

Selby District Council



Agenda

Meeting: **Executive**
Date: **6 March 2014**
Time: **4pm**
Venue: **Committee Room**
To: Councillor Mark Crane, Councillor Mrs Gillian Ivey, Councillor Cliff Lunn, Councillor John Mackman and Councillor Chris Metcalfe

1. Apologies for absence

2. Minutes

The Executive is asked to approve the minutes of the meeting held on 6 February 2014. Pages 1 to 7 attached.

3. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

4. Works to Culvert Portholme Road– Key Decision

Report E/13/54 asks the Executive to approve the funding for work on Portholme Road. Pages 8 to 10 attached.

5. Contaminated Land Strategy

Report E/13/55 presents to the Executive the Contaminated Land Strategy 2013 -18 for approval. Pages 11 to 57 attached.

6. Selby Leisure Village – To Follow

7. Housing Development St Josephs Street Tadcaster

Report E/13/57 asks the Executive to consider the revised business case for St Josephs Street, Tadcaster. Pages 58 to 70 attached.

8. Housing Development 43 Kirkgate, Tadcaster

Report E/13/58 asks the Executive to consider the revised business case for 43 Kirkgate, Tadcaster. Pages 71 to 77 attached.

9. Overview and Scrutiny Work Programmes

Report E/13/59 present the Overview and Scrutiny work Programmes for 2014/15. Pages 78 to 87 attached.

**Mary Weastell
Chief Executive**

Dates of next meetings
20 March 2014 - Executive Briefing
3 April 2014 Executive

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Selby District Council



Minutes

Executive

Venue:	Committee Room, Civic Centre, Selby
Date:	6 February 2014
Present:	Councillor M Crane (Chair), Mrs G Ivey, C Lunn, J Mackman and C Metcalfe.
Officers present:	Chief Executive, Deputy Chief Executive, Executive Director S151, Managing Director of Access Selby, Lead Officer – Finance, Senior Finance Officer and Democratic Services Manager.
Also Present:	Chairman of Beal Parish Council
Public:	0
Press:	0

NOTE: Only minute numbers 76,77,81 82 and are subject to call-in arrangements. The deadline for call-in is 5pm on 18th of February 2014. Decisions not called in may be implemented on 19 of February 2014.

73. Apologies for Absence

No apologies were received.

74. Minutes

The minutes of the meeting on 9 January 2014 were submitted and agreed as a correct record and signed by the Chair.

75. Disclosure of Interest

Councillor J Mackman declared that he had registered as an “other interest” his role on the Selby and District Housing Trust. He stayed in the room during the consideration and voting on item 9 on the agenda (Programme for Growth – Asset Transfer Policy – Key Decision).

76. 3rd Interim Budget Exceptions Report – Key Decision

Councillor C Lunn presented the third quarter budget exceptions report. The report provided details of the Core, Access Selby and Communities Selby General Fund and Housing Revenue Account expenditure and income variations for the financial year to 31 December 2013/14.

Councillor C Lunn set out that at the end of quarter three, the full year forecast for the General Fund showed an estimated surplus of £148k and the HRA an estimated surplus of £186k.

It was noted that an additional £183k was required for the Business rates Equalisation Reserve and therefore the report proposed to transfer any Core surpluses up to £183k to that reserve.

The Executive heard that the Human Resources system required an upgrade earlier than planned and it was proposed that the work be undertaken this year and funded from savings within the ICT replacement programme.

The Executive were pleased to see good progress being made on the HRA with the kitchen replacement and fencing programmes already completed.

Resolved:

- i. To note the report and endorse the actions of officers**
- ii. To approve the transfer of Core General Fund Surpluses up to the value of £183k to the Business Rates Equalisation Reserve.**

Reason for the decision:

To ensure that budget exceptions are brought to the attention of the Executive with explanations from officers in order to approve remedial action as necessary.

77. 3rd Interim Treasury Management Report – Key Decision

Councillor C Lunn presented the report which reviewed the Council's borrowing and investment activity for the first nine months of 2013/14 and presented performance against the Prudential Indicators.

Councillor C Lunn explained that interest rates continued to be at a low level and that a rise was not forecast until 2016 at the earliest. The current forecast was that the Council would achieve investment income of £239k, a shortfall of £6k against the budget, which was an improvement on the previous quarter.

Resolved:

To endorse the actions of officers on the Council's treasury activities for the period ending 31 December 2013 and approve the report.

Reasons for the decision:

To comply with the Treasury Management Code of Practice, the Executive is required to receive and review regular treasury management monitoring reports.

78. Medium Term Financial Plan – Key Decision

Councillor C Lunn presented the report on the Executive's proposed budget and capital programme for 2014/15 to 2016/17. The report identified a number of budget pressures and presented savings proposals.

Councillor C Lunn set out that the proposals had been out for consultation and had been considered by Policy Review Committee. The Executive discussed the provision of Council Tax Support Grant for parish councils within the budget. Councillor Crane reiterated that the government had not specifically identified parish council funding in the Local Government Finance Settlement and that the Council's funding had been cut significantly.

However, the inclusion of a notional sum within the government's calculation of a council's 'spending power' meant that the expectations of parishes had been raised despite the clear message last year that the funding would be for one year only.

The Executive considered the information contained within the budget proposals and the comments put forward by parish councils as part of the Consultation. It was agreed to recommend the payment of an amount equivalent to funding provided in 2013/14 but scaled back in line with the District Council's 13.4% funding cut. Accordingly, the

funding allocated to parish councils for 2014/15 would be £113,059. The resulting budget shortfall would be balanced by reducing the amount set aside into the Spend to Save Reserve and a review of the Council Tax Support scheme would be undertaken as planned in 2014/15.

Councillor C Lunn set out that looking forward to 2016/17 it was estimated that savings of around £1m per year would be required with more funding cuts anticipated thereafter. The Council has a clear savings strategy and work with North Yorkshire County Council would be crucial to delivery in this area.

Resolved:

To recommend Council:

- i. To pay to parish councils a total grant of £113,059 in 2014/15.**
- ii. To submit to Council for approval a Council Tax increase of 1.96% from £158.88 in 2013/14 to £162.00 in 2014/15.**
- iii. To submit to Council for approval the budgets, bids and savings.**

Reasons for the decision:

To ensure the Executive's budget proposals are fully funded for 2014/15.

79. Treasury Management Strategy – Key Decision

Councillor C Lunn presented the report on the proposed Treasury Management Strategy along with the Minimum Reserve Provision Policy Statement, Annual Investment Strategy for 2014/15 and Prudential Indicators 2014/15 as required by the Department of Communities and Local Government and CIPFA.

Councillor C Lunn set out that the Strategy increased the borrowing limit to allow for the Housing Development Programme.

Resolved:

To recommend to Council that:

- i. The Operational Borrowing Limit for 2014/15 to be set at £79m;**
- ii. The Authorised Borrowing Limit for 2014/15 to be set at £83m;**

- iii. **Councillors to delegate authority to the Executive Director (s151) to effect movement within the agreed authorised boundary limits for long-term borrowing for 2014/15 onwards;**
- iv. **Councillors to delegate authority to the Executive Director (s151) to effect movement within the agreed operational boundary limits for long-term borrowing for 2014/15 onwards;**
- v. **To approve the treasury management strategy statement 2014/15;**
- vi. **To approve the minimum revenue provision policy statement for 2014/15;**
- vii. **To approve the treasury management investment strategy for 2014/15;**
- viii. **To approve the prudential indicators for 2014/15 which reflect the capital expenditure plans which are affordable, prudent and sustainable.**

Reasons for the decision

To ensure the Council's Treasury Management Strategy and associated policies are prudent and affordable.

80. Programme for Growth – Asset Transfer Policy – Key Decision

Councillor C Lunn presented the report on the Asset Transfer Policy, which would allow consideration of the transfer of assets from Selby District Council to Selby and District Housing Trust.

Councillor C Lunn outlined that the Policy had been out for consultation and been considered by Policy Review Committee. The Executive discussed the considerations within the Policy for HRA Void Housing Stock.

Resolved:

- i. **To note the results of the consultation and that no changes have been made as a result to the draft Asset Transfer Policy.**
- ii. **To recommend Council to approve the policy.**

Reasons for the decision

The Asset Transfer Policy will assist with delivery of the Housing Development Strategy by allowing consideration of Council assets for possible transfer to the Housing Trust. These assets would be developed to help deliver additional affordable housing in the district.

81. Housing Rents and Misc. Charges 2014/15 – Key Decision

Councillor C Lunn presented the report on the proposals for Housing Revenue Account rent levels.

Councillor C Lunn set out that based on the Government's formula for rent increases, an average increase of 5.6% would be applied in 2014/15. The Government was currently consulting on proposals to replace the current methodology after 2014/15, a year earlier than planned. The Executive discussed the implications of this for the Council.

It was agreed to ask Policy Review to look at the potential issue of tenants needing to down size being faced with higher rents.

Resolved:

- i. To approve the proposed 5.6% average rent increase for 2014/15.**
- ii. To request that Policy Review Committee consider the implications for existing tenants wishing or needing to downsize, of re-letting vacant properties at target rents, and whether recommendations are required for an appropriate policy in such circumstances.**

Reason for the decision:

To allow rent levels to be set in advance of the coming year within the constraints of Government rent restructuring policy.

82. 3rd Interim Corporate Plan Progress Report

Councillor M Crane presented the report which provided details of Access Selby's key performance indicators following the third quarter of reporting for 2013/14. The report recommended appropriate action where required.

Councillor M Crane outlined that the report demonstrated the excellent work being undertaken with Access Selby. The Executive also discussed the initial progress of the new Selby Leisure Centre.

Resolved:

To approve the report.

Reason for the decision:

The ongoing management of performance and improvement data assists Access Selby in achieving its priorities for 2013/14.

The meeting closed at 16.45 pm

Selby District Council

REPORT

Reference: E/13/54

Public – Item 4



To: The Executive
Date: 6 March 2014
Status: Key Decision
Report Published: 26 February 2014
Author: Keith Cadman, Lead Officer Contracts
Executive Member: Councillor Mark Crane
Lead Officer: Keith Dawson

Title: Works to Culvert Portholme Road

Summary:

Selby Internal Drainage Board (SIDB) have identified a blockage to a drainage culvert running north along Doncaster Road and then north east under Portholme Road. SIDB have conducted a CCTV survey to identify where the blockage is and the potential cause of the blockage and have advised the Council the blockage is located where the culvert runs beneath Council owned playing fields on Portholme Road and has been caused by tree root damage.

Legal services have advised that the responsibility for repair lies with the landowner under whose land the blockage has occurred. The liability for repair of the culvert is therefore with the Council, should a flooding event occur due to the blockage the liability for the flood damage would also lie with the Council.

Recommendations:

- i. **The Executive agree the funding to enable the specification and procurement of repairs to the blocked culvert located under Portholme Road playing field.**
- ii. **Delegates authority to a Director of Access Selby following procurement to award contracts in order to expedite the repairs.**

Reasons for recommendation

The financial risk from flooding and associated claims will remain with the Council until such time as repairs have been effected. Approval of funding and expediting the award of contract will mitigate the financial and reputational risk to the Council.

1. Introduction and background

The SIDB commissioned survey work to the culvert in 2009 to identify the reasons a build up of silt was occurring in the culvert under Doncaster Road, limited jetting took place to remove the silt but was stopped in case the flow of silt caused a complete blockage further down the culvert. Further investigations took place at each inspection manhole to identify why a build up silt had occurred due to the limited flow of water. It was identified that there is significant tree root intrusion along the length of the culvert running underneath the line of poplar trees on Portholme Road playing field. The CCTV survey shows tree root intrusion, a build up of silt and some collapsing of the culvert walls.

2. The Report

The SIDB drainage consultants produced a report containing a feasibility study of options to effect a repair to the blocked culvert ranging in estimated costs from £85,000 to £145,000 at 2009 prices. Arising from the report and in particular the lowest cost option referenced the need to remove a number of the trees causing damage to the culvert. Subsequently the then head of Environmental Health and Leisure commissioned a tree survey report on the poplar trees. The report identified a number of matters including:-

- the age of the trees exceeding 100 years
- the original planting would be two lines of trees
- Although difficult to predict remaining life expectancy the level of die back identified would increase in the near future
- Poplar trees have a high water requirement and therefore associated root development to support their needs
- The root systems can cause problems to adjacent buildings and drains in certain types of ground.

The report also advises that if construction work takes place in the area of the root system the stability and condition of the trees will be affected and in such circumstances the only option would be to remove the trees. The report also identified the trees are not protected by a tree preservation order and subsequent investigations have also identified they are not within a conservation area.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

Legal advice has been sought with regards to liability and the advice is that liability for the repair is with the riparian landowner under whose land the blockage has occurred.

3.2 Financial Issues

Whilst recognising the initial reports are five years old they do provide a summary and potential solutions to the problem. Using the SIDB estimates for repair based on the lowest cost option and applying inflation since 2009 it is estimated the civil engineering consultancy and repair works to the culvert are £150,000. Provision for this scheme has been made within the general fund capital programme for 2014 / 2015.

4. Conclusion

Due to the potential risk of flooding attributable to the blocked culvert and consequential financial liability to the Council as landowner, approval of funding and expediting repairs to the culvert will remove this risk.

5. Background Documents

Contact Details

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Selby District Council

REPORT

Reference: E/13/55

Public - Item 5



To:	The Executive
Date:	6 March 2014
Status:	Non-Key Decision
Report Published:	26 February 2014
Author:	Rob Helm, Transformation Officer
Executive Member:	Cllr Crane
Lead Director:	Keith Dawson

Title: Draft Contaminated Land Strategy 2013 – 2018

Summary:

This new Contaminated Land Strategy 2013 – 2018 for the Selby District draws on current regulations and guidance along with good practice in dealing with land which may, by virtue of its past use, be contaminated with material which poses a risk to human health or may have a detrimental effect on the environment. The strategy sets out options and resources required to discharge the Council's statutory duties under Section 78A (2) of the Environmental Protection Act 1990 & Regulation 5(1) of the Radioactive Contaminated Land (Modifications of Enactments) (England) Regulations 2006.

Through this strategy the Council sets out how sites will be identified and prioritised and how land will be dealt with if it is felt that harm is being caused or a significant possibility of harm is likely to be caused.

This Contaminated Land Strategy proposes these key outcomes:

- To encourage the redevelopment of brownfield sites.
- To improve and protect the condition of the environment and the health of residents in the district.
- To meet the statutory obligation placed on the council to produce a written strategy under Part 2A.
- To ensure that a strategic approach is used for dealing with contaminated land.
- To ensure that remedial action is reasonable, practicable, effective and durable.

- To encourage voluntary remediation.

Recommendations:

i. To approve the Contaminated Land Strategy 2013-18.

Reasons for recommendation

The Council has a statutory duty to: -

- Cause their area to be inspected for contaminated land.
- Determine whether any particular site meets the statutory definition of contaminated land and what if any, remediation is required.
- Act as the enforcing authority for all contaminated land within the District, unless the site meets the definition of a “special site”, in which case the Environment Agency will act as the enforcing authority.

1. Introduction and background

- 1.1 Contaminated land is a national problem and is commonly associated with the historic use of sites for industrial or agricultural purposes.
- 1.2 Contaminants, although present, often present no harm to humans or other receptors as they are held in the ground; are not detrimental to health and/ or have no pathway to cause harm.
- 1.3 However, some contaminants do become a risk for harmful exposure if they are able to be inhaled, ingested or come into contact with people, property, water courses or ground water. It is these sites that may require some form of remediation or mitigation.
- 1.4 The strategy, if approved, will address how sites are handled within the District and formalise the Council’s approach to identifying, investigating and remediating sites.

2. The Report

- 2.1 Along with the strategy the Council should consider a number of consequential impacts of contaminated land sites within the district. These include:
 - Dealing with land other than through the planning process. Although the Council’s preferred route for investigation and remediation will be through the development process, the Council does still have a statutory duty to deal with sites appearing on its contaminated land prioritisation list. This would require funding to investigate and

potentially remediate sites if it is evident that there is a risk of harm to people, property or the environment.

- Financial costs to the Council from sites investigation / remediation. Whilst the Council can seek recovery from the polluter (if they are known or are still in existence) or the land owner, some sites may either be owned or have been operated by the Council or may have no liable person(s) from whom the council can recover its expenses. Therefore, the Council could have to meet the full cost of investigation and / or remediation. Often, the costs of these investigations are not known at the outset as costs depend to an extent on the nature of the material found, ground conditions and a number of local factors. This means that there is a financial risk in undertaking investigations, which may be hard to quantify at the outset of works.
- Potential blight of land or property if they are formally identified as “contaminated” sites. The Council is obliged to maintain a public record of sites which have been formally identified as contaminated under Part 2A of the Environmental Protection Act 1990. This may cause distress or financial loss to owners or residents whose property has been formally identified as contaminated.

2.2 Following consideration of the Council’s duties toward contaminated land under the relevant Acts, the Council in 2006 decided to remove the Contaminated Land Officer post from the structure and commission ad hoc assistance when required. Therefore, implementation of the Strategy will be managed by the Environmental Health & Housing Service, with commissioning of specialist expertise for technical work when required.

2.3 Implementation will be in a managed programme to investigate and remediate approximately one site per year to eighteen months. Sites will be addressed in a prioritised order based on risk as determined by the Council’s prioritisation list (a revised version of which will be generated in 2014/15). It is suggested that any sums recovered from polluters or land owners as sites are remediated should be made available to offset costs incurred. Bids for funding will be submitted through the corporate bid cycle on a case by case basis and contingency reserves reviewed as part of the medium term financial plan

2.4 A consultation process was carried out between 25th November 2013 and 3rd January 2014 (four weeks) to peer review the strategy. This involved seeking the views of neighbouring authorities and interested stakeholders these include:

- City of York Council
- Department for Environment, Food & Rural Affairs (DEFRA)
- Doncaster Metropolitan Borough Council

- East Riding of Yorkshire Council
- English Heritage (Yorkshire Region)
- Environment Agency
- Harrogate Borough Council
- Leeds City Council
- Local Planning Authority
- Natural England (York Office)
- North Yorkshire County Council
- Public Health England
- Wakefield Council

Consultation was limited to listed statutory consultees above and not with the public or land owners. In addition, Policy Review considered and endorsed the draft strategy on the 17th December 2013. As a result of this consultation one small amendment was made section 3.7 of the strategy. English Heritage requested that consultation with the County Archaeologist is undertaken in the event that sites of historic interest or scheduled monuments are investigated.

2.5 It is important to note that this document sets the strategic approach to the management of potentially contaminated sites in the District until 2018.

2.6 The time line for the Contaminated Land Strategy is as follows:

Action	Meeting	Date	Status
Draft Strategy	Executive Briefing	21 st November 2013	Completed
Consultation	4 week period	25 th November – 3 rd January 2014	Completed
Draft Strategy	Policy Review	17 th December 2013	Completed
Strategy	Executive Briefing	20 th February 2014	
Strategy	Executive	6 th March 2014	

3. Key Policy Issues

- 3.1 The Contaminated Land Strategy and any subsequent implementation will help the Council and its partners meet the '5 Big Things' by contributing to; Stronger Council.

4. Legal/Financial Controls and other Policy matters

Legal Issues

- 4.1 The Contaminated Land Strategy meets the Council's requirement to have a written strategy detailing the Council's approach to dealing with Contaminated Land within the District.

Financial Issues

- 4.2 No revenue allowance has been allocated to this work. It is likely that as sites are investigated costs will be incurred. Bids for funding will be submitted through the corporate bid cycle on a case by case basis and contingency reserves reviewed as part of the medium term financial plan.

5. Conclusion

- 5.1 The new Contaminated Land Strategy will provide opportunities for the Council to meet its corporate priorities; creating a stronger Council and would support the Council to discharge its statutory duty to set a structured approach to investigating (and where necessary remediating) contaminated land within the District.
- 5.2 The strategy requires determination by Executive, following statutory consultation and also consideration by Policy & Review Committee.

6. Background Documents

Appendix 1 Draft Contaminated Land Strategy 2013

Contact Details

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Contaminated Land Strategy

2013 – 2018

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EXECUTIVE SUMMARY

England has a considerable legacy of historical land contamination involving a very wide range of substances, such as heavy metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, solvents, acids, asbestos and hazardous gases.

On all land there are background levels of substances, including substances that are naturally present as a result of our diverse geology and substances resulting from diffuse human pollution. On some land there are greater concentrations of contaminants, often associated with industrial use and waste disposal. In a minority of cases there may be sufficient risk to health or the environment for such land to be considered contaminated land.

Selby District Council is responsible for the enforcement of contaminated land legislation in the district. It aims to protect people, property and the environment from contaminants in the ground and encourage the brownfield regeneration of contaminated sites.

This strategy will be implemented over the next five years. It explains how the Council will inspect the district for contaminated land and how it will deal with land which is found to be contaminated. It is envisaged that this strategy will help the Council to improve and protect the health of residents in the district and the condition of the environment.

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1. INTRODUCTION

1.1 Regulatory Context

The contaminated land regime is set out in Part 2A of the Environmental Protection Act 1990 and is commonly referred to as “Part 2A”. It was introduced in April 2000, and gives specific legal powers to local authorities to identify and deal with contaminated land. The regulations were widened in 2006 to include land contaminated by radioactivity.

Part 2A provides a means of investigating and, if necessary, remediating land to ensure that it is suitable for its current use and does not present an unacceptable risk to human health, controlled waters, ecological systems, crops, livestock, buildings and property.

The government has produced statutory guidance, in accordance with Section 78YA of the Environmental Protection Act 1990, which is legally binding and must be followed by enforcing authorities. In April 2012, the Secretary of State for Environment, Food and Rural Affairs issued new contaminated land statutory guidance to explain how Part 2A should be implemented and the legal tests for when land is considered to be contaminated land. Separate statutory guidance covering radioactive contaminated land was also issued in April 2012, by the Secretary of State for Energy and Climate Change.

1.2 The Definition of Contaminated land

The legal definition of contaminated land, as defined in Section 78A (2) (as modified) of the Environmental Protection Act 1990, is:

“any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that

- a) significant harm is being caused or there is a significant possibility of such harm being caused; or*
- b) Significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused.”*

Where “harm” means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.

The legal definition of contaminated land is slightly different if harm is due to radioactivity, as defined in Regulation 5(1) of The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006:

“any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that

- a) harm is being caused; or*
- b) There is a significant possibility of harm being caused.”*

With regard to radioactivity, “harm” means lasting exposure to any human being resulting from the after effects of a radiological emergency, past practice or past work activity.

In summary, a site can only be determined as contaminated land for one (or more) of the following reasons:

- Significant harm is being caused.
- There is a significant possibility that significant harm could be caused.
- Significant pollution of controlled waters is being caused.
- Significant pollution of controlled waters is likely to be caused.
- Harm attributable to radioactivity is being caused.
- There is a significant possibility that harm attributable to radioactivity could be caused.

1.3 Contaminant Linkages

For a relevant risk to exist there needs to be one or more contaminant-pathway-receptor linkages (contaminant linkages) by which a relevant receptor might be affected by the contaminants in question. In other words, for a risk to exist there must be contaminants present in, on or under the land in a form and quantity that poses a hazard, and one or more pathways by which they might harm people, the environment, or property; or significantly pollute controlled waters.

Figure 1.1: Contaminant Linkage



A “**contaminant**” is a substance which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, significant pollution of controlled waters, or harm attributable to radioactivity. Please see Appendix 1 for a list of possible sources of contamination.

A “**receptor**” is something that could be adversely affected by a contaminant e.g. a person, an organism, an ecosystem, property, or controlled waters. Please see Appendix 3 for a list of the receptors covered by Part 2A.

A “**pathway**” is a route by which a receptor is or might be affected by a contaminant e.g. the ingestion of vegetables grown in contaminated soil. Please see Appendix 2 for a list of possible contaminant pathways.

1.4 The Polluter Pays Principle

An important task of the enforcing authority under the Part 2A regime is to establish who should bear responsibility for remediating a site where there are unacceptable risks from land contamination. In general, this will follow the ‘polluter pays’ principle, where the person who caused or knowingly permitted the contamination will be the appropriate person to cover the cost of remediation. However, if it is not possible to find such a person, the statutory guidance states that the cost may fall to the owner or occupier of the land. In most cases, contaminated land will be voluntarily remediated through the planning system by developers and landowners looking to bring a contaminated site back into beneficial use.

1.5 Planning Regime and Building Regulations

All planning applications have to be considered for potential contamination issues to ensure compliance with the Town and Country Planning Act 1990, the National Planning Policy Framework and the Council’s Local Development Framework. Contaminated land issues that arise through planning applications will be controlled through the planning regime, as opposed to Part 2A.

It is the responsibility of the developer to ensure that a site can and will be made suitable for its proposed future use and that there are no unacceptable risks to human health, the environment, property and/or controlled waters. The developer must carry out site investigation and remediation works as necessary, and the Council will impose planning conditions to this effect.

The vast majority of contaminated land issues in the district are currently dealt with through the planning regime. Many sites have already been investigated and

remediated through this route, so no further action will be required with regard to these sites under Part 2A.

In addition to the planning regime, building regulations (made under the Building Act 1984) require developers to take measures to protect new buildings and their future residents from the effects of contamination. An example of this would be the installation of gas protection measures into properties.

1.6 Other Regulatory Regimes

The Part 2A regime is one of several ways in which land contamination can be addressed. Other legislative regimes include; Environmental Damage (Prevention and Remediation) Regulations 2009, Environmental Permitting (England and Wales) Regulations 2010, Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009.

The statutory guidance states that enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. Therefore, Part 2A should not be used where existing legislation may be enforced or where contamination has arisen due to a breach of an existing license or permit.

2. AIMS AND OBJECTIVES

2.1 Aims

The aims of this strategy are:

- To improve and protect the condition of the environment and the health of residents in the district.
- To meet the statutory obligation placed on the Council to produce a written strategy under Part 2A.
- To encourage the redevelopment of brownfield sites.
- To ensure that a strategic approach is used for dealing with contaminated land.
- To ensure that remedial action is reasonable, practicable, effective and durable.
- To encourage voluntary remediation.

2.2 Objectives

The objectives of this strategy are:

- To provide a strategic framework which the Council will use to identify, inspect and determine contaminated land.
- To ensure that development on potentially contaminated land will not be permitted unless evidence has been submitted to show that the possibility, nature and extent of contamination has been properly investigated and assessed and that any remediation measures necessary to deal with the contamination are effective.
- To inspect any sites that come to light as a matter of urgency where there is a risk to human health.
- To outline the Council's procedures regarding powers of entry, liability, cost recovery, special sites and enforcement.

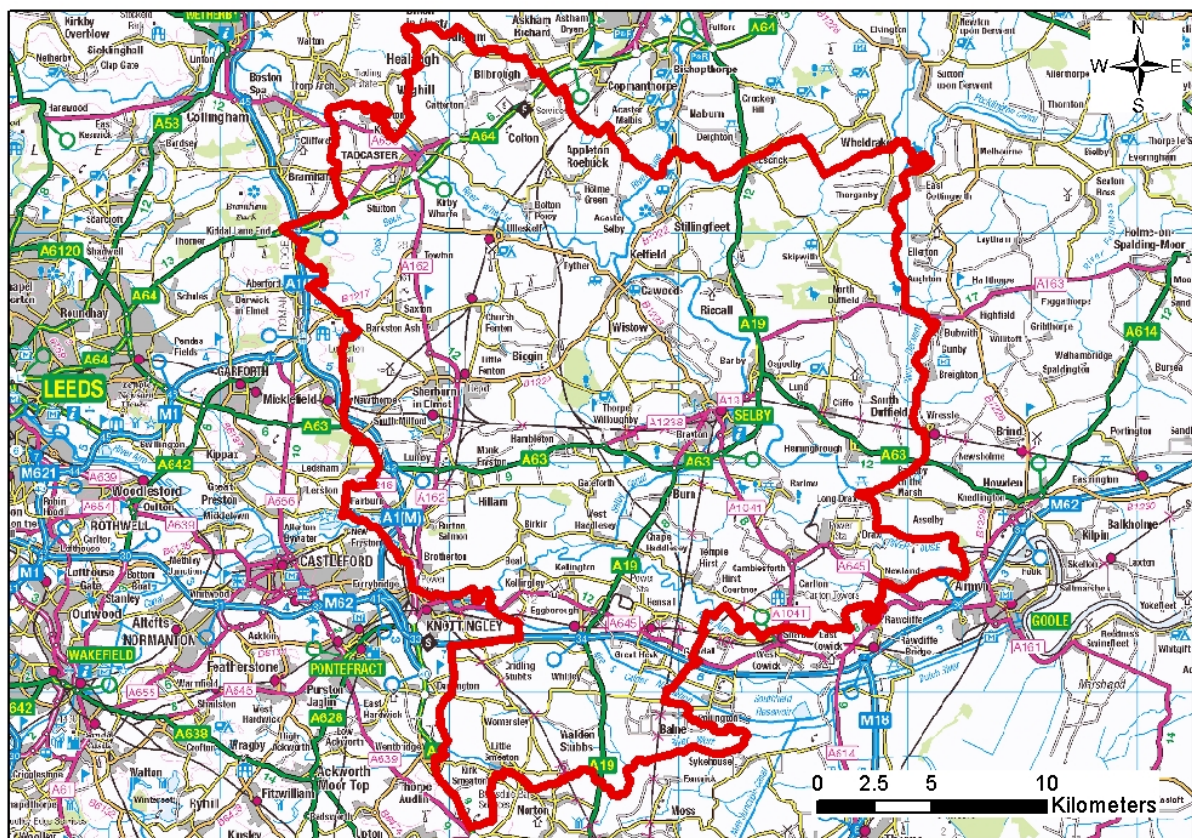
- To prepare written records of determination and risk summaries for land that is found to be contaminated.
- To prepare written statements for land that is not found to be contaminated.
- To maintain a public register of contaminated land.
- To inform the public and stakeholders of the Council's intentions in relation to contaminated land.

3. SELBY DISTRICT

3.1 Characteristics of the Area

The district of Selby covers an area of approximately 600 km² located to the south of York and to the east of Leeds, as shown in Figure 2.1. The Rivers Derwent, Ouse and Aire form the eastern boundary of the Council's area. The A1/A1 (M) approximates the western boundary. The River Went forms the southern boundary. Whereas, the northern boundary runs irregularly from the village of Healaugh in the northwest, to the River Derwent at a point approximately 2km north of Thorganby.

Figure 2.1: Map showing the Selby District Council boundary



The district is primarily a rural area, containing the market towns of Selby and Tadcaster and numerous villages (i.e. Sherburn in Elmet, Riccall, Barlby, Church Fenton and Thorpe Willoughby) and hamlets. The population of the district in 2008 was approximately 83,000, with most of the population centred in the towns and villages.

3.2 Past and Current Industrial Activity

Contamination can arise from a wide variety of processes and activities associated with industry and its development and growth. The industrial history of an area can therefore provide an unparalleled insight into the land which might contain and be affected by contamination.

During the eighteenth and nineteenth centuries the main industries in the district were farming and activities associated with farming e.g. milling, malting, brewing and tanning.

The twentieth century saw the arrival of a number of airfields (at Sherburn in Elmet, Church Fenton, Riccall and Burn), the railways and Selby's shipbuilding industry. Coal mining also took place in the district between the late 1970s and early 2000s.

Deep coal seams underlie the area and the Selby Coalfield was a large-scale deep underground mine complex, with pitheads at Wistow Mine, Stillingfleet Mine, Riccall Mine, North Selby Mine, Whitemoor Mine and Gascoigne Wood Mine. Two associated large coal fired power stations (Eggborough and Drax) are still located within the district and a third (Ferrybridge) is located just beyond the western boundary.

Few industrial activities are located within the district today. The main income for the area is now derived from arable farming and as a commuter area for Leeds, Wakefield and York.

3.3 Geology

The geology of the district comprises Sherwood Sandstone, overlying Magnesian Limestone and Coal Measures. The Sherwood Sandstone outcrops beneath the whole of the district, apart from the far west, where the Magnesian Limestone outcrops and forms an undulating ridge which follows the route of the A1/A1 (M).

Over much of the lower lying areas the bedrock is overlain by silts, clays or sands principally of glacial origin. Extensive areas of alluvial deposits are present along the floodplains of the Rivers Wharfe, Aire, Derwent and Ouse. The most extensive alluvial deposits are around the confluence of the Aire and the Ouse in the south eastern extremity of the district.

3.4 Hydrogeology

Both the Sherwood Sandstone and the Magnesian Limestone (which provides a vital water supply for the brewing industry in and around Tadcaster) are designated by the Environment Agency as principal aquifers and both support a number of

abstractions for potable, agricultural and industrial uses.

At outcrop, or where the aquifers are covered by a permeable sandy drift deposit, the groundwater is vulnerable to pollution by surface activities including areas of contaminated ground. Where the aquifers are covered by a substantial thickness of clay or silt, these will tend to protect the groundwater from surface activities.

There are over 200 licensed groundwater abstractions in the district and the majority of these are for agricultural or industrial purposes. There are also a number of wells for potable water abstraction, which form part of a larger well-field for public supply, and 32 private water supplies.

3.5 Hydrology

Four major rivers flow through the district; the River Derwent, the River Aire, the River Wharfe and the River Ouse. These river systems are used as water supply sources and the majority of these abstractions are used for spray irrigation. There are no licensed surface water abstractions for public water supplies.

3.6 Ecological Systems

A number of areas of ecological importance are present within the district; these include 13 Sites of Special Scientific Interest (SSSI), a RAMSAR site, a special protection area, a national nature reserve and a special area of conservation - further details can be found in Table 3.1. The Council will liaise with Natural England prior to undertaking intrusive investigations and remediation works in the vicinity of these areas.

Table 3.1: Areas of Ecological Importance within Selby District

Site Name	Grid Reference	Designation	Characteristic
Derwent Valley	SE678287 - 825757	- SSSI - Special Area of Conservation - National Nature Reserve - Special Protection Area	Represents a classic river profile.
Skipwith Common	SE655373	- SSSI - Special Area of Conservation	Extensive tract of heath land on a spur of glacial sands which forms the watershed between the Lower Derwent and Ouse Valleys.
Burr Close	SE596340	- SSSI	Damp alluvial meadowland.
Tadcaster Mere	SE500430	- SSSI	Central part of a former lake basin.
Kirkby Wharfe	SE510400	- SSSI	Area of flood land/marshland.
Stutton Ings	SE485405	- SSSI	A remnant of traditionally managed fen grassland.
Bolton Percy Ings	SE534401	- SSSI	Two unimproved alluvial flood meadows adjacent to the River Wharfe.
Derwent Ings	SE703466 to SE703347	- SSSI	A series of neutral alluvial flood meadows, fen and swamp communities and freshwater habitats lying adjacent to the River Derwent, between Sutton-upon-Derwent and Menthorpe.

Sherburn Willows	SE487325	- SSSI	Magnesium limestone grassland.
Eskamhorn Meadows	SE679242	- SSSI	Five floristically diverse fields supporting unimproved natural grassland on seasonally damp clayey soils.
Forlorn Hope Meadow	SE543717	- SSSI	Unimproved neutral grassland plant community.
Brockadale	SE503714	- SSSI	Narrow steep sided valley of the River Went, which cuts through magnesium limestone rocks of Permian age.
Brockadale	SD594456	- SSSI	Two unimproved alluvial flood meadows adjacent to the River Ouse.
Acaster South Ings	SE594437	- SSSI	Two large alluvial flood meadows adjacent to the River Ouse.

3.7 Scheduled Monuments & Listed Buildings

There are 47 scheduled monuments and 619 listed buildings within the district. The Council will liaise with the planning team, the Archaeology Service at North Yorkshire County Council and English Heritage as necessary, prior to undertaking intrusive investigations and remediation works in the vicinity of these sites.

3.8 Council Owned Land

The Council owns over 3,000 Council houses and a small number of parks, play areas and open spaces. Other significant land ownership consists of its public car parks and land surrounding its offices, depots and leisure facilities. The Council is also landlord for a small number of industrial units and has a small portfolio of potential development sites.

4. INSPECTION PROCESS

4.1 Information Collection

In order to identify potentially contaminated land, it is first necessary to identify those land uses, past and present, which have the potential to give rise to contamination. It is also necessary to identify relevant receptors, so that contaminant linkages can be assessed in light of the current use of a particular site. The datasets listed in Table 4.1 have been collated for this purpose.

Table 4.1: Sources of information

Dataset	Source
Maps (historical & present day)	Ordnance Survey
Past industrial use (1850s, 1910s, 1950s and 1980s)	Landmark Information Group
Closed landfill sites	Environment Agency
Active landfill sites	Environment Agency
Part A and B industrial processes	Selby District Council
Geology	British Geological Survey
Groundwater vulnerability	Environment Agency
Source protection zones	Environment Agency
Groundwater abstraction points	Environment Agency
Watercourses	Environment Agency
Private water supplies	Selby District Council
Sites of Special Scientific Interest	Natural England
Special Protection Areas	Natural England

RAMSAR sites	Natural England
National Nature Reserves	Natural England
Special Areas of Conservation	Natural England
Scheduled monuments	Selby District Council
Listed buildings	Selby District Council

The Council has developed a geographical information system (GIS) and an associated database to store and manage this information, which has enabled potentially contaminated land to be identified.

Any site with a past industrial use or a history of waste disposal (i.e. a closed landfill site) could potentially be contaminated. At present, the Council has identified 1,440 potentially contaminated sites within the district and this list will be updated as new information comes to light. However, it should be emphasised that only a small proportion of these sites are likely to meet the legal definition of contaminated land.

4.2 Prioritisation

Each potentially contaminated site will require detailed inspection in order to establish the presence or otherwise of a contaminant linkage. In accordance with the statutory guidance, the Council should seek to ensure that the most pressing and serious problems are dealt with first. It is therefore necessary to categorise sites into priority order using a rapid assessment of the potential contaminant linkages.

In line with the Council's previous contaminated land strategy, published in 2001, the initial prioritisation of high-risk sites was completed using the Contaminated Land Assessment Risk Analyst (CLARA) model. The prioritised list of sites and the software is currently being reviewed to ensure that developments in this software are incorporated in the Council's approach.

The Council intends to use a sophisticated GIS based prioritisation model, which will rank sites according to their potential contaminant linkages and the associated risk. All 1440 of the potentially contaminated sites will then be reprioritised using this tool.

4.3 Detailed Inspection

The Council will inspect the potentially contaminated sites in priority order, starting with the highest risk site first. The purpose is to gain sufficient information to determine whether or not there is a significant contaminant linkage.

The first phase of investigation is to collect and assess as much information as possible about a particular site from maps and historic records and by undertaking a site walkover survey. If the findings confirm that there is potential for contamination to be present, then further investigation will be required.

The next phase of investigation is to carry out a ground investigation (also known as a site investigation) to determine the nature and extent of any contamination on a site. The sampling and analysis of soil, water and/or ground gases may be required to assess the amount of contamination present. A risk assessment will then be carried out to determine whether it could pose an unacceptable risk to human health, controlled waters, ecological systems, crops, livestock, buildings or property, and whether any significant contaminant linkage exists. Please note that this will be carried out in line with current guidance and best practice.

Within each priority category, land that was previously or is currently owned by the Council will be inspected first, followed by non-Council owned land. This approach will be adopted to allow the Council to set precedents on the identification and remediation of contaminated sites and to demonstrate its commitment to discharging its responsibilities under Part 2A. It is hoped that this approach will be followed by other land owners and encourage the voluntary remediation of sites.

4.4 Determination of Contaminated Land

Once a detailed inspection is complete, the Council should have identified any significant contaminant linkage(s), and carried out a robust, appropriate, scientific and technical assessment of all the relevant and available evidence. The Council can then determine whether or not a site meets the legal definition of contaminated land. Making a determination is a complex process and the Council will refer to the Statutory Guidance on this matter.

However, a site shown to have a significant contaminant linkage may not always be determined as contaminated land under Part 2A. This is because the Council aims to encourage the voluntary remediation of sites through constant interaction and discussions, rather than through a process of naming and shaming individuals or companies. However, if no alternative solutions can be reached, then the site will be determined to ensure that it is dealt with accordingly.

4.5 Remediation

Once a significant contaminant linkage has been identified, and land has been determined as contaminated land, remedial action will be required to reduce or remove that linkage. This may involve cleaning up the contamination, breaking the pathway, or modifying the receptor. The overall aim of remediation is to remedy harm/pollution and to ensure that risks are reduced to an acceptable level.

The Council will consider how land should be remediated and, where appropriate, it will issue a remediation notice to require such remediation to be undertaken.

5. PROCEDURES

5.1 Powers of Entry

For the purposes of identifying contaminated land, the Council has been granted powers of entry under Section 108 of the Environment Act 1995. These powers allow any person authorised in writing by the Council to enter premises and inspect the area and any records connected to the site to determine if significant harm is being caused.

The Council will write to the occupier to give seven days' notice of its intention to enter the premises. It may then enter the premises either with the consent of the occupier or under the authority of a warrant issued by a magistrate.

In an emergency the Council may exercise its powers of entry forthwith to prevent immediate significant harm to public health or the environment, or significant pollution of controlled waters.

5.2 Record of Determination

If the Council determines a site as contaminated land, it shall give notice of that fact to the Environment Agency, the owner of the land, any person who appears to be in occupation of the whole or any part of the land, and each person who appears to be an appropriate person. A written record of determination will be provided to relevant parties and a copy will also be kept on file.

A written record of determination will include:

- A map showing the location, boundaries and area of the land in question.
- A risk summary (including details of the identified contaminant linkages, potential impacts and risks, uncertainties behind the risk assessment and possible remediation options).
- A summary of why the Council considers that the requirements of relevant sections of the statutory guidance have been satisfied

If it is clear, following an inspection, that land does not meet the legal definition of contaminated land, the Council will issue a written statement to that effect to the owners of the property and other interested parties. A copy of this statement will also be kept on file, along with the reasons for making the decision.

5.3 Public Register

The Council is required to maintain a public register containing full particulars of the following matters:

- Remediation notices
- Appeals against remediation notices
- Remediation declarations
- Remediation statements
- Appeals against charging notices
- Designation of 'special sites'
- Notifications of claimed remediation
- Convictions for offences under section 78M of the Environmental Protection Act 1990
- Site specific guidance issued by the Environment Agency
- Other environmental controls

The public register can be viewed online on the Council's website, or viewed in person by prior arrangement at the Council offices. Reasonable charges will be made to cover any photocopying costs.

5.4 Special Sites

For a site to be classified as a "special site" it must meet the criteria outlined in the Contaminated Land (England) Regulations 2006, as summarised in Appendix 4. The regulation of special sites falls to the Environment Agency, but it is the responsibility of the Council to identify and designate these sites before further action can be taken. No site will be designated as a special site without detailed discussions with relevant personnel within the Environment Agency. Where the Council already has information that would allow the classification of a special site, arrangements can be made so the Environment Agency carries out the inspection of the site on behalf of the Council.

Once a site has been designated as a special site, regulation and enforcement are passed onto the Environment Agency.

5.5 Liability

For any land determined as contaminated land, the enforcing authority will need to establish who will bear responsibility for carrying out the remedial work. It is the intention of Part 2A that the appropriate person, ideally the polluter, pays for the cost of remediation, as a result of voluntary or formal action.

For some land, the process of determining liabilities will consist simply of identifying either a single person (either an individual or a corporation such as a limited company) who has caused or knowingly permitted the presence of a single significant contaminant, or the owner of the land. Whereas the history of other land may be more complex, such as a succession of different occupiers or of different industries, or a variety of substances may all have contributed to the problems which have contaminated the land. Numerous separate remediation actions may also be required, which may not correlate neatly with those who are to bear responsibility for the costs. The degree of responsibility for the state of the land may vary widely. Determining liability for the costs of each remediation action can be correspondingly complex.

In line with the statutory guidance, the enforcing authority will undertake a number of tests to decide whether any individuals or corporations should be excluded from liability. Liability can then be apportioned accordingly between the remaining liable parties.

If no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions, the significant contaminant linkage will become an “orphan linkage”. In these instances the enforcing authority has the power to carry out the remediation action itself, at its own cost.

5.6 Cost Recovery

In making any cost recovery decision, the statutory guidance recommends that the following general principles should be followed:

- The enforcing authority should aim for an overall result which is as fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers.

- The 'polluter pay' principle should be applied with a view that, where possible, the costs of remediating pollution should be borne by the polluter. The authority should therefore consider the degree and nature of responsibility of the relevant appropriate person(s) for the creation, or continued existence, of the circumstances which lead to the land in question being identified as contaminated land.

The Council will seek to recover all of its reasonable costs. However, it will consider waiving or reducing the recovery of costs to avoid any undue hardship which the recovery may cause to the appropriate person, or to reflect one or more of the specific considerations set out in the statutory guidance.

In certain circumstances, the Council may consider deferring recovery of its costs and securing them by a charge on the land in question. Such deferral may lead to payment from the appropriate person either in instalments or when the land is next sold.

5.7 Enforcement Policy

The Council intends to carry out its responsibilities under Part 2A in a clear and transparent manner. It will endeavour to promote voluntary remediation of sites and will only proceed with enforcement action when all other avenues have been exhausted. However should enforcement action be required, for example due to the failure to fulfil the requirements of a remediation notice, action will be taken in accordance with the Council's enforcement policy.

6. PRIORITY ACTIONS AND TIMESCALES

6.1 Priorities

The Council's current priorities are to:

- Reprioritise potentially contaminated sites using a sophisticated GIS based prioritisation model.
- Inspect potentially contaminated sites in priority order, as budgetary resources, staffing levels and service priorities allow.
- Assess planning applications to ensure that land contamination is investigated and remediated appropriately by developers.
- Deal with any urgent cases as and when they arise.

6.2 Timescales

The strategy does not lend itself to the setting of fixed timescales as the progress of individual sites cannot be accurately predicted. However, considerable progress has already been made since the publication of the original strategy. Certain areas of work, such as developing the GIS and gathering new information on sources and receptors will be on-going.

It is not possible to set a timescale for the determination of contaminated land, but the Council will determine sites as and when they are identified as contaminated land, and will always give due regard to the statutory guidance. There will need to be flexibility in the inspection programme to allow for new information coming to light, as well as changes to legislation, statutory guidance and the allocation of resources.

A significant number of sites identified as potentially contaminated are likely to be suitable for their current use, or have already been dealt with through the planning system and will not require detailed inspection under Part 2A.

7. STRATEGY CONSULTATION AND REVIEW

7.1 Strategy Consultation

In preparing this strategy a number of statutory bodies, adjoining local authorities, internal Council departments and other organisations that may be interested in contaminated land have been consulted. A list of consultees is provided in Table 7.1.

Table 7.1: List of Consultees

Consultee	Contact Details
City of York Council	Environmental Protection Unit City of York Council Eco Depot Hazel Court York YO10 3DS Email: environmental.protection@york.gov.uk
Department for Environment, Food & Rural Affairs (DEFRA)	DEFRA Nobel House 17 Smith Square London SW1P 3JR Email: defra.helpline@defra.gsi.gov.uk
Doncaster Metropolitan Borough Council	Pollution Control Team Doncaster Metropolitan Borough Council Civic Office Waterdale Doncaster DN1 3BU Email: pollution.control@doncaster.gov.uk

East Riding of Yorkshire Council	<p>Environmental Control Specialist Team Housing & Public Protection East Riding of Yorkshire Council Church Street Goole DN14 5BG</p> <p>Email: pollution.control@eastriding.gov.uk</p>
English Heritage (Yorkshire Region)	<p>English Heritage 37 Tanner Row York YO1 6WP</p> <p>Email: yorkshire@english-heritage.org.uk</p>
Environment Agency	<p>Environment Agency Lateral House 8 City Walk Leeds LS11 9AT</p> <p>Email: john.barber@environment-agency.gov.uk</p>
Harrogate Borough Council	<p>Environmental Protection Harrogate Borough Council Springfield House Kings Road Harrogate HG1 5NX</p> <p>Email: environmentalprotection@harrogate.gov.uk</p>
Leeds City Council	<p>Contaminated Land Team Leeds City Council The Leonardo Building 2 Rossington Street Leeds LS2 8HD</p> <p>Email: contaminatedland@leeds.gov.uk</p>

Local Planning Authority	<p>Planning Team Selby District Council Civic Centre Doncaster Road Selby YO8 9FT</p> <p>Email: info@selby.gov.uk</p>
Natural England (York Office)	<p>Natural England 4th Floor Foss House Kings Pool 1-2 Peasholme Green York YO1 7PX</p> <p>Email: enquiries@naturalengland.org.uk</p>
Public Health England	<p>Public Health England Centre for Radiation, Chemicals and Environmental Hazards Environmental Hazards and Emergencies Department Nottingham City Hospital Hucknall Road Nottingham NG5 1PB</p> <p>Email: crcenttingham@phe.gov.uk</p>
Wakefield Council	<p>Land Quality Team Environmental Health Wakefield One PO Box 700 Burton Street Wakefield WF1 2EB</p> <p>Email: customerservices@wakefield.gov.uk</p>

All consultation responses have been carefully considered in the preparation of this strategy. It is also our intention to continue to take contributions from consultees who have not yet made a response and from any other individual or organisation that would like to comment on this strategy. We propose to consider these responses as part of our regular reviews of the strategy.

7.2 Strategy Review

As recommended in the statutory guidance, this strategy will be reviewed every five years to ensure that it remains up to date and relevant.

8. ACCESS TO INFORMATION

8.1 Viewing the Contaminated Land Strategy

This strategy is available to download free of charge from the Council's website. A paper version is also held at the Access Selby office below and can be viewed during normal office hours.

8.2 Viewing the Public Register

A public register detailing regulatory activity on contaminated land can be viewed on the Council's website. A paper version is also held at Selby District Council offices and can be viewed during normal office hours.

8.3 Enquiries

Requests for information and enquiries regarding contaminated land can be made by telephone, e-mail, or in writing. The Council has a policy to respond to all such requests within 10 working days. Please note that there may be a charge to cover our costs to reply to some kinds of query, but you will always be advised in advance if there is a charge.

Please note that circumstances may arise where specific information cannot be released due to commercial confidentiality or where legal action is required to enforce a remediation notice.

Enquiries should be directed to:

Access Selby,

8-10 Market Cross,

Selby,

YO8 4JS

Tel: 01757 705101

Email: info@selby.gov.uk

REFERENCES

Department for Communities and Local Government (2012). **National Planning Policy Framework**. DCLG, London.

Department for Environment, Food and Rural Affairs (2012). **Environmental Protection Act 1990: Part 2A Contaminated Land – Contaminated Land Statutory Guidance**. The Stationery Office, London.

Department of Energy and Climate Change (2012). **Environmental Protection Act 1990: Part 2A Contaminated Land – Radioactive Contaminated Land Statutory Guidance**. The Stationery Office, London.

Environment Agency (2004). **CLR11: Model Procedures for the Management of Land Contamination**. Environment Agency, Bristol.

Environmental Permitting (England and Wales) Regulations 2010. Statutory Instrument (SI 2010/676).

Environmental Protection Act 1990, Part 2A: inserted by the Environment Act 1995, Section 57. See Environment Act 1995 for text for Part 2A.

The Contaminated Land (England) (Amendment) Regulations 2012. Statutory Instrument (SI 2012/263).

The Contaminated Land (England) Regulations 2006. Statutory Instrument (SI 2006/1380).

The Environmental Damage (Prevention and Remediation) Regulations 2009. Statutory Instrument (SI 2009/153).

Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009. Statutory Instrument (SI 2009/3104).

GLOSSARY

This document uses a number of terms which are defined in Part 2A or in the statutory guidance. The meanings of the most important of these terms are detailed below, and where appropriate, a reference to the relevant section of Part 2A has been included.

#

Appropriate Person	<p>Defined in Section 78A(9) as:</p> <p>‘Any person who is an appropriate person, determined in accordance with Section 78F, to bear responsibility for any thing which is to be done by way of remediation in any particular case.’</p>
Contaminant	<p>A substance which is in, on or under the land and has the potential to cause significant harm or significant pollution of controlled waters.</p>
Contaminant Linkage	<p>The relationship between a contaminant, a pathway and a receptor.</p>
Contaminated Land	<p>Defined in Section 78A(2) as:</p> <p>‘Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that;</p> <ul style="list-style-type: none"> a) significant harm is being caused or there is a significant possibility of such harm being caused; or b) Significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused.’ <p>OR with respect to radioactive contamination it is defined as:</p> <p>‘Any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that;</p> <ul style="list-style-type: none"> a) harm is being caused; or b) there is a significant possibility of harm

	being caused.'
Controlled Waters	Has the same meaning as in Part III of the Water Resources Act 1991, and includes relevant territorial waters, coastal waters, inland freshwaters and ground waters. Except that "ground waters" does not include waters contained in underground strata but above the saturation zone.'
Ecological Systems	<p>Only the following ecological systems can be considered for the purposes of Part 2A:</p> <ul style="list-style-type: none"> • A site of special scientific interest • A national nature reserve • A marine nature reserve • An area of special protection for birds • A "European site" within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010 • Any habitat or site afforded policy protection on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed RAMSAR sites); or • Any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949.
Enforcing Authority	Special sites will be enforced by the Environment Agency and all other contaminated land sites will be enforced by the local authority in whose area the land is situated.
Environment Agency	An executive non-departmental public body (responsible to the Secretary of State for Environment, Food and Rural Affairs) which aims to protect and improve the environment and to promote sustainable development.
Geology	The study of the structure of rocks, minerals and soils in specific geographical areas.
Harm	<p>Defined in Section 78A(4) as:</p> <p>'Harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes</p>

	<p>harm to his property.'</p> <p>OR with respect to radioactive contamination is defined as:</p> <p>'Lasting exposure to any person being resulting from the after effects of a radiological emergency, past practice or past work activity.'</p>
Hydrogeology	The study of the occurrence, distribution, movement and properties of water through rock beneath the ground.
Hydrology	The study of the occurrence, distribution, movement and properties of surface water.
Orphan Linkage	A significant contaminant linkage where no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions. In these instances the enforcing authority has the power to carry out the remediation action itself, at its own cost.
Part 2A	Part 2A of the Environmental Protection Act 1990.
Pathway	A route by which a receptor is being / could be exposed to, or affected by, a contaminant.
Pollution of Controlled Waters	<p>Defined in Section 78A(9) as:</p> <p>'The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.'</p>
Prioritisation	The process of scoring sites based on the potential contaminants, pathways and receptors. This creates a prioritised list of potentially contaminated sites, which can then be inspected in priority order.
Property	<p>Only the following property can be considered for the purposes of Part 2A:</p> <p>a) Property in the form of:</p> <ul style="list-style-type: none"> i) crops, including timber; ii) produce grown domestically, or on allotments, for consumption; iii) livestock; iv) other owned or domesticated

	<p>animals;</p> <p>v) wild animals which are the subject of shooting or fishing rights.</p> <p>b) Property in the form of buildings. For this purpose, “building” means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building, or buried services such as sewers, water pipes or electricity cables.</p>
Public Register	Register maintained by the Council of particulars relating to contaminated land.
Receptor	Something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.
Remediation	Removing identified significant contaminant linkages, or permanently disrupting them, to ensure that they are no longer significant and that risks are reduced to an acceptable level. Remediation may involve a range of treatment, assessment and monitoring actions to secure the overall clean-up of the land.
Remediation Notice	Defined in Section 78E(1) as a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things so specified.
Remediation Statement	In any case where the enforcing authority is precluded from serving a remediation notice, the responsible person shall prepare and publish a “remediation statement”. The document will detail what remediation actions are being / have been / are expected to be done, appropriate timescales and the name and address of the responsible person.
Risk	A combination of the probability / frequency of occurrence of a defined hazard and the magnitude (including the seriousness) of the consequences.
Significant Harm to Human Health	The following health effects should always be considered to constitute significant harm to human health: death, life threatening diseases

	(e.g. cancers), other diseases likely to have serious impacts on health, serious injury, birth defects, and impairment of reproductive functions.
Significant Possibility	The decision on whether the possibility of significant harm / pollution being caused is significant is a regulatory decision to be taken by the relevant enforcing authority. Decisions will be made in line with the statutory guidance.
Special Site	<p>Defined by Section 78A(3) as:</p> <p>‘Any contaminated land –</p> <ul style="list-style-type: none"> a) which has been designated as such a site by virtue of section 78C(7) or 78D(6)...; and b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4)...’ <p>See Appendix 4 of this document for further details.</p>
Substance	<p>Defined in Section 78A(9) as:</p> <p>‘Any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.’</p> <p>OR with respect to radioactive contamination is defined as:</p> <p>‘Whether in solid or liquid form or in the form of a gas or vapour, any substance which contains radionuclides which have resulted from the after-effects of a radiological emergency or which are or have been processed as part of a past practice or past work activity, but shall not include radon gas or the following radionuclides: Po-218, Pb-214, At-218, Bi-214, Rn-218, Po-214 and Tl-210.’</p>

APPENDIX 1: CONTAMINANT SOURCES

The following historic activities are known to produce contamination and could therefore give rise to land contamination. Please note that this list is for guidance only and is not exhaustive.

- Smelters, foundries, steel works, metal processing & finishing works
- Coal & mineral mining & processing, both deep mines and opencast
- Heavy engineering & engineering works, e.g. car manufacture, shipbuilding
- Military/defence related activities
- Electrical & electronic equipment manufacture & repair
- Gasworks, coal carbonisation plants, power stations
- Oil refineries, petroleum storage & distribution sites
- Manufacture & use of asbestos, cement, lime & gypsum
- Manufacture of organic & inorganic chemicals, including pesticides, acids/alkalis, pharmaceuticals, solvents, paints, detergents and cosmetics
- Rubber industry, including tyre manufacture
- Munitions & explosives production, testing & storage sites
- Glass making & ceramics manufacture
- Textile industry, including tanning & dyestuffs
- Paper & pulp manufacture, printing works & photographic processing
- Timber treatment
- Food processing industry & catering establishments
- Railway depots, dockyards (including filled dock basins), garages, road haulage depots, airports

- Landfill, storage & incineration of waste
- Sewage works, farms, stables & kennels
- Abattoirs, animal waste processing & burial of diseased livestock
- Scrap yards
- Dry cleaning premises
- All types of laboratories
- Burial sites and graveyards
- Agriculture – specifically the excessive use or spills of pesticides, herbicides, fungicides, sewage sludge & farm waste disposal
- Naturally occurring contamination

APPENDIX 2: CONTAMINANT PATHWAYS

The following pathways may create linkages between contaminants in the ground and relevant receptors. Please note that this list is for guidance only and is not exhaustive.

- Ingestion of soil and dust
- Ingestion of vegetables & soil attached to vegetables
- Inhalation of indoor & outdoor dust
- Inhalation of indoor & outdoor vapours
- Dermal contact with soils and dusts
- Risk of fire / explosion
- Migration of soluble or mobile contaminants into groundwater
- Migration of soluble or mobile contaminants into surface water bodies
- Surface run-off into surface water bodies
- Permeation through water pipes
- Impact on areas of ecological importance
- Impact on crops or domestically grown produce
- Impact on livestock and wild animals subject to shooting / fishing rights
- Impact on buildings and / or foundations

APPENDIX 3: RECEPTORS

The following receptors are covered by Part 2A. For further details, and information on what constitutes significant harm to each receptor, please refer to the statutory guidance.

- Human beings

- Any ecological system, or living organism forming part of such system, within a location which is:
 - i) A site of special scientific interest
 - ii) A national nature reserve
 - iii) A marine nature reserve
 - iv) An area of special protection for birds
 - v) Any European site within the meaning of regulation 10 of the Conservation Regulations 1994 e.g. special areas of conservation and special protection areas.
 - vi) Any candidate special areas of conservation or special protection areas
 - vii) Any habitat afforded protection under paragraph 6 of planning policy statement 9 (PPS9) e.g. RAMSAR sites
 - viii) Any nature reserve under section 21 of the National Parks and Access to the Countryside Act 1949

- Property in the form of;
 - i) Crops, including timber
 - ii) Produce grown domestically, or on allotments for consumption
 - iii) Livestock
 - iv) Other owned or domesticated animals
 - v) Wild animals which are the subject of shooting or fishing rights

- Property in the form of buildings. For this purpose “building” means any structure or erection, and any part of a building including any part below ground level, does not include plant/machinery within a building.

- Controlled waters, as defined by the Water Resources Act 1991. Including relevant territorial waters, coastal waters, inland freshwaters and ground waters. For the purposes of Part 2A, ground waters does not include waters contained in underground strata but above the saturation zone.

APPENDIX 4: SPECIAL SITES

A special site is a contaminated land site that is regulated by the Environment Agency instead of the local authority. The definition of a special site as given in the Contaminated Land (England) Regulations 2006 is reproduced below for information only. Reference should be made to the full text of the legislation and statutory guidance for a full legal definition and for details of references where quoted.

'Contaminated land of the following descriptions is prescribed for the purposes of section 78C (8) as land required to be designated as a special site:

- a) land affecting controlled waters in the circumstances specified in regulation 3;
- b) land which is contaminated land by reason of waste acid tars in, on or under the land;
- c) land on which any of the following activities have been carried on at any time;
 - i) the purification (including refining) of crude petroleum or of oil extracted from petroleum, shale or any other bituminous substance except coal;
or
 - ii) the manufacture or processing of explosives;
- d) land on which a prescribed process designated for central control has been or is being carried on under an authorisation, where the process does not solely consist of things being done which are required by way of remediation;
- e) land on which an activity has been or is being carried on in a Part A(1) installation or by means of Part A(1) mobile plant under a permit, where the activity does not solely consist of things being done which are required by way of remediation;
- f) land within a nuclear site;

- g) land owned or occupied by or on behalf of -
 - i) the Secretary of State for defence;
 - ii) the defence Council,
 - iii) an international headquarters or defence organisation, or
 - iv) the service authority of a visiting force, being land used for naval, military or air force purposes;
- h) land on which the manufacture, production or disposal of -
 - i) chemical weapons,
 - ii) any biological agent or toxin which falls within section 1(1)(a) of the Biological Weapons Act 1974 (restriction on development of biological agents and toxins), or
 - iii) any weapon, equipment or means of delivery which falls within section 1(1)(b) of that Act (restriction on development of biological weapons) has been carried on at any time;
- i) land comprising premises which are or were designated by the Secretary of State by an order made under section 1(1) of the Atomic Weapons Establishment Act 1991 (arrangements for development etc. of nuclear devices);
- j) land to which section 30 of the Armed Forces Act 1996 (land held for the benefit of Greenwich hospital) applies;
- k) land which is contaminated land wholly or partly by virtue of any radioactivity possessed by any substance in, on or under that land; and
- l) land which -

- i) is adjoining or adjacent to land of a description specified in any of sub-paragraphs (b) to (k); and
- ii) Is contaminated land by virtue of substances which appear to have escaped from land of such a description.'

Selby District Council

REPORT

Reference: E/13/57

Public – Item 7



To: The Executive
Date: 6 March 2014
Status: Non Key Decision
Report Published: 26 February 2014
Author: Sally Rawlings, Housing Development Manager
Executive Member: Cllr Mark Crane
Lead Officer: Karen Iveson, Executive Director

Title: St Joseph's Street, Tadcaster – revised business case

Summary:

On 7th November 2013 Executive considered the outline Business Case for freehold transfer of vacant land at St Joseph's Street to the Selby and District Housing Trust (SDHT) and resolved in principle to offer the land at nil consideration (subject to valuers report and the necessary consents) for the development of general needs housing. The power to approve the transfer and agreement on the final sum and terms was delegated to the s151 Officer in consultation with the Lead Member for Resources and the Solicitor to the Council.

More detailed work on the business case costs has identified that the requirement to comply with a planning condition to use ashlar stone has increased the costs of the scheme by around £60k and the matter is referred back to Executive as the assumptions underlying the 'in principle' approval granted on 7 November have changed.

This report considers the options for the scheme in the light of those changes and recommends that either a grant of £62,000 be offered with the development, or that the terms of the offer allow for the sale of one of the residential units, to ensure a viable scheme.

Recommendations:

1. To approve the revised business case;

2. To determine whether option 3 or option 4 is the preferred approach;
3. Subject to 2 above, approve in principle the amended offer to SDHT;
4. To delegate power to approve the transfer and agree the final sum and terms in accordance with this 'in principle' approval' to the s151 Officer in consultation with the Lead Member for Resources and the Solicitor to the Council.

Reasons for recommendation

The Executive is asked to agree the recommendation above to enable the development of the site at St Joseph's Street, Tadcaster by SDHT to provide affordable general needs housing for Selby DC area as identified in the evidence supporting the Core Strategy.

1. Introduction and background

- 1.1 This report presents an update on the proposed affordable housing development scheme at St Joseph's Street, Tadcaster following more detailed work to establish the scheme costs.
- 1.2 As part of this work it has transpired that the assumptions on construction costs have not allowed for the particular planning issues relating to the development.
- 1.3 The original business case was based 3 affordable houses (excluding the garages that were part of the planning application) with a stone façade but did not take full account of "Planning Condition 02" which specifies that the construction shall be "ashlar regular coursed magnesium limestone". Due to the quality and precise nature and use of this product, the construction costs and programme are estimated to be in excess of the original business case, which now challenges the viability of the scheme.

2. The Report

Discharge of Planning Condition 02

- 2.1 As a result of the required use of ashlar stone (see appendix a Condition 02), the business case has been revised for this scheme and incorporates the extra construction costs, lead time and time on site. The overall cost impact is approximately £64,000 (assuming a worst case scenario, which is the use of smooth faced ashlar for all external façades). There may be the opportunity to use a lower grade stone on the side and rear façades which could reduce the cost but further work and discussion with planning officers would be needed if the scheme is progressed.
- 2.2 The estimated impact on the project programme is to add approximately 16 weeks which means that the scheme will not be completed until September 2015.

- 2.3 It may be possible to submit an application for a variation to the planning condition, although this would require an additional supporting report on the construction materials used in Tadcaster's Conservation Area, to be compiled by a suitably qualified person. This would be an extra cost to the project, with no guarantee of subsequent success in the planning process and a further delay of at least six to eight weeks to the timeline for this project – as such this is not recommended.

Land Value

- 2.4 The original business case assumed a 'nil' land value which has since been confirmed by the District Valuer.

Viability options

- 2.5 The full financial analysis of this scheme is given in paragraph 3.2 below. In preparing this analysis with revised costs it is clear that the scheme does not achieve the SDC internal parameters of a viable scheme – in particular the scheme does not achieved a positive "Net Present Value" until year 40 against our benchmark of year 30 - see **Appendix C (ii)** for details.

- 2.6 At this stage there are a number of options:

- Option 1 - Do not progress the scheme
- Option 2 - Change all or part of the scheme to shared ownership
- Option 3 - Sell one of the properties outright on the open market (instead of it being an affordable home)
- Option 4 – Subsidise the scheme

2.6.1 Option 1 – Do not progress the scheme

This site has previously been agreed as being of strategic importance to improving the centre of Tadcaster. In particular it was proposed by the Tough Stuff Board as one of their top priorities for tackling key issues in the town, namely improving the street scene and meeting housing needs. Consultations have been undertaken about the use of this site and the development of residential properties was agreed as the most appropriate use. To not progress this scheme could cause potential problems regarding the expectations of the Tough Stuff Board and the people of Tadcaster. As a result, this option is not recommended.

2.6.2 Option 2 - Change all or part of the scheme to shared ownership

Officers have researched the options for changing the properties to shared ownership. Following conversations with other Yorkshire-based Housing Associations it is apparent that whilst there are families willing to part-purchase a shared ownership property from housing associations, they are not able to obtain the mortgage finance required (even if a minimum 25% share is purchased). Consequently, some properties have remained rented despite being designated as rent-to-shared ownership (e.g. Broadacres property in Eggborough) or vacant for over twelve months (e.g. Sanctuary property in Thornton le Dale in

Ryedale district). This option would therefore have potentially more risk attached to it and is not recommended.

2.6.3 Option 3 - Sell one of the properties outright on the open market

Officers have also researched the option of selling one of the properties on the open market to fund the development of the other two. Research of the property market in Tadcaster shows that three bedroomed semi-detached or terraced properties range in asking price from £264,000 to £148,500 – with the cheaper properties being older and smaller. Recently sold properties (2013) have also been researched with 3 bed semi-detached properties achieving values of £185,000 to £139,950 and 3 bed terraced properties achieving values of between £195,000 and £134,950.

It seems likely that an end terrace property on St Joseph's Street could sell for approximately £179,950, following the receipt of an 'off-plan' valuation from Hunters Estate Agents in Wetherby.

This is a realistic option, although this would not be wholly in line in delivering affordable housing in a high priority area. A financial appraisal summary for this option is set out at **Appendix C (iii)**. This shows that subject to net sale proceeds of £176k the scheme could achieve a small capital receipt of around £11k. In addition, this would allow the affordable housing element of the scheme to breakeven over 30 years and achieve a 5% rate of return.

Whilst this would diminish the number of affordable properties achieved against the target set in the affordable housing development strategy, it would ensure delivery of the scheme of two affordable houses and also meet some of the objectives of the Tough Stuff Board.

Should this option be preferred it will be necessary for a revaluation of the site by the DV as the current valuation has been made on the premise that this site will be used for 100% affordable housing.

The precise details of a scheme which allows market value sale of one unit would need to be agreed between legal representatives for the Council, SDHT and the developer but it should be possible to ensure that any capital receipt is returned to the Council as well as enabling the development.

2.6.4 Option 4 – Subsidise the scheme

In order to achieve the financial appraisal outputs within the parameters set by SDC, the final option is to subsidise the development through a grant to Selby & District Housing Trust.

A summary financial appraisal for this option is set out at **Appendix C iv)**. The appraisal shows that a £62,000 subsidy will achieve a positive "Net Present Value" by year 30 and achieve a rate of return in line with our 5% benchmark.

Should councillors wish to support this option, funding would be needed from the Programme for Growth budget. It is likely that other future schemes will require subsidy and use of commuted S106

receipts could provide this support. The benefit of this option would be that the full affordable housing target in the affordable housing development strategy would be achieved

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

- 3.1.1 There is the potential for a Judicial Review should a variation to the planning consent be approved, which would further delay the scheme and involve further additional costs to the scheme and the Council.
- 3.1.2 Further legal advice would need to be obtained if a sale of one of the units is the preferred option to ensure that any capital receipt is returned to the Council.

3.2 Financial Issues

- 3.2.1 The scheme as it stands is not viable. At year 30 the Net Present Value (NPV) is negative at - £66k and the internal rate of return (IRR) is 3.60% against a benchmark of 5% (assumed cost of capital plus ½% risk factor).
- 3.2.2 This means the scheme will not achieve the pay back period target of 30 years - this will not be achieved until year 40.
- 3.2.3 The scheme does achieve the 5% IRR benchmark by year 60, coming in at 6.11%.
- 3.2.4 To make the scheme viable over 30 years there are a number of options, one being to make a contribution towards the scheme.
- 3.2.5 If a contribution of £62k was to be made the scheme would achieve a breakeven NPV and a 5% IRR by year 30.
- 3.2.6 Another option would be to sell one of the three properties on the open market. This option would generate a capital receipt – part of which would be needed to support the scheme and part would be returned to the Council.
- 3.2.7 The financial appraisal shows that after development costs and a subsidy on the 2 affordable homes the Council could achieve a capital receipt of £11k (subject to net sale proceeds of £176k) in addition to a breakeven NPV and a 5% IRR over 30 years for the affordable housing element of the scheme.
- 3.2.8 As a result of the planning condition imposed as part of the planning consent for this scheme the business case has been revisited. The following paragraphs provide a direct comparison between the original business case presented to the Executive on 7 November 2013 and the revised business case.

3.2.9 Costings in original business case

Land cost	=	£ Nil
Estimated Construction – 3 houses@ £1,100/m ²	=	£262,615
Development Costs (fees & survey = 9% of construction cost)	=	£23,635
Trust legal fees/original feasibility/contingency	=	£19,130
Capitalised interest	=	£14,388
Estimated total scheme cost	=	£319,768

Assumed rental value per unit = £124 per week (80% of market rent).

3.2.10 Revised costings as a result of the District Valuer's land valuation and the planning condition:

Land cost	=	£ Nil
Estimated Construction – 3 houses@ £1,300/m ²	=	£310,362
Development Costs (fees & survey = 9% of construction cost)	=	£27,933
Trust legal fees/original feasibility/contingency	=	£21,518
No VAT on fees as Design & Build	=	£0
Capitalised interest	=	£19,272
Estimated total scheme cost	=	£379,085

- NB:*
- 1. Cost estimates subject to tender*
 - 2. Assumed rental value per unit = £124 per week (80% of market rent)*

3.3 Risks

3.3.1 Whilst further work to refine the scheme costs has been done there remain a number of risks which could increase cost or delay the programme, for example scheme costs will only be known once the tendering process is complete. Furthermore specific issues with the site which are not already known, and will not be known until the site investigation and archaeological investigation are complete, could also increase costs. Any increase in costs will either generate a lower return from the sale of one of the properties should option 3 be preferred or, if option 4 is preferred, increase the level of subsidy required.

4. Conclusion

- 4.1 In order to achieve the parameters required to meet the Council's viability criteria and achieve the much needed affordable homes in Tadcaster, option 4 is considered to provide the most appropriate solution to the increased scheme costs.
- 4.2 However the sale of one of the homes on the open market could provide a capital receipt to support the scheme without drawing additional resources from the Council although this would in turn reduce the number of affordable homes delivered.

- 4.3 It should be stressed that the nature of the affordable housing schemes proposed under the Council's Housing Development Strategy are likely to require some level of subsidy due to their scale and spread (be that reflected in the land value and in some cases through the need for grant support from either the HCA or SDC's 106 receipts, or through an element of market housing).

5. Background Documents

Report to Executive dated 7 November 2013 – Item 9

Contact Details: Karen Iveson

Appendices

A - Planning Condition 02 from Planning consent 2013/0237/FUL

B - Timeline

C - Summary financial appraisal output

Planning Condition 02 - Appendix A

1. The original planning application stated that the construction of the facades of the houses forming the scheme would be stated "Random Coursed Natural Limestone and Metal Railings".
2. On 21 May 2013 a third party objected to the application proposal as follows:

"The materials used appear to be primarily slate roof and random coursed stone. Ashlar has since Greek and Roman times been considered the finest finish for stone. It requires more work and only the better beds of stone can be used to make ashlar so it has always been more expensive. Selby Abbey, York Minster, the walls of York were all built of ashlar magnesian limestone and Tadcaster stone (which is quarried without use of explosives, giving the stone a longer life) is used for their repairs nowadays. Next to St Joseph's Square the former lodging house 18, St Joseph's Street is fronted with ashlar, as are all the houses in Chapel Street behind St Joseph's Square and the Methodist Chapel at the end of the two streets in Tadcaster."

3. Consequently, following discussion between SDC Development Management officers and the planning agent, Planning Condition 02 states that the "dwellings shall be constructed from ashlar, regular coursed magnesian limestone" ... "To ensure that the character and appearance of the Tadcaster Conservation Area and the setting of the surrounding listed buildings is preserved and enhanced in accordance with Policies ENV1, ENV25, and TAD/4 of the Selby district local Plan and the guidance within the National planning Policy Framework."

Report to planning committee – condition 02

This application is recommended to be APPROVED subject to the following conditions:

02. Notwithstanding the details of the approved plans the dwellings hereby approved shall be constructed from ashlar, regular coursed magnesian limestone.

Reason:

To ensure that the character and appearance of the Tadcaster Conservation Area and the setting of the surrounding listed buildings is preserved and enhanced in accordance with Policies ENV1, ENV25 and TAD/4 of the Selby District Plan and the guidance within the National planning Policy Framework.

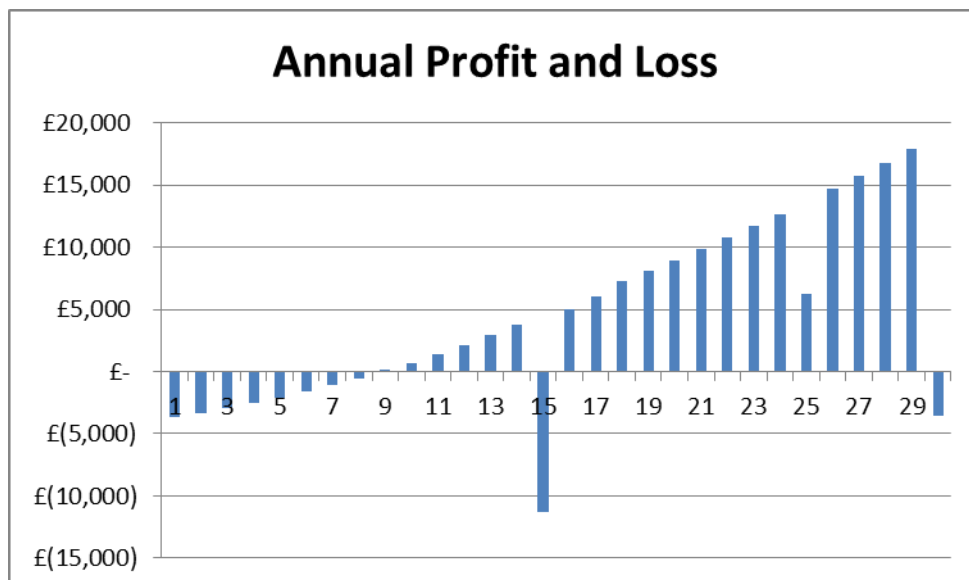
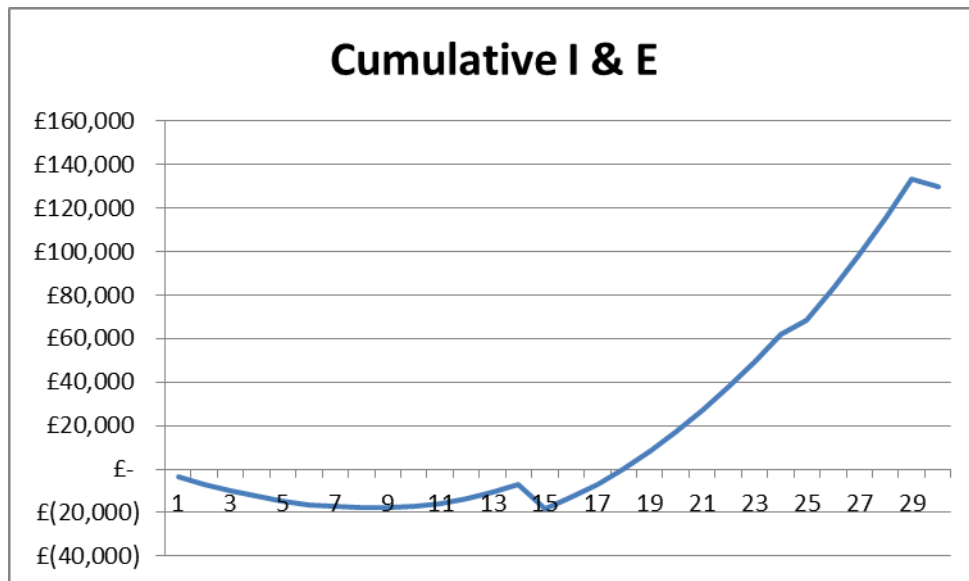
Potential Timeline (dependent on tenders received and SDHT receiving charitable status and registered provider status) - App B

	2014										2015												
Activity	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	
Revised business case	■																						
Offer to SDHT	■																						
SDHT procure consultants		■	■																				
Site & archaeological investigations		■	■																				
Tender process				■																			
Pre-contract/lead in time					■	■																	
Contract signed							■																
Stone lead in time							■	■	■	■													
Start on site										■													
Construction period											■	■	■	■	■	■	■	■	■	■			
Snagging																				■			
Practical completion																				■			
Handover																					■		

Summary financial appraisal output - Appendix C

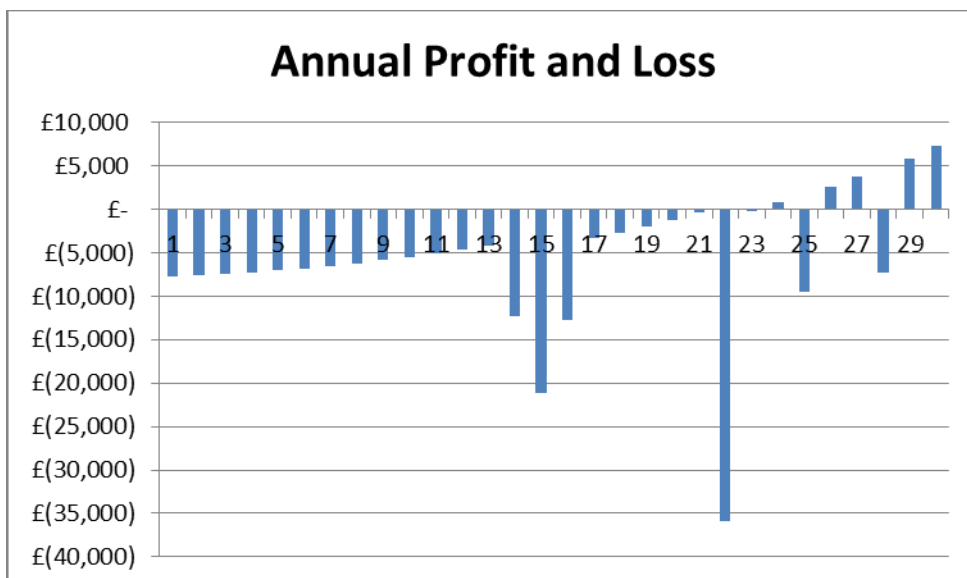
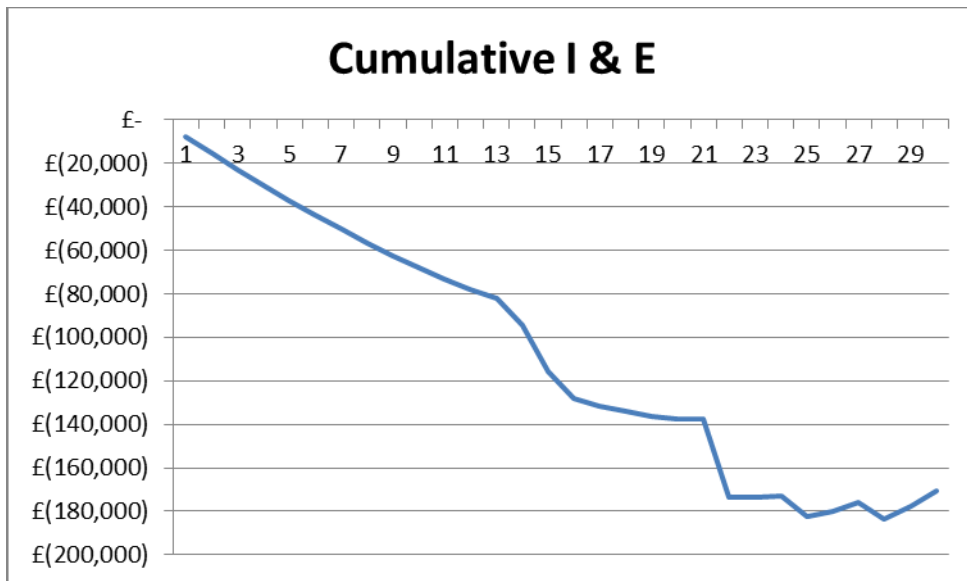
i. Original appraisal (corresponds with paragraph 3.2.9 and Executive Report dated 7 November 2013)

	Output	Benchmark	Test	Pass/Fail
30 Year Net Present Value (£)	20,814.64	0	Output>Benchmark	PASS
60 Year Net Present Value (£)	212,488.57	0	Output>Benchmark	PASS
Payback Year	29	30	Output<Benchmark	PASS
30 Year IRR%	5.20%	5%	Output>Benchmark	PASS
60 Year IRR%	7.51%	5%	Output>Benchmark	PASS



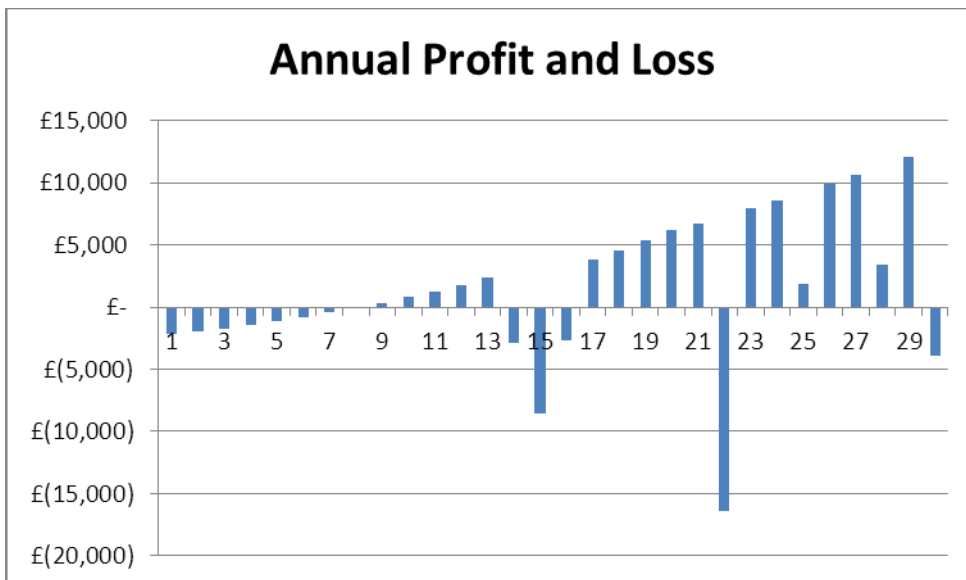
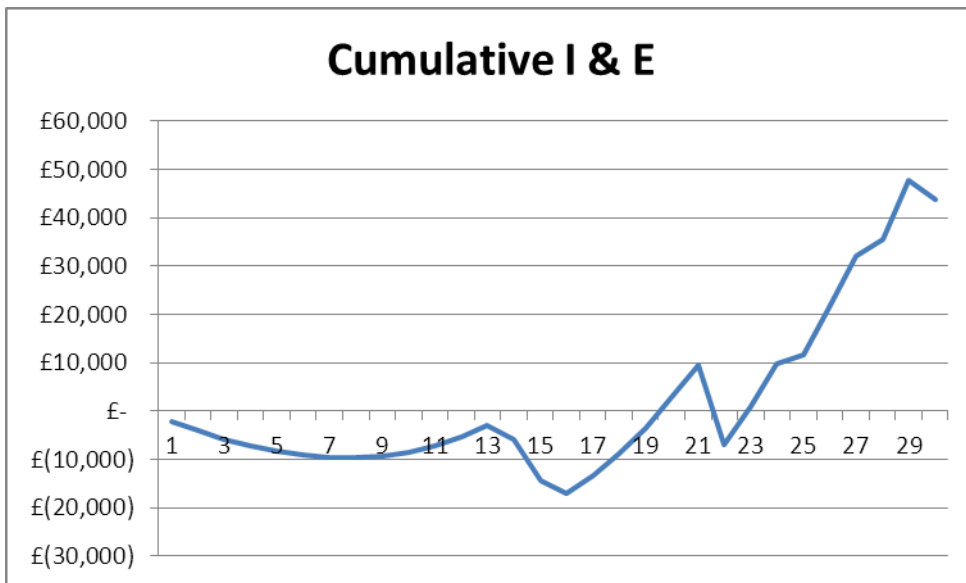
ii. Revised appraisal (corresponds with paragraph 3.2.1)

	Output	Benchmark	Test	Pass/Fail
30 Year Net Present Value (£)	-£65,952.36	0	Output>Benchmark	FAIL
60 Year Net Present Value (£)	£103,366.58	0	Output>Benchmark	PASS
Payback Year	40	30	Output<Benchmark	FAIL
30 Year IRR%	3.60%	5%	Output>Benchmark	FAIL
60 Year IRR%	6.11%	5%	Output>Benchmark	PASS



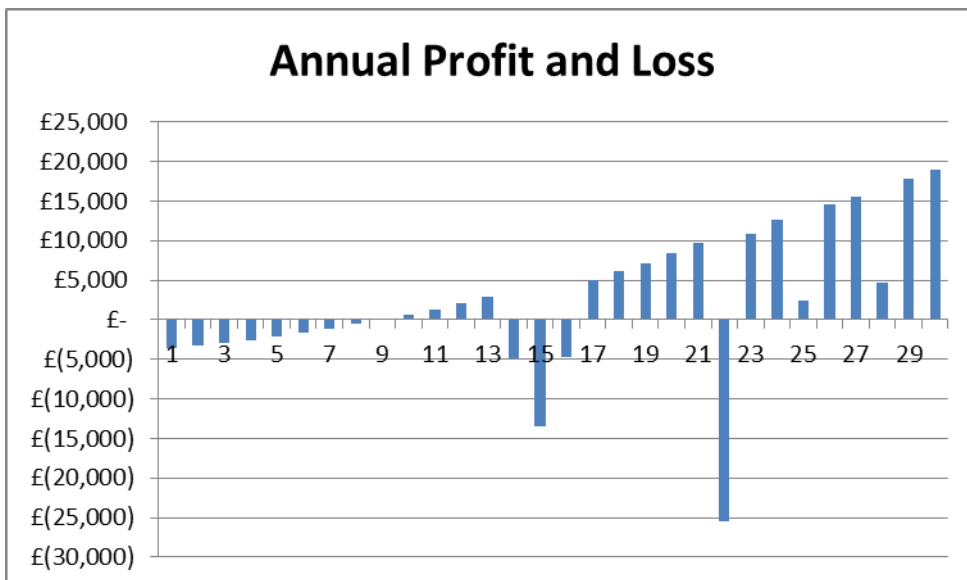
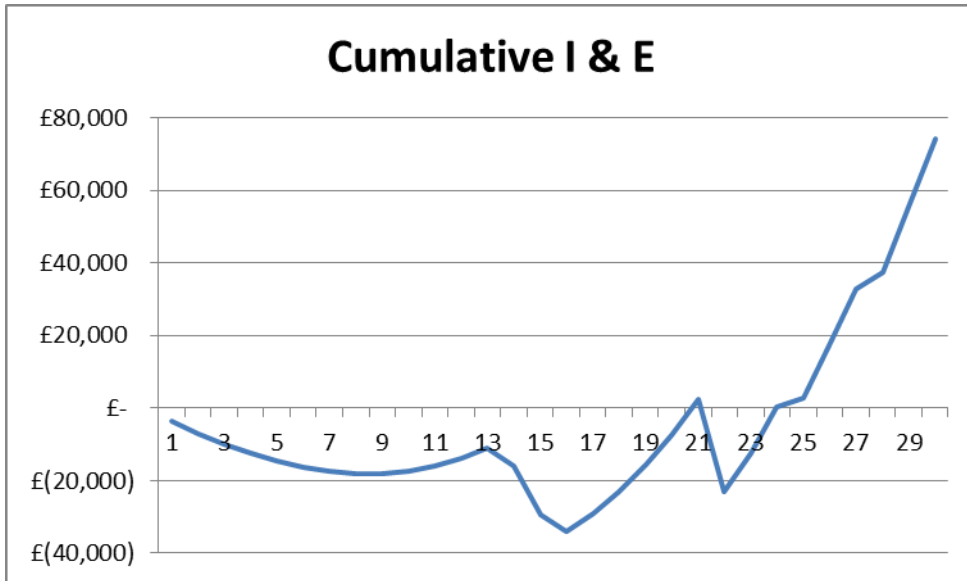
iii. revised appraisal (corresponds with paragraph 2.6.3) showing two properties subsidised by the sale of the third property

	Output	Benchmark	Test	Pass/Fail
30 Year Net Present Value (£)	£61.16	0	Output>Benchmark	PASS
60 Year Net Present Value (£)	£116,730.49	0	Output>Benchmark	PASS
Payback Year	30	30	Output<Benchmark	PASS
30 Year IRR%	5.00%	5%	Output>Benchmark	PASS
60 Year IRR%	7.22%	5%	Output>Benchmark	PASS



iv. revised appraisal (corresponds with paragraph 2.6.4) showing £62,000 subsidy via a grant from SDC

	Output	Benchmark	Test	Pass/Fail
30 Year Net Present Value (£)	£59.78	0	Output>Benchmark	PASS
60 Year Net Present Value (£)	£169,378.72	0	Output>Benchmark	PASS
Payback Year	30	30	Output<Benchmark	PASS
30 Year IRR%	5.00%	5%	Output>Benchmark	PASS
60 Year IRR%	7.11%	5%	Output>Benchmark	PASS



Selby District Council

REPORT

Reference: E/13/58

Public – Item 8



To: The Executive
Date: 6 March 2014
Status: Non Key Decision
Report Published: 26 February 2014
Author: Sally Rawlings, Housing Development Manager
Executive Member: Cllr Mark Crane
Lead Officer: Karen Iveson, Executive Director

Title: 43, Kirkgate, Tadcaster – revised business case

Summary:

On 7th November 2013 Executive considered the outline Business Case for transfer of 43 Kirkgate to the Selby and District Housing Trust (SDHT) and resolved in principle to offer the first and second floors of the property to the Trust on a 99 year lease at consideration of £36,500 (subject to valuers report and the necessary consents) for the development of general needs housing. The power to approve the transfer and agreement on the final sum and terms was delegated to the s151 Officer in consultation with the Lead Member for Resources and the Solicitor to the Council.

Since the condition survey of this property and notification of the expected planning conditions for the change of use, it has been necessary to revisit the business case for this development and the matter is referred back to Executive as the assumptions underlying the 'in principle' approval have changed.

Whilst the costs of the scheme have increased, the valuation report now takes account of the level of works required and the planning conditions imposed and therefore a lower lease value has mitigated the increased cost of the scheme although this means a lower capital receipt for the Council.

Overall the scheme remains viable although further cost savings could be achieved if the trust achieve registered provider status.

Recommendations:

- 1. To approve the revised Business Case;**
- 2. To approve in principle the amended offer to SDHT;**
- 3. To delegate power to approve the transfer and agree the final sum and terms in accordance with this 'in principle approval' to the s151 Officer in consultation with the Lead Member for Resources and the Solicitor to the Council.**

Reasons for recommendation

The Executive is asked to agree the recommendations above to enable the development of the property at 43, Kirkgate, Tadcaster by SDHT to provide affordable general needs housing for Selby DC area as identified in the evidence supporting the Core Strategy.

1. Introduction and background

- 1.1 The scheme at 43, Kirkgate, Tadcaster is proposed to be developed from the former council offices. The ground floor is intended to be developed as a retail unit by the Council and is excluded from this report. The application for change of use was approved at the Council's Planning Committee on 17 February 2014.
- 1.2 The original report to the Executive on 7 November 2013 assumed a build cost of based on the repairs likely to be carried out. At the time of the previous report estimates were based on information provided by the agent. Following a visual condition survey and notification of the likely planning conditions, the Council's Housing Development Manager and Quantity Surveyor have undertaken additional pieces of work regarding the cost estimates of the building works and feel that it is prudent to allow for the development works to be costed at £1,155/m². This has a negative impact on the financial appraisal (discussed in paragraph 2.2 below) as this increases the construction cost (excluding fees and on costs) to £145,080 from the original estimate of costs of £124,000 (i.e. £1,000/m²).
- 1.3 The original business case assumed a lease value of £36,500 valuation for this site based on the estimated conversion costs. Officers have since received a valuation of the site from the DV, and due to the higher level of additional costs likely to be incurred, a £10,000 valuation has been given by the District Valuer.
- 1.4 Subject to the SDHT accepting the development offer, it is expected that the scheme should start on site in October/November 2014 and be completed and handed over by March 2015. On this basis, the timeline for the scheme can be found at Appendix A.
- 1.5 The Executive is asked to note that, subject to the necessary approvals under delegated authority, it is anticipated that one developer will be procured by SDC and SDHT acting in partnership to carry out the repairs and conversion works for both the ground floor retail unit and

the flats on the first and second floor. As a result of the partnership this procurement will follow the normal Council Contract Procedure Rules.

2. Legal/Financial Controls and other Policy matters

2.1 Legal Issues

- 2.1.1 It is not expected that specific consent from the Secretary of State will be required to dispose of the site as it is being sold at market value i.e. the value determined by the District Valuer.
- 2.1.2 The Council expects to dispose of the upper floors for conversion to three flats on a leasehold basis, with the lease being a full repairing lease for the period of 125 years rather than the 99 years originally proposed as 125 years is a more standard lease term.

2.2 Financial Issues

- 2.2.1 As a result of the condition survey and planning conditions for this scheme, the business case has been revisited. The following paragraphs provide a direct comparison between the original business case presented to the Executive on 7 November 2013 and the revised business case.

- 2.2.2 Costings in original business case (approved by Executive on 7 November 2013)

Land cost	=	£36,500
Estimated Construction – 3 flats	=	£124,000
VAT (if refurb)		£24,800
Development Costs (fees & survey = 9% of construction cost)	=	£11,160
Trust legal fees/original feasibility/contingency	=	£12,200
Capitalised interest	=	£9,831
Estimated total scheme cost	=	£218,491

Assumed rental value per unit = £106 (2b3p flat) and £92 (1b2p flat) per week (80% of market rent).

- 2.2.3 Revised costings as a result of the condition survey and planning conditions:

Land cost (to be confirmed)	=	£10,000
Estimated Construction – 3 flats@ £1,155/m ²	=	£143,220
VAT at 5% (refurb and if not registered provider)		£7,161
Development Costs (fees & survey = 9% of construction cost)	=	£12,890
Trust legal fees/original feasibility/contingency (@10%)	=	£20,322
VAT on fees at 20% (as not Design & Build)		£3,778
Capitalised interest	=	£7,397
Estimated total scheme cost	=	£204,768

NB:

- *Cost estimates subject to tender and actual building conditions;*
- *Assumes Registered Provider (RP) status is not achieved prior to signing contract – if RP status is achieved then it is likely that no VAT will be charged on the construction work;*
- *Assumes 20% VAT on all fees as not design and build contract;*
- *Assumed rental value per unit = £106 (2b3p flat) and £92 (1b2p flat) per week (80% of market rent).*

2.2.3 The appraisal model output (see Appendix B (ii) Revised Appraisal) passes all of the suggested criteria to make the scheme viable, providing a Net Present Value (NPV) of £6.8k at year 30 and an internal rate of return (IRR) of 5.28% against our a benchmark of 5% (assumed cost of capital plus ½% risk factor). At year 60 the scheme sees an NPV of £129k and an IRR of 7.54% (again against a benchmark of 5%).

2.3 Risks

2.3.1 Whilst further work to refine the scheme costs has been done there remain a number of risks which could increase cost or delay the programme, for example scheme costs will only be known once the tendering process is complete.

2.3.2 There is an opportunity for SDHT to reduce the VAT liability on the scheme but this requires registration with the Homes and Communities Agency and whilst the Board have resolved to seek Registered Provider (RP) status it may take time to achieve and therefore the scheme is put forward on the basis that RP status is not achieved within the timescales necessary to deliver this project. However, officers will work with the Trust to achieve the most beneficial outcome.

3. Conclusion

3.1 Whilst the costs of the scheme have increased from those in the original business case, the corresponding reduction in lease value has mitigated the increase and consequently at this stage the scheme remains viable.

4. Background Documents

Report to Executive dated 7 November 2014 – Item 8

Contact Officer: Karen Iveson

Appendices

Appendix A – Potential timeline

Appendix B - Summary financial appraisal output

Potential Timeline - App A

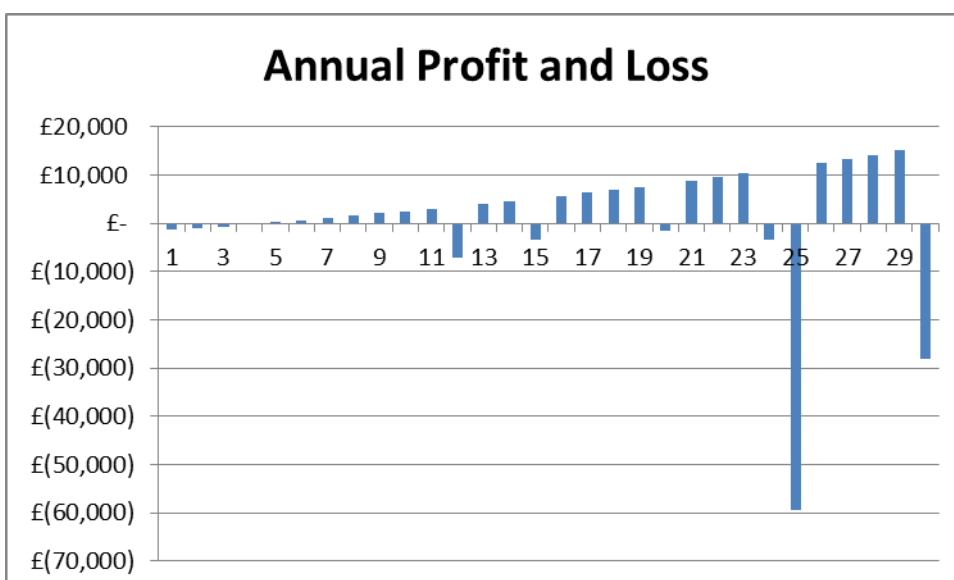
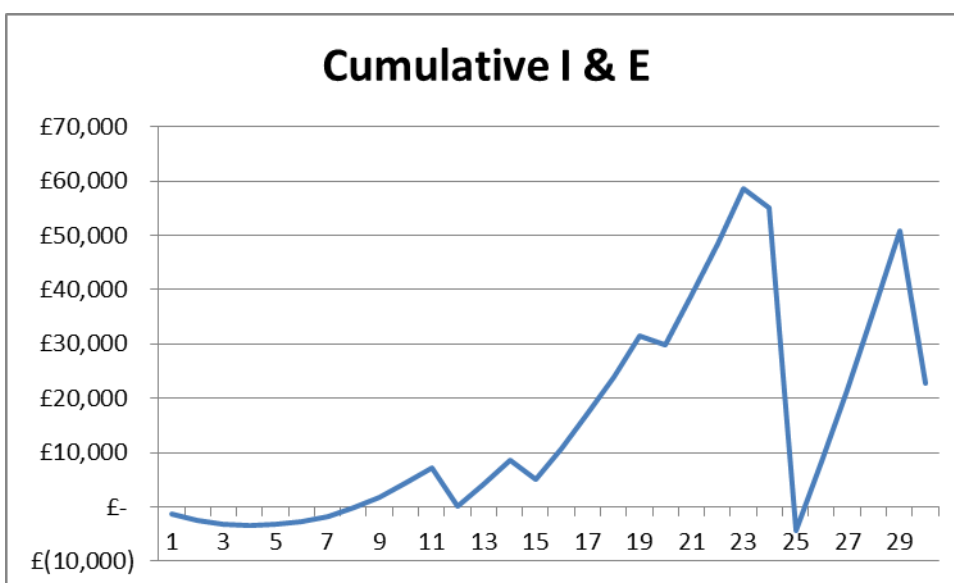
(dependent on tenders received and assuming that registered provider status is achieved prior to August 2014)

Activity	2014											2015										
	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Revised business case	■																					
Offer to SDHT	■																					
SDHT procure consultants		■	■																			
Specifications prepared				■	■	■																
Tender process						■																
Pre-contract/lead in time						■	■	■														
Contract signed								■														
Start on site									■													
Construction period									■	■	■	■	■									
Snagging														■								
Practical completion														■								
Handover														■								

Summary financial appraisal output - Appendix B

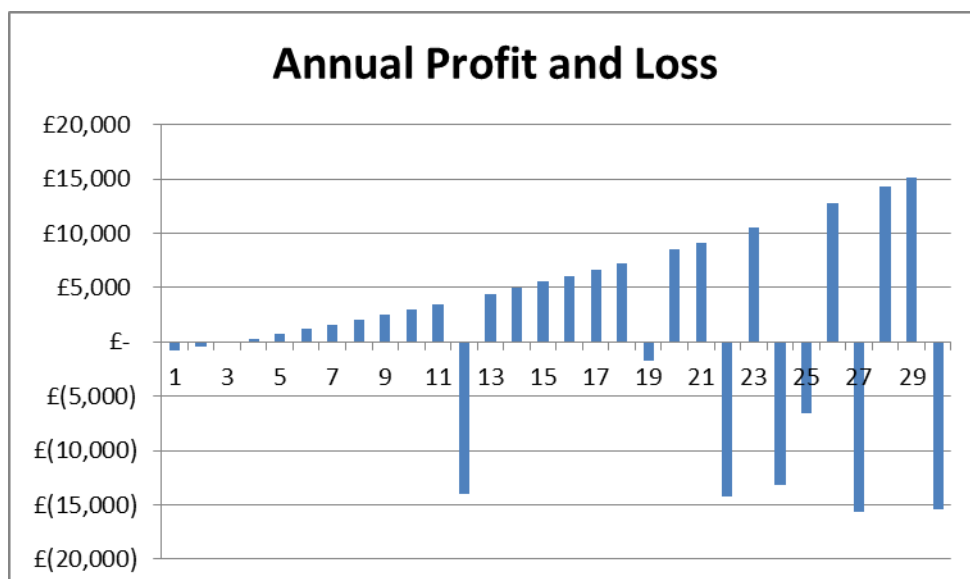
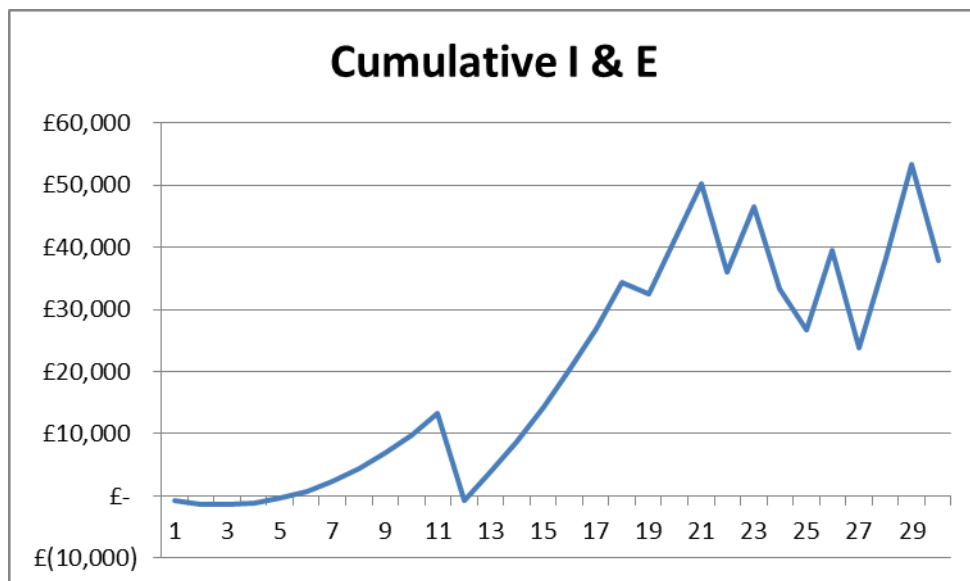
(i) -Original appraisal (corresponds with paragraph 2.2.2 and Executive Report dated 7 November 2013)

	Output	Benchmark	Test	Pass/Fail
30 Year Net Present Value	£77.04	0	Output>Benchmark	PASS
60 Year Net Present Value	£121,470.06	0	Output>Benchmark	PASS
Payback Year	30	30	Output<Benchmark	PASS
30 Year IRR%	5.00%	5%	Output>Benchmark	PASS
60 Year IRR%	7.35%	5%	Output>Benchmark	PASS



(ii) Revised appraisal (corresponds with paragraph 2.2.3)

	Output	Benchmark	Test	Pass/Fail
30 Year Net Present Value (£)	£6,787.65	0	Output>Benchmark	PASS
60 Year Net Present Value (£)	£129,175.75	0	Output>Benchmark	PASS
Payback Year	28	30	Output<Benchmark	PASS
30 Year IRR%	5.28%	5%	Output>Benchmark	PASS
60 Year IRR%	7.54%	5%	Output>Benchmark	PASS



Selby District Council

REPORT

Reference: E/13/59

Public - Item 9



To: The Executive
Date: 6 March 2014
Status: Non-Key Decision
Report Published: 26 February 2014
Author: Glenn Shelley
Executive Member: Councillor Crane
Lead Director: Karen Iveson, Executive Director (S151)

Title: Overview and Scrutiny Committee Work Programmes

Summary: This report presents the Overview and Scrutiny Committee Work Programmes to the Executive for comments.

Recommendations:

That the Executive provide comments on the Work Programmes prior to submission to Council for approval.

Reasons for recommendation

That the Council ensures the contribution of Scrutiny is effective in supporting service improvement and delivery against district wide and Council priorities.

1. Introduction and background

- 1.1** The adoption of a revised constitution and an Executive system from May 2011 has placed an increased emphasis on the role of Overview and Scrutiny within Selby District Council.
- 1.2** The Constitution identifies that the two statutory Overview and Scrutiny Committees of the Council are Policy Review and Scrutiny. Audit Committee also undertakes work that contributes to effective scrutiny.
- 1.3** The Constitution states that 'Each year all Overview and Scrutiny Committees will formulate a work programme setting out their planned

work for the year ahead.' It also states that Overview and Scrutiny Committees will take into account the views of the Executive before presenting their Work Programme to Council.

- 1.4 The Work Programmes will be discussed at the Executive meeting on 6 March 2014 and will then be presented to Council for approval.

2. The Report

- 2.1 The Work Programmes (attached at appendices A, B and C) have now been discussed by each Committee and have received input from councillors.

- 2.2 It is acknowledged that Scrutiny is resource intensive for both councillors and officers. The Scrutiny Committee Chairs have liaised to ensure that there is no duplication of effort and that each area of work is both coordinated and timely.

- 2.3 The Constitution does allow for amendments to be made to the Work Programmes once they have received Council approval. Adjustments can be made by the individual Committees to allow for the scrutiny of topics which may arise later in the year.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

Any legal issues arising will be identified in the relevant report at the time of consideration by the Committee.

3.2 Financial Issues

There is a 2.5k budget available for the ad hoc costs associated with the support of any Task and Finish Groups.

4. Conclusion

- 4.1 That the Executive considers the appended Work Programmes for 2014/15 and provide any comments before their submission to Council.

Contact Officer:

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E-mail: gshelley@selby.gov.uk

Appendices: A – Scrutiny Work Programme

B – Policy Review Work Programme

C – Audit Work Programme

Scrutiny Committee Work Programme 2014/15

Date of Meeting	Topic	Action Required
25 June 2014	Time of Meetings	To consider and agree a start time for future meetings
	Access Selby Service Provision – Community Support	To scrutinise performance of the Community Support service
	Programme for Growth	To receive the latest update and the scrutinise the Council's Programme for Growth
	Abbey Leisure Centre	To receive an update concerning the latest developments on Abbey Leisure Centre.
	Community Infrastructure Levy	Update following Call In item at the December 2013 meeting.
	Call In	Provisional Item on the agenda
23 September 2014	1 st Quarter Corporate Plan Report	To review performance against the Corporate Plan – Leader of the Council in attendance.
	North Yorkshire Fire Service	To discuss the Fire and Rescue Service provision within the District
	Health	To scrutinise Health provision across the District.
	Access Selby Service Provision – Debt Control	To scrutinise performance of the Debt Control service
	Call In	Provisional Item on the agenda
27 January 2015	2 nd Quarter Corporate Plan Report	To review performance against the Corporate Plan – Leader of the Council in attendance.
	Police and Crime Panel Update	To receive an update from the Police and Crime Panel on their work scrutinising the work of the Police and Crime Commissioner.
	Call In	Provisional Item on the agenda
	Crime and Disorder Update	To review the levels of crime and disorder across Selby District – NYP and CSP representatives in attendance.

Feb/March 2015	Nigel Adams MP	To ask questions of the Selby and Ainsty MP regarding issues of concern for Councillors and local residents.
24 March 2015	3 rd Quarter Corporate Plan Report	To review performance against the Corporate Plan – Leader of the Council in attendance.
	Scrutiny Committee Work Programme 2015/16	To agree the Scrutiny Work Programme for 2015/16
	Scrutiny Annual Report 2014/15	To discuss the Scrutiny Annual Report for 2014/15
	Call In	Provisional Item on the agenda

- Please note that any items ‘called in’ will be considered at the next available meeting.
- Councillor Call for Action will also be considered at the next available meeting.

Policy Review Committee Work Programme 2014/15 - Appendix B

Date of Meeting	Topic	Action Required
15 July 2014	Time of Meetings	To agree a start time for meetings for 2014/15
	Work Programme	To agree the Committee's Work Programme for 2014/15
	<u>Budget and Policy Framework</u> The State of Area Address	To consider the Leader's State of the Area Address.
	<u>Committee Requested Item</u> Welfare Reform	To consider the findings of the Task & Finish Group
16 September 2014	<u>Budget and Policy Framework</u> Financial Strategy	To consider the Executive's proposals for the Council's long term (10 year), resource and spending framework in which the budget strategy and three year financial plan will be developed.
20 January 2015	<u>Budget and Policy Framework</u> Draft Budget and Medium Term Financial Plan	To consider the Executive's proposals for revenue budgets and the capital programme for 2015/2016.
	Work Programme 2015/16	To consider the Committee's Work Programme for 2015/16

14 April 2015	Approve Policy Review Annual Report & Work Programme 2015/16	To consider the Committee's Annual Report
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20 May 2014 15 June 2014 22 October 2014 18 November 2014 16 December 2014 17 March 2015	Provisional Meeting Dates
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*Dates to be confirmed at Council on 25th February 2014

Audit Committee Work Programme 2014/15 - Appendix C

Date of Meeting	Topic	Action Required
18 June 2014	<u>Committee Requested Item</u> Introduction to the Audit Committee	
	<u>Committee Requested Item</u> Time of Meetings	To agree start time of Audit Committee meetings for 2014/15
	<u>Committee Requested Item</u> Audit Committee Work Programme 2014/15	To consider the Committee's Work Programme for the year ahead.
	<u>Committee Requested Item</u> Internal Audit Annual Report 2013/14	To consider the Internal Audit Annual Report for 2013/14.
	<u>Committee Requested Item</u> Risk Management Annual Report	To consider the Risk Management Annual Report for 2013/14
	<u>Committee Requested Item</u> Review of the Corporate Risk Register	To review the latest Corporate Risk Register
	<u>Committee Requested Item</u> Review of the Access Selby Risk Register	To review the latest Access Selby Risk Register

24 September 2014	<u>Committee Requested Item</u> Annual Governance Statement	To approve the Annual Governance Statement
	<u>Committee Requested Item</u> Statement of Accounts (post audit)	To approve the Statement of Accounts
	<u>Committee Requested Item</u> Mazars External Annual Governance Report and Opinion on the Financial Statements	To receive the Mazars Annual Governance Report and opinion on Financial Statements
	<u>Committee Requested Item</u> Counter Fraud Annual Report	To review the Counter Fraud Annual Report
	<u>Committee Requested Item</u> Internal Audit Quarter 1+Report 2014/15	To review progress against the Internal Audit Plan

14 January 2015	<u>Committee Requested Item</u> Annual Governance Statement – Action Plan Review	To review progress against the AGS Action Plan
	<u>Committee Requested Item</u> Internal Audit Quarter 2+ Report 2014/15	To review progress against the Internal Audit Plan

14 January 2015 <i>Cont'd</i>	<u>Committee Requested Item</u> Annual Audit Letter	To receive the Mazars report on the 2013/14 Audit and Value for Money conclusion
	<u>Committee Requested Item</u> Audit of Grant Claims & Returns 2013/14	To receive the Mazars Audit report
	<u>Committee Requested Item</u> Review of Risk Management Strategy	To review the Risk Management Strategy
	<u>Committee Requested Item</u> Review of the Corporate Risk Register	To review the latest Corporate Risk Register
	<u>Committee Requested Item</u> Review of the Access Selby Risk Register	To review the latest Access Selby Risk Register
	<u>Committee Requested Item</u> External Audit Progress Report – Mazars	To review the progress by Mazars in meeting its responsibilities as the Council's External Auditor.

14 April 2015	<u>Committee Requested Item</u> Annual Governance Statement – Action Plan Review	To review progress against the AGS Action Plan
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	<p><u>Committee Requested Item</u></p> <p>Internal Audit Quarter 3+ Report 2014/15</p>	<p>To review progress against the Internal Audit Plan for 2014/15</p>
	<p><u>Committee Requested Item</u></p> <p>Internal Audit Charter</p>	<p>To approve the Internal Audit Charter</p>
	<p><u>Committee Requested Item</u></p> <p>Internal Audit Plan 2015/16</p>	<p>To approve the Internal Audit Plan 2015/16</p>
	<p><u>Committee Requested Item</u></p> <p>External Audit Work programme</p>	<p>To receive Mazars proposals for auditing the financial statements and value for money conclusions for 2014/15</p>
	<p><u>Committee Requested Item</u></p> <p>External Audit Progress Report – Mazars</p>	<p>To review the progress by Mazars in meeting its responsibilities as the Council's External Auditor.</p>
	<p><u>Committee Requested Item</u></p> <p>Audit Committee Annual Report 2014/14 and Work Programme 2015/16</p>	<p>To approve the 2014/15 Annual Report and the 2015/16 Work Programme for the committee</p>