

**BUSINESS SUPPORT  
OVERVIEW & SCRUTINY COMMITTEE**

**23 AUGUST 2018**

**CALL-IN: THE LONG TERM FUTURE OF THE CORN  
EXCHANGE, ENHANCEMENT OF THE GUILDHALL  
MUSEUM – SALE OF THE FORMER CONSERVANCY  
BUILDING, 17 HIGH STREET, ROCHESTER**

Report from: Perry Holmes, Chief Legal Officer

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**Summary**

This report advises the Committee of a notice of call-in received from seven Members of the Council of Cabinet decision 96/2018 to:

***Delegate authority to the Chief Legal Officer, in consultation with the Portfolio Holder for Resources to declare surplus and dispose of the Conservancy Building as shown edged black on the plan, as set out in Appendix 1 to the report, on the best terms reasonably obtainable.***

**1. Budget and Policy Framework**

- 1.1 In accordance with Chapter 4, part 5, paragraph 15.3 of the Constitution with regard to decisions, Cabinet decision 96/2018 has been called-in to this Committee by seven Members of the Council.
- 1.2 Item 6 on the agenda advises the Committee of a petition requesting the Council to not close and sell the Conservancy Building in Rochester. This petition is reported there for information as the lead petitioner has not exercised their right to request this Committee to review the response to the petition.

**2. Background regarding the Call in**

- 2.1 The Cabinet considered a report at its meeting held on 10 July 2018 which set out how the long term future of the Corn Exchange building and the Guildhall Museum will be enhanced by the proposed sale of the Conservancy building.

- 2.2 The discussion and decision from the Cabinet meeting are set out below.

**Background:**

This report provided details of how the long term future of the Corn Exchange building and the Guildhall Museum would be enhanced by the proposed sale of the Conservancy Building.

It was considered that the exhibits and facilities which were currently located in the premises, could be relocated to the Guildhall Museum and Eastgate House and that the building could therefore be considered surplus to operational requirements and could be sold. Both the Guildhall Museum and the Corn Exchange building on Rochester High Street were considered to be high priority for maintenance and capital investment and it was proposed that some of the capital receipt realised from the sale of the Conservancy Building could be used to fund those and other maintenance works identified, subject to stringent governance arrangements and Member oversight.

**Decision number:**

**96/2018      The Cabinet agreed to delegate authority to the Chief Legal Officer, in consultation with the Portfolio Holder for Resources to declare surplus and dispose of the Conservancy Building as shown edged black on the plan, as set out in Appendix 1 to the report, on the best terms reasonably obtainable.**

**Reasons for decision:**

In order to secure the long term future of the Corn Exchange and to enhance the Guildhall Museum.

- 2.3 The above decision was subsequently called in by seven Members of the Council. The reasons for the call in are as follows:

***“Financial***

*The piecemeal disposal of Council-owned assets and property is totally unsustainable. It is a short-sighted decision which is not in the longer-term interests of Medway taxpayers. The investment proposed for the Corn Exchange will do very little (if anything) to improve the commercial viability/profitability of the Corn Exchange and would not represent an effective or efficient use of taxpayers money.*

***Strategic***

*There is virtually no supporting evidence or information to demonstrate that this decision is part of a wider strategy to develop and improve Rochester’s cultural, heritage and tourism offer.*

## **Practical**

*The Conservancy Board building is an integral part of the Guildhall museum and its disposal will undermine the quality and the viability of the museum. There has been no information to reassure the public about the transfer and future home of the artefacts currently stored/on display in the former Conservancy building. Some of these items will be fragile and will therefore require special handling and storage.*

## **Access to heritage**

*It is mentioned in the cabinet papers of 10 July 2018 that the exhibits and storage from the conservancy building can be relocated to the Guildhall Museum and Eastgate House. Our concern around this is that exhibits moving in to Eastgate House will be behind a paywall, which will impact the community's access to their heritage.*

## **Democratic**

*There has been no consultation about these proposals with members of the public such as local residents, businesses, staff and volunteers. There should be a full consultation on the future of Council-owned heritage assets in Historic Rochester.*

## **Lack of clarity**

*There are no separate visitor numbers kept for the Guildhall Museum and the Conservancy building, so any suggestion the Conservancy building is less well used has not been proved and is contradicted by staff who know the museum best."*

## **3. Witnesses**

- 3.1 At the agenda planning meeting it was agreed that a representative from two Rochester organisations should be invited to speak for up to five minutes each as part of the consideration of the call-in. A representative from the Friends of the Guildhall Museums and the City of Rochester Society have been invited to address the Committee on the sale of the Conservancy Building.

## **4. Director's Response to the Call-In**

- 4.1 The comments from the Chief Legal Officer and the Head of Sport Leisure, Tourism and Heritage on the points raised by Members in the reasons for the call-in are set out below:

### **4.1.1 Financial**

*The piecemeal disposal of Council-owned assets and property is totally unsustainable. It is a short-sighted decision which is not in the longer-term interests of Medway taxpayers. The investment proposed for the Corn Exchange will do very little (if anything) to improve the*

*commercial viability/profitability of the Corn Exchange and would not represent an effective or efficient use of taxpayers money.*

The Council has been selling surplus property since its inception. In recent years the average capital receipts from such sales have been in the region of £3.5 million per annum. The Council has a Corporate Property Strategy 2017-2022 which was approved by Cabinet in August 2017. That sets out the policy framework in the medium term against which the disposal of surplus assets takes place. The proposals for investment in the Corn Exchange and the Guildhall Museum are being formulated. The intention is to bring a business case for investment in the Corn Exchange for consideration and approval by the Cabinet in due course.

#### **4.1.2 Strategic**

*There is virtually no supporting evidence or information to demonstrate that this decision is part of a wider strategy to develop and improve Rochester's cultural, heritage and tourism offer.*

Reference was made above to the Council's Corporate Property Strategy 2017-2022, which is the Council's strategy for dealing with its property. Regeneration, heritage, culture and tourism are key drivers to the Council's property portfolio. As the Strategy says in the introduction:

"Our property portfolio is a key element in delivering our vision for Medway as a great place to live, work, learn and visit. It is also vital in delivering our Key Priorities which are:

- Medway: A place to be proud of.
- Supporting Medway's people to realise their potential.
- Maximising regeneration and economic growth."

#### **4.1.3 Practical**

*The Conservancy Board building is an integral part of the Guildhall museum and its disposal will undermine the quality and the viability of the museum. There has been no information to reassure the public about the transfer and future home of the artefacts currently stored/on display in the former Conservancy building. Some of these items will be fragile and will therefore require special handling and storage.*

A plan for transfer of the artefacts stored and on display has been formulated and is being implemented, in consultation with the Arts Council. This will include specialist storage as required.

#### **4.1.4 Access to heritage**

*It is mentioned in the cabinet papers of 10 July 2018 that the exhibits and storage from the conservancy building can be relocated to the Guildhall Museum and Eastgate House. Our concern around this is that*

*exhibits moving in to Eastgate House will be behind a paywall, which will impact the community's access to their heritage.*

As part of the planned transfer, officers are developing proposals to ensure museum artefacts essential to explaining the history and heritage of Medway are accessible to the community

#### 4.1.5 **Democratic**

*There has been no consultation about these proposals with members of the public such as local residents, businesses, staff and volunteers. There should be a full consultation on the future of Council-owned heritage assets in Historic Rochester.*

Consultation does not normally take place on property proposals, to protect the Council's position and to prevent any prejudice to what is ultimately a commercial transaction. In this instance both ward Councillors were notified in advance of the proposed sale. Cabinet were made aware of the petition referred to in agenda item No. 6.

The sale is wholly in accordance with the Council's Corporate Property Strategy 2017-2022.

#### 4.1.6 **Lack of clarity**

*There are no separate visitor numbers kept for the Guildhall Museum and the Conservancy building, so any suggestion the Conservancy building is less well used has not been proved and is contradicted by staff who know the museum best."*

A museum's role is to store and exhibit objects of historical, scientific, artistic, or cultural interest. Ensuring that continues and evolves is the essence of the work of the heritage team, rather than focusing on which particular building provides the conduit for any exhibition

### **5. Advice from Monitoring Officer and Chief Finance Officer regarding the Call-in**

5.1 The Monitoring Officer and the Chief Finance Officer have both further reviewed the Cabinet report and are satisfied that the decision taken by Cabinet is not contrary to the policy framework or contrary or not wholly in accordance with the budget.

#### **5.2 Comments of the Monitoring Officer**

5.2.1 The relevant Policy Framework document is the 2016-2021 Council Plan. One of the three priorities set out in the Council Plan is Medway – A Place to be Proud which aims to promote Medway's rich heritage to attract visitors and inward investment. The relevant outcome for that priority is "Medway on the Map" and underpinning that are the Council's culture, tourism and regeneration strategies.

5.2.2 Discussions with national heritage organisations emphasise the importance of telling the story of Medway, rather than focusing on any individual building in which that story is housed, unless the two are inextricably linked. Thus the proposal does not negatively impact on the successful delivery of the council's cultural and tourism strategies

5.2.3 In addition, the three Council Plan priorities are to be achieved by working in the following ways:

- Giving value for money (including a commitment to delivering effective and efficient services for Medway residents, business and visitors)
- Finding the best digital innovation and using it to meet residents' needs, and;
- Working in partnership where this benefits our residents.

5.2.4 The [Council's Corporate Property Strategy 2017-2022](#) links to the Council Plan and covers all Council properties, except for Council housing properties, schools and highways.

5.2.5 The core objectives are to have a property portfolio which is:

- Fit for purpose, in the right location and sustainable.
- Sustainable, safe and accessible.
- Flexible, efficient and which provides value for money.
- Capable of providing the Council with a revenue income.

5.2.6 The strategic aims for the corporate property portfolio include:

- Supporting the ambitious plans to regenerate Medway by ensuring that strategic sites are developed.
- To further rationalise our portfolio linked to service need and to dispose of surplus property to generate capital receipts and reduce revenue costs.

5.2.7 The decision of the Cabinet to delegate authority to the Chief Legal Officer, in consultation with the Portfolio Holder for Resources to declare surplus and dispose of the Conservancy Building on the best terms reasonably obtainable can, therefore, be considered to be consistent with the Council Plan.

### 5.3 **Comments of the Chief Finance Officer**

5.3.1 Both the Corn Exchange and Guildhall Museum represent important elements of the Council's heritage offer, however there is insufficient funding to carry out the required capital improvements to these buildings. In the case of the Corn Exchange, this investment is vital to turn the business around and return it to being a viable events venue.

5.3.2 The only condition on the capital receipt generated from sale of the Conservancy Building is that it would have to be used to fund capital expenditure. It is proposed that a significant part of the capital receipt

generated by disposal of the Conservancy Building would be used to fund capital improvements to the Corn Exchange and Guildhall Museum

5.3.3 The decision of the Cabinet can therefore be considered to be wholly in accordance with the budget.

## **6. Options**

6.1 The options open to this Committee in dealing with this call-in are to:

- a) to consider the matter and accept the Cabinet decision, or;
- b) ask Cabinet to reconsider its decision if Members have concerns about it/them (setting out in writing the nature of any concerns), or;
- c) refer the matter to full Council for consideration.

6.2 In accordance with rule 15.8 of the Constitution, to avoid the possibility of very many emergency Council meetings, Overview and Scrutiny Committees should normally only use the power to refer a matter to the full Council if it considers either:

- a) that the decision is contrary to the policy framework (i.e. those policies and plans listed in Article 4.1 of Chapter 2 of the Constitution) or contrary or not wholly in accordance with the budget;
- b) where a request for call-in is signed by six or more members representing at least two political groups.

6.3 If the Committee considers the Cabinet decision is, or would be, contrary to the policy framework or not wholly in accordance with the Council's budget, then it must first ask for advice from the Monitoring Officer and/or Chief Finance Officer. If the officer advice is that the decision taken by Cabinet is within the policy framework or budget, and this is accepted by the Committee, then a referral to full Council, on the grounds that the decision is contrary to the budget or policy framework, would not be possible. As mentioned in paragraph 4 above, the Monitoring Officer and the Chief Finance Officer have confirmed that the decisions taken by Cabinet set out in paragraph 2.1 above are not contrary to the Council's budget or policy framework.

6.4 The Committee may refer the call-in to full Council if:

- the officer advice confirms the view of the Committee that the Cabinet decision was outside the budget or policy framework, or
- the officer advice does not confirm the view of the Committee but Members do not accept the officer advice.

- 6.5 In the event of a referral to full Council for reasons relating to the budget or policy framework, Cabinet will then meet to consider the views of the Monitoring Officer and/or Chief Finance Officer, together with the views of the Overview and Scrutiny Committee. Having considered these views, Cabinet will decide what action to take and prepare a report for Council.
- 6.6 When the Council meets following a referral on the grounds that an Overview and Scrutiny Committee considers that a Cabinet decision is contrary to the policy framework or contrary or not wholly in accordance with the budget, it can decide:
- a) that the Cabinet decision falls within the existing budget and policy framework, in which case no further action is required, or;
  - b) to amend the Council's budget or relevant policy framework document to encompass the decision, in which case the Cabinet decision takes effect immediately and no further action is required, or;
  - c) to accept that the decision is outside the policy framework or budget, in which case Cabinet must reconsider the matter taking into account the views of full Council and take a decision which is in accordance with the advice of the monitoring officer/chief finance officer and which complies with the budget and policy framework.
- 6.7 When the Council meets following a referral on other grounds then it can decide:
- a) to accept the Cabinet decisions and therefore take no further action or;
  - b) refer the decisions back to Cabinet for reconsideration, setting out the reasons for the referral back.

## **7. Risk Management**

- 7.1 Risk management is addressed in section 5 of the Cabinet report attached at Appendix A.

## **8. Financial and legal implications**

- 8.1 The financial and legal implications in relation to the Cabinet decisions are set out at sections 7 of the Cabinet report attached at Appendix A.
- 8.2 In accordance with Chapter 4, part 5, paragraph 15.3 of the Constitution, six members of the Council may call in a decision for scrutiny by the relevant Overview and Scrutiny Committee. Call-ins must be dealt with in accordance with Rule 15 of the Overview and Scrutiny Rules and Rule 7 of the Budget and Policy Framework Rules.
- 8.3 There are no legal or financial legal implications relating to the e-petition.



## **9. Recommendations**

- 9.1 The Committee is asked to consider the called-in Cabinet decision 96/2018 and decide either to:
- 9.1.1 accept the Cabinet decision and therefore take no further action or;
  - 9.1.2 refer the decision back to Cabinet for reconsideration, setting out the reasons for the referral back or;
  - 9.1.3 refer the decision to full Council for consideration.

### **Lead officer contact**

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### **Background papers**

None

### **Appendices**

Appendix A – Report to 10 July 2018 Cabinet meeting