

This report will be made public on 21 March 2023



Report Number **A/22/34**

To: Council
Date: 29 March 2023
Status: Non- Executive Decision
Head of Paid Service: Susan Priest
Responsible Officer: Amandeep Khroud, Assistant Director – Governance, Law and Regulatory Services

SUBJECT: Report to Council on decisions made in accordance with the constitution's call-in and urgency rule

SUMMARY: The constitution provides that, when an urgent decision is made by the Cabinet or Cabinet Member, for which any delay in implementation, likely to be caused by the call-in process, would seriously prejudice the Council's or public interest, then the 'Call-in Rules of Procedure', Part 6.3, rules 1-6 do not apply. Decisions, taken as a matter of urgency, must be reported to the next available meeting of the Council, together with the reasons for urgency.

REASONS FOR RECOMMENDATIONS:

This report is recommended to Council, to note for information, in accordance with the constitution, Part 6.3, rule 7.

RECOMMENDATION:

1. To receive and note report A/22/34.

1 INTRODUCTION

- 1.1 The constitution (paragraph 7, part 7.3, Call-In Rules of Procedure) provides that, when an urgent decision is made, for which any delay in implementation, likely to be caused by the call-in process, would seriously prejudice the Council's or public interest, then the call-in rules of procedure, Part 6.3, rules 1 to 6, do not apply. Decisions, taken as a matter of urgency, must be reported to the next available meeting of the council, together with the reasons for urgency.
- 1.2 On 22 February 2023, Cabinet considered report C/22/86, which sought approval to accept the Levelling Up Fund grant award following the success of the Council's application for Folkestone - A Brighter Future. The report sought approval to proceed with the project and provides an overview of the governance and delivery arrangements. The report also sought agreement to enter into delivery agreements with Kent County Council and Creative Folkestone, and agreement to explore the potential for the Council to relocate from the Civic Centre to Folca.

The Cabinet resolved:

1. **That report C/22/86 be received and noted.**
2. **That the successful outcome of the Levelling Up Fund bid: Folkestone - A Brighter Future be noted.**
3. **That the Government's Levelling Up Fund award of £19,791,819 be accepted.**
4. **That the Council enter into a Memorandum of Understanding with Department for Levelling Up, Housing and Communities (DLUHC).**
5. **That the arrangements detailed for governance and delivery of the overall project be noted.**
6. **That the Council enters into delivery partnership agreements with Kent County Council and Creative Folkestone.**
7. **That the Director of Place, in consultation with the Leader of the Council, project related Cabinet Portfolio Holders and the Corporate Leadership Team be authorised to progress delivery of the Levelling Up Fund project Folkestone - A Brighter Future.**
8. **That it be noted that a Stakeholder and Communications Strategy will be developed and implemented.**
9. **That it be noted that Member briefings will be held at key stages throughout the project.**
10. **That it be noted that progress on delivery of the Levelling Up Fund project will be reported as part of the Council's quarterly corporate performance reporting.**
11. **That officers explore the potential of the Council relocating from the Civic Centre to some of Folca 2 and that the outcome of this be reported to Cabinet for further consideration ahead of a decision being made.**

This decision was taken using General Exception urgency provisions (Part 6.4, Rule 12). It was necessary to take the decision under the constitution's 'Call in and Urgency' rule (Part 6.3, rule 7) because the bid has been successful and Cabinet approval was required to accept the grant award and to enter into related delivery agreements with KCC and Creative Folkestone. Government announcement of the award had been delayed significantly and we needed to press on with delivery as

soon as possible in order to meet deadlines set for the whole project. Therefore an urgent decision of Cabinet was required.

- 1.3 Also on 22 February 2023, Cabinet considered report C/22/94 which informed Members of the progress relating to the High View development site since the last report in January 2022. The site now has planning permission for the development of 30 highly energy efficient homes for affordable rent (25) and shared ownership purchase (5). The report provides an update on the tender activity, levels of tenders received and the applications for external funding and the wider financial package for the scheme. The report also considered the scheme in the wider context of a changed financial environment of higher interest rates, rising costs and the anticipated and competing capital costs of works on the existing stock, including the retrofit programme to raise energy performance levels. The report went on to consider alternative delivery options and makes recommendations to members on next steps.

The Cabinet resolved:

1. **That report C/22/94 be received and noted.**
2. **That the works completed by officers to get the council to this point be noted.**
3. **That the significant financial implications and impact upon the overall HRA Capital Programme if the new build scheme was to go ahead be noted.**
4. **That option 4 be agreed (pause the project and reconsider options when the financial outlook is more positive and market conditions are more favourable be approved).**
5. **That officers explore Option 5 (to sell the site with the benefit of planning permission and demolition / ecology works completed).**
6. **That it be noted that officers will bring back a report following a marketing exercise for further decisions.**
7. **That it be noted that a small revenue budget of £20K per annum will be required for site maintenance and ecology management.**
8. **That the award of £465,000 from the Brownfield Land Remediation fund (BLRF) from One Public Estate and the fact that this may need to be repaid should the scheme not progress be noted.**

This decision was taken using General Exception urgency provisions (Part 6.4, Rule 12). It was necessary to take the decision under the constitution's 'Call in and Urgency' rule (Part 6.3, rule 7) because all three contractors who have bid for the contract have confirmed that they will hold their prices until the end of February. Cabinet needed to consider the options and next steps before this date.

- 1.4 On 14 March 2023, the Cabinet Member for Housing and Special projects considered report C/22/97 which asked for urgent consideration to enable the Council to take up the Government's offer of £1.2m of Local Authority Housing Fund (LAHF) grant. The funding will facilitate the purchase of ten properties to temporarily accommodate Ukrainian and Afghan refugees. The timeframe for the Council to confirm that it wishes to accept the grant funding is very short and it is required to submit a Memorandum of Understanding to the Government by 15 March 2023.

The Cabinet Member for Housing and Special Projects resolved:

1. **To receive and note this report.**
2. **To confirm that the Council should submit the signed Memorandum of Association and participate in the LAHF initiative and purchase the ten properties.**
3. **That the Individual Cabinet Member decision be reported to Cabinet at the earliest opportunity.**

This decision was taken using General Exception urgency provisions (Part 6.4, Rule 12). It was necessary to take the decision under the constitution's 'Call in and Urgency' rule (Part 6.3, rule 7) because the Memorandum Of Understanding (MOU) needed to be signed by 15th March. The decision will also be reported to Cabinet at their meeting scheduled for 22 March 2023.

2 LEGAL, FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

2.1 Legal Officer's comments (AK)

There are no legal issues arising from this report.

2.2 Finance Officer's comments (LW)

The financial implications of this report were addressed in the Cabinet reports to which this report relates.

2.3 Diversity and Equalities Implications (ST)

There are no diversity and equality implications arising from this report.

3 CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

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The following background documents have been relied upon in the preparation of this report:

None