Borough Council of
King's Lynn &
West Norfolk

# Cabinet

## Agenda

Tuesday, 17th March, 2020
at 3.30 pm

in the

**Council Chamber**
**Town Hall**
**Saturday Market Place**
**King's Lynn**

Borough Council of
King's Lynn &
West Norfolk

King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
Telephone: 01553 616200

# CABINET AGENDA

**DATE:** **CABINET - TUESDAY, 17TH MARCH, 2020**

**VENUE:** **COUNCIL CHAMBER - TOWN HALL, SATURDAY MARKET PLACE, KING'S LYNN PE30 5DQ**

**TIME:** **3.30 pm**

**As required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 - Item 14 below will be considered in private.**

**Should you wish to make any representations in relation to the meeting being held in private for the consideration of the above item, you should contact Democratic Services**

1. **MINUTES**

   To approve the Minutes of the Meeting held on 4 February 2020 (previously circulated).

2. **APOLOGIES**

   To receive apologies for absence.

3. **URGENT BUSINESS**

   To consider any business, which by reason of special circumstances, the Chair proposes to accept, under Section 100(b)(4)(b) of the Local Government Act 1972.

4. **DECLARATIONS OF INTEREST**

   Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

5. **CHAIR'S CORRESPONDENCE**

To receive any Chair's correspondence.

6. **MEMBERS PRESENT UNDER STANDING ORDER 34**

To note the names of any Councillors who wish to address the meeting under Standing Order 34.

Members wishing to speak pursuant to Standing Order 34 should inform the Chair of their intention to do so and on what items they wish to be heard before a decision on that item is taken.

7. **CALLED IN MATTERS**

To report on any Cabinet Decisions called in.

Call ins were made on the following items which were unsuccessful following consideration by the Chief Executive:

CAB97 – Notice of Motion 5/19 from Cllr de Whalley – Climate Change
CAB98 – Notice of Motion 4/19 from Cllr Kemp – Hardings Way

CAB103 – King's Lynn Area Transport Strategy (KLTS) was called in which was permitted by the Chief Executive. Corporate Performance Panel at its meeting on 2 March 2020 considered the item and did not support the call in, but did support the suggestion of a Task Group to monitor the KLTS.

8. **FORWARD DECISIONS** (Pages 6 - 9)

A copy of the Forward Decisions List is attached

9. **MATTERS REFERRED TO CABINET FROM OTHER BODIES**

To receive any comments and recommendations from other Council bodies which meet after the dispatch of this agenda.

10. **CAPITAL STRATEGY** (Pages 10 - 26)

11. **REPORT OF THE AUDIT CROSS PARTY WORKING PARTY ON KLIC** (Pages 27 - 45)

12. **POTENTIAL COMPULSORY PURCHASE ORDER - WEST LYNN** (Pages 46 - 132)

**13. EXCLUSION OF THE PRESS AND PUBLIC**

The Cabinet is asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of the items below on the grounds that they involve the likely disclosure of exempt information as defined by paragraph 3 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**PRIVATE ITEM**
Details of any representations received about why the following reports should be considered in public will be reported at the meeting.

**14. BUSINESS RATES HARDSHIP RELIEF - APPEAL** (Pages 133 - 142)

To: Members of the Cabinet

Councillors R Blunt, I Devereux, P Gidney, P Kunes, A Lawrence, B Long (Chair), G Middleton and E Nockolds

For Further information, please contact:

Sam Winter, Democratic Services Manager 01553 616327
Borough Council of King's Lynn & West Norfolk
King's Court, Chapel Street
King's Lynn PE30 1EX

Agenda Item 8

**FORWARD DECISIONS LIST**

| Date of meeting | Report title | Key or Non Key Decision | Decision Maker | Cabinet Member and Lead Officer | List of Background Papers | Public or Private Meeting |
|---|---|---|---|---|---|---|
| 17 March 2020 | | | | | | |
| | Capital Strategy | Key | Council | Leader<br>S 151 Officer | | Public |
| | Potential Compulsory Purchase Order | Non | Council | Development | | Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) |
| | Report of the Audit Committee Cross Party Working Group to Review the King's Lynn Innovation Centre (KLIC) | Non | Cabinet | Leader | | Public |
| | Appeal against Business Rates application | Non | Cabinet | Leader<br>S151 officer | | Private – Contains exempt information under para 3 – information relating to the business affairs of any person (including the authority) |

| Date of meeting | Report title | Key or Non Key Decision | Decision Maker | Cabinet Member and Lead Officer | List of Background Papers | Public or Private Meeting |
|---|---|---|---|---|---|---|
| 21 April 2020 | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| | Major Housing Project 2 | Key | Council | Project Delivery<br>Exec Dir – C Bamfield | | Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) |
| | Southend Road and Hunstanton Bus Station | Key | Council | Project Delivery<br>Asst Dir – D Gagen | | Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) |
| | Salters Road, King's Lynn | Key | Cabinet | Project Delivery<br>Asst Dir – D Gagen | | Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) |
| | KLIC – Building Management | Non | Cabinet | Business Development<br>Asst – Dir – M Henry | | Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) |
| | Anti Money Laundering | Non | Cabinet | Leader<br>Chief Executive | | Public |

| | | | | | | |
|---|---|---|---|---|---|---|
| | Strategic Property Acquisition | Key | Cabinet | Corporate Projects and Assets<br>Asst Dir – M Henry | | Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) |
| | Future High Streets – Stage 2 bid for funding | Key | Cabinet | Business Development | | Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) |
| | Pay Award 2020/21 | Non | Cabinet | Exec Dir – D Gates | | Public |



| **Date of meeting** | **Report title** | **Key or Non Key Decision** | **Decision Maker** | **Cabinet Member and Lead Officer** | **List of Background Papers** | **Public or Private Meeting** |
|---|---|---|---|---|---|---|
| 16 June 2020 | | | | | | |
| | Scrutiny and the Executive Protocol | Non | Council | Leader<br>Chief Executive | | Public |
| | Standing Orders Review | Non | Council | Leader<br>Chief Executive | | Public |
| | Update to the Major Project Board Terms of reference | Non | Cabinet | Leader<br>Asst Dir – M Henry | | Public |
| | Climate Change Policy | Non | Council | Exec Dir – G Hall | | Public |

| Date of meeting | Report title | Key or Non Key Decision | Decision Maker | Cabinet Member and Lead Officer | List of Background Papers | Public or Private Meeting |
|---|---|---|---|---|---|---|
| 4 August 2020 | | | | | | |

| Date of meeting | Report title | Key or Non Key Decision | Decision Maker | Cabinet Member and Lead Officer | List of Background Papers | Public or Private Meeting |
|---|---|---|---|---|---|---|
| 22 September 2020 | | | | | | |

**REPORT TO CABINET**

<table>
<tr><td colspan="2">OPEN</td><td rowspan="2" colspan="2">Would any decisions proposed :<br><br>Be entirely within Cabinet's powers to decide NO<br>Need to be recommendations to Council YES<br><br>Is it a Key Decision NO</td></tr>
<tr><td>Any especially affected Wards</td><td>Mandatory</td></tr>
</table>

| | |
|---|---|
| Lead Member: Councillor Brian Long<br>E-mail: cllr.brian.long@west-norfolk.gov.uk | Other Cabinet Members consulted: None<br>Other Members consulted: None |
| Lead Officer: Ruth Wilson<br>E-mail: ruth.wilson@west-norfolk.gov.uk<br>Direct Dial:01553 616450 | Other Officers consulted: None |

| | | | | | |
|---|---|---|---|---|---|
| Financial Implications NO | Policy/ Personnel Implications NO | Statutory Implications YES | Equal Impact Assessment NO If YES: Pre-screening/ Full Assessment | Risk Management Implications NO | Environmental Considerations NO |

Date of meeting: 17 March 2020

# CAPITAL STRATEGY 2020/21


## Summary

The Capital Strategy outlines the principles and framework that shape the Council's capital decisions. The principal aim is to deliver a programme of capital investment that contributes to the achievement of the Council's priorities and objectives as set out in the Corporate Plan. The Capital Strategy will be updated annually and will be put before Cabinet alongside the Treasury Management Strategy going forward so that it can be approved before the year to which it relates begins.

The Strategy defines at the highest level how the capital programme is to be formulated; it identifies the issues and options that influence capital spending, and sets out how the resources and capital programme will be managed.


## Recommendation

1) that Cabinet approve the Capital Strategy 2020/21 as attached to this report.

## Reason for Decision

Not to approve these policies would contravene the requirements of both legislation and good practice. In addition, the external auditors may comment in their report to those charged with governance (ISA260).

## 1 Background

As local authorities become increasingly complex and diverse it is vital that those charged with governance understand the long-term context in which investment decisions are made and all the financial risks to which the authority is exposed. With local authorities having increasingly wide powers around commercialisation, more being subject to group arrangements and the increase in combined authority arrangements it is no longer sufficient to consider only the individual local authority but also the residual risks and liabilities to which it is subject.

The capital strategy is intended to give a high level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services along with an overview of how associated risk is managed and the implications for future financial sustainability.

## 2 Options Considered

No options considered. The CIPFA Prudential Code for Capital Finance in Local Authorities (2017) states that authorities should have in place a capital strategy that sets out the long-term context in which capital expenditure and investment decisions are made and gives due consideration to both risk and reward and impact on the achievement or priority outcomes.

## 3 Policy Implications

The CIPFA Prudential Code for Capital Finance in Local Authorities (2017) states that authorities should have in place a capital strategy.

## 4 Financial Implications

The Strategy is a statutory requirement and has no financial implications.

## 5 Personnel Implications

The Strategy is a statutory requirement and has no personnel implications.

## 6 Environmental Considerations

The Strategy is a statutory requirement and has no environment considerations to consider.

## 7 Statutory Considerations

The CIPFA Prudential Code for Capital Finance in Local Authorities (2017) states that authorities should have in place a capital strategy.

## 8 Equality Impact Assessment (EIA)

(Pre screening report template attached)

There are no changes being considered. This is a statutory requirement and therefore there are no impacts to report.

## 9 Risk Management Implications

Not to approve these policies would contravene the requirements of both legislation and good practice.

## 10 Declarations of Interest / Dispensations Granted

There are no declarations of interest.

## 11 Background Papers

Cabinet Reports
Financial Plan 2019-2024
Monthly Monitoring Reports
Statement of Accounts
Corporate Business Plan 2019-24
Financial Sustainability Plan 2016-2020

**Borough Council of Kings Lynn and West Norfolk**

**CAPITAL STRATEGY 2020/2021**

## Contents

## 1. Introduction and Overview

The Capital Strategy provides a clear framework to ensure that capital investment plans are affordable, prudent and sustainable.

This report provides:

- a high-level long term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services;
- an overview of how the associated risk is managed;
- the implications for future financial sustainability.

Under the Capital Strategy all capital investment should contribute to the achievement of the main priorities of the Council. This enables capital funds to be directed to projects meeting the highest corporate priorities.

When identifying and planning new schemes the Council will try to maximise all external sources of finance (grants, partnership funding, joint ventures etc). It will however ensure that such sums do not come with conditions attached, that reduce the effect of the scheme should the funding source not have been used.

The evaluation process will take in to account revenue implications and provide value for money for residents of West Norfolk.

## 2. The Council's Corporate Business Plan

The Council publishes a Corporate Business Plan which sets out the broad framework for the Council's aims for the period covered by the plan. A Corporate Business Plan 2020-2024 was developed, and agreed by Council in January 2020. https://www.west-norfolk.gov.uk/info/20163/corporate_performance_and_transparency/450/corporate_business_plan

The plan outlines six priority aims, supported by 19 key objectives in areas of key importance to the authority. The six priority aims within the new plan are:

1. Focusing on delivery
2. Delivering growth in the economy and with local housing
3. Protecting and enhancing the environment including tackling climate change
4. Improving social mobility and inclusion
5. Creating and maintaining good quality places that make a positive difference to people's lives
6. Helping to improve the health and wellbeing of our communities

The purpose of the Capital Strategy is to deliver the Council's key priorities by using capital resources to provide assets appropriate to the Council's service, in the most efficient and effective manner.

## 3. Capital Expenditure

### 3.1 An overview of the governance process for approval and monitoring of capital expenditure

Decisions around capital expenditure, investment and borrowing align with the processes established for the setting and revising of the budget. Ultimate responsibility lies with full council.

Democratic decision-making and scrutiny processes provide overall political direction and ensure accountability for investment in the capital programme.

- Council approves the Corporate Business Plan which sets out the broad framework for the Council's aims;
- Council approves the Capital Strategy, Treasury Management Strategy and a five year capital programme which includes a list of schemes with profiled costs and funding sources.
- Members receive regular capital monitoring reports, approve variations to the programme and consider new bids for inclusion in the capital programme.
- The capital programme is subject to internal and external audit.

The ICT Development Group oversees the preparation and delivery of the Council's ICT systems programme. It also approves any ICT bids that are to be made to the capital programme.

Major Housing Development monitoring procedures are set out in the Cabinet Report 3 February 2015. Recommendations to Council go to Cabinet for approval of each phase.

At each year end a report will be taken to the Corporate Performance Panel, Cabinet and Council to show the outcome of the financial year and the impact on the future capital programme and resources.

As local authorities become increasingly complex and diverse it is vital that those charged with governance understand the long-term context in which investment decisions are made and all the financial risks to which the authority is exposed. With local authorities having increasingly wide powers around commercialisation, more being subject to group arrangements and the increase in combined authority arrangements it is no longer sufficient to consider only the individual local authority but also the residual risks and liabilities to which it is subject.

In considering how stewardship, value for money, prudence, sustainability, risk and affordability can be demonstrated the council will have regard to the following key areas:

- Capital expenditure
- Debt and borrowing and treasury management
- Commercial activity
- Other long-term liabilities
- Knowledge and skills

## 3.2 Capital Expenditure

Capital expenditure over £10,000 on the acquisition, creation or enhancement of assets is included in the capital programme.

Details on the council's capitalisation policies can be found in the Statement of Accounts. https://www.west-norfolk.gov.uk/info/20160/budgets_and_spending/361/annual_accounts

The Council capitalises borrowing costs incurred whilst assets are under construction.

Capital expenditure is defined in Section 16 of SI 2003/3146 as:

- Expenditure that results in the acquisition, construction or enhancement of fixed assets (tangible and intangible)

- Expenditure fulfilling one of the definitions specified in regulations made under the Local Government Act 2003
- Expenditure which has been directed to be treated as capital by the Secretary of State (for example, grants made to third parties for the purpose of capital expenditure).

### 3.3 Capital Bids and Prioritisation

Proposed capital projects must present a clear business case. The scheme bids are evaluated against the corporate criteria and prioritised on that basis subject to a recognised limit on resources available in the period. The proposed capital programme is then discussed with Management Team and put forward to the Cabinet and Council for approval. The report on the capital programme will go through the normal process of scrutiny by the various Panels of the Council. Members receive adequate training to ensure decisions can be properly debated and understood and scrutiny functions can be effective. The training needs of officers are periodically reviewed and annual CPD training events are attended.

All schemes, whether existing or new, are scrutinised and challenged where appropriate by officers to verify the underlying costs and/or establish whether alternative methods of delivery have been investigated in order to meet the relevant needs and outcomes of the Council.

### 3.4 A long-term view of capital expenditure plans

Over recent years the council has undertaken a number of cost-reduction initiatives that will help tackle the phasing out of Revenue Support Grant (RSG), one of the council's main sources of revenue funding.

Even though the council has undertaken cost-reduction measures, these do not go far enough to balance its budget in the years ahead. To address this the council has identified a number of projects that link to a number of strategic corporate objectives, help to address its revenue requirements going forward and take advantage of capital funding opportunities being promoted by Central Government.

The council has long-held ambitions for the growth, development and regeneration for West Norfolk and particularly King's Lynn as its main urban centre and driver of the local economy.

The Council has progressed a number of significant regeneration initiatives within the borough over several years. The two main initiatives within King's Lynn have been the Nar Ouse Regeneration Area (NORA) and the Waterfront Regeneration Area (WRA). These regeneration initiatives have been progressed by the Council with inputs from a variety of other public bodies and agencies over the years. Significant amounts of funding have been secured from partner agencies to facilitate these regeneration initiatives that will help drive the growth, development and sustainability of King's Lynn as a sub-regional centre.

The Council, with its partner agencies, and the private sector, has invested significantly in the delivery of the NORA and the WRA to help bring these sites forward for development. This includes:

- Land assembly - acquisition of sites by private treaty negotiation and compulsory purchase orders (CPO's)
- Contaminated land remediation
- Strategic surface water infrastructure civil engineering works at the River Nar

- Significant highway infrastructure – Nar Ouse Way (connecting the A47 with Southgates roundabout) and Harding's Way (Community Infrastructure Fund (CIF2 funding) (connecting Wisbech Road with Boal Street)
- Development of a new school (St Michael's)
- Development of residential housing – both by the private sector and the borough council.
- A hotel development (private sector funded)
- A Pub Restaurant development (private sector funded)

In addition to the above the council is about to embark on the delivery of:

- Secondary highway infrastructure on the NORA Enterprise Zone area to enable development sites to come onto the market; and

- The development of speculative commercial units (offices and light industrial) on the NORA site to be leased to potential occupiers

The two current initiatives above are again facilitated by partner agencies, particularly with regard to funding arrangements via Business Rates retention to fund the secondary road infrastructure costs, and a long-term repayable grant from the New Anglia Local Enterprise Partnership (NALEP) for the development of the speculative units.

Overall the regeneration initiatives are intended to provide opportunities for business development, employment, places for residents to live and the associated infrastructure to facilitate the sustainable growth of King's Lynn.
In addition to the above, the council has also secured (or is in the process of securing) capital grant funding from :

- One Public Estate fund
- Heritage Action Zone
- High Street Heritage Action Zone
- Coastal Revival Fund
- Business Rates Pooling
- Accelerated Construction Programme
- Future High Street Fund
- Town Deal

The council is looking to use these funds to help deliver projects that will help with revenue generation, regeneration, economic development and place shaping initiatives for the benefit of the borough. The funding streams above will help with :

- Housing growth and delivery
- Business premises delivery
- Shore up and evolve King's Lynn's retail core
- Enhance the local economy in Hunstanton
- Help enhance important architectural elements within King's Lynn High Street
- Improve the tourist and visitor appeal to the area

In addition to the above, the council is developing a programme of property-related projects that are aimed at helping with potential revenue budget shortfalls in the future. These projects are being assessed using appropriate project management tools in their development ensuring that risk (particularly financial risk) is being identified early. The

Business Cases for these projects are being scrutinised by the Officer Major Projects Board as they develop and are rigorously challenged prior to entering the council's decision-making processes. In addition to this a Member Major Projects Board has also been established to have over-sight of the Officer Board to ensure that risks have been properly identified (and mitigated) and that appropriate levels of due diligence are undertaken.

A Programme of all the property-related projects is in development that will enable the council to look at the short, medium and longer term cash flow implications of all of the projects as a whole and be able to assess peak levels of borrowing required to fund the programme.

### 3.5 An overview of asset management planning

Asset Management can be defined as :

"***the optimum way of managing assets to achieve a desired sustainable outcome***"

or as the efficient and effective use of property assets.

However, in the local government context, it is more than this. The borough council must consider why it holds property assets. The borough council's property portfolio must be seen as a strategic corporate resource, and it is important that the property portfolio contributes to the success of the organisation.

The council's Draft Corporate Business Plan sets out a number of corporate priorities and objectives. These are set out below with some examples of how asset management planning has (or will) contributed to the delivery of these (it is important to note that the examples given are not a comprehensive list – but are provided to give a sense of where assets and their management can help with the delivery of the corporate objectives):

**Delivering growth in the economy and with local housing**

The council owns and manages a commercial property portfolio mainly in King's Lynn, Downham Market, Hunstanton and Heacham providing business premises comprising a mix of light industrial, office, retail and leisure premises suitable for local, national and international business occupiers. Much of the commercial property portfolio is of a size that the Private Sector would not deliver and manage owing to the relatively "hands-on" management that is required particularly when dealing with the small and medium enterprises.

The council's cabinet has agreed to invest in the development of new commercial premises at the Nar Ouse Enterprise Zone with the help of the New Anglia Local Enterprise Partnership by their providing additional long-term funding. These premises will be offered to businesses seeking new accommodation and, owing to the Enterprise Zone status, the businesses may benefit from Business Rates exemption for up to five years (up to a maximum financial level).

As well as the new commercial premises the council's cabinet has agreed to invest in providing secondary road infrastructure on the Nar Ouse Enterprise Zone. This will open up significant areas of commercial development land that will be made available, for sale or long lease, to businesses wanting to construct premises for their own occupation.

The delivery of the land and premises on the Nar Ouse Regeneration Area is the culmination of a long-term asset management plan comprising land acquisition and disposal, remediation of contaminated land, partnering with other public bodies and agencies to help with delivery and funding. The site has delivered housing units, commercial premises (King's Lynn Innovation Centre, a pub restaurant and a hotel). Other commercial premises, mainly offices and light industrial units will be delivered in the up-coming years.

Since 2008 the council has become one of the main sources for the delivery of new housing in west norfolk. The council has delivered, and continues to deliver, housing around Lynn Sport, Marsh Lane, and at the Nar Ouse Regeneration Area in King's Lynn and in Burnham Market. In addition the council has identified a number of other brownfield sites that it owns in King's Lynn, Hunstanton, Burnham Market, Sedgeford, and other parishes where residential development may be feasible. These sites are being assessed for their viability and the Business Cases for these sites will be considered by the Officer Major Projects Board, Portfolio Holders and Cabinet during 2020/2021.

**Protecting and enhancing the environment (and tackling climate change)**

As part of the wider major housing delivery around Lynn Sport and Marsh Lane the council worked with the local internal drainage board (IDB) to acquire a site, by way of Compulsory Purchase Order, for a new pumping station that would help divert water flow from the Gaywood River to help prevent flooding issues in King's Lynn town. Also as part of this housing delivery scheme a new road was constructed connecting North Lynn to the Edward Benefer Way thereby helping to add highway capacity to King's Lynn with potential improvements to traffic congestion and air quality management areas in the town.

The council holds, manages and maintains large areas of public open space and is exploring opportunities for tree planting schemes potentially similar to the community led Community Orchard that was developed at Hunstanton Community Centre.

The council has already installed photovoltaic panels to King's Court, the council's main administrative building as well as most of the leisure premises such as Lynn Sport and Downham Market. Many of the property-related projects are exploring opportunities for using, or generating, more sustainable energy, for example, air source heat pumps were installed at the council's recent, small-scale housing development in Burnham Market.

The above examples are relatively small-scale however the council is currently developing other options/opportunities relating to climate change issues, some of which may relate to land and buildings held, or to be acquired, by the council.

**Improving social mobility and inclusion**

The council rationalised and adapted King's Court to accommodate the Department of Work and Pensions Job Centre. This has not only helped both organisations financially, it has also created a "one-stop-shop" for customers accessing council and job centre services. The council and the department of work and pensions are now able to work together helping to deliver services in a better way.

The council identified an underperforming office asset in King's Lynn town centre and has successfully converted these premises to provide temporary housing accommodation. This exercise has delivered much needed accommodation in a location that provides ready access to shops, public services, and transport.

**Creating and maintaining good quality places that make a positive difference to people's lives**

The council has invested in public realm improvements to the Tuesday and Saturday Market Places, and delivered a Townscape Heritage Initiative scheme on the latter (with Historic

England) that has provided significant visual enhancements to two important areas of the historic built environment.

The council has also submitted bids to the High Street Heritage Action Zone (Historic England) and the Future High Street Ministry of Housing Communities and Local Government) fund initiatives that will help to make significant improvements to King's Lynn's town centre.

**Helping to improve the health and wellbeing of our communities**

The council has set up its own leisure company that will help delivery of the council's leisure facilities and activities at Lynn Sport, St James Swimming Pool, Downham Market Leisure Centre and at Oasis Leisure Centre in Hunstanton.

## 3.6 Capital Loans

The council has discretion to make loans for a number of reasons, primarily for economic development. These loans are treated as capital expenditure.

In making loans the council is exposing itself to the risk that the borrower defaults on repayments. The council, in making these loans, must therefore ensure they are prudent and risk implications have been fully considered.

The council will ensure that a full due diligence exercise is undertaken and adequate security is in place. The business case will balance the benefits and the risks. All loans are agreed by Cabinet. All loans will be subject to close, regular monitoring.

The council has set up companies to ensure successful delivery of current and future Major Projects to achieve revenue income in response to the future funding gap for local government. It is also clear that there will be a requirement for some element of future growth, in particular to address shortages in affordable housing and infrastructure.

The Council has established:

- West Norfolk Housing Ltd Registered Provider of Social Housing Provider to provide affordable housing.

- West Norfolk Property Limited to provide housing to rent on a commercial basis. 20% of Private Rented Sector housing developments for all large and urban developments to be retained by the Council subject to monitoring and reviews.

The establishment of further limited company vehicles to enable the Council to progress other major development and infrastructure projects may be considered.

The Council has made loans for capital purposes to West Norfolk Housing Company and to NWES. A Schedule of Capital Loans can be seen in Appendix 1.

The Treasury Management Strategy has an investment treasury indicator and limit for total principal funds invested for greater than 365 days for Wholly Owned Local Authority Companies of £12million.

## 3.7 Capital Financing

An objective of the Capital Strategy is to ensure that, once prioritisation has been settled, the programme is managed according to funding availability avoiding if possible cashflow difficulties. The programme must be robust enough and able to be rephased if circumstances, including the availability of finance, change. The prime aim will be to ensure that funding streams are matched to capital programme demands however, there must be scope to accelerate or defer schemes if necessary, in order to use resources effectively.

Finance remains one of the primary constraints on any capital programme. Under the current Prudential Borrowing Code arrangements, the Council can determine its own borrowing limits for capital expenditure although the Government does have reserve powers to restrict borrowing. To demonstrate that the Council has taken proper care in determining any borrowing the Prudential Borrowing Code requires that certain treasury indicators and factors are taken into account – in essence there is a requirement to prove that the borrowing is ‘affordable’ from the revenue budget. The Council is obliged to set out the Treasury Management indicators by which it will operate each year. These are set out in the Treasury Management Strategy. The Capital Strategy requires the Section 151 Officer to report, as part of the annual Budget setting for each year, on the level and the affordability of the prudential borrowing.

There are a number of resources available to the Council to support the funding of the capital programme:

- Capital receipts from the disposal of assets
- Prudential Borrowing
- Section 106, Community Infrastructure Levy and third party contributions
- Reserves and revenue contributions
- Central Government and external grants

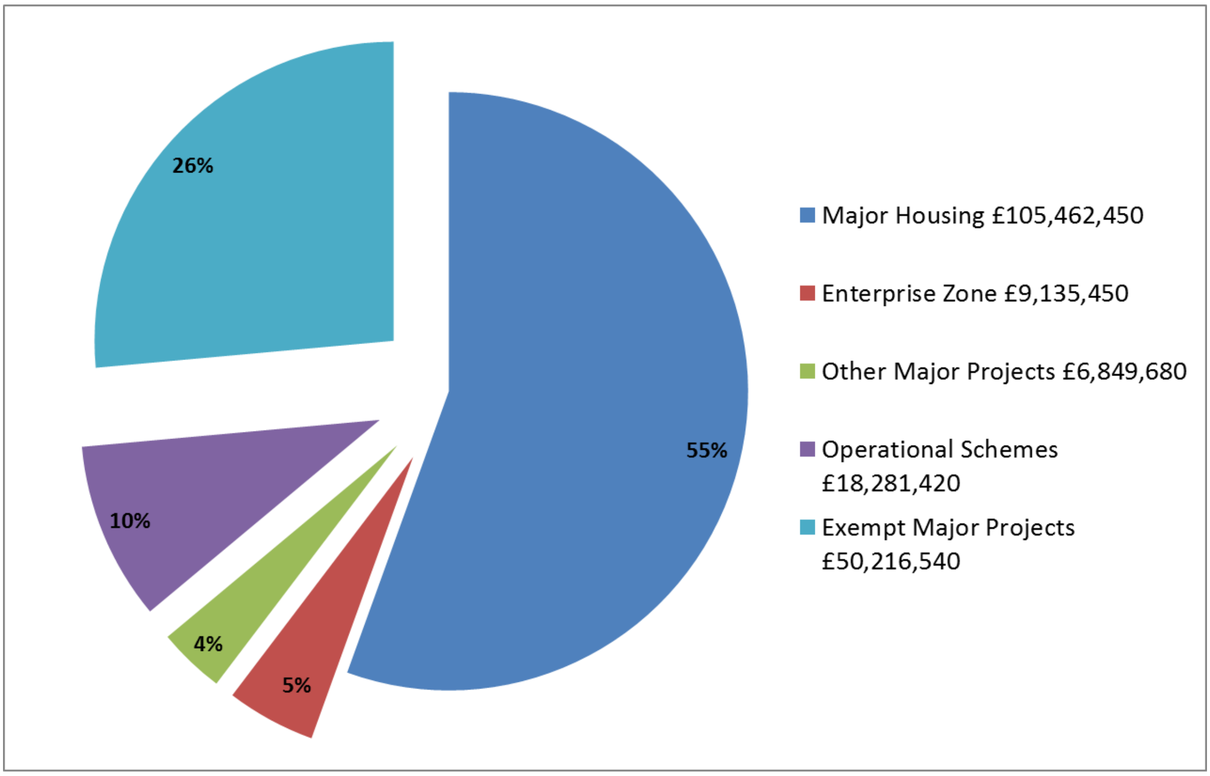
Capital receipts from the disposal of assets are not allocated to fund particular projects but are used to fund the overall capital programme.

The Capital Strategy requires the Council each year as part of the Budget process to review and project forward over a five year period an estimate of capital resources that will be available to fund a capital programme.

The Capital Strategy requires service managers to follow the Council’s Financial Regulations.

### 3.8 Capital Programme 2019-24 Overview

In 2020/21, the Council is planning capital expenditure of £73.1m. The medium term capital programme 2019-24 is summarised below:




# 4 Debt and Borrowing and Treasury Management

## 4.1 Projection of external debt and use of internal borrowing

The Council uses external debt and internal borrowing (from working capital cash balances) to support capital expenditure.

Except in the case of specific externally financed projects (such as Business Rates Pool Funding, Disabled Facilities Grant, Lottery), new borrowing is applied to the funding of previous capital expenditure, effectively replacing cash balances which have been used on a temporary basis to avoid the cost of 'carrying' debt in the short term. The Council continues to use cash balances for this purpose and will continue to balance the long-term advantages of locking into favourable interest rates against the costs of additional debt.

Based on the capital programme new borrowing of £23.6m is anticipated in 2020/21 and £20.6m in 2021/22.

## 4.2 Provision for the repayment of debt over the life of the underlying debt

Although capital expenditure is not charged directly to the revenue budget, interest payable on loans and MRP are charged to revenue, offset by any investment income receivable. The net annual charge is known as financing costs; this is compared to the net revenue stream. Details are shown in the Treasury Strategy.

External interest is shown in the Treasury Reports as a Treasury Activity. Internal Interest will form part of the Capital Strategy. Internal borrowing is the use of internal funds (short term cash flows and reserves and balances not immediately required) rather than taking external debt. Funds held in short term investments may be withdrawn and used in place of external borrowing.

**Sustainability:** Due to the very long-term nature of capital expenditure and financing, the revenue budget implications of expenditure incurred in the next few years will extend for potentially up to 50 years into the future. The S151 Officer is satisfied that the capital programme is prudent, affordable and sustainable.

### 4.3 Authorised limit and operational boundary for the following year

The Council's authorised borrowing limit and operational boundary for 2020/21 will be based on the approved capital programme at the time of budget setting.

### 4.4 Approach to treasury management

The Council's approach to treasury management including processes, due diligence and defining the authority's risk appetite are set out in the annual Treasury Management / Investment Strategy, approved annually by Council.

## 5 Commercial Activity

With central government financial support for local public services declining, the Council will potentially invest in commercial property purely or mainly for financial gain.

Investment Property is property held solely to earn rentals or for capital appreciation or both. With financial return being the main objective, the Council accepts higher risk on commercial investment than with treasury investments. Property investment is not without risk as property values can fall as well as rise and changing economic conditions could cause tenants to leave with properties remaining vacant. The Strategy provides for property investment opportunities to be undertaken in place of traditional investment vehicles subject to:

- Business case required which considers options, risk, return, duration of investment, fit with corporate priorities and reputation

- In order that commercial investments remain proportionate to the size of the Council, total initial funds to be allocated to the Local Property Fund to be capped at £7.5m which is 30% of the Council's core investment funds of £25m

- No one investment to be more than £2,000,000 under the delegated authority. Individual investment opportunities in excess of £2,000,000 will require Cabinet approval.

- Annual financial returns ie rental income, from the property investment opportunities taken up will generate additional revenue income to the Council and help to meet the cost reduction targets set out in the medium term Financial Plan and the Council's 'efficiency plan'.

- Investment properties are revalued annually as part of the Council's closedown of accounts and any movement in value will be reported in the Statement of Accounts. Any uplift in valuations will not be realised unless the asset is sold. The value of the total fund may increase above the £7.5m initial fund allocation to reflect annual revaluations.

- Investment decisions in respect of the Local Property Investment Fund for acquisition and disposal of assets held in the Fund to be delegated to; the Assistant Director (S151 Officer) in consultation with the Leader, relevant Portfolio Holder, a third Portfolio Holder, and the Assistant Director of Property and Projects.

## 6 Knowledge and Skills

The Council employs professionally qualified and experienced staff in senior positions with responsibility for making capital expenditure, borrowing and investment decisions. For example, the Assistant Director of Financial Services is a CIPFA qualified accountant, the Assistant Director Regeneration and Property Services is a RICS qualified Chartered Surveyor. The Council supports junior staff to study towards relevant professional qualifications including CIPFA and AAT; and actively encourages staff to attend relevant training courses, seminars and benchmarking groups.

Where Council staff do not have the knowledge and skills required, use is made of external advisors and consultants that are specialists in their field. The Council employs Link Asset Services as treasury management advisers. This approach is more cost effective than employing such staff directly, and ensures that the Council has access to knowledge and skills commensurate with its risk appetite.

**Access to Information**
Cabinet Reports
Financial Plan 2019-2024
Monthly Monitoring Reports
Statement of Accounts
Corporate Business Plan 2019-24
Financial Sustainability Plan 2016-2020

# APPENDIX 1 - Capital Loans as at 29 February 2020

APPENDIX 1

| Capital Loans | Principal £ | Start Date | End Date | Rate % | Balance b/fwd at 01.04.19 £ | Additional Amount £ | Repaid at 29.02.20 £ | Balance c/fwd at 29.02.20 £ |
|---|---|---|---|---|---|---|---|---|
| NWES | 1,120,752 | 05.06.19 | 05.04.24 | 5.25 | 1,120,752 | | 11,679 | 1,109,073 |
| NWES | 82,627 | 05.06.19 | 05.04.24 | 5.25 | | 82,627 | | 82,627 |
| NWES | 77,000 | 05.06.19 | 05.04.24 | 5.25 | | 77,000 | | 77,000 |
| **NWES TOTAL** | **1,280,379** | | | | **1,120,752** | **159,627** | **11,679** | **1,268,700** |
| **West Norfolk Housing Company** | **1,040,000** | **13.11.19** | **01.12.59** | **5.25** | **-** | **1,040,000** | **355** | **1,039,645** |
| **TOTAL CAPITAL LOANS** | **2,320,379** | | | | **1,120,752** | **1,199,627** | **12,034** | **2,308,345** |

| Interest Received | Principal £ | Start Date | End Date | Rate % | Interest Received at 29.02.20 £ |
|---|---|---|---|---|---|
| NWES | 1,280,379 | 05.06.19 | 05.04.24 | 5.25 | 44,854 |
| West Norfolk Housing Company | 1,040,000 | 13.11.19 | 01.12.59 | 5.25 | 2,543 |
| **TOTAL CAPITAL LOANS** | **2,320,379** | | | | 47,397 |

Note: NWES Capital Loan includes interest accrued from previous loan up to 04.06.19.

**REPORT TO CABINET**

<table>
<tr><td colspan="2">Open</td><td colspan="2" rowspan="2">Would any decisions proposed :<br><br>Be entirely within Cabinet's powers to decide YES<br>Need to be recommendations to Council NO<br><br>Is it a Key Decision NO</td></tr>
<tr><td>Any especially affected Wards</td><td>Mandatory/<br><br>Discretionary /<br><br>Operational</td></tr>
<tr><td colspan="3" rowspan="2">Lead Member: Cllr Long<br>E-mail: cllr.brian.long@west-norfolk.gov.uk</td><td>Other Cabinet Members consulted:</td></tr>
<tr><td>Other Members consulted: Audit Committee</td></tr>
<tr><td colspan="3">Lead Officer: Kathy Woodward<br>E-mail: Kathy.woodward@west-norfolk.gov.uk</td><td>Other Officers consulted: Legal</td></tr>
</table>

| Financial Implications NO | Policy/ Personnel Implications NO | Statutory Implications NO | Equal Impact Assessment NO | Risk Management Implications YES | Environmental Considerations NO |
|---|---|---|---|---|---|

Date of meeting: 17 March 2020

**AUDIT COMMITTEE CROSS PARTY WORKING GROUP REVIEW OF KLIC**

**Summary**
The attached report sets out the report of the Audit working group. Cabinet is presented with the report of the working group and the minutes of the Audit Committee on 10 February 2020 when it received the report.

**Recommendation**
**That Cabinet consider the report**

**Reason for Decision**
To receive the report prepared by the working group.

## 1 Background
All of the background and detail is set out within the attached report.

## 2 Declarations of Interest / Dispensations Granted
None

## 3 Background Papers

Audit Cross Party Working Group report and Audit mins

Agenda item 7

| | | | |
|---|---|---|---|
| REPORT TO: | Audit Committee | | |
| DATE: | 10 February 2020 | | |
| TITLE: | Report of the Cross Party Working Group to review the King's Lynn Innovation Centre (KLIC) project | | |
| TYPE OF REPORT: | Recommendation | | |
| PORTFOLIO(S): | Resources – Cllr Brian Long | | |
| REPORT AUTHOR: | Audit Committee Cross Party Working Group | | |
| OPEN/EXEMPT | Open | WILL BE SUBJECT TO A FUTURE CABINET REPORT: | YES |

**REPORT SUMMARY**

| PURPOSE OF REPORT/SUMMARY: |
|---|
| To fulfil the Terms of Reference for a Cross Party Working Group appointed by Audit Committee |
| ~~KEY ISSUES:~~ |
| |
| RECOMMENDATIONS: |
| Audit Committee consider this report, approve its content and agree its detailed recommendations contained in paragraph 6;<br>Following consideration by Audit Committee the report should be presented for consideration to Cabinet by the Chair of the CPWG |
| ~~REASONS FOR RECOMMENDATIONS:~~ |
| |

**REPORT DETAIL**

## 1. Introduction

At its meeting on 11 March 2019 the Borough Council of King's Lynn and West Norfolk's (Council) Audit Committee set up a Cross Party Working Group (CPWG), following extensive work carried out by its Internal Audit officers, to examine all aspects of the project to create the King's Lynn Innovation Centre (KLIC). The Terms of Reference of the CPWG state 5 clear tasks, all of them originating from the KLIC project, but requiring separate focus. They are attached for reference at Appendix A.

That group met only once before being interrupted by local elections, but it was quickly re-constituted at the first meeting of the Audit Committee after the elections, with the same terms of reference.

Since being constituted the CPWG has met 12 times, with officers providing full support, and has also met with members, and former members, involved with the project. Several CPWG members also visited the Innovation Centre, accompanied by officers, to appreciate the nature of the project.

The KLIC project itself was innovative and a departure from the Council's normal working practices, which attracted negative press towards the end of the project. The partner in this project, Norfolk and Waveney Enterprise Services Ltd, and its wholly owned subsidiary NWES Property Services Ltd (NWES) unfortunately encountered cash flow difficulties resulting in it defaulting on its loan repayments, which culminated in the Council taking ownership of the Innovation Centre. This was the most appropriate course of action for the Council to take to protect its investment in the project.

As the review progressed it became clear that fulfilling the Terms of Reference would be a significant task for members of the CPWG and that it would be difficult to meet the agreed deadline of the October meeting of the Audit Committee. As a result it was decided to deal with the main task, i.e. the items concerning the review of the KLIC project, and report it to a special meeting of the Audit Committee. The remaining tasks would be reviewed and reported on separately. They are not included in this report.

## 2. Background

In 2009, Morston Assets obtained outline planning permission for the delivery of an Enterprise Centre but was unsuccessful in obtaining funding. Interest in the scheme continued and in 2012 financing was provided by the New Anglia Local Enterprise Partnership's (NALEP) Growing Places Fund to build a high specification building that would attract start-up companies in the budding area of new technology and business ideas with a view to creating more jobs and rejuvenating the local economy as those businesses grew and eventually moved on within the Borough, making space for more new companies.

| SUMMARY OF THE BUILD COST OF KING'S LYNN INNOVATION CENTRE | | | |
|---|---|---|---|
| | COUNCIL | NWES | TOTAL |
| Council Loan | | £2,500,000 | £2,500,000 |
| NALEP - Grant | | £500,000 | £500,000 |
| Infrastructure Costs funded by the Norfolk Business Rates Pool | £450,000 | | £450,000 |
| Council Grant | £1,000,000 | | £1,000,000 |
| Groundworks/drainage | £250,000 | | £250,000 |
| Initial Funding | | £500,000 | £500,000 |
| Additional Funding | | £838,268 | £838,268 |
| TOTAL | £1,700,000 | £4,338,268 | £6,038,268 |

In addition, the Council lent NWES a further £250k but this was not towards the build cost, it was to cover a shortfall in cash flow, mentioned elsewhere in this report.

KLIC was jointly conceived by the Council and NWES, a private company limited by guarantee. NWES had experience in managing such centres, but not in building them. It is unclear why responsibility for delivering the build was given to NWES, however what is clear is that NALEP expects the relevant local authority to act as a funding intermediary therefore it would not provide funding directly to NWES. As a result Suffolk County Council (SCC), acting as the main accounting body of NALEP, made a loan to the Council for the agreed amount of £2.5m, which would then be released to NWES in stage payments as building progressed, and would then subsequently be repaid by NWES in full, together with accrued interest, on 30 November 2018.

Construction commenced in May 2015 and was completed in June 2016. KLIC had been promoted as a 25,000 sq. ft. facility with not less than 16,000 sq.ft. of rentable office space however, the CPWG has been unable to find evidence as to why the finished project only has 12,595 sq.ft. of rentable space. On inspection, there was a considerable amount of communal space, including conferencing facilities, which would be expected by the type of business it was hoped would be attracted to KLIC. It was noted that there is insufficient car parking to support KLIC's activities as a conference centre and indeed this part of the building has now been converted to rentable office space.

It became clear that NWES was in financial difficulties when its accounts were published and there were multiple resignations of senior staff, and NWES subsequently defaulted on the loan repayment that was due in November 2018. Following extensive legal advice, ownership of the KLIC building has now been formally transferred to the Council but the transfer value of the asset was less than the amount of loan outstanding, including accrued interest. It is also noted that the transfer value recorded of the asset when transferred included the diminution implicit in the annual rent payable to the Council. It is also noted that that valuation of the building is specifically for its ongoing use as an innovation centre with multiple tenants and not as a single user office block. The value of unencumbered freehold asset is the value that this asset is included at on the Council's Balance Sheet, which is higher than the transfer value as the transfer value excluded the value of the land (already owned by the Council).

At this point the CPWG notes that market value of an asset is often way below the cost of construction. The financial return or provision of a public service is usually how the project is measured; however this project was significantly linked to the repayment of a loan, in addition to the Council's own costs relating to construction. The Council owned land had been made available on the basis of a peppercorn rent for the first 5 years of tenure, thereafter at market rate, however, that situation has been superseded by the Council taking back ownership of the building within the peppercorn rental period.

Since taking ownership the Council has allowed NWES to continue to manage the building on a rolling contract, which will not exceed 12 months. This ensured that an uninterrupted service was provided to tenants that the Council itself did not have the resources to provide, neither was it practicable to find an alternative service provider in such a short timescale. The Council is currently considering various options but in the meantime any management fees payable by the Council to NWES are being withheld to offset against the outstanding loan. The CPWG has seen no evidence to suggest that finding a new service provider has been progressed, however reassurance has been received that the process is in its very early stages of evaluation.

Whatever the findings of the CPWG it must be emphasised that the Council currently owns an asset valued at £2,380,000, such valuation having been commissioned by a reputable professional organisation, which is 96% occupied (as at 31 January 2020) and generates an annual net revenue stream of £150,000 by way of rental and other income. This represents an annual rate of return of 6.3% which compares favourably to the rate of return that could be achieved by investing the same sum as a cash investment, currently less than 1%.

The KLIC building is on what was derelict (Council owned) land, which has now become a nascent Enterprise Zone that should see further development in the very near future. KLIC is almost fully tenanted and a number of tenants have been successfully incubated in line with the ethos behind KLIC's construction, however other tenants are perceived to be non-growth businesses that do not fulfil the intended criteria.

Nevertheless, it is reasonable to assert that KLIC was delivered on time and is an operational success story, although it might be argued that the building and its interior finish is designed to a higher, and more expensive, specification than might be expected. There is no comparative evidence to suggest that rent is commensurate with such a high specification and members of the CPWG do not have the expertise to assess this.

## 3. Project Weaknesses

The CPWG has highlighted many weaknesses, some of which have already been identified by the Audit and Lessons Learnt Reports and which can be summarised as follows:

insufficient background checks on NWES;

the means by which this loan would be repaid;

key documentation was not duly signed;

shortcomings in the process of project management evidenced by lack of control via the specially created Steering Group;

perceived conflict of interest between employees of NWES and the Council and NWES and its project management company Nautilus;

no feedback from the Council's representative on the board of NWES, and latterly, non-attendance on that board;

a naïve view of the value of the completed building being worth more than, or at least as much as, the loan provided;

not securing the loan on the assets of NWES;

a lack of regard of the Council's Treasury Management policies regarding the creditworthiness of counterparties;

granting a further loan for purposes that the CPWG considers inappropriate;

despite the unusual nature, inasmuch as it was an untried and untested method of partnership working, the project was not included in the Council's Risk Register at any point in its duration.

3.1 Issues Regarding the £2.5m Loan to NWES

The underlying issue at the heart of all the problems encountered by this project stem from the loan to NWES, and in part, the loan from SCC. A small part of these concerns can be attributed to hindsight, but the crux of this issue is that the granting of a loan to NWES had no regard to the Council's Treasury Management Strategy. The loan to NWES was not an investment covered by that Strategy, however that Strategy provides a set of rules that might be prudent to follow for any circumstances that include the provision of a loan. Those rules might not be followed to the letter, not least because the circumstances are such that they do not fit any of the criteria however, those rules provide a framework that can be appropriately interpreted to ensure that there is a process of due diligence and that the council's cash is secured by whatever means available.

In support of that assertion, the most recent internal audit of the Treasury Management activities of the Council contains the following statement: "Treasury management is described by the Chartered Institute of Public Finance and Accountancy (CIPFA) as the management of the organisation's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks. **This definition is intended to apply to all public service organisations in their use of capital and project financings, borrowings and all investments.”** The relevant Code of Practice has been in place since 2003 and was therefore in place when the financing of KLIC was agreed.

The CPWG understands that it is standard working practice for the NALEP to expect the Council to act as an intermediary in terms of handling the loan facility, i.e. handing the capital sum over to the Council at the outset and the Council then releasing it in stage payments to NWES. It is also standard working practice for the NALEP to specify terms for the loan to be repaid by the Council to the NALEP and for those terms to be replicated in the loan agreement between the Council and the project deliverer. The end result would be that the loan would be repaid by NWES on the same day as it was due to be repaid to SCC, with neither lender being any worse off. Unfortunately there was nothing in the loan terms that made one specifically dependent on the other, therefore creating two independent liabilities.

We have not found any evidence of criticism of NALEP/SCC for imposing unreasonable conditions on the granting of the loan by placing the liability of repayment on the Council. The security of the loan from the SCC’s perspective was 100% guaranteed by the principle that “Loans to local authorities are automatically secured by statute on the revenues of the authority rather than by reference to specific revenues, assets or collateral.” i.e. loan repayments have first call on sums collected by way of Council Tax, etc. Section 13 of the Local Government Act 2003 refers.

Early reports to Council indicated that the loan would be secured on the KLIC building but that factor did not go forward into the loan agreement. There are a number of options that could have been applied to protect the council’s interest, such as including a floating charge over the whole business or personal/corporate guarantees but none of these, or any other, options were exercised. The only security was that the ownership of the building would revert to the Council in the event that the loan was not repaid, which has happened. In making this condition no consideration of the value of the building was taken into account. Given that the Council already owned the land that KLIC was built on, and continues to own the land, it should have been considered at the time that such a building, with its high level of finish, might not have been worth its build cost on the open market. Given that the site is derelict, and in parts contaminated, it would have been many years into the future, when the Enterprise Zone has been fully developed, for KLIC to be valued at anywhere near its build cost.

3.2 Further Loan of £250k

The reason for granting this loan is that NWES was experiencing cash flow problems specific to KLIC inasmuch as it was unable to pay the contractor and needed a short term loan as a counter measure. NWES was expecting EU funding, which was slow in arriving, hence the cash flow shortfall, however the EU funding was not in respect of KLIC and it's unclear why the Council should have provided a basic banking service to a company that had ongoing projects with other clients in addition to the Council. This loan was specifically made in accordance with the extant Treasury Management Strategy, as minuted by Cabinet on 14 September 2016 but it is worrying that such an investment was made without taking into account either the counterparty's creditworthiness or any other form of security to ensure repayment would be made, except by virtue of the value of the building, which we now know to be insufficient.

We understand that NWES was experiencing financial difficulties and the CPWG has made the perceived assumption that granting this loan would prevent NWES from sinking into further difficulties, i.e. potential liquidation, and that the granting of this further sum would also go some way to protect the Council's original loan but this was not the case. We have seen no details of what evidence was taken into account before granting this loan.

Throughout the duration of this project, the loans given to NWES have been included in routine progress reports to Audit Committee on Treasury Management activities, but the NWES loans were excluded from the most recent reports. Given Audit Committee's specific interest in the KLIC project it requires reporting on these loans to be restored. It is also recommended that any future loans taken out or given under any power that enables the council so to do be reported to Audit Committee at the outset to establish risk and be monitored on a regular basis.

3.3 Warning Signs of NWES's viability

NWES was significantly funded by European monies, which was potentially jeopardised by the Brexit Vote in July 2016, and therefore the future of its funding was at risk;

NWES's 2017 accounts, which had not been filed until April 2018, stated that the auditors had identified circumstances regarding the company's future viability as a going concern. In dealing with a private sector partner the CPWG considers that there should be adequate and regular monitoring of its status;

The request for cash flow funding is mentioned elsewhere. That and other evidence of the company and its partner company NWES Property Services Ltd experiencing difficulties should have caused concern but the Council did not carry out any additional credit checks until after NWES had defaulted on the loan repayment;

At no point does it appear that NWES was asked, by Council members of the Steering Group or others in direct contact, whether it could repay the loan, and from which source it intended to do so, whether, for example, from EU grant funding, from capital receipts or business centre income. NWES was not asked to provide a cash flow forecast or business plan to demonstrate its ability to repay. Overall, there was a failure to monitor the performance of NWES and its subsidiary NWES Property Services Ltd and there was no evidence that the Council carried out any financial review until after NWES had defaulted on the loan repayment. Also the CPWG has been unable to see any evidence that any financial reviews were carried out before the commencement of the loans.

Overall there is a sense of misplaced trust inasmuch as NWES had been the major player in its market of delivering innovative public sector projects and was perceived as not being subject to failure.

3.4 <u>Activities of the Steering Group and Conflicts of Interest</u>

A Steering Group was created to project manage the KLIC build. It comprised an equal number of officers from each organisation, however the minutes are implicit in suggesting that there was a personality dominance inherent in NWES's officers.

The only evidence of the Steering Group's activities is a file of paper records, which has been scrutinised by several members of the CPWG. It is apparent from the content that certain designated members of the group were routinely absent and that some records are missing.

The Steering Group included members of staff from Nautilus Associates Limited (Nautilus), a project management company appointed by NWES. A director of NWES, who was also a director and shareholder of Nautilus, served as a senior member of the Steering Group. This may have caused a conflict of interest as the minutes show that Nautilus employees may have had undue influence. However this is the CPWG's opinion arising from the status of those attending in their parent organisation. The then Chief Executive of the Council, as the most senior member of the Steering Group, should have conferred a strong hold on such a new way of working, especially in the early days of the project, but it is the CPWG's opinion that the then Chief Executive's regular absence weakened the Council's position.

There were several conflicts of interest in the partnership between the Council and NWES from the start, which led to what might be perceived as an imbalance of power alluded to above, and because the records are incomplete, the line of accountability and transparency is difficult to demonstrate.

Nautilus, the company appointed to project manage the building of the KLIC, was appointed by NWES, as per the Heads of Terms Agreement and not by the Council. It is apparent that the appointment of a project manager was not conducted under an open procurement process.

The NALEP's Loan Agreement stipulated that Public Procurement Rules should apply for the appointment of a contractor to carry out the build, but the CPWG has seen a document which suggests that NWES were of the opinion that those rules were not relevant because NWES was a company and as such was not obliged to follow public sector rules. However, according to documentary evidence in the Steering Group file, the then Chief Executive pointed out that NWES's proposed Procurement Strategy would have breached the Council's Standing Orders for Contracts as well as the terms of the NALEP's Loan Agreement, and his insistence ensured that the Public Procurement Rules were eventually adhered to.

Nautilus had a Director who was also a Director of NWES and Nautilus also had a representative on the NALEP that awarded the original funding for the project, such funding being effectively guaranteed by the Council, an unrepresented third party in this instance.

There was no elected member appointed to the Steering Group until very late on in the life of the project, and by the time a member was appointed the Steering Group had ceased to meet.

The NALEP was asked to provide an impartial Chair for the Steering Group but declined.

The NALEP was also invited to attend meetings of the Steering Group but there was no NALEP representative at any meeting of the Steering Group.

The then Leader of the Council, previously employed by NWES, was appointed to the board as a director of NWES. Legal advice has recently been provided to the effect that anyone so appointed must, first and foremost, consider the interests of the company. This then potentially causes an elected member NOT to prioritise the interests of the Council.

Regardless of the above, there is no record of that Director reporting back to the Council, although that member did declare an interest at appropriate times. When that member stood down as Leader of the Council, the new Leader did not take up a place on the board. In light of the legal advice provided, the CPWG acknowledges the difficulty and inherent conflict that arises from such an appointment and is not able to quantify the advantages and disadvantages thereof.

In accordance with the NALEP's requirements there would be no restrictions on NWES's future use of the KLIC building beyond the scheduled date of the loan repayment.

The CPWG can see that within the Partnership Agreement, a provision was included that required NWES to obtain the Council's consent to dispose of the building, or change its use, for a period of 2 years from repayment of the loan.

The CPWG's conclusion is that 2 years was not a long enough period to protect the Council's interest and was contrary to protecting the purpose of the building. However when NWES's position was seen to be vulnerable in mid-2018, the Council drew up and entered into a lease agreement with NWES restricting the use of the building for the duration of the lease.

## 4. Cross Party Working Group Activities

The Group has met frequently, 12 times since inception. Individual members of the Group have submitted questions and requested a significant amount of evidence, both of which have been made available to all members of the Group. In addition members of the Group have visited the Council's offices to view documentary evidence that could not easily be made available either as a hard copy or electronically.

Members of the CPWG were given a tour of the KLIC building in order to familiarise themselves with its facilities and whether, in their view, such facilities were commensurate with the Centre's stated purpose.

Thanks go to the officers who have gone to great lengths to answer the Group's questions and provide documentary evidence not only directly connected to the review but also in support of the review, thus helping members gain a better understanding of the wider picture as information has been gathered from many service areas.

## 5. Conclusions

- Whilst the project appeared to be a good concept there was a lack of due diligence. There was a degree of naïveté demonstrated by both officers, who had no experience of partnership working on a high profile project, and elected members, nearly 40% of whom were newly elected when the project was in its infancy;
- There are some design failings. The specification was at a level to attract incubating businesses but there is no evidence to suggest that there was an adequate market for such businesses requiring premises with such a high specification. However, no-one can deny that a landmark building has been created at a prominent location at one of the main access points to King's Lynn;
- The Council has an asset that is generating income and the rate of interest being charged on the outstanding loan is now at a commercial rate, more than offsetting the investment interest lost by the loan not being repaid on the due date;
- The loans were not adequately secured on the asset as required by Council minutes. Stipulating that the asset would revert to Council ownership in the event that the loan was not repaid might not have been secure if NWES had gone into liquidation as preferential creditors would have had first call on the company's assets;

- The Council did not follow its own policy/strategy vis à vis creditworthiness of counterparties it invests with, irrespective of what powers such investments are made under;
- The Council did not challenge the NALEP regarding the imposition of terms on the loan to NWES. It would generally be considered unacceptable for a third party to make such impositions on a transaction that was between the Council and NWES;
- There was no covenant or other restriction placed on NWES in the Partnership Agreement that lasted for longer than 2 years after the loan repayment, or its successors to maintain the building as an Innovation Centre;
- Component parts of the project were not considered as a single scheme and to some extent the Council was not made fully aware of all the implications such as the cost of providing infrastructure;
- The loan of £250k is of special concern. Its authorisation was not considered by Council as the value was within the authority delegated to Cabinet, however, it was wrong to divorce this expenditure from the overall project, the value of which was in excess of Cabinet's delegated authority. Any naïveté should have dissipated by that stage of the project;
- The Steering Group should have continued to meet until the loan was repaid as that factor should have been the final element of delivering the project.

Overall the Council should move forward and not discount projects because they do not follow usual working practices. There is always room for innovation and in an economic climate where local authorities see Government funding diminish to the extent that it is non-existent, other ways of working need to be considered. The key points are to maintain control at all times, evaluate all aspects of what is being proposed and have adequate controls in place to ensure a positive outcome.

All large value projects need to be properly managed by a designated officer and the Council has put in place both an officer and a member Major Projects Board to monitor activity, both Boards being subject to review by the CPWG culminating in a future report. The final element of the CPWG's purpose is to review elected members' activity as an appointed representative to an outside body, especially with regard to public companies.

## 6. **Recommendations** (subject to the CPWG's completion of its remaining Terms of Reference)

- Notwithstanding the requirements of the Major Projects Boards, all major projects should have a designated Project Manager of sufficient seniority in the Council's hierarchy to make appropriate decisions;

- In the event that a major project involves a third party in order to bring it to fruition the Chief Executive Officer or appropriate Assistant Director should oversee the project's management;

- If a loan is granted or investment made under any statutory power that in ordinary circumstances would fall within the Treasury Management Procedures it should be governed by those Procedures, especially as regards to the 3 principal elements, i.e. risk/security, liquidity and return;

- Any joint venture with a third party must undergo rigorous examination before being entered into to ensure as far as reasonably practicable the third party's financial viability for a period exceeding the life of the project;

- If a loan is entered into with a third party that does not fulfil the Council's requirements for creditworthiness such a loan must be secured on a tangible asset wholly owned by the third party that is not otherwise secured elsewhere;

- Each and every project involving a third party should be included in the Council's Risk Register following a risk assessment;

- The loans to NWES should immediately be either reinstated to the half yearly reports on Treasury Management to Audit Committee or be reported on separately to Audit Committee at a shorter frequency;

- All legal documents should be signed off before funds are released.

# AS AGREED AT AUDIT COMMITTEE 3 JUNE 2019

**Terms of Reference - Audit Committee Cross Party Working Group**

1) Review in depth the Internal Audit Report considered by Audit Committee at the meeting held on 11th March 2019:

   - Identify any areas for further investigation by internal audit.

   - Review issues raised by Audit Committee Members.

2) Consider in depth the 'Lessons Learned' and management response identified in the internal Audit Report.:

   - Identify areas for additional improvement not addressed, or not addressed <u>fully</u> in the Internal. Audit. Report.

   - Identify further areas for improvement over and above those set out in the management response.

3) Consider the Terms of Reference for the Major Projects Board (MPB)

   - Put forward proposal for changes and enhancements to the MPB structure, Terms of Reference and method of operation.

   - Consider and prepare proposals for greater Member input, oversight and scrutiny of Major Capital projects, including:

     - Role of Cabinet.
     - Role of Audit Committee.
     - Member interface with the Major Projects Board.
     - Role of Corporate Performance Panel.
     - Role of other Panels.
     - Levels of delegation to Cabinet, Portfolio Holders and Senior Officers.

4) Address any other issues and concerns identified during the course of the Working Group's work.

5) The Cross Party Working Group to consider the role of Council appointed Directors to an outside body.

# BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

## AUDIT COMMITTEE

**Minutes from the Meeting of the Audit Committee held on Monday, 10th February, 2020 at 5.00 pm in the Council Chamber, Town Hall, Saturday Market Place, King's Lynn PE30 5DQ**

**PRESENT:** Councillor A Dickinson (Chair)
Councillors Miss L Bambridge, B Jones, C Joyce, A Kemp, C Manning, J Moriarty, C Morley, A Ryves and Mrs V Spikings

**Portfolio Holders**
Councillor P Kunes, Terrington Ward
Councillor B Long
Councillor G Middleton

**Members present under Standing Order 34**
Councillors Miss L Bambridge, C Joyce, M Moriarty and C Morley

Matthew Head, Audit
Matthew Henry, Assistant Director, Property and Projects
Tina Stankley, Financial Services Manager

A42 **APPOINTMENT OF VICE CHAIR**

**RESOLVED:** In the absence of Councillor J Collop, Councillor A Ryves be appointed Vice-Chair for the meeting.

A43 **APOLOGIES**

Apologies for absence were received from Councillors Mrs J Collingham, J Collop and S Dark.

A44 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

A45 **URGENT BUSINESS UNDER STANDING ORDER 7**

There was no urgent business.

A46 **MEMBERS PRESENT PURSUANT TO STANDING ORDER 34**

Councillors Miss L Bambridge, C Joyce, J Moriarty and C Morley.

A47 **CHAIR'S CORRESPONDENCE**

There was no Chair’s correspondence.

A48 **EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED:** The Committee resolved to consider the report in open session.

A49 **REPORT OF THE CROSS PARTY GROUP TO REVIEW THE KING'S LYNN INNOVATION CENTRE (KLIC) PROJECT**

The Vice-Chair chaired the meeting for this item. As the Chair of the Audit Committee had also chaired the Cross Party Working Group she handed the proceedings to the Vice Chair for the remainder of the meeting, in order that she could present the report and answer questions.

The Chair of the Cross Party Working Group presented the report on the Review of the King’s Lynn Innovation Centre Project.

The Chair of the Cross Party Working Group drew attention to page 9 of the report:- “Nautilus is also a member of the NALEP” - and advised the statement was incorrect and was therefore withdrawn from the report.

The Vice Chair invited comments and questions from the Audit Committee.

Councillor Kemp commented that it was a detailed report, but expressed concern that the lessons learnt had not yet been implemented in particular with regard to due diligence when considering major projects.

In response, the Chair of the Cross Party Working Group explained that, as stated in the report, not all the terms of reference had been addressed and that the remaining two areas (to consider the Terms of Reference for the Major Projects Board and to consider the role of Council appointed Directors to an outside body) would be the subject of a separate report. The Chair of the Cross Party Working Group advised that work was ongoing and a meeting of the working group would be convened as soon as possible to complete the remaining two areas of the terms of reference.

In response to a question from Councillor Jones on the options for the future management of the KLIC building, the Leader advised that it would be a Cabinet decision.

Under Standing Order 34, Councillor Joyce addressed the Committee.

Councillor Joyce stated that the cost of the building and associated car parking had cost £6m, which was £2m over budget and added that questions had yet to be answered, including where the money went and that £150,000 was not a good return on £6m cost.

In response, the Chair of the Cross Party Working Group explained that the working group were not in a position to comment on the cost of the building but commented that the rate of return was based on the value of the asset and land and not on the cost of the KLIC building. The Interim Financial Services Manager (s151 Officer) explained that the rate of return was calculated as a percentage of the value of the asset on the Council's Balance Sheet, not the cost of the building which is standard accounting practice.

Councillor Joyce commented that officers working on the project had not carried out due diligence checks and a charge had not been placed on the building. Councillor Joyce also asked why the Councillors involved had been so naïve.

Following the comments made by Councillor Joyce, the Leader advised that at the inception of the project, NWES had a track record of delivering similar projects across East Anglia and that at the time there was no alternative service provider and highlighted that Full Council had approved NWES being appointed. The Leader emphasised that there was a need to have a business incubation hub in West Norfolk and that the KLIC was now providing a business hub. The Borough Council had envisaged that NWES would pay back the loan within the agreed terms, and until NWES defaulted on the loan repayment there had been no issues identified with the service which the organisation provided. In conclusion, the Leader explained that the Council now had the building in its ownership which was provided an income stream and provided an overview of the benefits from the KLIC. The Leader added that his own opinion was that the benefits from that building still outweigh the fact the procedures the Council followed were not as robust as they should have been, but those areas had been set out in the Lessons Learnt report from Internal Audit and that the Independent Inquiry would commence as soon as possible.

The Chair of the Cross Party Working Group added that the Borough Council now had the building in its ownership and that NWES had been identified as the market leader but that the organisation had not previously undertaken a project management role in constructing such a building. For clarification purposes, the Leader explained that NWES were appointed to provide a business service to tenancies. The Chair of the Cross Party Working Group confirmed that the loan had not been repaid on the due date, but was currently being repaid.

In response to questions regarding the Council placing a charge on the building and the loan not being repaid on the due date, the Assistant Director, Property and Projects explained that there was a mechanism in the Partnership Agreement if the loan was not repaid.

Councillor Joyce commented that at the time NWES requested an additional £250,000 loan, concerns were expressed by a previous Chair of the Audit Committee on NWES' ability to repay the loan, which were ignored. The Chair of the Cross Party Working Group explained that the grant of the £250,000 loan had been addressed in the report.

In response to a question from Councillor Jones as to when the full amount of the loans would be paid back, the Chair of the Cross Party Working Group explained that the scheduled date for repayment in full was 2024.

Councillor Middleton, Portfolio Holder for Business Development commented that the Borough Council now owned the building and was therefore in a position to ensure that the asset remained a sustainable facility for the town which provided the Council with a good rate of return. The Borough Council promoted invest to save as a way forward to generate a rate of return. Reference was made to the Internal Audit reports and the action arising therefrom, the work being undertaken by the Cross Party Working Group and the External Independent Inquiry which would now commence. In conclusion, Councillor Middleton highlighted that it was important to move forward to continue to provide this valued business service at KLIC and not to continue to look at the negatives from the project.

Councillor Kemp stated that the Borough Council did not have control of the KLIC project and added that it was important that with any future major projects involving partners that the Borough Council as the public body should be in control.

In response, the Leader explained that currently with similar projects, the Borough Council would manage the entire project and gave an example of the units on the Enterprise Zone.

The Chair of the Cross Party Working Group explained that the Borough Council had acknowledged that there were lessons to be learnt and provided an overview of the positive points from the project and invited the Committee to consider the recommendations set out at Section 6 and that the report be presented to Cabinet, which was unanimously agreed by the Committee.

**RESOLVED:** A) The Audit Committee agreed the recommendations set out below:

1) Notwithstanding the requirements of the Major Projects Boards, all major projects should have a designated Project Manager of sufficient seniority in the Council's hierarchy to make appropriate decisions.

2) In the event that a major project involves a third party in order to bring it to fruition the Chief Executive Officer or appropriate Assistant Director should oversee the project's management.

3) If a loan is granted or investment made under any statutory power that in ordinary circumstances would fall within the Treasury Management Procedures it should be governed by those Procedures, especially as regards to the 3 principal elements, i.e. risk/security, liquidity and return.

4) Any joint venture with a third party must undergo rigorous examination before being entered into to ensure as far as reasonably practicable the third party’s financial visibility for a period exceeding the life of the project.

5) If a loan is entered into with a third party that does not fulfil the council’s requirements for creditworthiness such a loan must be secured on a tangible asset wholly owned by the third party that is not otherwise secured elsewhere.

6) Each and every project involving a third party should be included in the Council’s Risk Register following a risk assessment.

7) The loans to NWES should immediately be either reinstated to the half yearly reports on Treasury Management to Audit Committee or be reported on separately to Audit Committee at a shorter frequency.

8) All legal documents should be signed off before funds are released.

B) The report be presented to Cabinet by the Chair of the Cross Party Working Group.

A50 **DATE OF NEXT MEETING**

The next meeting of the Audit Committee will take place on 11 March 2020 at 5 pm in the Council Chamber, Town Hall, Saturday Market Place, King’s Lynn.

**The meeting closed at 5.45 pm**

**REPORT TO CABINET**

<table>
<tr><td colspan="2">Open – Report<br>Exempt – Appendices 1, 2,3, 6 & 7</td><td colspan="4" rowspan="2">Would any decisions proposed:<br><br>Be entirely within Cabinet's powers to decide NO<br>Need to be recommendations to Council YES<br><br>Is it a Key Decision NO</td></tr>
<tr><td>Any especially affected Wards<br>West Lynn</td><td>Mandatory/</td></tr>
<tr><td colspan="3" rowspan="2">Lead Member: Cllr Richard Blunt<br><br>E-mail: cllr.richard.blunt@west-norfolk.gov.uk</td><td colspan="3">Other Cabinet Members consulted:</td></tr>
<tr><td colspan="3">Other Members consulted:<br><br>Cllrs C Joyce and A Kemp as ward members</td></tr>
<tr><td colspan="3">Lead Officer: Stuart Ashworth<br>E-mail: stuart.ashworth@west-norfolk.gov.uk<br>Direct Dial: 01553 616417</td><td colspan="3">Other Officers consulted:<br>Geoff Hall (Executive Director), Derelict Land and Buildings Group, Steven King (Conservation Officer), Matthew Clarey (Planning Enforcement Team leader)</td></tr>
<tr><td>Financial Implications<br>YES</td><td>Policy/ Personnel Implications<br>NO</td><td>Statutory Implications<br>NO</td><td>Equal Impact Assessment NO<br>If YES: Pre-screening/ Full Assessment</td><td>Risk Management Implications<br>NO</td><td>Environmental Considerations<br>YES</td></tr>
<tr><td colspan="6">If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is paragraph 3 – for the Appendices</td></tr>
</table>

Date of meeting: 17 March 2020

**COMPULSORY PURCHASE ORDER FOR 4 FERRY SQUARE, WEST LYNN, KING'S LYNN, PE34 3JQ**

**Summary**

The purpose of this report is to seek approval for the Borough Council to make use of the powers available to local authorities under the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Act"), Section 47 and to make a Compulsory Purchase Order (CPO) for 4 Ferry Square, West Lynn, King's Lynn, PE34 3JQ ("the Land") to enable it to be properly preserved and brought back into use.

**Recommendation**

1)That Cabinet agrees that officers seek to acquire the property voluntarily from the owners, and if after attempts to voluntarily acquire the property from the owners fail, to make a Compulsory Purchase Order (CPO) for the acquisition of the Land and its disposal at auction with appropriate conditions to secure its repair.2) That all aspects of the process are delegated to the Executive Director or Assistant Director for Environment and Planning, in consultation with the Portfolio Holder for Development.

**Reason for Decision**

The building is Grade II Listed and categorised as a building at risk because of its poor condition. It is unoccupied and reasonable steps are not being taken to properly preserve the building. In its current state it is also considered detrimental to the character, appearance and general wellbeing of the village.

The Council considers that should voluntary acquisition fail, the compulsory purchase of the Land will facilitate the carrying out of restoration work which will secure the future of the listed building, make a positive contribution to the character and appearance of the area, and promote the social and environmental wellbeing of its area for the reasons explained in this report.

## 1.0 Background

1.1 The Borough Council has a general duty with regards listed buildings, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The council can exercise its statutory powers, under Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”), to make a Compulsory Purchase Order (CPO) to properly preserve listed buildings through the service of relevant notices, if considered necessary.

1.2 In the case of 4 Ferry Square, a Grade II listed property, a listed building repairs notice was served in April 2019 to secure the necessary repairs to the building. A copy of the repairs notice is attached at **Appendix 1.** However, it is apparent that these repairs have not been carried out.

1.3 If it appears that following the service of the repairs notice reasonable steps are not being taken for the proper preservation of the Listed Building, and the Council are satisfied that it is expedient to do so, they may then apply to the Secretary of State for Digital, Culture, Media & Sport for authority to compulsory purchase the Building and Land in order to safeguard its future.

1.4 The property is situated in a prominent position within the village of West Lynn and has remained unoccupied for a number of years. It faces two public vantage points (St Peter’s Road and Ferry Square). The building comprises a semi-detached dwellinghouse circa 1700’s and later known as Ferry Side, originally forming one property with its neighbour, known as Ferry House both originally used as a public house. Ferry Square is a well visited area of the village as it is where passengers using the West Lynn to King’s Lynn pedestrian river ferry embark and disembark for which the car park is located nearby.

1.5 The two semi-detached dwellings also unusually contain a flying freehold resulting in part of the building being contained within the neighbouring property. It is considered that this arrangement might also lead to detrimental effects on the neighbouring/ adjoined dwellinghouse (also Grade II Listed) should the building fall further into disrepair.

1.6 The council is aware that there is local interest in the property and its condition, which supports there being a compelling case in the public interest for the council to exercise its powers of compulsory purchase as a last resort, should ongoing discussions with the owners and voluntary acquisition of the property fail.

1.7 In 2017 the council commissioned an engineering report to establish the condition of the property at that time, this report provides evidence that the property is in need of a comprehensive program of repairs for its preservation. The purpose of the compulsory purchase order is, as a last resort, to facilitate the repair and restoration of the property to safeguard its future as a unique historic asset and bring it back into use for residential purposes. A copy of the engineering report is attached at **Appendix 2.**

The summary advises amongst other areas that :

*…….clearly none of the ills will get better by themselves without being positively addressed. As such gradual deterioration of the property can be expected to occur as time passes if no action is taken.*

*The first priority is perhaps arguably to ensure the property is kept dry by having an adequate roof envelope.*

1.8 Although the property is registered with Land Registry with two owners, the council have communicated with only one of these as despite attempts to locate the second owner (believed to be overseas) their whereabouts remain unknown. As such the council will continue to try and resolve the matters voluntarily with the known owner who may or may not be in communication with the other owner, in tandem with the CPO process rather than simply pursue one approach.

1.9 One of the current owners of the property is aware of the Council's long-standing concerns, and he has met with officers at the property, and has allowed access to the property for a survey to be undertaken. However, after numerous discussions as well as further unsuccessful attempts to contact the owner, unfortunately there has been no progress, and the council has been forced to seek this CPO as a last resort.

1.10 Following the survey an advisory letter was sent to the owner with a schedule of works that the Council considered necessary to bring the property back to a condition that would safeguard its future. We then served the repairs notice on 23rd April 2019.

1.11 Despite assurances from the owner the council has been in contact with, that work on the property would be undertaken, the council has not witnessed any work or improvement to the condition of the property.

1.12 It is apparent that work to comply with the Listed Building Repairs Notice has not been undertaken to date.

1.13 Since the service of the Listed Building Repairs Notice, the owner the council is in contact with has been in contact with the department, and is aware that the council is seeking the authority for a CPO as described.

1.14 Should voluntary discussions fail and the property be acquired through compulsory purchase, it is intended that it is marketed through a public auction, with an undertaking that any new owner commits to carrying out the repair works to restore the property and bring it back into use.

1.15 Where possible the council will continue to work with and negotiate with the known owner to carry out the necessary works.

1.16 It should be noted that a council officer inspected the property on 13th February 2020, as it had been reported that a part of the boarded-up skylight in the front (eastern elevation) had become dislodged following recent stormy weather.

1.17 This was verified and as such an email was sent to one of the owners to bring this to their attention requesting that steps are taken to repair this in order to prevent further damage from occurring.

1.18 Should this repair work not be forthcoming it is likely that the council will need to consider serving an Urgent Works Notice in the short-term, pursuant to Section 54 of the Act that will allow the LPA to enter the land and repair the roof as necessary.

1.19 The recent damage highlights the fact that whilst the property remains un-inhabited and not maintained its condition will only deteriorate further.

1.20 Photographs of the property, the list description and official register of title are attached as **Appendices 4, 5 and 6.**

## 2.0 Options Considered

A. Do nothing

This is not recommended as without the required works of repair and maintenance being implemented it is the council's opinion that this important listed building will fall further into disrepair.

B. Seek a CPO should voluntary discussions fail, to acquire and conditionally dispose of the property

The council believes that unless this option is instigated the property is likely to deteriorate further, and if the owners do not restore the property voluntarily, this option will allow a suitable purchaser to acquire the property and fully restore it to be used a dwellinghouse once more.

## 3.0 Policy Implications

3.1 Nothing in this report should be construed as having policy implications.

## 4.0 Financial Implications

4.1 It is very difficult to precisely calculate the costs associated with the CPO, as it will depend on the process followed, in particular whether objections to a CPO are received. The best case scenario is that there are no objections and the CPO goes through without need for a Public Inquiry or Written Representations. Alternatively, at the other end of the scale if it is challenged and there is a Public Inquiry, then there will clearly be additional legal costs associated with this.

An indication of the costs associated with compulsory purchase action are as follows:

- Legal costs obtaining a CPO – dependant on whether the CPO is appealed/ contested
- Advertising costs
- Defending a potential appeal cost
- Land transfer costs
- Compensation costs

4.2 Given the above it is estimated that the costs of obtaining the CPO could therefore vary between £9,700 - £28,500. However, the council would recoup the main cost which is the market value of the property from the auction, although it will incur auction house fees.

4.3 The council has been advised by one of the owners that they are subject to bankruptcy proceedings and this information is available publicly via The Insolvency Service.

4.4 However, it should be noted that as the property is jointly owned and the council does not know the whereabouts of the second owner; this might lead to complications when trying to sell the property, because neither the council (nor anyone else) would be able to purchase the property voluntarily without both owners agreeing to its sale. As such it is the council's opinion that the CPO process should continue even if the one owner is made bankrupt.

4.5 At the end of 2019 the council received a valuation report that had been commissioned in order to correctly market the property during the CPO process. A copy of the valuation report is attached as **Appendix 3.**

4.6 As stated above the estimated costs of the CPO process are very difficult to confirm, although a breakdown of the costs in the various different scenarios is set out in **Appendix 7**. Reference is made in the breakdown to the Land Tribunal in the event that the council's valuation, post CPO, is contested. However it is considered unlikely that this will be necessary, particularly if an auction is used to establish the market value of the property.

## 5.0 Personnel Implications

5.1 Nothing in this report should be construed as having staffing implications.

## 6.0 Environmental Considerations

6.1 It is considered that these will be positive as it will lead to a significant visual enhancement of the local environment.

## 7.0 Statutory Considerations

7.1 The Council is empowered to make Compulsory Purchase Orders by virtue of section 47 of the Listed Buildings Act, which provides for compulsory acquisition by the appropriate authority of a listed building in need of repair, where service on the owner of a notice and inclusion of a direction for minimum compensation has taken place.

7.2 At least two months before making an order under section 47 of the Listed Buildings Act the acquiring authority must, under section 48, serve a notice on the owner as defined in section 91 (2) of the Listed Buildings Act.

7.3 When an order made under section 47 of the Listed Buildings Act is submitted to the Secretary of State for Digital, Culture, Media & Sport for confirmation, a copy of the notice served in accordance with section 48 must be included with all the supporting documents.

7.4 It should be noted by Members that the procedure for obtaining a confirmed Compulsory Purchase Order (CPO) can be complex as it requires much supporting documentation such as a statement of reasons, certificates in support, and for a personal notice of the making of the Order to be served on all interested parties.

**8.0 Equality Impact Assessment (EIA)**

8.1 There are no significant implications.

**9.0 Risk Management Implications**

9.1 The main risk will be if the property does not sell at auction, although it is considered that this is unlikely. It should be noted that when the property was previously up for sale there were bids at auction but in that case a reserve was put on the property by the owner, so it did not sell. That would not be the case in the event of an auction following a CPO.

**10.0 Declarations of Interest / Dispensations Granted**

10.1 None.

**11.0 Background Papers**

The Ministry of Housing, Communities & Local Government Guidance on Compulsory Purchase Process and the Crichel Down Rules July 2019.

Stopping the Rot – A Guide to Enforcement Action to Save Historic Buildings, April 2016 (Produced by Historic England)

Appendix 1 Repairs Notice
Appendix 2 Engineers Report
Appendix 3 Valuation report
Appendix 4. Photos
Appendix 5. Listing
Appendix 6. Land Registry
Appendix 7 Estimated Costs

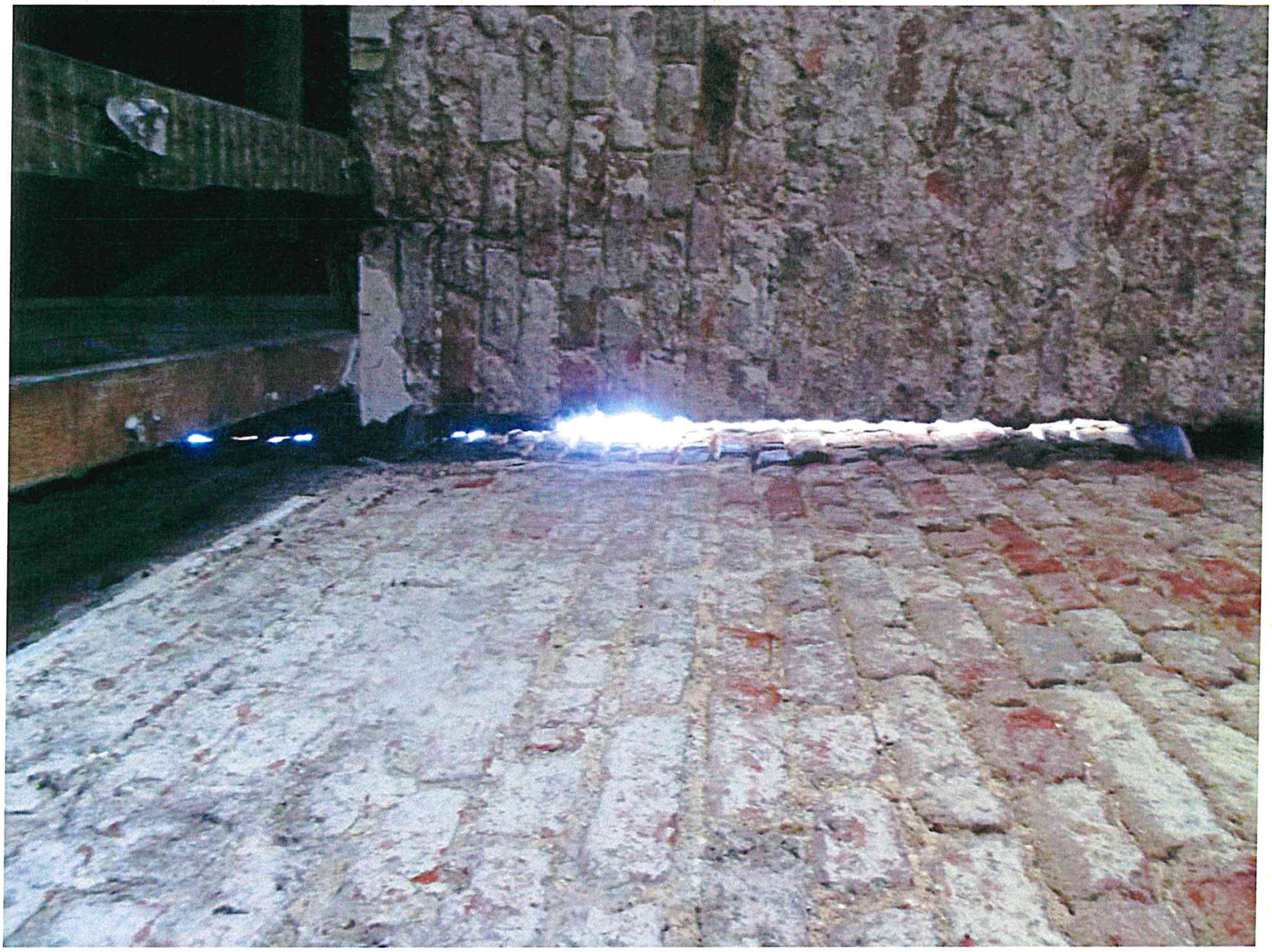
| **Pre-Screening Equality Impact Assessment** | Borough Council of King's Lynn & West Norfolk |
|---|---|
| Name of policy/service/function | Potential Compulsory Purchase Order (CPO) at 4 Ferry Square, West Lynn |
| Is this a new or existing policy/ service/function? | New |
| Brief summary/description of the main aims of the policy/service/function being screened.<br><br>Please state if this policy/service is rigidly constrained by statutory obligations | Should ongoing discussions fail on voluntarily remedying the repairs and refurbishment of 4 Ferry Square, West Lynn, a grade II listed building, then authority is sought to carry out the compulsory purchase and then selling through auction of the property.<br><br>There are strict statutory obligations to adhere to when undertaking a CPO. |

| **Question** | **Answer** | | | | |
|---|---|---|---|---|---|
| **1**. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups **according to their different protected characteristic**, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?<br><br>Please tick the relevant box for each group.<br><br>NB. Equality neutral means no negative impact on any group. | | Positive | Negative | Neutral | Unsure |
| | Age | | | x | |
| | Disability | | | x | |
| | Gender | | | x | |
| | Gender Re-assignment | | | x | |
| | Marriage/civil partnership | | | x | |
| | Pregnancy & maternity | | | x | |
| | Race | | | x | |
| | Religion or belief | | | x | |
| | Sexual orientation | | | x | |
| | Other (eg low income) | | | x | |

| Question | Answer | Comments |
|---|---|---|
| **2**. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another? | No | |
| **3**. Could this policy/service be perceived as impacting on communities differently? | No | |
| **4.** Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination? | No | |
| **5.** Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions?<br><br>If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section | No | **Actions:** N/A<br><br>**Actions agreed by EWG member:**<br>………………………………………… |

| |
|---|
| **If 'yes' to questions 2 - 4 a full impact assessment will be required unless comments are provided to explain why this is not felt necessary:**<br><br>**Decision agreed by EWG member:** ………………………………………………….. |

| | |
|---|---|
| **Assessment completed by:**<br><br>**Name Stuart Ashworth** | |
| **Job title Assistant Director – Environment & Planning** | |
| **Date 4/2/2020** | |



Historic England

# FERRY HOUSE FERRYSIDE

## Overview

Heritage Category:
Listed Building

Grade:
II

List Entry Number:
1195307

Date first listed:
01-Dec-1951

Date of most recent amendment:
26-Jul-1993

Statutory Address:
FERRY HOUSE, 2, FERRY SQUARE

Statutory Address:
FERRYSIDE, 4, FERRY SQUARE

# Map

Ordnance survey map of FERRY HOUSE FERRYSIDE



The above map is for quick reference purposes only and may not be to scale. For a copy of the full scale map, please see the attached PDF - **1195307.pdf**

The PDF will be generated from our live systems and may take a few minutes to download depending on how busy our servers are. We apologise for this delay.

This copy shows the entry on 20-Feb-2020 at 11:44:30.

# Location

Statutory Address:
FERRY HOUSE, 2, FERRY SQUARE

Statutory Address:
FERRYSIDE, 4, FERRY SQUARE

The building or site itself may lie within the boundary of more than one authority.
County:
Norfolk

District:
King's Lynn and West Norfolk (District Authority)

National Grid Reference:
TF 61194 20328

## Details

KING'S LYNN

TF62SW FERRY SQUARE, West Lynn 610-1/1/290 (West side) 01/12/51 Nos.2 AND 4 Ferry House (2) and Ferryside (4) (Formerly Listed as: FERRY SQUARE, West Lynn No 2 (Ferry House) and No 4 (Ferryside))

GV II

House, formerly public house, now 2 houses. C17 and later. Main range runs north-south. Cross wing runs west from south end, balanced by a cross wing running east from north end. Brick. No.2 occupies north half of main block and attached cross wing, No.4 the remainder. No.2 pebbledashed and roofed with pantiles, 2 mixed plaintiles and pantiles. 2 storeys and attic No.2 entered through C20 door in north gable wall. Various C20 windows at sensible intervals. Doorway under lean-to hood in internal angle with No.4. Main east facade of main block in 2 storeys and 4 irregular bays. C20 door right of centre. Fenestration of C20 sashes and casements. Gabled roof with ridge stack over door. Large skylight in roof marks site of former dormer. Internal gable-end stacks. INTERIOR. Little of interest visible. C19 fireplaces, roof structure boarded and invisible.

Listing NGR: TF6119420328

## Legacy

The contents of this record have been generated from a legacy data system.

Legacy System number:
384098

Legacy System:
LBS

## Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.

End of official listing

## Images of England

Images of England was a photographic record of every listed building in England, created as a snap shot of listed buildings at the turn of the millennium. These photographs of the exterior of listed buildings were taken by volunteers between 1999 and 2008. The project was supported by the Heritage Lottery Fund.

Date: 30 Jun 2001

Reference: IOE01/05922/05



Archive image, may not represent current condition of site.

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

Document is Restricted

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