

Public Document Pack

Southend-on-Sea Borough Council

Legal & Democratic Services

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21 February 2020

Dear Councillor,

CABINET - TUESDAY, 25TH FEBRUARY, 2020 SUPPLEMENTARY PACK 2: AGENDA ITEMS 4, 6 AND 10

Please find enclosed, for consideration at the next meeting of the Cabinet taking place on Tuesday, 25th February, 2020, the following report(s) that were unavailable when the agenda was printed.

Agenda Item No

4. **Housing and Regeneration Pipeline, Including Acquisitions Programme - Update (Pages 1 - 16)**

Report of FIELD_AUTHOR
Report of Deputy Chief Executive and Executive Director (Growth and Housing) – to follow
6. **Footway Resurfacing Policy Change (Pages 17 - 30)**

Report of FIELD_AUTHOR
Report of Executive Director (Neighbourhoods and Environment) – to follow
10. **Southend Adult Community College - Governance Arrangements (Pages 31 - 52)**

Report of FIELD_AUTHOR
Report of Deputy Chief Executive and Executive Director (Growth and Housing) – to follow

Robert Harris
Principal Democratic Services Officer

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Southend-on-Sea Borough Council

**Report of Executive Director (Finance and Resources)
and Deputy Chief Executive and Executive Director
(Housing and Growth)**

**To
Cabinet**

**On
25th February 2020**

Report prepared by:
Alan Richards – Director of Property & Commercial
Tim Holland – Interim Head of Housing Supply

**Agenda
Item
No
4**

Housing and Development Pipeline Update

Policy and Resources Scrutiny Committee

Cabinet Members: Councillor Ian Gilbert and Councillor Ron Woodley

Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 To update members on the work underway on the pipeline of housing and development opportunities across the borough.
- 1.2 To present the proposed new arrangements for PSP Southend Limited Liability Partnership (the LLP), including the use of the PSP Housing Model to support housing delivery and support wider benefits.

2. Recommendations

- 2.1 To note progress on the Acquisitions Programme for Council Housing as set out in sections 3.5 – 3.9 of this report.
- 2.2 To note the progress of the first phase of housing and development pipeline sites currently in delivery as set out in sections 3.10 – 3.13 of this report.
- 2.3 To note that the new arrangements for the LLP have been settled and the legal work is being completed to establish the new arrangements pursuant to minute 324 of Cabinet 17 September 2019 and Policy and Resources Scrutiny minute 404 on 10 October 2019.
- 2.4 To agree the proposed new arrangements for the LLP including:
 - (i) The updated aims and objectives for the LLP for 2020-2030 as set out in sections 3.13 to 3.34 of this report, including the housing model

(ii) Establishing the new Procedure Agreement and Members Agreement between PSP Facilitating Limited (1), Southend on Sea Borough Council (2) and the LLP (3) and delegating authority to the Executive Director Legal and Democratic Services to finalise and complete the Agreement.

(iii) Delegating authority to the Chief Executive to:

- a. Appoint the Council representatives to the LLP Partnership Board
- b. Appoint the members of the Partnership Board and the Partnership Executives

Including dealing with any future changes to such appointments.

(iv) Delegating authority to the Partnership Board:

- a) To agree the re-branding of the LLP (creation of a new trading name).
- b) The commitment (on behalf of the Council) to funds for feasibility and project delivery within budgets already approved for housing and development delivery.
- c) Following a Cabinet decision to opt land in to the LLP for the delivery of agreed objectives, to progress the development of the land through the LLP in accordance with the objectives for that land subject to each project clearing the required financial and legal due diligence tests.

(v) Delegating authority to the Director of Property & Commercial to request that the LLP consider initial feasibility of sites following their appraisal through the development pipeline process (noting that Cabinet approval will be required prior to any site being legally opted in to the LLP for delivery).

(vi) That any necessary amendments be made to the Constitution to reflect the recommendations in 2.4 above.

(vii) That Councillors note that the matters identified in Appendix 1 to this report are matters which will be reserved for Shareholder Board.

2.5 That subject to Council approval, members agree to identify an initial budget of £5 million in the Capital Programme for the delivery of housing through the LLP and delegate authority to the Executive Director Finance and Resources to finalise the terms and make loans to the LLP within the allocated budget to enable delivery of development in accordance with the principles of the PSP Housing Model and subject to any schemes delivering an appropriate and sustainable return on investment.

3. Background - General

- 3.1 On 25th June 2019 Cabinet resolved to progress with a regeneration framework, develop a pipeline of housing and regeneration projects and proceed with the Acquisitions Programme for Council Housing.
- 3.2 On 17th September 2019 and 5th November, Cabinet noted the progress of both the regeneration framework and the Acquisitions of Programme for Council Housing.
- 3.3 On 17 September 2019, Cabinet also agreed to the re-branding of PSP Southend LLP and to updating related governance arrangements. Agreement was also reached for the Ilfracombe Avenue site to be delivered under the PSP Housing model and for PSP Southend LLP to be invited to undertake the next stage of feasibility for sites which the pipeline assessment work has indicated would be suitable for PSP delivery.
- 3.4 Cabinets reports on 5th November 2019 and 16th January 2020 provided further update on the progress of the Acquisitions Programme, the LLP resetting and rebranding and the Allocations Policy.

Acquisitions Programme Update

- 3.5 On 25th June 2019, Cabinet agreed to proceed with the Acquisitions Programme for Council Housing and agreed the associated £6.6m budget in response to the need for the use of accumulated Right to Buy capital receipts for the Council, which required a spend programme as detailed below:

Quarter	19/20 RTB required investment	Spend*
Q2	£ 1,844,114.14	£ 2,754,500.00
Q3	£ 1,916,028.32	£ 1,615,500.00
Q4	£ 880,947.56	£ 917,500.00
Total	£ 4,641,090.02	£ 5,287,500.00

*value of properties acquired, not inclusive of legal fees, valuations or SDLT

- 3.6 A corporate team has worked with South Essex Homes officers and have been progressing with the identification and acquisition process agreed by Cabinet previously. As of the end of January 2019, 22 properties have been purchased to a value of £5.28m. A further 5 properties are under offer and with solicitors to the value of £1.06m

- 3.7 Of the properties acquired in this programme; 4 are already tenanted, 3 have been identified for adaptations by the Council's Aids and Adaptations team, and 15 have voids works ongoing or pending.
- 3.8 The following table sets out the properties currently completed or under offer and the total anticipated spend:

Property Type	Bedrooms	Offer	Completion Date	Anticipated completion
semi-detached	4	£ 335,000.00	26/07/2019	
semi-detached	3	£ 248,000.00	16/08/2019	
bungalow	2	£ 255,000.00	30/08/2019	
terraced house	3	£ 230,000.00	03/09/2019	
semi-detached	3	£ 320,000.00	13/09/2019	
end of terrace house	2	£ 240,000.00	20/09/2019	
semi-detached	3	£ 260,000.00	23/09/2019	
semi-detached	3	£ 245,000.00	23/09/2019	
flat	2	£ 182,500.00	24/09/2019	
semi-detached	3	£ 254,000.00	26/09/2019	
flat	2	£ 185,000.00	30/09/2019	
end of terrace house	3	£ 270,000.00	04/10/2019	
semi-detached	3	£ 248,000.00	23/10/2019	
semi-detached	2	£ 235,000.00	25/10/2019	
terraced house	3	£ 242,500.00	12/11/2019	
end terrace	2	£ 225,000.00	04/12/2019	
end of terrace house	2	£ 260,000.00	06/12/2019	
flat	1	£ 135,000.00	20/12/2019	
semi-detached	2	£ 245,000.00		14/02/2020
semi-detached bungalow	2	£ 252,500.00	31/01/2020	
maisonette	2	£ 170,000.00	24/01/2020	
terraced house	3	£ 250,000.00	31/01/2020	
flat	2	£ 185,000.00		14/02/2020
house	3	£ 130,000.00		14/02/2020
end of terrace	3	£ 260,000.00		07/02/2020
end of terrace	3	£ 240,000.00		tbc
semi-detached house	3	£ 245,000.00	31/01/2020	
		£ 6,347,500.00		

Regeneration Framework and Development Pipeline

- 3.9 As previously reported, 31ten Consulting (31ten) have been engaged to bring independent advice and rigour to the process of analysing individual sites, their development potential and how they can most beneficially fit in to a comprehensive development pipeline within which capital receipts can be recycled to improve the sustainability of the overall programme. This includes sites for housing, wider regeneration and a range of other land uses.

- 3.10 A housing and development pipeline, including Council owned and private sites, has been collated by a corporate team of Assets, Strategic Planning, Housing, Development Control, Regeneration and Finance officers.
- 3.11 The next stage of the pipeline work is now underway high-level feasibility work on batches of sites. Scale and massing work has been commissioned to establish the development potential of an initial batch. The remainder of the pipeline will be subject to further procurement for which the brief is being finalised to go to the market during February. The outputs of this work will enable a more detailed assessment of the number of homes which could be delivered across the pipeline and inform the decision on the most appropriate delivery vehicle for each site.
- 3.12 A number of sites within the pipeline are currently underway and this section sets out those sites which are approved to proceed and which are now in the delivery phase.

Site	Number of Homes	Delivery Vehicle	Progress comment	Estimated completion
Friars, Constable Way	Nursery plus 9 houses	PSP Southend LLP	Nursery complete and let. Housing is ahead of target. All homes have been sold off-plan while under construction.	Q4 2020
Ilfracombe Avenue Car Park	24 flats	PSP Southend LLP	Agreed to proceed via PSP Southend LLP at Cabinet on 17 th September. Pending agreement at the next stage by the LLP.	Q1 2022
Modern Methods of Construction (MMC) Pilot Project	4-5 Homes	Self Development	Employers Agent (EA) & Architect have now been appointed. Site investigation has been carried out. Full Planning application to be submitted in early 2020.	Q1 2021/22
HRA Phase 3	Estimated 25 Homes	Self Development	Site investigation has now been carried out. EA appointed following procurement exercise in December 2019 and Architect procurement has commenced.	Q3 2021/22
HRA Phase 4	Estimated 20 - 31 Homes	Self Development	Site investigation has now been carried out. EA was appointed in December 2019 and Architect procurement has commenced.	Q4 2021/22

HRA Phase 5 & 6	Tbc	Self Development	Feasibility work to determine Phases 5 & 6 now underway.	tbc
Total	82-94 +			

PSP Southend LLP Update

- 3.13 On 14 June 2011, Cabinet agreed to establish the LLP which has 50:50 representation and ownership by the Council and BV Strategies Facilitating Ltd. (now PSP Facilitating Ltd) respectively. On 12 December 2011, the LLP was formally incorporated the LLP.
- 3.14 On 17 September, Cabinet agreed to the re-branding of the LLP and to updating related governance arrangements with the detail delegated to the Strategic Directors Finance and Resources and Legal and Democratic Services in consultation with the Leader of the Council. Agreement was also reached for the LLP to be invited to undertake the next stage of feasibility for sites which the pipeline assessment work has indicated would be suitable for LLP delivery and this work is underway.
- 3.15 Following Cabinet in September, discussions have been progressing to re-set and re-brand PSP Southend LLP, focussed mainly (but not exclusively) on housing delivery and to align the governance to the Shareholder Board.
- 3.16 These proposed new arrangements have now been settled and Cabinet authority is therefore sought through the recommendation of this report to the establishment of the new governance arrangements, the agreements to enable them and to a series of delegations to enable the smooth and commercial running of the LLP. As previously reported to Cabinet, assuming all matters are agreed, it is expected that the new arrangements will be in place for the start of the 2020-21 Financial Year. Cabinet members have expressed a desire for affordable housing to be maximised and for this to be considered on each site where viability permits.
- 3.17 **How the current arrangements work:**
- A. Under the current arrangements, officers request the LLP to consider early feasibility of projects and this is monitored periodically through the Operations Board (a board consisting of Council and PSP officers).
 - B. As and when projects are ready to be progressed for delivery, they are presented to the Partnership Board (A board consisting of 3 members from each organisation, currently 3 councillors for the Council)
 - C. Assuming the Partnership Board then agrees that the projects are appropriate for delivery, it will request that the Council gives exclusivity for the LLP to progress the site (recognising the need to spend more significant sums of money at this stage).
 - D. At this point, recommendations would be put to Cabinet for the site to be opted into the LLP for delivery. Once approved, a legal option would be

granted to the LLP (subject to clearing financial and legal due diligence) and the site would be progressed through planning and into delivery with periodic reporting back to the Operations and Partnership Boards.

3.18 How the new arrangements are proposed to work.

- A. Under the proposed new arrangements, officers will request the LLP to consider early feasibility of projects as they are identified as potentially suitable for delivery via the LLP through the pipeline assessment work.
- B. The LLP will work up initial feasibility reporting to a project team made up of Council and PSP officers appropriate to the particular project.
- C. If the project is considered to be feasible, it, along with the proposed objectives for the project will be reported to Partnership Board (The new partnership board will be the LLP board with 2 or 3 officer representatives for each entity, note: there would be no councillors on this board following the principles established across the Council's other companies).
- D. If Partnership Board agrees that the project is feasible, it will make a request that the Council gives exclusivity for the LLP to progress the site (recognising the need to spend more significant sums of money at this stage).
- E. At this point, recommendations would be put to Cabinet for the site to be opted into the LLP for delivery. Once approved, a legal option would be granted to the LLP (subject to clearing financial and legal due diligence) and the site would be progressed through planning and into delivery with all decisions being made by the LLP Board provided they align with the objectives approved by Cabinet.
- F. The Partnership Board for the LLP will then report periodically to the Council's Shareholder Board on the overall financial performance of the LLP and on delivery against any agreed project objectives.
- G. The minutes of the Shareholder Board are reported through Cabinet (Scrutiny Committee if called in) and Council.

3.19 As set out above, the primary difference between the old and new arrangements is that the new arrangements have been designed to align with the Council's Shareholder Board.

3.20 Whilst the Partnership Board will be empowered to make most decisions about project delivery (within agreed budgets and to agreed objectives) and to deal with some company matters, most company matters of significance are reserved to the Cabinet via the Shareholder Board and these reserved matters are set out at **Appendix 1**.

3.21 Settling the final details of the legal agreements and completing them is recommended to be delegated to the Executive Director Legal and Democratic Services.

- 3.22 The LLP arrangements also provide opportunities where capacity allows for the Council to charge its staff into the LLP and recover the costs through the capital projects. This has been used to a limited degree to date and these opportunities can be explored further during the next period. Doing this will reduce pressure on revenue budgets whilst also providing staff with the opportunity to work closely with the private sector partnership, gaining different experience while keeping the project knowledge in-house. It should also assist viability by reducing the costs of contractors into the LLP and exploiting officer contacts and knowledge of the Council's governance and processes.

The principles of the PSP Housing Model

- 3.23 The over-riding principles of the housing model are to enable PSP-partner authorities access to their model which will enable authorities to secure housing delivery quickly, loan in capital generating a return in excess of the borrowing cost and delivering private rented (and in some cases affordable) new housing.
- 3.24 Where possible PSP seek to employ modern construction methods to deliver high quality, very sustainable net zero carbon family homes which are built and then managed to a high standard under the LetLife brand (www.letlife.co.uk).
- 3.25 The housing model compliments the Council's existing housing delivery programme and provides another option for delivery. It also supports the Council's commercial mind-set approach through innovative means of delivering outcomes and improving lives whilst generating commercial income.
- 3.26 The Housing Model is not aimed at Housing Revenue Account housing so it is complimentary rather than a straight alternative. The model includes management via PSP partner PRSim which is set up to deliver the full lettings and management service including full compliance and risk management and a 24 hour helpdesk using a central management function linked to a network of local suppliers.
- 3.27 In legal terms, the partnership establishes two subsidiary companies:
- Prop Co 1 builds the houses
 - Prop Co 2 manages the houses
- 3.28 In terms of the finances, the land would be put in to the LLP at nil value.
- 3.29 The Council has the opportunity to grant a loan Prop Co1 to cover the cost of delivery. The Council would receive interest on the loan on commercial terms over the loan term which must exceed the cost of borrowing and it has rights to the capital value of the asset.
- 3.30 Following construction, the asset would be leased to Prop Co 2 who would let and manage the asset. Prop Co 2 would pay all rents (less management and maintenance costs) up to Prop Co 1 and this would in turn flow through to the LLP to the Council as a dividend. The Council has the option to recycle the funds within the LLP or to draw them out.
- 3.31 At exit, the houses could be sold to recover the capital, or re-financed (with the Council).

- 3.32 PSP has undertaken extensive due diligence around the legal, property and tax implications to ensure compliance and efficiency.
- 3.33 Public Sector Plc would receive reimbursement of the pre-construction costs, a facilitation return (akin to a developer's profit) of 7-10% of the gross development costs excluding land and an annual asset/investment management fee of 0.5% p.a. of the investment value.
- 3.34 The benefits to the Council are that:
- The Council is using its access to capital to deliver new housing and to generate a commercial return to support other Council functions.
 - The Council can benefit from any upside arising from the development loan.
 - The model enables schemes to be policy compliant in terms of Affordable Housing (i.e. development will deliver as a minimum the level of affordable housing required by Planning Policy which is currently that proposals for 10-49 units, 20% and 50+ units, 30% - site area criteria also apply). The market often makes the case that this is not possible and delivers significantly less on viability grounds.
 - Council Tax will be received along with new homes bonus
 - The Council retains control over the development through the LLP.
 - The Council retains control over the future of the asset through the leasing structure.
 - The Council and PSP are enabling the wider economic benefits (e.g. construction jobs, investment in construction, new residents in employment, increased local spending which in turn supports further sustainable job creation.
 - The properties are not subject to loss under Right to Buy legislation.
 - The Council benefits from the additional capacity and commercial capability of PSP.
 - The Council could consider using its share of development profit to deliver above-policy affordable housing where appropriate and where viability allows.
- 3.35 The proposal is therefore to set aside £5m for the delivery of housing through the LLP and to delegate authority to the Executive Director Finance and Resources to finalise the terms and make loans to the LLP within the allocated budget to enable delivery of development in accordance with the principles of the PSP Housing Model and subject to any schemes delivering an appropriate and sustainable return on investment.

4. Other Options

- 4.1 Alternative arrangements for the Right to Buy spend such as grants to Registered Providers were considered for the Acquisitions Programme however this would not have resulted in the long term benefit to the Council in the way of HRA property.
- 4.2 The Council does not need to continue the relational partnering arrangement with PSP however this is a useful non-committal additional delivery option for the Council which will be well placed to assist with capacity and delivery,

particularly (but not exclusively) of housing sites, going forward. Feasibility work is also underway within the LLP on several other sites as previously agreed.

- 4.3 The Council could deliver housing through other delivery vehicles however PSP adds resource capacity and brings commercial experience along with the PSP housing model which together will help the council to deliver on its 2050 housing objectives whilst ensuring a robust process is in place to demonstrate financial and legal compliance and best value. The PSP Housing Model also has the benefit of the housing being owned in the LLP therefore it is not at risk of being lost to through right to buy legislation yet still providing the Council with a say over rental levels provided the State Aid thresholds are cleared.
- 4.4 The Council could decide not to fund development through the PSP Housing Model. It does however provide an opportunity for the Council to commercially lend-in to the LLP receiving a finance return as well as the wider development benefits, structured through the PSP Housing Model to deliver a long-term revenue stream (with the opportunity to convert some or all of that to Capital at the Council's discretion). Other funding options are available and may be considered depending on the scheme and the commercial return to the Council.
- 4.5 Cabinet members have also highlighted that there may be opportunities for South Essex Homes as the pipeline work progresses.

5. Reasons for Recommendations

- 5.1 To update Cabinet on the progress of the Pipeline of Housing & Development opportunities namely Phases 3 & 4 HRA infill sites, acquisition programme and LLP developments.
- 5.2 To update Cabinet on the pipeline and regeneration framework.
- 5.3 To update Cabinet on progress in establishing the LLP for the next 10 year period and to enable the new LLP arrangements to be established to provide additional delivery capacity to help the Council meet housing delivery targets

6. Corporate Implications

6.1 Contribution to the Southend 2050 Road Map

- 6.1.1 The development and acquisition of the housing and regeneration pipeline work towards the Southend 2050 Safe and Well outcomes of **“We are well on our way to ensuring that everyone has a home that meets their needs”** and **“We act as a green city with outstanding examples of energy efficient and carbon neutral buildings”**.
- 6.1.2 The development of a regeneration framework and pipeline are also key contributors to the Opportunity and Prosperity outcomes “We have a fast-evolving, re-imagined and thriving town centre, with an inviting mix of shops,

homes, culture and leisure opportunities” and “**Key regeneration schemes, such as Queensway, seafront developments and the Airport Business Park are underway and bringing prosperity and job opportunities to the Borough**”.

- 6.1.3 Southend’s *Housing, Homelessness & Rough Sleeping Strategy* aims to provide ‘decent high quality, affordable and secure homes for the people of Southend’ and the development and purchase of affordable contributes to this.

6.2 Financial Implications

- 6.2.1 Cabinet has previously agreed the budget of £645k for the next steps of the Regeneration Framework and Development Pipeline. This budget will be called upon for the first stage of the feasibility for the Pipeline sites.
- 6.2.2 The costs and funding of each scheme will require a full business case assessment. Funding for the investment referred to in the report will come from a variety of sources such as capital receipts, HRA capital investment reserve, borrowing, and external funding (both public & private).
- 6.2.3 In terms of PSP projects, the financial implications will be assessed in detail on a scheme by scheme basis and schemes will only proceed when they clear both the Council’s and the private sector partner’s viability measures.
- 6.2.4 The overall financial performance of the LLP will be reported periodically to Shareholder Board along with the progress against agreed objectives for particular schemes.
- 6.2.5 The £5m referenced at recommendation 2.5 and in paragraph 3.35 would be funded from new borrowing with the financing costs more than off-set by the commercial return from the £5m investment into the PSP Housing Model.

6.3 Legal Implications

- 6.3.1 Initial consultation has been undertaken with the Council’s Legal Team for the expansion of the MMC pilot and ongoing work is being undertaken with Essex Legal Services for the Acquisitions Programme.
- 6.3.2 Legal considerations relating to individual sites will be dealt with through the usual due diligence process.
- 6.3.3 Legal considerations relating to the LLP governance changes are being addressed through negotiation as set out in this report with appropriate advice at the relevant stages.

6.4 People Implications

No direct people implications arise however see 3.10 above regarding the extent to which internal resources may be used to supplement the LLP work and then charged back to development projects where appropriate with commercial experience benefits to the staff involved and potential financial benefits to the Council.

6.5 Property Implications

The main purpose of LLP is to review, and progress development opportunities and this will of course generate many strategic and detailed property implications as the work progresses. Such implications will be considered on a site by site basis.

6.6 Consultation

Consultation has taken place with internal colleagues and external advisers in relation to the pipeline of sites and the work is being progressed by a corporate team.

The principles of the changes to the LLP structure have been set out in reasonable detail in the Cabinet Report of 17 September 2019 and at a high level in subsequent Housing Pipeline update reports to Cabinet.

6.7 Equalities and Diversity Implications

The relevant equality assessments will be undertaken if and as necessary.

6.8 Risk Assessment

Risk register and issue logs will be used as part of the development of the sites within the Pipeline and are continued to be used for the Acquisitions Programme.

PSP Project risks will be monitored and managed within the LLP and reported to Partnership Board and where these are significant and appropriate, up to Shareholder Board.

6.9 Value for Money

All spend in relation to the projects will be subject to the relevant procurement rules, to ensure procurement compliance and value for money.

Financial and legal due diligence form a core part of the LLP process including an independent review and validation of each case by CIPFA and external legal review.

6.10 Community Safety Implications

Sites will be considered individually as they progress and through consultation, the Council will look to meet Secured by Design standards where possible and practical.

6.11 Environmental Impact

New pipeline schemes such as the MMC will look to improve energy use and environmental standards in the build process where possible and also will look

to improve landscaping and environmental and economic sustainability where possible.

A core part of the LLP housing offer is the use where appropriate of modular off-site construction (referred to in other papers as MMC or Modern Methods of Construction). This technology enables improvements energy use and environmental standards both through the build process and during the life of the buildings. Sustainability will be a key consideration in any projects and where it presents additional commercial opportunities, these will be explored. For example, very low energy (and therefore low cost to run) homes may be able to generate higher rental levels thereby improving returns depending on the development model used.

7. Background Papers

Cabinet Report, *Future Phases of Affordable Housing Development Programme Update*, 17th January 2019

Cabinet Report, *Housing Update*, 25th June 2019

Cabinet Report, *Housing and Development Pipeline Update*, 17th September 2019

Cabinet Report, *Housing and Development Pipeline Update*, 5th November 2019

Cabinet Report, *Housing and Development Pipeline Update*, 16th January 2020

8. Appendices

Appendix 1 – Matters reserved for Shareholder Board

APPENDIX 1

MATTERS RESERVED FOR SHAREHOLDER BOARD

1. Altering the Members' Agreement, Procedure Agreement and/or any rights relating to the ownership of the LLP;
2. Changes to the rights of any of the Partners pursuant to the Members' Agreement or the Partnership generally;
3. Any material amendment to a legal agreement to which the Partners are a party;
4. The approval of any Capital Contribution by a Partner, save for the Initial Capital Contributions of the Partners as at the Effective Date;
5. Permitting the registration of another member, other than the Council or the PSPF;
6. Changing the nature of the business of the LLP;
7. Any re-organisation of the Members' Capital (or any part of it);
8. The entering into of any commitment by or on behalf of the Partnership with any person with respect to the issue of any loan capital;
9. The making of any borrowings by or on behalf of the Partnership from the Bank or any person or organisation or entity;
10. The making of any resolution or other decision for the voluntary winding up or termination or dissolution of the Partnership;
11. Engaging in any business other than the Partnership Business or any decision to change the Partnership Business as defined in this Members' Agreement;
12. The Partnership forming or acquiring any subsidiary or subsidiary undertaking (as each is defined in the Companies Act) or acquiring any shares in any other company or participating in any partnership or joint venture (incorporated or not);
13. The closing down or the disposal of any material part of the Partnership Business;
14. The Partnership amalgamating or merging with any other company or business undertaking;
15. Alteration of the Partnership Name or registered office;
16. The Partnership entering into any transaction or arrangement of any nature whatsoever with any of the Partners or their directors or any person who is connected (within the meaning of section 1122 of the Corporation Tax Act 2010 or sections 993 and 994 of the Income Tax Act 2007) to any of the Partners or their directors whether or not any other person shall be party to such transaction or arrangement;
17. The Partnership entering into any commitment by way of a transaction or series of related transactions (including without limitation any leasing transaction) which would involve the Partnership in the payment or receipt of consideration having an aggregate value in excess of twenty thousand pounds (£20,000), save where such commitment has been provided for in a Project Budget;
18. The Partnership entering into any arrangement, contract or transaction outside the normal course of the Partnership Business or otherwise than on arm's length terms;

19. The Partnership giving notice of termination of any arrangements, contracts or transactions which are of a material nature in the context of the Partnership Business, or materially vary any such arrangements, contracts or transactions;
20. Any material amendments to any agreed project objectives;
21. The Partnership entering into, as lessor or as lessee, any operating lease (as defined in Statement of Standard Accounting Practice 21) other than as provided in a Project Budget;
22. The Partnership granting any rights (by licence or otherwise) in or over any intellectual property owned or used by the Partnership;
23. The Partnership creating or permitting to be created any mortgage, charge, encumbrance or other security interest whatsoever on any asset or its business in whole or in part or any of its shares other than:
 - 23.1 liens arising in the ordinary course of business; or
 - 23.2 any charge arising by the operation or purported operation of title retention clauses and in the ordinary course of business;
24. The Partnership adopting or amending the Budget or any Project Budget in any material respect (provided that non-material amendments to the Budget or Project Budget will be subject to each Partner being notified of such amendments and not raising, within five (5) Working Days, any issues in relation to such amendments);
25. Changes to either:
 - 25.1 the Auditors; or
 - 25.2 the financial year end; or
 - 25.3 the Accounting Reference Date;
26. The Partnership making or permitting to be made any material change in the accounting policies and principles adopted by the Partnership in the preparation of its audited accounts except as may be required to ensure compliance with relevant accounting standards under the Companies Acts or any other generally accepted accounting principles in the United Kingdom;
27. The Partnership retaining any Partner's Profit Share to future activities by the Partnership;
28. The Partnership making any loan (otherwise than by way of deposit with the Bank) or granting any credit (other than in the normal course of trading) or giving any guarantee (other than in the normal course of trading) or indemnity;
29. The Partnership giving any guarantee, suretyship or indemnity to secure the liability of any person or assuming the obligations of any person;
30. The Partnership either:
 - (a) opening or closing any bank account;
 - (b) altering any mandate given to the Bank relating to any matter concerning the operation of the Partnership's bank accounts other than by the substitution of any

person nominated as a signatory by the Partner entitled to make such nomination;
or

- (c) changing its bankers;

31. The Partnership:

- (a) entering into or varying any contract of employment providing for the payment of remuneration (including pension and other benefits);
 - (b) establishing or amending any profit-sharing, bonus or other incentive scheme of any nature for executives or employees;
 - (c) establishing or amending any pension scheme or granting any pension rights to any executive, employee, former executive or employee, or any member of any such person's family;
 - (d) dismissing any executive or employee;
32. The Partnership agreeing to remunerate (by payment of fees, the provision of benefits-in-kind or otherwise) any consultant to the Partnership or increase the remuneration of any such person per annum /day, in either case other than in accordance with a Project Budget;
33. The Partnership instituting, settling or compromising any legal proceedings instituted or threatened against the Partnership or submitting to arbitration or alternative dispute resolution any dispute involving the Partnership;
34. The Partnership making any agreement with any revenue or tax authorities or making any claim, disclaimer, election or consent for tax purposes in relation to the Partnership or the Partnership Business;
35. Any decision from time to time referred to the Partners pursuant to clause 3.2.7(j) of the Procedure Agreement;
36. The appointment of any validator or other independent adviser and the terms of that appointment.

Southend-on-Sea Borough Council

Report of Chief Executive Director;
Neighbourhoods and Environment

To
Cabinet

On
28 February 2020

Agenda
Item No.

6

Report prepared by: Sharon Harrington, Group Manager;
Traffic Management & Highways Network

Footway Re-surfacing Policy Change (inc. 2020/21 programme)

Place Scrutiny Committee(s)
Executive Councillor: Councillor Woodley
Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 This report seeks approval to amend the policy regarding the materials used for resurfacing of our footpaths in the Borough.

2. Recommendations

The Cabinet are recommended to agree:

- (i) Note the content of the report
- (ii) Agree to the officer recommendations for the change of material
- (iii) Agree to 2020/21 programme

3. Introduction

- 3.1 The majority of carriageways and footways in the Borough were built within the last 100 years. Many of these were either constructed at the same time as part of large estate developments or are evolved roads (i.e. of minimal construction). The network is now aging/deteriorating at comparable rates and the reactive works are putting pressure on the maintenance budgets.
- 3.2 Due to the current issues with reactive maintenance budget spends, particularly around the flagged paving, Southend are proposing to switch to a strategy of replacing Artificial Stone Paving (ASP) and red asphalt surfacing in favour of black asphalt as they reach end of life.

4. Background

4.1 Currently the Councils' footways consist of four principal materials;

- Imperial size Artificial Stone Paving (ASP)
- Metric size Artificial Stone Paving (ASP)
- Red asphalt surfacing
- Black asphalt surfacing

Historically, the Council has adopted a principle of 'like for like' replacement. However in recent years a number of factors have affected the viability of adopting a like for like approach. These include:

- Tree root activity in footways with ASP, which causes damage.
- ASP, not being flexible, heaves under root activity causing trips and hazards, which frequently exceed the Council's accepted safety limits, and make them Cat 1 defects and therefore require immediate repair.
- It is more challenging replace like for like in these circumstances and the usual practice is to 'make safe' with black asphalt patching. This gives a patchwork effect.
- This can look rather unsightly if done as individual slab replacement. A more appropriate solution would be to carry out a more extensive 'full width patch. However, the ad hoc and minor repairs budget is currently insufficient to meet the Council's obligations to complete all the identified safety works.
- Red asphalt always fades therefore the colour will never be matched with a patch. Red asphalt is also not widely used and therefore there is always a need to spend more than required due to the minimum order value.

4.2 The Council has a mixture of footways paved with historic Imperial ASP and new Metric ASP. The sizes of Imperial and metric are: 610 x 610mm & 600 x 600mm respectively. Metric slabs are therefore 10mm shorter than Imperial slabs, which means that where Imperial is replaced with Metric there is a 10mm gap, which requires a cement fillet, which looks unsightly and is liable to fail.

4.3 The Council's Highways Maintenance Term Contractor has limited quantity in store, and when possible, salvages old slabs from footway resurfacing schemes to take to store. This second-hand Imperial stock held in store is then used for individual slab replacement. However, this store is nearly exhausted, and sourcing new Imperial slabs is proving to be uneconomical.

4.4 Metric slabs are in common use; however the manufacturer will only manufacture once a sufficient quantity has been ordered to make a production run viable. Therefore, larger quantities have to be ordered and stored by the council – at an additional cost.

- 4.5 Footways paved in red asphalt, tend to fade quickly and depending to the batching plant used, can vary from almost pink to deep crimson. SBC source from one particular plant and specify one particular dye. However, SBC are unable to require utility companies to source from the same plant.
- 4.6 The Council has undertaken preliminary life cycle analysis (detail of which is shown in Appendix 2) to compare the outputs of the current strategy and the proposed new strategy 'flags to asphalt' strategy.
- 4.7 The initial outputs of the proposed new strategy show a gradual decline in reactive costs which then enable additional funding to be moved towards preventive maintenance, which is good asset management practice. The current strategy clearly shows that the current level of poor flagged footways and their associated repairs overwhelm the current reactive maintenance budget.
- 4.8 Therefore, the recommendation from this analysis is to adopt the new strategy. *(Please note these models were based on historical information)*

5. Going forward

- 5.1 The 2020/21 programme has been developed for highway and footways resurfacing based on a £3m budget per annum being made available.
- 5.2 The 2020/21 programme has been outlined for resurfacing of 35 roads and 8 footpaths however it must be noted that this has been costed using black asphalt / bituminous material and should there not be agreement for this material there will need to be a reduction in the amount of works that can be undertaken. **(Appendix 1)**

6. Contribution to the Southend 2050 Road Map.

6.1 Opportunity & Prosperity:

- Residents feeling valued having safe roads and pavements

6.2 Safe & Well:

- Everyone feels safe at all times of the day.
- Black Asphalt will reduce slips and trips making journeys for pedestrians safer and taking off the pressure from our health service.
- Older people are more willing to come outside their front doors for a walk.

6.3 Pride & Joy:

- People are proud of where they live.
- A place that residents and visitors can enjoy in all seasons.

6.4 Connected & Smart:

- It's easy for me to get around when I want.

7. Options Appraisal

7.1 Do nothing – maintain current strategy

This is not an option; the current policy states “like for like”; which is not possible as the current flagstones are not available to purchase and at detailed above is proving economically unsustainable. Members and Residents alike that we have spoken to are more frustrated with expecting something they are not getting.

7.2 Replace Flags in black asphalt material

This is the preferred option; the life-cycle of black asphalt is the best cost effective measure and will allow the budgets to stretched further.

In addition, it will reduce the number of Cat 1 defects recorded and also align with the proposal of increased tree planting within the Borough.

Highways-Investment-Programme

April 2020 to March 2021

The highway network, and maintenance of the surfaces is crucial to the economic, residential and commercial wellbeing of Southend-on-Sea. We work to protect and maintain this valuable asset through our Highways Investment programme.

Our detailed programme of highway works will be delivered by our specialist teams to maintain and improve our roads, footpaths to ensure the safety of Highway users throughout the borough.

The following locations are to be treated from April 2020 to March 2021. Please note that works are subject to conditions and may affect start date and completion:

Carriageway Resurfacing works	
St Laurence	
Applerow	Whitehouse Road to Orchard Grove
Beechmont Gardens	All
Fairlawn Gardens	All
Eastwood Park	
Eastwood Rise	Rayleigh Rd to 59 Eastwood Rise
Green Lane	Between Dandies Dr & Riverdale
Leigh / Chalkwell	
Hillside Crescent	Woodfield Rd to Hillside Crescent – (on boundary of both wards)
Chalkwell	
Cranley Road	Finchley Road To Cranley Avenue
Cotswold Road	All
Rockleigh Avenue	All
Cobham Road	All
Genesta Road	Valkyrie Rd to No. 38 Alisa Road
Milton	
Cossington Road	Canewdon Road to St Helens Road
St Luke's	
Norwich Avenue	Pantile Ave to Norwich Close

Leigh	
Rectory Grove	No. 94 to Hadleigh Road
Farleigh Drive	All
Victor Drive	All
Cranleigh Drive	Elm Road to House No. 65/67
Grand Parade	Stretch of road at roundabout j/w Woodfield Road
Lymington Avenue	London Road to Glendale Gardens
Ronaldhill Grove	All
Victoria	
Salisbury Avenue	From Cliff Ave to Rochford Ave
Boston Avenue	From Harcourt Ave to speed table o/s school
Westborough	
Fairfax Drive	Southbourne Grove to Westbourne Grove
West Leigh	
Belton Way East	1st section: From Marine Parade lights down to lc 6. 2nd section: From lc 12 up to min rabout to Belton Way East
Herschell Road	London Road to Western Road
Medway Crescent	All
Belfairs	
Linksway	All
St Clements Drive	All
Prittlewell	
Mayfield Avenue	Hobleythick Lane to No. 81
Southbourne Grove	Prittlewell Chase to Bridgwater
Thorpe	
Parkanaur Avenue	Thorpe Hall Gdns to Johnston Road
Southchurch	
Shoebury Road	From 89-91
West Shoebury	
Bridge Close	All
Elm Road	Bridge Close to No.74 Elm Rd
Elm Close	All

Footway works	
Chalkwell	
Crowstone Close	Entire
Lansdowne Avenue	From junction with London Road to junction to Leigh Road
Blenheim Park	
Eastwood Lane South	Entire
Southborough Drive	Entire
Prittlewell	
Highfield Close	Entire Length
Kursaal	
Wimbourne Road	Junction of Bournemouth Road to Sutton Road
Wimbourne Road	Junction of Christchurch Road to junction of Sutton Road
St Laurence	
Applerow	Junction of Orchard grove to Whitehouse Road

Appendix 2 – Life Cycle Models

This appendix outlines the assumptions and inputs that were made to achieve the current results. These are open to review and change and it is a very simple process to update any elements of the model and recalculate.

We have developed 2 models to compare the outputs – ‘the current strategy’ and the ‘flag to bits’ (proposed new strategy) versions. They were developed with our condition survey supplier Gaist, and used their current system.

The initial inputs (which are open for revision) for both versions were as follows:

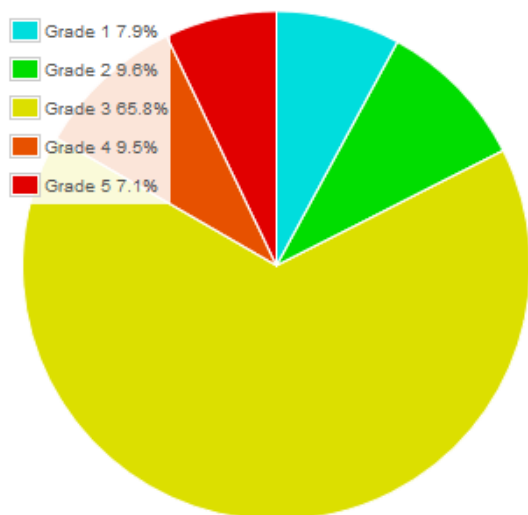
Start Year – 2019 and we have assumed an analysis period of 31 years to fall in line with the 2050 vision.

Condition bands – we have used 5 (Grade 1 to 5, with 5 being the worst), which are based on the Gaist survey results from 2018.

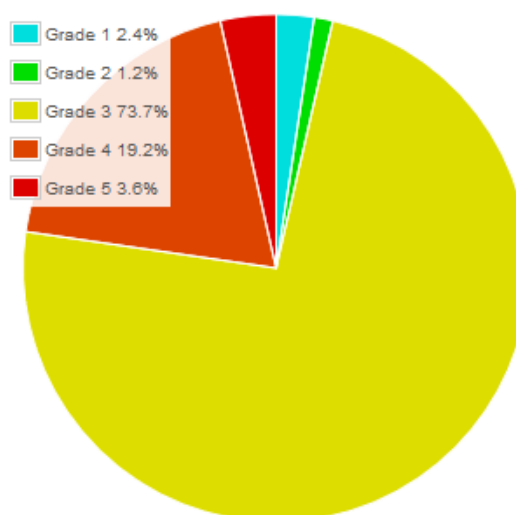
Asset Groups – we have used 4 (Bituminous, Flags, Concrete and Conservation Area Flags). There is a further group of ‘Other’ (which includes areas of cobbles, unbound aggregate etc), however this group amounted to less than 1% of the network so was discounted at this time).

Areas of Asset Groups – Again the 2018 Gaist survey data was used to calculate these areas and percentage spread across the condition bands (Bits and Flag condition breakdowns are shown below).

Bituminous



Flag



Transition Matrices – we have used the same format as other Gaist models (shown below).

	To:	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5
From:						
Grade 1		0.98	0.02	0	0	0
Grade 2		0	0.97	0.03	0	0
Grade 3		0	0	0.96	0.03	0.01
Grade 4		0	0	0	0.95	0.05
Grade 5		0	0	0	0	1

Treatment Types – we have suggested 9 based on current/future practice, please refer to the models for details.

Effect of treatments – These have been assumed based on the treatment type and that the better the treatment, the higher effect it has on the change in condition banding.

Treatment Costs – we have taken elements of the Lot 5 pricing schedule and developed an overall cost for replacing/repairing the various surface types. It is accepted that we may not have included all elements required to replace a footway but as the same pricing have been used in both models they are comparable.

For Treatment types, effect and costs an example of the breakdown is shown below (please refer to model for full details).

Name	From	To	Cost per m ²	
G3 - Flag Lift & Relay	Grade 3	Grade 2	58.76	✕
G4 - Flag Lift & Relay	Grade 4	Grade 2	58.76	✕
G5 - Flag Lift & Relay	Grade 5	Grade 3	58.76	✕
G3 - Flag Replace New	Grade 3	Grade 1	51.56	✕
G4 - Flag Replace New	Grade 4	Grade 1	51.56	✕
G5 - Flag Replace New	Grade 5	Grade 1	51.56	✕
G3 - Flag Replace to Bil	Grade 3	Grade 1	41.98	✕
G4 - Flag Replace to Bil	Grade 4	Grade 1	41.98	✕
G5 - Flag Replace to Bil	Grade 5	Grade 1	41.98	✕
G5 - Flag Small Repair	Grade 5	Grade 3	43	✕

Treatment Strategies – We have again made assumptions on the percentages treated as there was no clear information made available at the time of constructing the models. On the current strategy it has been assumed that due to the available budget that only Grade 5 areas would be

treated (worst first scenario and representative of the reactive budget spend). The capital budget is £400k (detailed in next section) and any remaining budget is directed towards reactive maintenance.

Treatment Periods • Year From: 1 To: 31 Budget: 400000

+ Import

1.	↑ Up to	5	%	of	G5 - Flag Lift & Re	on Flag	✕
2.	↑ Up to	20	%	of	G5 - Flag Small Re	on Flag	✕
3.	↑ Up to	5	%	of	G5 - Bits Resurfac	on Bituminous	✕
4.	↑ Up to	17.5	%	of	G5 - Bits Small Re	on Bituminous	✕
5.	↑ Up to	5	%	of	G5 - Conc Resurf	on Concrete	✕
6.	↑ Up to	5	%	of	G5 - Flag Con Lift	on Flag Conservation Area	✕

The new proposed strategy assumes more work undertaken in the G4 Band in line with good asset management practice. It would be hoped this would normally extend to Band 3 but unfortunately the budgets used don't allow for this (this can be adjusted if budget spend incorrect or more funds are made available). Therefore the capital budget is now £600k as more funds are diverted away from reactive maintenance and towards resurfacing, which includes replacing Flags with Bituminous surfacing.

Treatment Periods • Year From: 1 To: 31 Budget: 600000

+ Import

1.	↑ Up to	5	%	of	G5 - Bits Resurfac	on Bituminous	✕
2.	↑ Up to	10	%	of	G5 - Flag Replace	on Flag	✕
3.	↑ Up to	10	%	of	G5 - Bits Relay Su	on Bituminous	✕
4.	↑ Up to	5	%	of	G4 - Bits Relay Su	on Bituminous	✕
5.	↑ Up to	5	%	of	G4 - Bits Resurfac	on Bituminous	✕
6.	↑ Up to	5	%	of	G4 - Bits Relay Su	on Bituminous	✕
7.	↑ Up to	5	%	of	G5 - Conc Resurf	on Concrete	✕
8.	↑ Up to	5	%	of	G5 - Flag Con Lift	on Flag Conservation Area	✕

Budgets – The budgets have been touched on in the previous section but only limited information/overview was available at the time of the model development so some further assumptions were made (these are obviously open to revision). The reactive budget detailed from Symology extracted data for 2018/19 (with non-footway elements stripped out) was deemed to be approximately £291k. The remaining budget was built up from £200k detailed as improvements around tree areas. In addition it was detailed that there was an annual £2m budget for carriageway and footway works and we have assumed 10% (£200k) would go directly to footway works. This gives a total budget of £691k.

In the current strategy it is assumed that £291k would be detailed as reactive maintenance (and a rate of 0.17p per m2 has been applied to account for this). In the new proposed model it

assumes that most of the reactive budget would move towards capital replacement costs instead and therefore only a rate of 0.05p has been applied for the reactive budget (£91,000).

Provisional Results

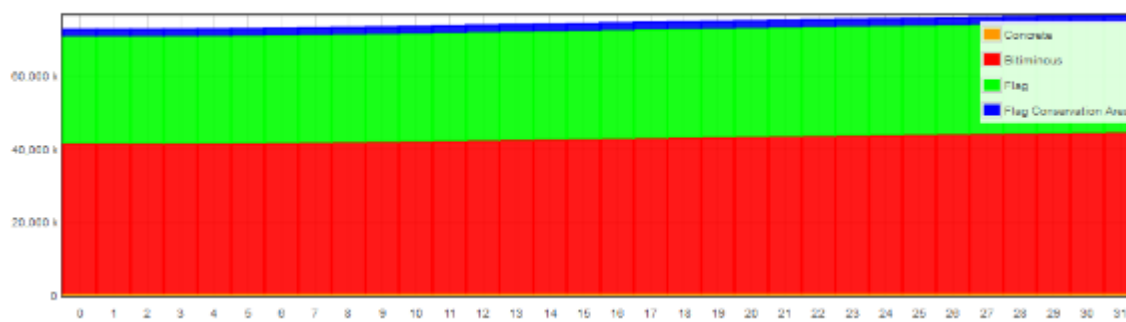
To full understand the initial results, both models should be directly referred to for the full details of the life cycle plan. However, for the purposes of this report some initial comparisons have been made and are shown below.

Overview – Backlog – The current strategy is based on undertaking large elements of reactive repair work, minor repairs, lifting and relaying the Flags at the expense of longer term footway replacement. It is clear (see below) that the current strategy shows an ever increasing backlog.

However the new proposed strategy, which has a greater capital spend, shows a slight decrease in the level of Backlog over the period of the model. Unfortunately this is probably limited by the current available budget used.

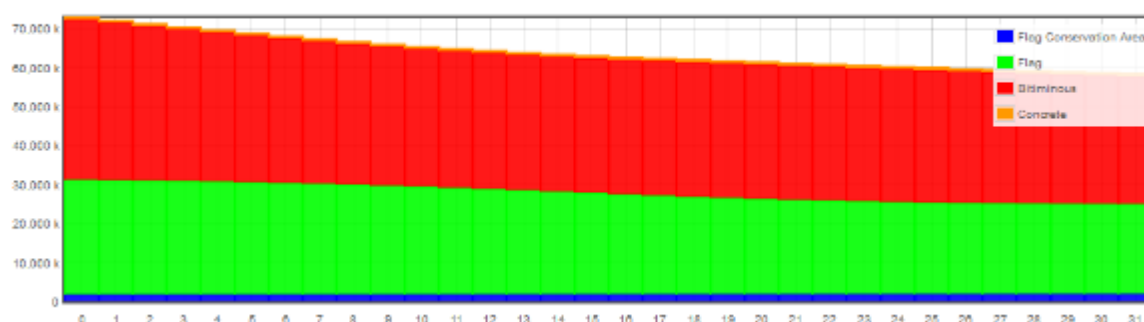
Current Strategy

Backlog



Proposed Strategy

Backlog

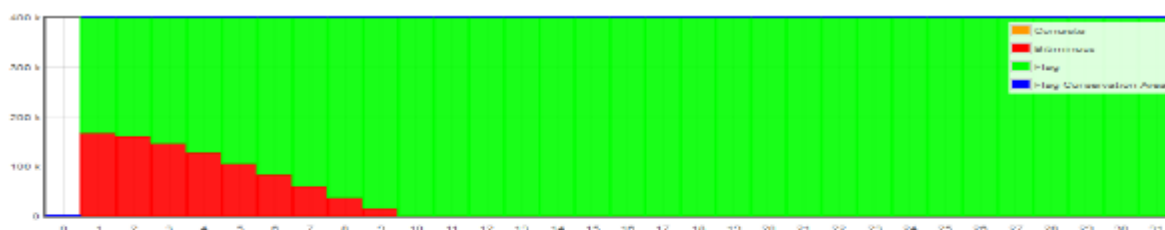


Capital/Reactive Costs – Again the difference in the two strategies are clear, in that on the current strategy the reactive cost requirements will continue to climb. Whereas, the proposed shows a gradual decline in reactive costs as more funds are put towards active resurfacing. In terms of the capital costs, it's clear that the Flagged footways overwhelm the budget

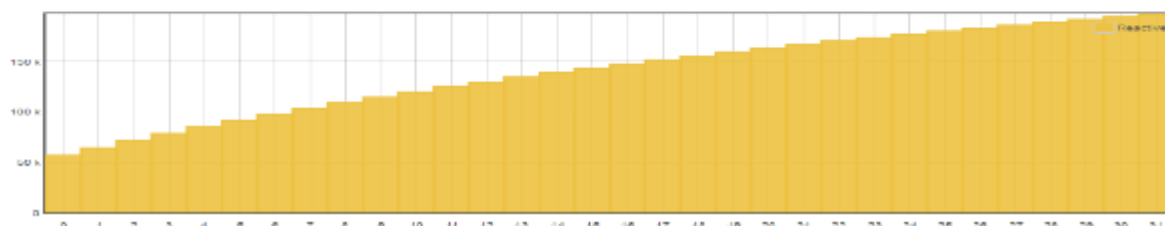
restrictions on the current strategy due to the level of poor flagged footways that require attention.

Current Strategy

Capital Costs



Reactive Costs

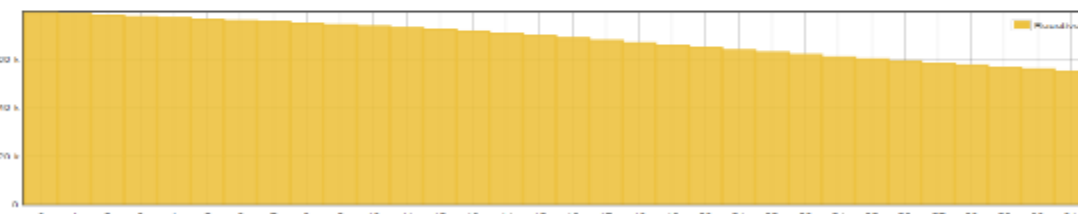


Proposed Strategy

Capital Costs



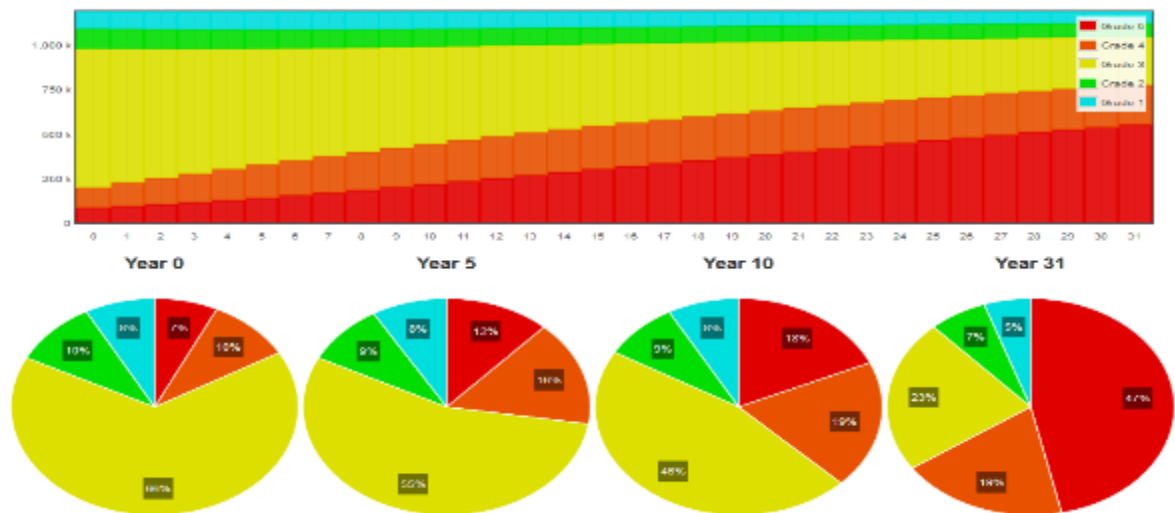
Reactive Costs



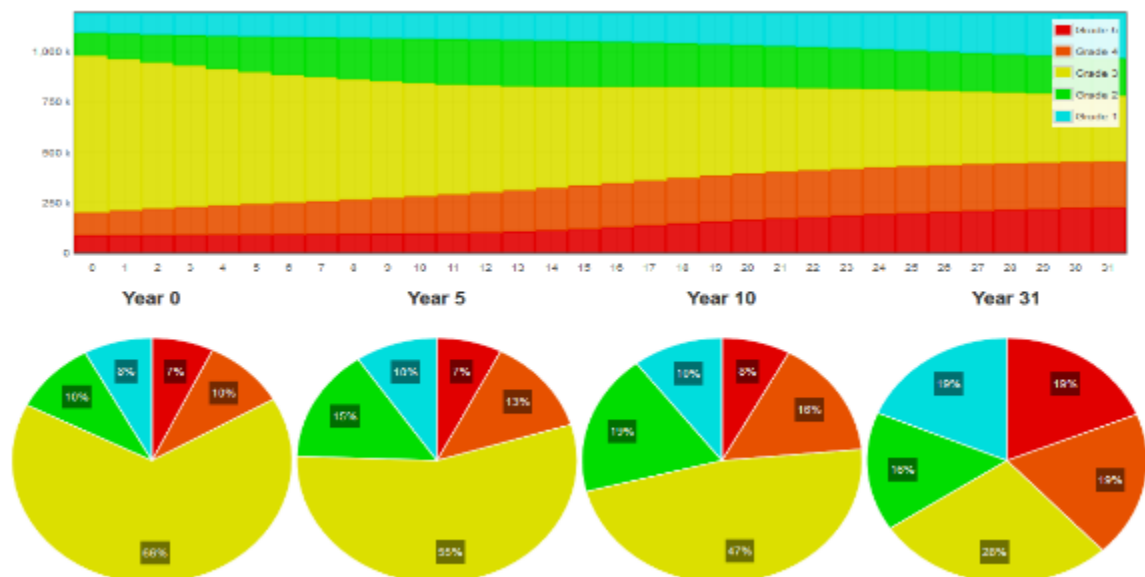
Condition – Both strategies show a decline in the condition of the Bituminous footways, however there are obvious differences in the nature of that decline. On the current strategy nearly 50% of Bituminous footways will be in very poor condition by 2050.

While under the new proposed strategy the poor footways will still show a decline but at a much reduced rate. This outcome is obviously restricted by budget and the general assumptions made in this model.

Bituminous



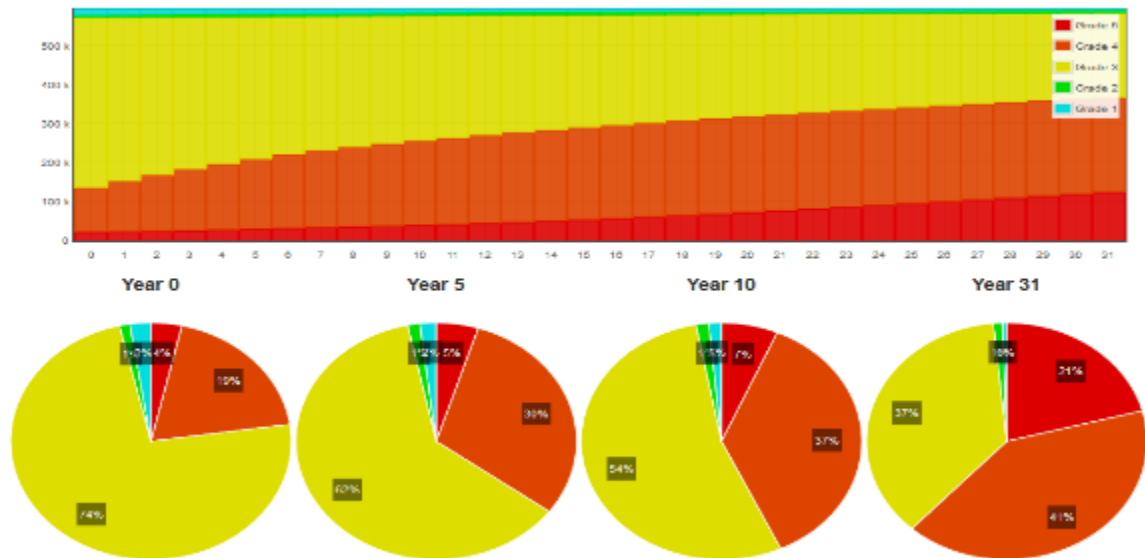
Bituminous



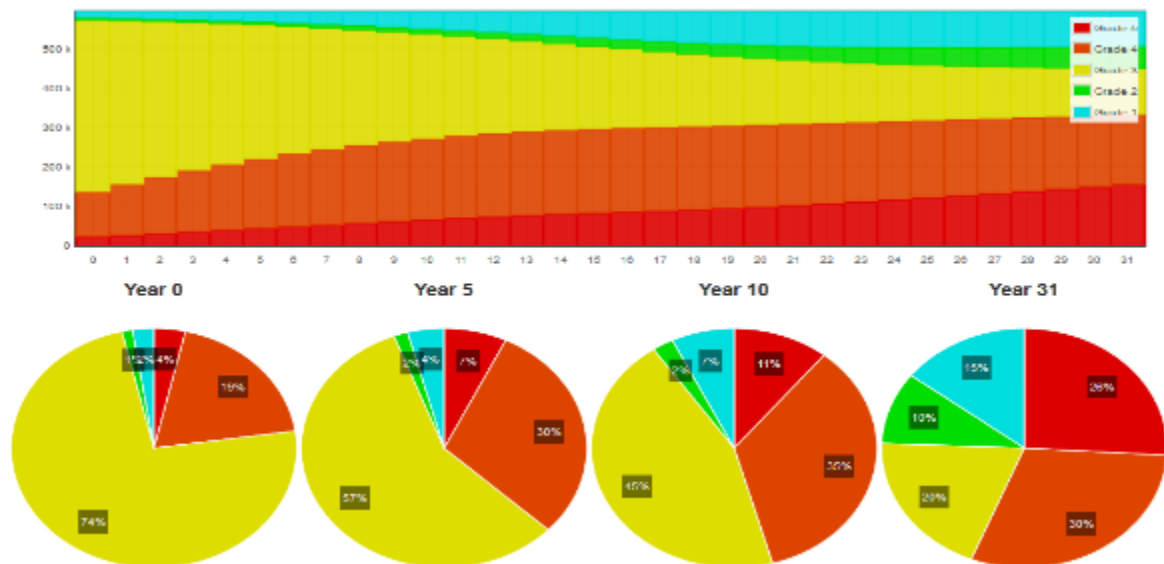
Again both strategies show a decline in the condition of the Flagged footways, but unlike the Bituminous levels, there is not such a marked change.

However, it should be noted that although the condition doesn't show much variation under the new strategy, the area of the poor flagged footways is constantly reducing due to the change in strategy by replacing flagged footways with Bituminous.

Flag



Flag



Southend-on-Sea Borough Council

Agenda
Item No.

10

Report of Deputy Chief Executive (Place)

To

Cabinet

On

25th February 2020

Report prepared by: Andrew Lewis Deputy Chief Executive
and Executive Director for Growth and Housing

Southend Adult Community College Scheme of Delegation

Relevant Scrutiny Committee(s): Place Scrutiny
Cabinet Member: Councillor Anne Jones
Part 1 (Public Agenda Item)

1. Purpose of Report

The purpose of the report is to update the governance arrangements in relation to Southend Adult Community College ("the College") following the Council's senior management restructure.

2. Recommendations

It is recommended that:

2.1 The updated Scheme of Delegation at Appendix 1 is agreed;

2.2 The Cabinet Member with responsibility for learning be agreed as the Council representative on the College's Governing Body.

3. Background

3.1 The College operates under a Scheme of Delegation which was last updated November 2018. This states at paragraph 12 of Annexe B that the Articles should be *"reviewed every two years to ensure they reflect best governance practice and may be amended or replaced in agreement with the Authority, or revoked by order of the Authority"*. In this instance is it necessary to update the articles within the two year timeframe to reflect the changes made following the Council's senior management restructure which has seen the College move into the Regeneration and Growth basket of services.

3.2 The amends to the updated Scheme of Delegation (**Appendix 1**) reflect the changes to senior management structure to ensure appropriate accountability and support. Other changes can be found at Annexe A paragraph 2.2 which makes a minor change to the terminology relating to Learner Engagement

Monitoring. Annexe A paragraph 10.4 introduces the ability to hold virtual approvals and delegations as is common practice elsewhere.

- 3.3** The Council has been represented on the College's Governing Body over the years. The end of the term of office of the most recent representative has been reached and the Council's representation reviewed accordingly. It is proposed that going forward the Council be represented on the Governing Body by the Cabinet Member with responsibility for learning supported by the Director of Regeneration and Growth. Although there is a delegation in place for the appointment of the Local Authority governor, it is considered expedient on this occasion for the appointment to be made by Council.

4. Other Options

There is an existing Scheme of Delegation (dated November 2018) which could be retained however this would not be up-to-date and an accurate reflection of the Council-College relationship.

5. Reasons for Recommendations

The College is part of the Council and the Scheme of Delegation sets out the governance relationship for the College in relation to the rest of the Council. An up-to-date Scheme of Delegation and representation on the Governing Body are good practice.

6. Corporate Implications

6.1 Contribution to the Southend 2050 Road Map

The work of the College directly contributes towards a number of Southend 2050 outcomes.

Opportunity and Prosperity outcome 3:

Our children are school and life ready and our workforce is skilled and job ready

The College provides learning and education from the age of 14. It seeks to align its curriculum planning with local economic need. It also offers training for the existing local workforce including staff development and wider professional and community learning.

Active and Involved outcomes 1 and 2:

Even more Southenders agree that people from different backgrounds are valued and get on well together.

The benefits of community connection are evident as more people come together to help, support and spend time with each other.

The College is a space where people from different backgrounds come together, learn together and about each other, and positively contribute towards life in Southend.

6.2 Financial Implications

The delegated budget to the College is reflected in the existing Scheme of Delegation. Updates proposed do not present a material change to this provision.

6.3 Legal Implications

The Council must approve an updated Scheme of Delegation to ensure the amendments and updates takes effect on the running of the College.

6.4 People Implications

This report aligns the College with the senior management restructure agreed last year through corresponding updates to the Scheme of Delegation. It also recommends appointment of a Councillor and an officer to the Governing Body.

6.5 Property Implications

There are no direct property implications of this report. The College operates from three sites across the borough, two of these are maintained by the Council.

6.6 Consultation

There is no consultation required in regards to this report.

6.7 Equalities and Diversity Implications

This report has no equality and diversity implications.

6.8 Risk Assessment

The risk of not updating would be to the detriment of the effectiveness of the college's governing body in meeting the strategic challenges facing adult and community education provision.

6.9 Value for Money

This report has no value for money implications.

6.10 Community Safety Implications

This report has no community safety implications.

6.11 Environmental Impact

This report has no environmental implications.

7. Background Papers

None

8. Appendices

Appendix 1 – Revised Scheme of Delegation

**Scheme of Delegation for the Governance of
Southend Adult Community College
(including the Instrument of Government and
Articles of Government)**

February 2020

Scheme of Delegation for the Governance of Southend Adult Community College

1. INTERPRETATIONS

In this document, unless the context otherwise requires, the following expressions shall have the meanings indicated in this paragraph:

- “*The Articles of Government*” means the Articles of Government for Southend Adult Community College at Annex B
 - “*The Authority*” means Southend on Sea Borough Council;
 - “*The College*” means Southend Adult Community College;
 - “*The Deputy Chief Executive & Executive Director of Growth and Housing*” means the postholder within the Authority, or any officer of the Authority nominated by him/her;
 - “*The Director of Regeneration and Growth*” means the Director of Regeneration and Growth of the Authority or any officer of the Authority nominated by him or her.
 - “*The Executive Director of Finance and Resources*” means the postholder within the Authority or any officer of the Authority nominated by him/her.
 - “*The Financial Scheme of Delegation*” means the College’s Financial Regulations and Scheme of Delegation (October 2015);
 - “*The Governors*” means the Governing Body of the College;
 - “*The Instrument of Government*” refers to the Instrument of Government shown in Annex A
 - “*The Scheme*” means Scheme of Delegation for the Governance of Southend Adult Community College
- 1.1. The headings are included for convenience only, and shall not affect the construction of this document.
- 1.2. This Scheme makes provision for the principles and procedures, which the Authority will use to plan adult community learning provision, the quality of provision, the determination of an annual budget, and the delegation by the Authority of the management of the budget to the Governors.

2. THE PLANNING PROCESS

- 2.1. The planning cycle is based on the Education and Skills Funding Agency (ESFA) business year, 1 August to 31 July, while taking account also of financial and calendar years.
- 2.2. The planning process embraces the entire provision made by the College, however funded.
- 2.3. The purpose of the planning process is to determine what changes are needed to the existing broad pattern of provision in order that it may meet

more effectively the changing needs of the economy and population of the Authority's area.

- 2.4. The planning process will have regard to the general educational character of the College as determined from time to time by the Authority in consultation with the Governing Body.
- 2.5. The Authority will determine each year, in discussion with the College, how in broad terms, the pattern of provision made by the College is to contribute to meeting the needs of the area.

3. THE BUDGET

- 3.1. The Authority will determine the total gross funds required for the proposed level of activity of the College, based on the ESFA allocations. The College's budget shall be given as a cash limited net expenditure figure after a deduction for the cost of the Authority's core responsibilities. The cost of these core responsibilities shall be formally reported to the Chair of Governors on an annual basis, following approval from the Authority's budget by full Council. Support services, provided by the Authority, will be charged through the operation of Service Level Agreements.
- 3.2. This Scheme provides for surpluses, or deficits, in the delegated budget to be carried forward into the following financial and ESFA business years.
- 3.3. The scale of tuition fees and policies relating to the revision of fees for adult community learning are to be set by the Governing Body. In exercising these functions, the Governing Body may make different arrangements for the different kinds of provision. In setting tuition fee levels, the College shall have regard to the income target set by the College, and the anticipated effect of fee levels on numbers of enrolments.
- 3.4. This Scheme does not provide for a contingency fund. The Governors are expected to set aside funds from within the delegated budget to meet unforeseen in-year increases.

4. DELEGATION TO THE GOVERNING BODY OF THE COLLEGE

- 4.1. The Authority prescribes rules and standards consistent with this Scheme to be observed in the conduct of the work of College e.g. financial regulations, standing orders for contracts; standards and specifications for the maintenance of premises; health and safety policies.
- 4.2. The Authority, as employer, determines terms and conditions of service for its employees, which must be adopted by the Governing Body.
- 4.3. The powers and responsibility of the Governing Body are limited to those specifically delegated to them by the Authority exercised in accordance with any conditions applicable. The Governing Body is not a body corporate and so, when acting under delegated powers, does so on behalf of the Authority.

5. POWERS OF THE GOVERNING BODY

5.1. Subject to the duties set out in paragraph 16, the following are the main powers delegated to the Governing Body:

- To incur expenditure within the delegated budget set by the Authority;
- To exercise virement within the delegated budget across all revenue expenditure headings except those that relate to earmarked items;
- To determine, at a detailed level, the pattern of learning programmes to be provided by the College during the financial year, and to vary the pattern to take account of developing needs and circumstances;
- To regulate staffing matters in accordance with the Articles of Government and specifically:
 - to determine what staff are required for the purposes of the College, and to select such staff;
 - to determine the duties of staff so selected, and their grading according to the scale of grades currently applicable in relation to employment with the Authority;
 - to exercise any discretion of the Authority with respect to the remuneration to be paid to such staff;
 - to regulate matters relating to conduct, discipline and employment grievances of staff in accordance with arrangements specified by the Authority.
- To incur expenditure within the delegated budget, on such repairs, maintenance and minor alterations not categorised as capital expenditure, in accordance with the procurement procedures in the agreed Financial Scheme of Delegation.
- To purchase, using funds from the delegated budget, such supplies, equipment and services as are needed for the College in accordance with guidelines outlined in the agreed Financial Scheme of Delegation;
- To determine the use to which the premises of the College may be put, and the charges to be made for the use of those premises during the course of the financial year (subject to provision that the Governing Body shall not sell, lease or grant a tenancy of any part of the College premises or enter into any agreement for the occasional use of part of the premises over a period of more than one academic year without the Authority's written approval).

6. DUTIES OF THE GOVERNING BODY

6.1. The main duties and responsibilities delegated to the Governing Body are as follows:

- To produce a strategic plan and annual operating statement with clear key performance indicators that outline how the college will deliver the Authority's Adult Community Learning programme across the Southend and South Essex area.

- To oversee the quality of the College's provision
- To manage efficiently, economically and effectively the delegated budget;
- To have regard, in exercising its functions, to the legal responsibilities of the Authority for the strategic planning and quality control of adult community learning , and to take account of the advice of the Director of Regeneration and Growth in the exercise of such functions;
- To avoid any action likely to put the Authority in breach of its statutory responsibilities;
- To avoid a budget deficit;
- To comply with the Authority's financial regulations and standing orders as outlined in the Financial Scheme of Delegation;
- To adhere to the policies of the Authority; and
- To provide the Authority with such information as it may require for the exercise of its statutory functions, including the return of information in connection with budget monitoring.

7. WITHDRAWAL OF DELEGATION

7.1. Where the Authority considers that the Governing Body, within the delegation requirements

- a) Has been guilty of substantial or persistent failure to comply with any requirements applicable under the scheme; or
- b) Is not managing the appropriation of expenditure of the sum put to its disposal or granted to it for the purposes of the institution in a satisfactory manner

The Authority may take certain specified actions. These are:

- a) Complete suspension of the Governing Body's right to a delegated budget;
- b) The limitation of that right to part only of the budget for the College;
- c) The restriction, in any manner that appears to the Authority appropriate in the circumstances, of the discretion of the Governing Body to spend any sums available or granted to it in respect of the College's budget or any part of it;
- d) Closure of any bank account, which the Executive Director of Finance and Resources has approved for the management of College funds.

7.2. Except in the case of an emergency, where the Authority will suspend delegation without notice, the Authority will give the Governing Body a calendar month's notice of any proposal to suspend or restrict delegation, with reasons, and the Governing Body shall have the right of appeal to the Authority.

7.3. Any suspension or restriction of delegation will be reviewed before the beginning of every financial year, and revoked as soon as possible.

8. DELEGATION OF PRINCIPAL

- 8.1. The Governing Body may delegate any of its powers to a committee or sub-committee of the Governing Body, or to the Principal, in accordance with the Articles of Government.

9. TIMING OF IMPLEMENTATION

- 9.1. This Scheme shall take effect from DATE TO BE INSERTED FOLLOWING AGREEMENT, after approval by the Council and Governing Body

INSTRUMENT OF GOVERNMENT FOR SOUTHEND ADULT COMMUNITY COLLEGE

In exercise of the powers conferred upon it by section 85 of the Further and Higher Education Act 1992, Southend on Sea Borough Council, acting as Local Authority, hereby orders as follows:

1. INTERPRETATION

In this Instrument of Government, unless the context otherwise requires, the following expressions shall have the meanings indicated in this paragraph:

- “The Authority” means Southend on Sea Borough Council acting as local authority and, where any function has been delegated to a committee of the Authority, or office of the Authority, includes in relation to that function of the committee or office to whom it exercise has been delegated;
- “The College” means the Southend Adult Community College;
- “*The Deputy Chief Executive & Executive Director of Growth and Housing*” means the postholder within the Authority, or any officer of the Authority nominated by him or her;
- “The Executive Director of Finance and Resources” means the Executive Director of Finance and Resources or any officer of the Authority nominated by him or her;
- “The Governors” means the Governing Body of the College;
- “*The Scheme*” means Scheme of Delegation for the Governance of Southend Adult Community College;
- “*Senior Staff*” means the Principal and Senior Management Team of the College.

1.2 The Interpretation Act 1978 shall apply for the interpretation of this Instrument as it applies for the interpretation of an Act of Parliament.

2. COMPOSITION OF THE GOVERNING BODY

2.1 The Governing Body of the College shall consist of twelve members to be selected and appointed as follows:

- i. One elected member of the Authority nominated and appointed by the Authority following the processes outlined in 2.4;
- ii. One member representing and elected by the staff of the College;
- iii. Nine members co-opted by the other Governors from amongst persons who are able to make substantial contribution to the effectiveness of the College in the local community;
- iv. The Principal of the College.

- 2.2 The Governing Body will seek to recognise and respond to the breadth and diversity of the student body through Learner Engagement Monitoring to seek valuable feedback and insight from learners on their progress, aims, and ambitions and to inform future strategy development. This will aid the Governing Body in tracking learner progress and holding the senior leaders to account on the outcomes of learners, with the overarching aim of continuous quality review and development. Learner Engagement Monitoring will take place three times each academic year.
- 2.3 The Governing Body shall appoint a person to act as a Clerk.
- 2.4 Nominations for the Local Authority governor will be made by Deputy Chief Executive & Executive Director of Growth and Housing in consultation with members of the Authority's Appointments and Disciplinary Committee. If any of the said Committee objects to the proposal by the Deputy Chief Executive & Executive Director of Growth and Housing the matter shall go to the above Committee for determination.
- 2.5 Appointment of the staff governor and co-opted governors will be made by the Governing body following recommendation by a panel comprising a representative of The Deputy Chief Executive & Executive Director of Housing & Growth, the Chair of Governors and an existing governor following scrutiny of the applications and a short interview carried out by the panel.

3. APPOINTMENT OF CHAIR AND VICE-CHAIR

- 3.1 At the first full meeting of the Governing Body constituted in accordance with this Instrument, the Governors shall appoint a Chair and Vice-Chair from amongst their number.
- 3.2 Any Governor appointed under paragraph 2.1 (ii) or 2.1 (iv) above shall not be eligible to be appointed Chair or Vice-Chair.
- 3.3 The Chair and Vice-Chair shall hold office for one year.
- 3.4 If both the Chair and Vice-Chair are absent from any meeting of the Governing Body, the Governors present shall choose one of their number to act as Chair for the meeting, provided that the Governor chosen shall not be Governor appointed under paragraph 2.1 (ii) or 2.1 (iv) above.
- 3.5 The Chair and Vice-Chair may at any time, by notice in writing to the Clerk to the Governing Body, resign their respective offices.
- 3.6 At the first meeting following expiry of the term of office of the Chair and Vice-Chair, or following the resignation of the Chair or Vice-Chair, the Governors shall appoint a new Chair or Vice-Chair, as the case may be, from amongst their number.
- 3.7 The Chair and Vice-Chair, retiring at the end of their respective terms of office, shall be eligible for re-appointment.

4. PERSONS INELIGIBLE TO BE GOVERNORS

- 4.1 No person who has not attained the age of 18 years shall be eligible for appointment as a Governor.
- 4.2 No person who is a member of staff of the College shall be eligible for appointment as a Governor except in accordance with paragraph 2.1 (ii) or 2.1 (iv) above.
- 4.3 A person shall be disqualified for holding, or continuing to hold, office as a Governor if, in summary, that person:
- a) Is the subject of a bankruptcy restrictions order; an interim bankruptcy restrictions order; debt relief restrictions order; an interim debt relief restrictions order; or their estate has been sequestrated and the sequestration has not been discharged, annulled or reduced;
 - b) Is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1976; a disqualification order under the Companies (Northern Ireland) Order 2002; a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002; or an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order);
 - c) Has been removed from the office of Trustee for a charity by an order made by the Charity Commission or Commissioners or High Court on grounds of any misconduct or mismanagement in the administration of the charity, or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 from being concerned in the management or control or any body;
 - d) Has been removed from office as an elected governor within the last five years;
 - e) Is included in the list of people considered by the Secretary of State as unsuitable to work with children or young people;
 - f) Is barred from any regulated activity relating to children;
 - g) Is subject to a direction of the Secretary of State under section 142 of the Education Act 2002 or section 128 of the Education and Skills Act 2008;
 - h) Is disqualified from working with children or from registering for child-minding or providing day care;
 - i) Is disqualified from being an independent school proprietor, teacher or employee by the Secretary of State;
 - j) Subject to certain exceptions for overseas offences that do not correlate with a UK offence, has been sentenced to three months or more in prison (without the option of a fine) in the five years ending with the date preceding the date of appointment/election as a governor or since becoming a governor;
 - k) Subject to certain exceptions for overseas offences that do not correlate with a UK offence, has at any time received a prison sentence of five years or more;
 - l) Has been convicted and fined for causing a nuisance or disturbance on school or educational premises during the five years ending with the date

immediately preceding appointment/election or since appointment or election as a governor;

- m) Refuses a request by the Clerk to make an application to the Disclosure and Barring Service for a criminal records certificate.

4.4 Anyone proposed or serving as a governor who is disqualified for one of these reasons must notify the Clerk to the Governing Body.

5. TERM OF OFFICE

5.1 Governors appointed under paragraphs 2.1 (i) and 2.1 (iii) shall serve for a period of four years. Governors appointed under paragraphs 2.1 (ii) and 2.1 (iv) shall serve a period of four years provided they remain employed at the College in the relevant capacity.

5.2 Governors retiring at the end of their first term of office shall be eligible for re-appointment. If they wish to continue they should write to the Chair requesting consideration of a second term. This will be followed by an interview with the Chair to determine their suitability in the context of the skills needs of the Governing Body at that time. It would not normally be expected that a Governor would serve more than two terms.

6. DETERMINATION OF GOVERNORSHIP

6.1 A Governor may at any time resign his or her office by notice in writing to the Clerk to the Governing Body.

6.2 Any Governor who is absent for four or more meetings during a period of six months, unless the reason for his or her absence is approved by the Governing Body, will thereupon cease to be a Governor.

6.3 Any Governor may by notice in writing be removed from that office by the body which appointed or elected him or her in accordance with paragraph 2.1 above.

6.4 Where a Governing Body has any concerns over the effectiveness or behaviour of a Governor appointed by another body, they will bring their concerns to the attention of that body. It would then be for that body to consider where the information brought to light is sufficient to change their opinion of whether the individual concerned continues to have the skills required to contribute to effective governance.

6.5 The Authority governors may be removed from office by the local authority that nominated them. The Authority must give written notice of the removal to the Clerk to the governing body and to the governor concerned.

6.6 The Governing Body may remove co-opted Governors following the guidance provided in The Constitution of Governing Bodies of maintained schools, August 2017, Regulation 25 (section C.6).

6.7 Any Governor who is a Governor by virtue of being a member of the staff (including the Principal) shall cease to be a Governor if he or she ceases to be a member of staff of the College.

7. VACANCIES

- 7.1 Upon the occurrence of a vacancy or expected vacancy amongst the Governors appointed under paragraphs 2.1 (i), 2.1 (ii) and 2.1 (iv) above, that vacancy shall be notified as soon as possible to the body by whom the outgoing Governor was nominated or elected. It shall be for that body to nominate or elect, as the case may be, a person to fill the vacancy. For governors appointed under 2.1(i), the process outlined in 2.3 should be followed.

8. VALIDITY OF PROCEEDINGS

- 8.1 The validity of proceedings of the Governing Body, or any committee of the Governors, shall not be affected by any vacancy amongst the members, or by any defect in the nomination, election or appointment of a member.

9. GOVERNORS NOT TO BE FINANCIALLY INTERESTED IN THE COLLEGE

- 9.1 Except with the approval in writing of the Authority, no Governors shall take or hold any interest in any property held or used for the purpose of the College, nor receive any remuneration for his or her services as a Governor; provided that a Governor who is a member of the staff of the College (including the Principal) may receive remuneration in that capacity.

A Governor who has any financial interest in:

- a) The supply of work materials, goods or services to or for the purposes of the College; or
- b) Any contract or proposed contract concerning the College; or
- c) Any other matter relating to the College

and is present at a meeting of the Governors at which the supply, contract or other matter is to be considered, shall at the meeting disclose and have minuted the fact and shall not take part in the consideration or vote on any question with respect to it.

10. MEETINGS

- 10.1 The Governing Body shall meet at least ten times in an academic year, and shall hold other such meetings as may be necessary. A meeting of the Governing Body is required formally to approve the budget of the College prior to the final date for notifying the Authority of its approved budget.
- 10.2 All meetings shall be summoned by the Clerk to the Governors, who shall send to the Governors written notice of the meeting and a copy of the agenda at least seven days in advance of the meeting.
- 10.3 A special meeting of the Governors may be called at any time by the Chair of the Governors or at the request in writing of any four Governors. Where the Chair, or in his or her absence, the Vice-Chair, so directs on the grounds that there are matters demanding urgent consideration, it shall be sufficient if the written notice convening the meeting and the agenda are given within such period, being less than seven days, as he or she specifies.

- 10.4 The ability to undertake virtual approvals and delegations as the need arises as a group or under Chair's action. Any virtual approvals must meet the same requirements as face-to-face meetings set out in the rest of Annex A sections 11-16.

11. QUORUM

- 11.1 The quorum for a meeting of the Governing Body shall be one third (rounded up to a whole number) of the membership thereof when complete.
- 11.2 The quorum for the purpose of appointing co-opted governors pursuant to paragraph 2.1 (iii) shall be any three quarters (rounded up to a whole number) of the Governors concerned.
- 11.3 If the number of Governors assembled for a meeting of the Governing Body does not constitute a quorum, the meeting shall not be held. If in the course of a meeting of the Governing Body the number of members thereof present ceases to constitute a quorum, the meeting shall be terminated forthwith.
- 11.4 If for lack of a quorum a meeting cannot be held or, as the case may be, cannot continue, the Chair shall, if he or she thinks fit, cause a special meeting to be summoned as soon as conveniently may be.

12. PROCEEDINGS OF MEETINGS

- 12.1 Every question to be decided at a meeting of the Governing Body shall be determined by a majority of the votes of the Governors present and voting on the question. Where there is an equal division of votes the Chair of the meeting shall have a second or casting vote.

13. MINUTES

- 13.1 At every meeting of the Governing Body the minutes of the last meeting, if agreed to be accurate, shall be signed as a true record.

14. PUBLIC ACCESS TO MEETINGS

- 14.1 The Governing Body will decide whether any person who is not:
- a) A member of the Governing Body;
 - b) The Clerk to the Governing Body;
 - c) The Executive Director of Finance and Resources or his/her representative.

should be allowed to attend a meeting of the Governing Body.

15. PUBLICATION OF MINUTES AND PAPERS

- 15.1 Subject to paragraph 15.2, the Governing Body shall ensure that a copy of:
- a) The agenda for every meeting of the Governing Body;

- b) The draft minutes of every such meeting, if they have been approved by the Chair of the meeting;
 - c) The signed minutes of every such meeting and
 - d) Any report, document or other paper considered at any such meeting shall, in each case as soon as may be, be made available at the locations of the College to any person wishing to inspect them.
- 15.2 There may be excluded from any item required to be made available in pursuance of paragraph 15.1 above, any material relating to:
- a) A named tutor or other person employed at or proposed to be employed at the College;
 - b) A named student at, or prospective student at the College;
 - c) Any matter which, by reason of its nature, the Governing Body is satisfied should be dealt with on a confidential basis.

16. ATTENDANCE OF THE EXECUTIVE DIRECTOR OF FINANCE AND RESOURCES

- 16.1 The Executive Director of Finance and Resources or his/her representative may attend any meeting of the Governing Body or any Committee or Sub-Committee thereof and may speak at any such meeting for the purpose of advising on financial matters.
- 16.2 The Clerk to the Governors shall send to the Executive Director of Finance and Resources, at the same time as they are sent to the Governors, copies of the agenda and other papers, and the minutes of meetings of the Governing Body and of any committee or Sub-Committee thereof.
- 16.3 The Executive Director of Finance and Resources shall be entitled at any time to submit to the Governing Body, through the Clerk to Governors, such reports and recommendations as he or she considers appropriate.

17. COPIES OF INSTRUMENT

- 17.1 A copy of this instrument shall be given to every Governor and every permanent member of staff on appointment, and shall be available upon request to every other member of staff and every student.

18. REVIEW, ALTERATION OR REVOCATION

- 18.1 This instrument is to be reviewed every two years by the Governors to ensure that it reflects best governance practice and may be varied in agreement with the Authority or revoked by a further order made by the Authority.

19. DATE OF INSTRUMENT

19.1 This instrument shall come into operation on DATE TO BE INSERTED FOLLOWING AGREEMENT

ARTICLES OF GOVERNMENT FOR SOUTHEND ADULT COMMUNITY COLLEGE

1. INTERPRETATION

In these Articles, unless the context otherwise requires, the following expressions shall have the meanings indicated in this paragraph:

- In this document, unless the context otherwise requires, the following expressions shall have the meanings indicated in this paragraph:
 - *“The Authority”* means Southend on Sea Borough Council;
 - *“The College”* means Southend Adult Community College;
 - *“The Director of Regeneration and Growth”* means the Director of Regeneration and Growth of the Authority or any officer of the Authority nominated by him or her;
 - *“The Financial Scheme of Delegation”* means the College’s Financial Regulations and Scheme of Delegation (October 2015);
 - *“The Governing Board”* means the governing body of the College;
 - *“The Governors”* means the governors in the Governing Body of the College;
 - *“The Scheme”* means the Scheme of Delegation for the Governance of Southend Adult Community College;
 - *“Senior Staff”* means the Principal and Senior Management Team of the College.

The interpretation Act 1978 shall apply for the interpretation of these Articles as it applies for the interpretation of an Act of Parliament.

2. CONDUCT OF THE COLLEGE

- 2.1 The institution shall be conducted in accordance with the provisions of the Instrument of Government, these Articles, any rules or bye-laws made under these Articles and any trust deed regulating the institution.
- 2.2 The Authority, in consultation with the Governors, shall be responsible for determining, in accordance with the Scheme, the general character of the College and its place in the local education system
- 2.3 The Governors shall be responsible, in accordance with the Scheme, for the strategic direction of the College, together with oversight of the quality of education and training provision.
- 2.4 Subject to the responsibilities of the Authority and the Governors as specified above, the Principal shall be responsible for the executive management of the College, including its financial management and internal organisation.

3. APPOINTMENTS: GENERAL

- 3.1 It shall be for the Governing Body to delegate to the Principal the determination of what staff, both full-time and part-time, are for the time being required for the purposes of the College, and to select all such staff for appointment by the Authority, having regard to the advice of the Director of Regeneration and Growth. The Governing Body shall review, via the Principal, the College staff arrangements regularly, and shall approve an Annual Staffing Plan. The review and Annual Staffing Structure would normally be linked to the budget setting process.

4. APPOINTMENTS: SENIOR POST HOLDERS

- 4.1 Upon the occurrence of a vacancy or expected vacancy in a senior full time post, i.e. Principal, Assistant Principal or Head of Finance and Operations, the Governing Body shall:
- a) Notify the Authority in writing;
 - b) Advertise the vacancy in such publications as they think appropriate;
 - c) Appoint a selection panel consisting of three or more Governors. One shall be the Principal except where a Principal is being appointed in which case outgoing Principal shall not take part in the appointment procedure; the others should be Governors appointed under paragraph 2.1 (i) and (iii) of the Instrument of Government. The Governing Body shall seek advice from the Director of Regeneration and Growth in making appointments.
- 4.2 The selection panel shall:
- a) Determine arrangements for selecting applicants for interview;
 - b) Interview those applicants;
 - c) Where they consider it appropriate to do so, recommend to the Authority for selection one of the applicants interviewed by them.
- 4.3 If the Authority approves the selection panel's recommendation, it shall notify the Governing Body.
- 4.4 If the selection panel are unable to agree on a person to recommend to the Authority, or if the Authority does not approve its recommendation, the Governing Body may require the panel to repeat the steps mentioned in paragraph 4.1, with or without first re-advertising the vacancy.
- 4.5 The Director of Regeneration and Growth shall have the right to attend, for the purpose of giving advice, any proceedings of the Governing Body or the selection panel, relating to the selection of full time senior post holders.

5. APPOINTMENTS: PART-TIME TEACHERS AND OTHER STAFF

- 5.1 Subject to the provision of this section, the Principal shall have general responsibility for selecting for appointment any other members of the staff not covered by section 4 above and for notifying the Authority accordingly. He or she shall exercise that responsibility in accordance with arrangements made

by the Governors after consultations with representatives of staff. Details of such arrangements shall be notified to the Authority.

5.2 Upon the occurrence of a vacancy or expected vacancy in any post not covered by section 4 or 5.1 above, the Principal shall:

- a) Determine a specification for the post;
- b) Except in cases or categories of cases where the Authority has agreed otherwise, send a copy of the specification to the Authority;
- c) In cases or categories of cases where that is required under the arrangements made under paragraph 5.1, advertise the post by whatever means are specified in those arrangements.

6. GRADING AND CONDITIONS OF SERVICES

6.1 The Governors shall be responsible, via the Principal, for:

- a) Determining the duties to be performed by members of staff appointed under sections 4 and 5 above, including, in the case of part-time staff, their hours of work;
- b) Determining the grading of such staff, consistent with the approved Annual Staffing Plan, according to the scale of grades currently applicable in relation to employment with the Authority;
- c) Exercising any discretion of the Authority with respect to the remuneration to be paid to such staff.

6.2 Subject to the provision of these Articles, all staff shall be appointed to specified posts in the College in the service of the Authority on such terms and conditions of service as the Authority may determine.

7. CONDUCT, DISCIPLINE AND GRIEVANCE

7.1 Matters relating to discipline and grievance shall be regulated in accordance with arrangements specified by the Authority.

8. FINANCE

8.2 The financial administration of the College shall be conducted in accordance with the provisions made in the Financial Scheme of Delegation and all relevant financial regulations and standing orders made by the Authority and subject thereto in accordance with the terms of the Scheme.

9. DELEGATION

9.1 The Governors may delegate their functions under these Articles to a Committee established under Section 3 above, to two or more Governors or the Principal.

- 9.2 In any case where urgent action is required in a matter, which would otherwise have fallen to the Governors, or their Chair, to determine, the Principal or the Vice-Principal in his or her absence, shall take such action as he or she judges appropriate. He or she shall notify the Governors in writing of such action at the earliest opportunity.

10. CONSULTATION

- 10.1 The Governors or the Principal or both may at any time seek advice from the Director of Regeneration and Growth on any matter relating to the college.
- 10.2 The Director of Regeneration and Growth may at any time offer advice to the Governing Body or the Principal or both on any matter relating to the College.

11. COPIES OF ARTICLES

- 11.1 A copy of these Articles shall be given to every Governor and every permanent full-time member of the staff on appointment, and shall be available upon request to every other member of staff and student.

12. REVIEW, AMENDMENT AND REVOCATION OF ARTICLES

- 12.1 These Articles are to be reviewed every two years by the College's Governing Body to ensure they reflect best governance practice and may be amended or replaced in agreement with the Authority, or revoked by order of the Authority.

13. DATE OF ARTICLES

- 13.1 These Articles shall come into operation on DATE TO BE INSERTED FOLLOWING AGREEMENT .