Owner occupier or private tenant in receipt of means tested state benefit. Where applicant is a child one parent must be in receipt of a means tested benefit.</p> <p>Must be in hospital at time of referral and awaiting discharge</p>	Property must be occupied on a permanent basis by applicant	£10,000	

		Referral from hospital OT advising of needs			
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Note: Appendix 2: provides more detail on the purpose, eligibility criteria and conditions of the above grants and loans. This information is an illustrative guide only and may be subject to change following legal consultation and prior to the production of procedural documents for the individual grants and loans.

## 8. Financial resources

8.1 Mandatory DFGs for occupiers other than those in VAHT properties (and some other Registered Providers) are currently jointly funded via the Better Care Fund budget at Buckinghamshire County Council and from AVDC Capital budgets. The statutory duty to deliver adaptations rests with the District Council with finance allocation determined by the County Council year on year (until 2014/15 funding was allocated for DFGs by DCLG). As part of the stock transfer agreement between AVDC and the VAHT, VAHT pledged to take on responsibility for the provision and financial resources required to deliver adaptations in their housing stock. VAHT are required to meet the cost of up to £400,000 worth of disabled adaptations within their properties per annum up to 2036.

8.2 The maximum amount of mandatory DFG grant that can be provided was increased from £25,000 to £30,000 in May 2008 and has not increased since. As a result mandatory DFG funding levels have not kept pace with inflation and the increasing costs of building works. This means that the scope of works that fall within the mandatory £30,000 DFG limit has decreased over time with a number of adaptations each year costing well over this amount. At the moment the cost of any works over the mandatory DFG limit has to be covered by the applicant through additional lending (if they are able to obtain this) and occasionally via charity funding.

8.3 In recent years AVDC has struggled to spend the funding allocation available for DFGs, ending 2014/15 with £125,000 of underspend. This has been a trend year on year. In previous years where VAHT have had a waiting list for adaptations AVDC have provided additional payment allocation. It is worth noting that VAHT provide an annual allocation as per the Stock Transfer Agreement that equates to around £50 per VAHT dwelling to provide disabled adaptations in comparison to the £11 per dwelling that AVDC have available to provide adaptations in non-VAHT properties (note: some other Registered Providers also contribute towards the cost of adaptation works in their properties though not to the same scale).

<b>Year</b>	<b>Underspend</b>	<b>Additional allocation to VAHT</b>
2011/12	£89,100	
2012/13	£182,800	£85,600
2013/14	nil	£93,900
2014/15	£125,000	

8.4 This year on year underspend is not because of reduced demand, in fact there is a growing need within the community associated with an aging population and an increase in the number of people living with long-term health conditions. This is reflected within the recent Better Care Fund policy statement which indicates that the national allocation for DFGs is set to double in 2016/17 (although details of local authority allocations are yet to be announced).

- 8.5 In recent years the underspend at AVDC has been a result of historical delays in the referral system from Adult Social Services at the County Council. In 2014/15 additional resources were brought in by Buckinghamshire County Council to address this and it has now been largely resolved. The underspend can also be attributed to a lack of flexibility within the current system to adequately meet the range of needs and scope of works required within the private housing stock. Work is also currently underway to review DFG provision and services across Buckinghamshire with a view to improving the end-to-end service for the client to speed up the referral, application and approval process.
- 8.6 Looking at current and projected spend for 2015/16 it is anticipated that at the end of the financial period there will be capital funds remaining to the value of £100,000. In future years it is imperative that AVDC have flexibility and discretion within the grants process to facilitate budget spend and ensure that vulnerable tenants in private sector housing are able to access support.
- 8.7 The introduction of additional discretionary grants alongside the mandatory DFG will increase the range of grant options available and allow AVDC to better tailor grant support to meet individual needs. It is proposed that mandatory DFG funds and AVDC capital funds allocated for DFG spend are maintained in one budget stream, funding mandatory DFGs, Discretionary DFG top-up, Relocation Grants and Hospital Discharge Urgent Adaptation Grants.
- 8.8 In addition it is proposed that the historical £100,000 capital fund underspend is used to establish a landlords loan scheme. The Council already work with a Flexible Home Improvement Loans company (FHIL) who were set up in 2007 initially with a loan from Central Government. FHIL is a not-for-profit company 100% owned and controlled by its 17 local authority members, of which AVDC is one. Since the scheme started, loan repayments (regular direct debits, irregular payments and redemptions) have continued to increase and in the last financial year £968,289 was repaid, bringing the total repayment up to £2.8 million which has been recycled as further loans. By the end of the 2014/2015 financial year the total Flexible Home Improvement Loan offers made had topped £10 million. FHIL have advised that they already have a rented property loan scheme established which could be adapted to meet AVDC requirements. Any funds allocated to establish a Landlords Loan scheme would be ring fenced for this purpose in the Vale.
- 8.9 The funding level previously allocated to Minor Works Grants was £2500. This level of grant was set in 2004 and has not been reviewed since this date. As a result it is common for officers to award two Minor Repairs Grants at the same time (2 can be awarded within a 5 year period) in order to fund the cost of necessary works. Given inflationary increases and increases in costs within the building trade this level of grant funding is insufficient to fund most work schemes.
- 8.10 In order to provide a reasonable level of funding for the new Essential Repairs Grants it is proposed that in addition to the £30,000 budget previously allocated to Minor Repairs Works, £50,000 of the capital funding allocated to DFGs is reassigned to Essential Repairs Grants, increasing the total grant funding available

to £80,000. The level of demand and funding allocation for Essential Repairs Grants will be reviewed towards the end of the 2016/17 period to determine whether this is an effective use of funding and is benefiting those living in private sector housing in poor repair.

8.11 The provision of the range of grants and loans specified above will continue to benefit disabled people, the elderly and vulnerable households on low incomes, thus meeting the objectives within this policy.

## **9. Administration**

### **9.1 Publicity**

Information on private sector housing grant and loan assistance is provided via our website including information on how to apply for a grant or loan. Once adopted the website will be updated to reflect our new offering. Information provided will include:

- the process to be used to apply for assistance, including any preliminary enquiry system;
- how persons can obtain access to the process of applying for assistance;
- details of conditions that will apply to the provision of assistance, how conditions will be enforced and in what circumstances they may be waived;
- advice that is available, including financial advice, to assist persons wishing to enquire about, and apply for, assistance;

### **9.2 Implementation**

If approved the grants and loans specified within this policy would be implemented in the 2015/16 period following legal consultation and the draft of procedural documents.

### **9.3 Monitoring and review**

Spend against budget allocation is monitored on a monthly basis. There will be a need to review the implementation of all new grants and loans in terms of effectiveness, uptake and spend. However particular regard will need to be given to the Essential Repairs Grant and Landlord Loan Scheme within the first year of implementation in order to consider and determine appropriate funding levels for the following year in relation to demand and outcomes.

Lindsey Hone  
21<sup>st</sup> January 2016.



## Appendix 1: List of benefits indicating eligibility for Essential Repairs Grants

*Note: The benefits specified below indicate eligibility at the time of draft of this report. Given that the welfare system is undergoing a period of transformation it is proposed that these will be subject to change and will be replaced as and when necessary with different benefits indicating eligibility . This change will not be subject to Cabinet approval. However a full and up to date list of benefits indicating eligibility will be available on the AVDC website.*

Guaranteed pension credit
Universal credit
Income based job seekers allowance
Income based employment and support allowance
Working tax credit and/or child tax credit where annual income for the purposes of the tax credit assessment was below £15,276

## List of benefits indicating eligibility for Discretionary DFG Top-up and Hospital Discharge Urgent Adaptations Grant

Guaranteed pension credit
Universal credit
Income based job seekers allowance
Income based employment and support allowance
Working tax credit and/or child tax credit where annual income for the purposes of the tax credit assessment was below £15,276
Council tax rebate

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## **Appendix 2: Summary of grant/loan purpose, eligibility criteria and conditions**

*Note: This information is an illustrative guide only and may be subject to change following legal consultation and prior to the production of procedural documentation for the individual grants and loans below.*

### **1. Essential Repairs Grant**

#### ***Purpose***

To provide essential repairs to make a non-decent home safer for vulnerable occupants. The maximum level of funding available is £10,000.

#### ***Applicant eligibility***

- The applicant must not be eligible for a Flexible Home Improvement Loan
- Available for homeowners in receipt of a means tested benefit specified in appendix 1. Where a property is jointly owned all parties must meet this financial criteria.
- Applicants must have owned their property for a minimum of 2 years at the time of application.
- The property must be occupied on a permanent basis by the applicant and their family.
- An HHSRS rating of the property must identify a category 1 hazard or multiple category 2 hazards that pose a risk to health
- Eligible works to address Category 1 and/or 2 hazards must be carried out within 12 months of the date of approval
- For work up to £10,000 two quotes are to be obtained by the Client and supplied to the Council. The Council will award funding equivalent to the cheapest quote provided.
- The payment of the grant funding will not be made until the work has been completed in a satisfactory manner and the Council is provided with an appropriate invoice.
- Payment will be made to the homeowner. It is the homeowner's responsibility to pay contractors for any works carried out to the property.

#### ***Eligible works***

Works deemed as necessary to remedy Category 1 and/or Category 2 hazards under the HHSRS to make the property safe, warm and watertight.

#### ***Conditions***

A legal land charge will be placed on the property equivalent to the assistance level provided. This must be repaid in full if the property is sold or the owner ceases to occupy the property.

The maximum amount of funding that can be provided within any 5 year period is £10,000.

## **2. Discretionary DFG top-up**

### ***Purpose***

To top-up the Mandatory DFG where the cost of essential works exceeds the maximum grant. The maximum level of discretionary DFG top-up available is £20,000.

### ***Applicant eligibility***

- Where a mandatory DFG has been approved and the cost of the necessary works exceeds the maximum grant level then the Council will use the following method to assess eligibility:

Assess the applicant's ability to afford the excess over the mandatory grant amount by carrying out a means test of their resources (see Appendix 1). This will include a means test of the resources of parents of disabled children applying for discretionary DFG top-up funding.

- Where the applicant is a tenant in a Registered Provider property no discretionary DFG top-up funding will be provided.
- A cost benefits analysis of the options available including moving to a more suitable property must be carried out

### ***Eligible works***

Works that have received approval for a mandatory DFG and that exceed the maximum grant funding

### ***Conditions***

Where the applicant is an owner occupier a legal land charge will be placed on the property equivalent to the assistance level provided. This must be repaid in full if the property is sold or the owner ceases to occupy the property within 10 years of the grant being provided.

Payment of the discretionary top-up will be made when works that were deemed necessary by the OT to meet the disabled persons needs have been completed and signed off by a Building Control officer and this has been provided to the Council.

## **3. Relocation Grant**

### ***Background***

On occasion a disabled person's property cannot be adapted, or the best option for a disabled person is to move rather than adapt the existing property. However some applicants are unable to do this as they have no means of funding the costs of moving house. At present the Council have no means available to assist with these costs.

### ***Purpose***

To provide financial assistance to applicants (who are eligible for a mandatory grant) to relocate to a more suitable home. The maximum relocation grant would be £30,000.

### ***Applicant eligibility***

- Applicant must be a disabled person who would be eligible for a mandatory disabled facilities grant
- The applicant must obtain an OT report for the Council that advises that the new home is suitable to fully meet (or have the potential to meet) the needs of the disabled person and their family
- Rehousing must be deemed to be the most suitable and cost effective option by both the OT and the Council.
- In some cases valuations of the new home and the old home may be required.

### ***Eligible Works***

The necessary additional cost of acquiring housing suitable to meet the needs of the disabled person (difference between the sale price of the old home and the purchase price of the new home).

Legal fees incurred by the applicant in connection with the sale and purchase of their home

Stamp duty on the cost of the new home

Necessary and appropriate estate agent, home improvement agency and survey fees and any other professional fees as approved by the Council

Removal costs

Adaptation costs to make the new home suitable for the disabled person as recommended by an OTs report to the Council

### ***Conditions***

Where the applicant is an owner occupier a legal land charge will be placed on the property equivalent to the assistance level provided. This must be repaid in full if the property is sold or the owner ceases to occupy the property within 10 years of the grant being provided.

Payment of the relocation grant will be made on completion following the submission of appropriate evidence to the Council e.g. invoices, estimates.

## **4. Landlord Loan Scheme**

### ***Purpose***

To provide incentives for landlords to improve the condition and standards within privately rented sector property in the Vale and increase the supply of privately rented properties available on the market. Improvements could include fire protection and means of escape

measures, energy efficiency measures and measures to address category 1 or multiple Category 2 hazards under the HHSRS scheme (as determined by the Council).

### ***Applicant eligibility***

Applicant must be a landlord and own the property

The property must be tenanted and let or available to let for a period of 5 years from the date of the payment of the loan

### ***Eligible works***

- Improvements to HMOs for exiting kitchen and bathroom facilities and fire precaution/escape works where they are statutorily required
- Installing or replacing central heating systems
- Energy efficiency works to insulate lofts, hot water tanks, pipes, cavity walls and other works as appropriate
- Bringing a property up to a reasonable state of repair – no Category 1 hazards present
- Home safety and security measures

### ***Conditions***

Should the Council carry out works in default or the landlord be prosecuted for non-compliance with legal requirements at the property within 5 years from the date of the payment of the loan then the loan must be repaid immediately.

The loan will be secured against the property and must be repaid in full within 5 years, or if the property is sold or the owner dies or goes into long-term residential care, whichever is the sooner.

One loan can be made per property every 10 years

## **5. Hospital Discharge Urgent Adaptations Grant**

### ***Background***

In some cases discharge from hospital can be delayed because an individual's home is no longer accessible. Hospital Occupational Therapists (OT) report that this is primarily because the individual cannot gain access or egress to or from the property or because they are unable to climb stairs to access a WC. Delayed discharge from hospital results in bed-blocking and significant costs to the NHS as well as delaying an individual's return to their home environment.

### ***Purpose***

To provide financial assistance of up to £10,000 to applicants to carry out urgent adaptations (ramp and/or stair lift) to their home to facilitate hospital discharge. Any subsequent non-

urgent adaptations e.g. access to washing facilities, would be processed via the mandatory DFG process on discharge from hospital.

### ***Applicant Eligibility***

- Applicant must be in hospital at the time of referral and awaiting discharge.
- Available for owner occupiers and private rented sector tenants who are in receipt of a means tested benefit specified in appendix 1. Where the applicant is child, one parent must be in receipt of a means tested benefit.

### ***Eligible Works***

Urgent adaptation works to the property to facilitate safe access and egress to and from the property and access between levels within the property.

### ***Conditions***

Application must be accompanied by a referral from a hospital OT advising of the urgent adaptations that are required to the home to facilitate discharge.

That the property is occupied on a permanent basis by the applicant and their family

Payment of the grant will be made when works that were deemed necessary by the OT to meet the individuals needs have been completed and evidence of this provided to the Council.

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## **WATERSIDE NORTH PHASE 1 – APPROPRIATION OF LAND FROM CAR PARK TO PLANNING PURPOSES**

Teresa Lane  
Head of Commercial Property  
and Regeneration

**Cllr Steve Bowles, Deputy Leader and Cabinet Member for Economic Delivery**

### **1 Purpose**

- 1.1 Cabinet is asked to consider the appropriation of the land at Waterside North Phase 1 from its existing car parking use to use for town planning purposes to enable phase 1 of the Waterside North mixed-use scheme to proceed.
- 1.2 The purpose of the appropriation, which is made pursuant to Section 122 Local Government Act 1972, is to engage Section 237 Town and Country Planning Act 1990, which converts any third party rights, which might otherwise inhibit redevelopment, into a right to compensation which the Council would then required to meet. A plan of the land to be appropriated is attached to this report as Appendix A and marked in red (“the Land”).
- 1.3 The report also highlights the outcome of an independently commissioned Rights Of Light survey and how any claims should be dealt with.

### **2 Recommendations for decision**

- 2.1 That pursuant to Section 122 Local Government Act 1972 (as amended), Cabinet authorises with immediate effect, the appropriation of the land shown edged red on the attached Appendix from its existing use as a temporary car park and purposes associated therewith to use for town planning purposes to facilitate its redevelopment to provide a mixed-use scheme of up to five new café/restaurant units on the ground floor, with apartment accommodation on three levels above and improvements to the public realm in accordance with an Outline Planning Permission granted February 2015 under reference 14/1794/AOP or any other planning permission varying or replacing the same.
- 2.2 That Cabinet notes the position with regard to Right of Lights survey set out in the confidential part of the report.

### **3 Supporting information**

- 3.1 Following a successful public consultation of in summer 2014, outline planning permission was granted (ref:14/01794/AOP) for the redevelopment of land within its ownership at Exchange Street car park to provide a mixed use scheme of up to five new café/restaurant units on the ground floor, with apartment accommodation on three levels above and a new public square.
- 3.2 Following a tender exercise to find a development partner for the delivery of Phase 1 of the Waterside North Scheme, and at its meeting on 2 December 2015, full Council approved the recommendation of Cabinet to appoint Durkan as its development partner to build out the scheme and to take a 150 year ground lease of the residential element on completion of the redevelopment.

- 3.3 The land, which currently remains within the Council's ownership, is being taken out of its existing use as a temporary car park and its proposed redevelopment will promote and improve the economic, social and environmental well being of Aylesbury town centre.
- 3.4 However, there are third party rights affecting the land which, if the land is not appropriated for planning purposes, might otherwise inhibit the carrying out of the proposed redevelopment. A detailed examination of the Council's titles has been carried out to identify third party rights so far as these are documented. A physical examination has also been carried out to identify any subsisting third party rights which may not have been documented. A Rights of Light Survey has also been carried out, details of which are set out in the confidential part of the report.
- 3.5 Notwithstanding the appropriation, officers will continue to take all possible steps to identify all third party rights affected by the appropriation and seek negotiated solutions which, so far as is reasonably possible, will minimise any detriment to the enjoyment of any affected properties.

### **Legal Issues**

- 4.1 Section 122 Local Government Act 1972 enables a principal council to appropriate for any other authorised purpose any land which belongs to the Council and is no longer required for the purpose for which it was previously held.
- 4.2 Section 237 Town and Country Planning Act 1990 (as amended) (Power to override easements and other rights), states that the carrying out of building work or use of land which has been acquired or appropriated by a local authority for planning purposes, is authorised if it is done in accordance with a planning permission notwithstanding that it involves interference with any third party right (other than rights belonging to public utilities)
- 4.3 Because the unilateral extinguishment of third party rights engages the First Protocol of the Human Rights Convention (no-one shall be deprived of his possession except in the public interest), and Article 8 to the Convention (the right to respect for private and family life, home and correspondence), Cabinet is required by the Human Rights Act 1998 to have appropriate regard to those implications in any decision to appropriate. In this case it is not considered that the extinguishment of these third party rights will affect anyone's enjoyment of their home and that any extinguishment of other third party rights can be adequately compensated in financial terms.

### **Financial Implications**

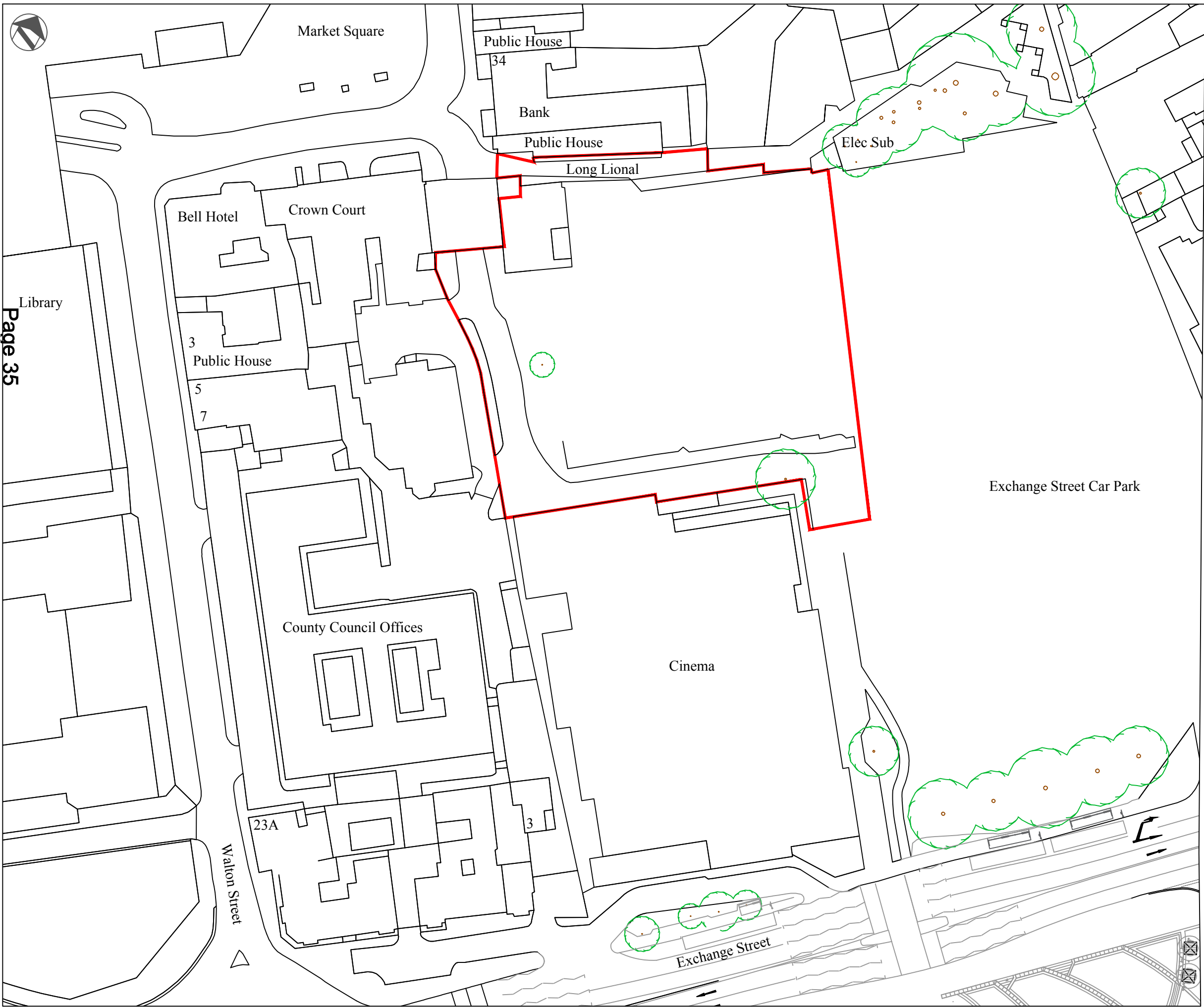
- 5.1 Engagement of Section 237 Town and Planning Act 1990 following appropriation of the Land to planning under Section 122 Local Government Act 1972, involves the Council in potential liability to financially compensate any third party suffering actual loss as a result of the extinguishment of their rights. Such compensation will be assessed by the Upper Tribunal Lands Chamber if not agreed.

### **Resource implications**

5.2 There are no known resource implications arising from the appropriation.

Contact Officer	Teresa Lane
Background Documents	Rights of Light Assessment dated 19 January 2016, prepared by Rights of Light Consulting Chartered Surveyors Report to Council 2 December 2015

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ENGINEERS

Revision	Date

Key

	Site Area
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**Project.** Waterside North  
Development Site  
Exchange Street, Aylesbury

**Title.** Appropriation Plan (A3) Scale.  
1/500  
Date.  
Feb 15

**No.** CW/Legal Drawn By.  
SEW  
Chkd By.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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