



Agenda

Governance Committee

Tuesday 13 February 2024
at 2pm

The Guildhall, St Peter's Place, Canterbury

Membership of the Committee:

Councillor Alan Baldock (Chair)
Councillor Alex Ricketts (Vice Chair)
Councillor Mike Bland
Councillor Dane Buckman
Councillor Rachel Carnac
Councillor Elizabeth Carr-Ellis
Councillor Lee Castle
Councillor Joe Howes
Councillor Keji Moses
Councillor Paul Prentice
Councillor Mike Sole
Councillor Ian Stockley
Councillor Clare Turnbull

Quorum: 7

NOTES

1. Members of the public may speak at meetings of the Committee so long as they contact Democratic Services by 12.30pm the working day before the meeting.
2. The venue for the meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired.
3. Everyone is welcome to record meetings of the Council and its Committees using whatever non-disruptive methods you think are suitable. If you are intending to do this please mention it to the Democratic Services Officer and do not use flash photograph unless you have previously asked whether you may do so. If you have any questions about this please contact Democratic Services (members of the press please contact the Press Office).

Please note that the Chair of the meeting has the discretion to withdraw permission and halt any recording if in the Chair's opinion continuing to do so would prejudice proceedings at the meeting. Reasons may include disruption caused by the filming or recording or the nature of the business being conducted.

Anyone filming a meeting is asked to only focus on those actively participating but please also be aware that you may be filmed or recorded whilst attending a council meeting and that attendance at the meeting signifies your agreement to this if it occurs. You are also reminded that the laws of defamation apply and all participants whether speaking, filming or recording are reminded that respect should be shown to all those included in the democratic process.

Persons making recordings are requested not to put undue restrictions on the material produced so that it can be reused and edited by all local people and organisations on a noncommercial basis.

If a meeting passes a motion to exclude the press and public then, in conjunction with this, all rights to record the meeting are removed.

4. The information contained within this agenda is available in other formats, including Braille, large print, audio cassettes and other languages.

Contact: Democracy, 01227 862009, democracy@canterbury.gov.uk

Agenda

1 APOLOGIES FOR ABSENCE

2 SUBSTITUTE COUNCILLORS

3 DECLARATIONS OF INTEREST

TO RECEIVE any declarations for the following in so far as they relate to the business for the meeting:-

- a. Disclosable Pecuniary Interests
- b. Other Significant Interests (what were previously thought of as nonpecuniary Prejudicial interests)
- c. Voluntary Announcements of Other Interests

Voluntary Announcements of Other Interests not required to be disclosed as DPI's or OSI's, ie announcements made for transparency reasons alone, such as:

- Membership of outside bodies that have made representations on agenda items, or
- Where a Councillor knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Councillor, relative, close associate, employer, etc but not his/her financial position.

[Note: an effect on the financial position of a Councillor, relative, close associate, employer, etc; OR an application made by a Councillor, relative, close associate, employer, etc, would both probably constitute either an OSI or in some cases a DPI].

4 PUBLIC PARTICIPATION

Members of the public may speak on any item on the agenda, for a maximum of three minutes, provided that notification has been given to Democratic Services by 12.30pm on the working day before the Meeting.

5 Updates to the Constitution

TO CONSIDER the report of the Head of Corporate Governance.

6 Councillor Interest Governance Review Recommendations

TO CONSIDER the report of the Head of Legal / Monitoring Officer.

7 ANY OTHER URGENT BUSINESS

8 EXCLUSION OF THE PRESS AND PUBLIC

TO RESOLVE - That under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items of business on the grounds that there would be disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act or the Freedom of Information Act or both.

9 ANY OTHER URGENT BUSINESS WHICH FALLS UNDER THE EXEMPT PROVISIONS OF THE LOCAL GOVERNMENT ACT 1972 OR THE FREEDOM OF INFORMATION ACT 2000 OR BOTH

Item 5

Governance Committee

13 February 2024

Subject: Updates to the constitution - February 2024

Director and Head of Service:

Tricia Marshall, Director of Corporate Services

Officer:

Matthew Archer, Head of Corporate Governance

Cabinet Member:

Mike Sole, Cabinet Member for finance

Key or Non Key decision:

Non Key

Decision Issues:

These matters are within the authority of the Council

Is any of the information exempt from publication:

This report is open to the public.

CCC ward(s):

All

Summary and purpose of the report:

The purpose of the report is to recommend updates to the constitution to ensure continued efficient and effective governance of the council.

To Recommend:

That the proposed changes to the constitution are recommended to Council for approval, as follows -

1. To agree the amendments to Part 5, terms of reference of committees outlined above.
2. In relation to the changes proposed to the Audit Committee -
 - i) To include separation between cabinet membership and those charged with oversight on the Audit Committee in the Audit Committee terms of reference.

- ii) To consider whether to invite nominations for an independent member to serve on the Audit Committee.
3. To confirm the arrangements in relation to the Planning Sub Committee
4. To remove the Herne Bay Residents Association from the list of amenity groups with a reserved speaking slot at the Planning Committee.
5. To amend the call-in procedures to allow 15 clear working days from receipt of a valid call-in to convene a meeting of the Scrutiny Sub Committee.
6.
 - i) That the webcasting and hybrid technology is piloted at Cabinet and then rolled out to Council and other committee meetings when we are confident with the use and reliability of the technology.
 - ii) That the hybrid meeting protocol set out in Appendix D is adopted.
7. That the changes recommended to Article 12 (Statutory officer responsibilities) and Part 8.1 (Scheme of delegation from council to officers) outlined in the report are approved.
8. To amend the Financial Procedure Rules as set out in the report.

Next stage in process:

The recommendations from this committee will be put to Council on 22 February 2024.

1. Introduction

The constitution is an important document that defines the council's governance arrangements and procedures. It was last reviewed in April 2022, to reflect the change to the leader and cabinet model of governance.

Changes are required in order to bring the constitution up to date.

The Governance Committee considers officer proposals and makes recommendations to full Council.

Full Council considers the recommendations and resolves the decisions set out in the report, with any amendments it considers necessary.

The changes suggested below are recommended to enable the smooth operation of the council's governance arrangements.

There are other issues that may need to come forward before the next annual meeting in May. A further meeting will be arranged, should that be necessary.

2. Detail

Section 1

Amendments to terms of reference (Part 5)

Item 1 : Staff and Safety Joint Consultative Group (SSJCG)

Proposal:

The appended terms of reference for the SSJCG (Appendix B) were omitted from the revised 2022/23 constitution. They are included here and will form part of the arrangements connected to the General Purposes Committee.

Item 2: Audit Committee terms of reference

Proposal:

To add the following to the Audit Committee terms of reference to meet the recommendations of a recent audit on fraud prevention. This is a recommendation of the East Kent Audit Partnership.

'Support counter fraud work and challenge the level of activity to ensure it is appropriate in terms of fraud risk and resources. Receive at least annual reports on counter fraud activity, both proactive and reactive'.

Item 3: Joint Transportation Board (JTB)

Proposal:

The following amendment will ensure the chair can liaise with a council representative if the chair of JTB is also the relevant portfolio holder.

Amend the 9.2 of the terms of reference, inserting the words in italics:

9.2 The KCC/CCC Cabinet or Cabinet Member will normally act in accordance with the advice or views of the JTB. If the respective Cabinet or Cabinet Member is minded to act otherwise, no decision will be taken until after a discussion has taken place between the *relevant Leader and/or* Cabinet Member or Cabinet and the Chair and Vice-Chair of the JTB.

Item 4: Licensing Committee/Sub Committee - submission of film and other material to licensing hearings

Proposal:

To insert guidance on the arrangements regarding the showing of film material at hearings to ensure there are clear rules in place for the playing of recorded material at hearings. The rules are appended to the report (Appendix C) and will be inserted as a procedure rule alongside the terms of reference for the Licensing committee and sub-committee.

Item 5: General Purposes Committee - duplication

Proposal:

To remove items within the terms of reference that have been delegated to officers or to other committees, to avoid duplication and make it clear who is responsible for discharging the functions.

When the General Purposes Committee was established under the new leader/cabinet arrangements the previous terms of reference were used for ease but it quickly became

apparent that a number of functions now reside elsewhere under the new arrangements and they need tidying up. As a result the following will be removed -

Miscellaneous

- 6.1 Complaint settlements (dealt with by directors)
- 6.2 Making Standing Orders (Governance Committee)
- 6.3 Staff appointments (directors, Appointments Committee)
- 6.5 Contract Standing Orders (Governance Committee)
- 6.6 Proper Officers (Governance Committee)
- 6.7 Food shop closures (Licensing Committee)

Regulatory and Appeals

Duplicated in section 5 of the terms of reference or covered in directors delegations

Item 6: Appointment Committee - delegating appointments to outside bodies

Proposal:

To streamline the appointments process for appointments to outside bodies, with appropriate controls in place if matters cannot be resolved informally. It has been suggested that we delegate the making of annual appointments to the Head of Paid Service, where there is consensus between the group leaders on the nominee/s.

Only when there isn't consensus would the Appointments Committee be convened to make a formal appointment.

All appointments would be notified to the next meeting of full Council.

In-year appointments for new groups and appointments to vacancies of existing groups are already delegated to the Head of Paid Service, in consultation with the leader.

The terms of reference of the Appointments Committee and officer delegations could be amended to accommodate this scenario.

Item 7: Licensing Committee

Proposal:

To formally cap the number of councillors on the Licensing Committee, including those listed in a reserve capacity, to 15 councillors in total.

This will ensure compliance with s.6(1) of the Licensing Act 2003, which states that a licensing authority must establish a licensing committee consisting of at least 10 but not more than 15 members of the authority.

This was a recommendation of a recent internal audit on the licensing arrangements and resulted in the number of reserves on the Licensing Committee being reduced to accommodate this requirement.

Recommendation 1

To agree the amendments to Part 5, terms of reference of committees outlined above.

Section 2

Audit Committee - recommendations from the external auditor

The council's external audit report for 2021/22 (dated July 2023) was reported to the Audit Committee on 5 July 2023 ([minute 123](#)). The external auditors made recommendations to the council's governance arrangements to -

- i) Formally create separation between the cabinet and committees charged with*

oversight by stating the Audit Committee membership should not include members of the cabinet, and

ii) Consider the recruitment of at least one independent member to serve on the Audit Committee as this would further strengthen the Audit Committee composition and also follow best practice guidance.

This year, part (i) was dealt with informally. Group leaders complied with a request for separation when making nominations this year. This recommendation will formalise the requirement within the constitution.

Part (ii) has yet to be considered. Historically, the council did have an independent member serve on the committee but the practice ceased in 2011.

If supported, then arrangements would be made to appoint an Independent Member through a job advertisement and a selection panel interview.

It is recommended that the panel be composed of the Chair of the committee, the section 151 officer and/or the deputy S151 officer. It is suggested the independent board member be paid an allowance equivalent to other independent member appointments (currently £533 pa) and the term of appointment be three years initially from the date of appointment, with a potential for two further terms. This is not budgeted for and would require an additional budget.

Renewal after the first term could be based on the same arrangements as the Whitstable Harbour Board, whereby the first three year extension is by agreement with the Appointments Committee, supported by an officer's report and the third term is subject to competition.

Summons to scrutiny committees

Councillors are asked to note one final point from the external audit review, which was a suggestion that we make it clear at the start of any oversight meeting when cabinet members have been *summoned or invited* by these committees to respond to a particular agenda item, as opposed to attending as *observers*. The minutes of oversight meetings will make this clear to provide clarity and enhance transparency.

Recommendation 2

i) To include separation between cabinet membership and those charged with oversight on the Audit Committee in the Audit Committee terms of reference.

ii) To consider whether to invite nominations for an independent member to serve on the Audit Committee.

Section 3

Changes to the arrangements at Planning Committee and Planning Sub-Committee

Item 1: The role of the Planning Sub-Committee

The terms of reference of the Planning Sub Committee include monitoring planning enforcement cases and considering any matters referred to it by the Planning Committee.

When the Planning Committee considered the South Canterbury development (CA/16/00600/OUT) on 1 December 2022, it resolved (min 416a) -

D) To task planning sub-committee to monitor this application on a regular basis (recommended every 6 months) to begin within 6 months of the May 2023 local

election and ask them to engage with all interested communities including impacted residents.

Consideration has been given to the practical implications of the decision. The role of the sub committee will be to monitor the progress of the development.

The sub committee will also oversee and input into the arrangements for community engagement.

To facilitate this the sub committee will receive a six monthly update report from planning officers, which will include:

- A progress report on the delivery of the development including an update on trigger points for the payment of s106 contributions and the delivery of affordable housing
- Information provided by the applicant about the likely timing of any applications for approval of conditions of the planning permission etc
- Details of the community involvement planned by the developer

As a result of this decision, it will be necessary to hold the Planning Sub Committee in public at the Guildhall. It will not make any decisions as it has no delegated responsibility for doing so.

The public will be able to observe the meetings but not speak as matters have already been delegated to officers and informed discussions will take place outside of the committee. The new arrangements will however provide transparency to the public on the progress of development, which in turn will inform public engagement between councillors and officers outside of the formal meetings.

The engagement with the community will happen in the following ways:

- ward councillors will meet with the developers to receive regular updates on progress and can convey residents' concerns directly
- the sub committee will receive reports from the developer about the public engagement e.g. design workshops that they have proposed to carry out.

If any changes are proposed by the applicants that require a formal decision by the Council, they will need to go through the normal decision making process, which is either to be decided by Officers under delegated authority or by the Planning Committee.

The committee will receive a verbal update in the confidential section of the agenda and discussions will be held in private, excluding the press and public.

Recommendation 3

To confirm the arrangements in relation to the Planning Sub Committee

Item 2: Public participation at Planning Committee

The speaking arrangements at Planning Committee currently include reserved speaking slots for 'a representative of the Parish Council, Canterbury Heritage and Design Forum, Whitstable Society, or Herne Bay & District Residents Association (HBRA) in whose area the proposed development is situated'.

The Herne Bay & District Residents Association is no longer significantly representative of the Herne Bay area and it has been suggested that we remove the HBRA from the list and consider at some future date whether an alternative might be added.

Recommendation 4

To remove the Herne Bay Residents Association from the list of amenity groups with a reserved speaking slot at the Planning Committee.

Section 4

Changes to the Cabinet/Overview and Scrutiny arrangements (Parts 6 and 7)

Item 1: Call-In Rules of Procedure

Proposal:

To amend Part 6.3, paras 4.1 - 4.3 to allow 15 clear working days (instead of the current 10) from receipt of a valid call-in to convene a meeting of the Scrutiny Sub-Committee.

This is seeking to balance speed of decision making with effective and convenient governance. We hold reserve dates in the calendar for call-in which usually resolves the issue but allowing an additional week provides more flexibility to find a suitable date without unduly delaying the decision in the event special meetings are called or for any reason the reserve date cannot be used.

Recommendation 5

To amend the call-in procedures to allow 15 clear working days from receipt of a valid call-in to convene a meeting of the Scrutiny Sub Committee.

Item 2: Webcasting of council meetings

Proposal:

Due to repeated failures of the old audio casting system it has been replaced and the technology upgraded. Audio recordings are published on YouTube using the kit provided by our supplier, VP-AV.

In order to futureproof the arrangements the opportunity has been taken to install visual/hybrid technology, to allow webcasting of meetings and remote attendance for non-committee members.

This will enable meetings to be broadcast via the council's YouTube channel when we are ready to enable the technology.

The law currently requires that committee members attend a meeting in person.

The attached Hybrid meeting protocol (Appendix D) will enable officer attendance and attendance by councillors who are not committee members.

In due course it will be possible to enable remote public speaking using the technology, although the existing Google Meet lacks the waiting room feature that would enable this to be used in a live meeting. Proposals are in hand to move to Microsoft Teams later this year, at which point we will explore the introduction of public speakers attending remotely.

We have been asked to explore the possibility of reintroducing pre-recorded contributions, as we had during the pandemic but it is recommended we postpone this element until Teams is installed.

Integration in a live setting is more complex than in a virtual meeting. Experience tells us that things can, and do, go wrong so we need to iron out any teething problems before adding further complexity to the arrangements.

The hybrid offer will also enable external officers or consultants to participate, who may otherwise have to travel long distances in order to attend meetings.

Attendees simply join a Google Meet and this is projected through the screens and streaming technology.

Note that currently there is no retention period placed on our audio recordings. We intend to apply a retention period for the AV recordings, which will be in place before we go live.

Recommendation 6

i) That the webcasting and hybrid technology is piloted at Cabinet and then rolled out to Council and other committee meetings when we are confident with the use and reliability of the technology.

ii) That the protocol set out in Appendix D is adopted.

Section 5

Changes to officer delegations (Part 8)

Item 1: Special Severance Payment statutory guidance

Proposal:

To include the statutory guidance on special severance payments under officer delegations, with the caveats set out below.

Following a recent audit, the HR Team has recommended that we include the following requirements in our constitution, per the Localism Act 2011 and [statutory guidance](#) on the making and disclosure of Special Severance Payments by local authorities in England.

The statutory guidance says -

The government expects that any Special Severance payments should be approved according to the following process:

- payments of £100,000 and above must be approved by a vote of full council, as set out in the Localism Act 2011
- payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment
- payments below £20,000 must be approved according to the local authority's scheme of delegation. It is expected that local authorities should publish their policy and process for approving these payments

Where the proposed payment is to the Head of Paid Service, to avoid a conflict of interest it is expected that the payment should be approved by a panel including at least two independent persons.

As part of their duties, an authority's s151 Officer, and where appropriate, the Monitoring Officer, should take a close interest in and be able to justify any special severance payments that are made by that authority and in particular any payments made that are not consistent with the content of this guidance.

The committee should note we are already operating these rules but they are not specifically referenced in the constitution. If adopted, the committee is asked to note that the thresholds in the statutory guidance may be amended from time to time. The Head of Legal Services will use their delegation to amend the specified amounts when this occurs.

Item 2: Role of Head of Paid Service

Proposal:

The roles of the Statutory Officers are set out in Article 12 of the constitution, together with a summary of their roles and responsibilities. Whilst not exhaustive by any means, there are some additions to the role of Head of Paid Service that would assist the smooth running of the governance arrangements if they were to be included. These are set out below.

The Head of Paid Service needs the ability to determine the routing and timing of reports to committee meetings. It provides a clear brokering arrangement for the management of meetings and the routing of items in the event of any disagreement.

The HoPS also determines, in consultation with the appropriate chair, the need for special meetings of a committee or sub committee.

Including both measures as specific duties makes it clear who is responsible for convening such meetings.

Finally, for clarity, it is recommended that the arrangements immediately following an election are clarified in the event that the leader of the council is not re-elected or the majority party is no longer in overall control, by inserting the following -

Following a local election and until the day of the Annual Meeting; if the leader has not been re-elected as a councillor or, if re-elected, the political party of which they are a member does not have a majority on the council, then the powers of the leader shall be exercised by the Head of Paid Service in consultation with all group leaders, where practical.

It is recommended that these points are included in Article 12 under the role of the Head of Paid Service.

Item 3: Museums and events - delegated functions

Proposal:

The following text was inadvertently removed during the last senior management restructure and needs to be reinstated under the Service Director Place.

Museums and events

1. To exercise the council's powers with respect to the provision, maintenance and development of the council's museums and galleries and their associated collections and exhibition programmes.
2. To authorise the acquisition and disposal of items from the museums and galleries collection which do not align in line with the Collections Development Policy approved by the Community Committee (minute 64, 2017).
3. Limitation - this delegation shall not allow the relevant director or service director to dispose of any part of the collections nor place them on permanent loan without approval from the council as the museum's governing body.
4. To allow the museums and galleries to be used for educational or cultural events or entertainment (whether in return for payment or not) and, when a charge is to be made, to set that charge.

It is also recommended that delegation D12 be amended (see italics) to allow discretion to officers to set fees at commercial venues and events based upon commercial considerations and budget forecasts.

D12. To provide catering at any facility or event managed by this service *and set fees and charges based upon commercial considerations*

Item 4: Dispensation - councillor six month attendance rule

It is recommended that the council puts suitable protections in place to ensure that a councillor who is unable to attend a meeting within a six month period does not automatically cease to be a member of the authority before full council has had an opportunity to consider whether it is appropriate to grant an extension of time to the statutory period.

Section 85 of the Local Government Act 1972 says –

“if a member of a local authority fails throughout a period of 6 consecutive months

from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority”.

If the six month period is due to fall between council meetings then an appropriate delegation to the Head of Legal Services would enable them to grant an extension until the next council meeting. At this point the full Council can make a formal decision on whether to grant a further extension. Refusal to grant a further extension would result in the member ceasing to be a member of the authority at the end of that working day.

It is recommended that the Head of Legal Services be granted the delegation -

“To accept a reason for the failure of a member to attend council meetings for a six month period and to extend that period before the expiry of that initial six month period until the next full Council meeting in accordance with S85 of the Local Government Act 1972 in those cases where the Council cannot act in the time available.

This delegation is exercisable by the Head of Legal Services after consultation with the Head of Paid Service.”

This will enable the Head of Legal to grant a dispensation in situations where the 6 month rule may be exceeded but there are reasonable circumstances for agreeing an extension.

Item 5: Land and Property - General limitations

It is recommended that the threshold for disposing of a leasehold, freehold or other interests where a capital sum is paid is increased from £200,000 to £300,000 to reflect the increase in market values for land and property.

Similarly, it is recommended that the threshold for granting leases with an initial rent be increased from £75,000 to £125,000 to enable effective and efficient discharge of property transactions without undue delay.

Any arrangements exceeding these sums would be subject to committee approval.

Recommendation 7

That the changes recommended to Article 12 (Statutory officer responsibilities) and Part 8.1 (Scheme of delegation from council to officers) outlined in the report are approved.

Section 7

Changes to Financial Procedure Rules (Part 9)

Item 1: Contracts under seal

Proposal:

To streamline procedures significantly by removing a considerable number of contracts from execution as deeds to signing, it is recommended that para 8.4 be amended to increase the value of contracts to be executed as a deed, including any order made under a framework arrangement, from £100,000 to £250,000.

Item 2: **Electronic signatures**

This is a request from the legal team to bring procedure rules up to date with the most recent legislative requirements.

By amending para 8.6, electronic signatures may be used in accordance with The Electronic Identification and Trust Services for Electronic Transactions (Amendments etc.) (EU Exit) Regulations 2019) and The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Head of Paid Service and the Head of Legal Services or provided the Council has procured a legally compliant electronic signature system.

Recommendation 8

To amend the Financial Procedure Rules as set out in the report.

3. Relevant Council policy, strategies or budgetary documents

Constitution

4. Consultation planned or undertaken

This committee is being consulted and invited to make recommendation to Full Council

5. Options available with reasons for suitability

The options are to accept, amend or reject the recommendations.

6. Reasons for supporting option recommended, with risk assessment

It is recommended that the proposals are put to Full Council, as amended by the committee.

7. Implications

(a) Financial

None

(b) Legal

None

(c) Equalities

None

(d) Environmental including carbon emissions and biodiversity

None

Other implications

(e) Staffing resource

Webcasting will be managed by the Democratic Services Officer in accordance with the protocol.

(g) Planning including building regulations

As per the report.

Contact Officer: Matthew Archer, Head of Corporate Governance

Background documents and appendices

A - Climate Change Impact Assessment

B - Staff and Safety Joint Consultative Group terms of reference

C - The submission of film and other material to Licensing hearings

D - Protocol for live streaming of meetings

Additional document(s) containing information exempt from publication:

No

Appendix A Climate Change Impact Assessment (Checklist)

Please provide an assessment of the impact of the proposal under each of the headings below. If none, please say so.

1. Climate Change impacts

Impact of proposal Positive/ Neutral/ Negative	Explanation of impact If you have any relevant data, please include that in the explanation and reference the source.	Mitigation
Impact on the council's target of being carbon neutral by 2030 This applies to emissions of carbon dioxide as a direct result of our own activities and services. Please consider the whole life impact of your proposals		
Neutral		
Impact on carbon emissions in the Canterbury district This applies to the carbon dioxide emissions in the district as a result of your proposal. Please consider the whole life impact of your proposals.		
Neutral		
Emission of other climate changing gases including methane, CFCs, nitrous oxide		
Neutral		

2. Adaptation to climate change - Impact on our resilience to the effects of climate change

The greatest risks posed by climate change to the UK are:

- Flooding and coastal changes including erosion from extreme events
- Risks to health caused by high temperatures
- Water shortages and drought
- Risk to natural environments & services - landscape, wildlife, pollinators, timber etc
- Risk to food production & trade
- Emergence of new pests and diseases affecting people, plants & animals

What impact do your proposals have on our ability to resist or tackle these problems in the future?

Impact of proposal Positive/ Neutral/ Negative	Explanation of impact	Mitigation

Staff and Safety Joint Consultative Group

Terms of reference

1. Title

The group shall be called the “Canterbury City Council Staff and Safety Joint Consultative Group” hereinafter called the “Consultative Group”.

2. Representation

The Consultative Group shall comprise five members of the council to be appointed annually being in numbers politically proportionate to the council. An equal number of staff (up to five) to be appointed by the recognised trade unions in proportion to the number of such staff of the council in membership of each union, provided that where the number of members of any one union is insufficient to qualify such union to appoint a representative, it may combine with one or more of the other recognised unions for this purpose. The members shall retire annually and shall be eligible for re-appointment.

If a member of the Consultative Group ceases to be an employee of the council, they shall cease to be a member of the Consultative Group. Any vacancy shall be filled by the union or the combination of unions concerned, who appointed the retiring member.

3. Chair

A Chair and Vice-Chair shall be appointed by the Consultative Group at their first meeting each year. The Chair shall be a member of the council, with the Vice-Chair appointed from the staff side. The Chair of a meeting shall have a casting vote. In the absence of the Chair the Vice-Chair shall chair the meeting; in the absence of both and if the meeting is quorate then the Consultative Group shall appoint a Chair for that meeting.

4. Officers

The committee shall be supported by Democratic Services and any other necessary officers.

5. Functions

The functions of the Consultative Group shall be:

- a) to establish regular methods of consultation between the council and staff on matters of mutual interest, including the prevention of differences and the reconciliation of them should they arise; but no question of individual discipline, promotion, or efficiency shall be within the scope of the Consultative Group;
- b) to consider any relevant matter referred to it by the council, its committees, the officer Management Team or by any of the recognised trade unions in membership;
- c) to make recommendations to the council and if appropriate any of its committees as to the application of the terms and conditions of service and the education and training of staff employed by the council;

- d) to keep under review the measures taken to ensure the health, safety and welfare of all the council's staff in accordance with the provisions of Section 2(7) of the Health and Safety at Work Act 1974 (as amended);
- e) to consider and express views in any matter specifically assigned to it.

6. Meetings

1. The Consultative Group shall meet when there is business to transact. The Chair or the officer Management Team may direct Democratic Services to call a meeting at any time. The matters to be discussed at any meeting of the Consultative Group shall be stated upon the agenda summoning the meeting, provided that any other business may be considered if admitted by a majority of those present at such meeting.

2. The quorum of the Consultative Group shall be five representatives with a minimum of two from each side.

3. No resolution shall be regarded as carried unless it has been reached by a simple majority both of the members of the council and the members of staff voting separately (votes being recorded if requested), and in the event of the Consultative Group being unable to arrive at an agreement, the fact of the dispute and the positions of the two sides shall be reported to the appropriate decision making body.

4. Matters will be referred to the appropriate body for resolution.

October 2023

The submission of film and other material to Licensing hearings

Recorded film footage may form part of a submission to a Licensing Panel on the following basis:

1. When submitted by a Responsible Authority within the meaning of S13 Licensing Act 2003 that Authority shall indicate whether the material is suitable to be shown in public or private session. The Head of Legal Services shall determine whether they agree with that indication and will order the agenda accordingly.
2. Other parties will be notified that a party intends to make use and show the material as part of their submission. In seeking to use the material parties must bear in mind the need for a fair hearing although it may not be possible for a party to provide copies of the material for others in advance.
3. On the day of the hearing the council will use its best endeavours to show the material but if through technical or other reasons it cannot be shown that in itself will not require the hearing to be adjourned. Parties should be aware that it may be necessary for the material to be shown without the press or public present.
4. Recorded material will not be shown in any webcast version of the hearing. Any live stream will be paused while the recording is shown to those present in the meeting.
5. The council will destroy any material in its possession once any prospect of an appeal from the decision has passed.

October 2023

Protocol for live streaming of meetings

Hybrid meetings - general

The **purpose** of hybrid meetings is to allow certain individuals to take active part in committee meetings or briefings remotely when they are not able to attend the venue in person.

1. Hybrid committee meetings

Who can take part in a hybrid committee meeting remotely?

- Officers from third parties who need to take active part but who are not able to attend in person.
- Council officers who need to take active part but are not able to attend in person.
- Elected members who are not members of the committee, but who need to be present to answer questions and cannot attend in person e.g. Cabinet Members

Once the meeting software allows for a waiting room facility, members of the public who have registered to speak on items will be offered the opportunity to attend remotely. Pre-recorded contributions will not be introduced initially due to the added complexity of incorporating speakers into the virtual arrangements.

Who cannot take part in a hybrid committee meeting remotely?

- No elected member who intends to cast a vote can join a committee meeting remotely: they must be physically present.
- Any individual not taking an active part in a committee meeting; they do not need hybrid access as they can watch / listen to the meeting streamed online.

Advice for all before the committee meeting starts:

- Sit in a quiet space with good lighting and a neutral, plain background
- Make sure you are not in silhouette
- Test your microphone and camera before the meeting starts
- Plug in your meeting device, or make sure it has sufficient battery
- Test your wifi connection, and if necessary take steps to ensure you have the best connection possible (ask other people using your wifi to refrain from using excessive bandwidth while you are in the meeting).
- Mute notifications on your device (e.g. calendar appointments, chat notifications) just before you join
- Mute your mobile phone

Hybrid Committee meetings - general points to note

1. Hybrid committee meetings will be live-streamed via the Council's YouTube channel and website.

2. Hybrid Committee meetings will be recorded, so an audiovisual record of each meeting will be available to the public on the Council's website after each meeting has ended.
3. Members of the public attending in person to observe or speak, or taking part remotely to speaker, should be aware that they may appear on camera.
4. If you attend a hybrid meeting in person at the Guildhall and do not wish to appear on camera please make an officer aware or email democracy in advance of the meeting
5. The live stream of a hybrid committee meeting cannot be 'adjourned, only 'ended', so if there is poor remote communication, disturbance in the chamber or any other communication difficulty, a timed period of adjournment can be affected by manually switching off the cameras and mics within the chamber and remotely, but the stream will not be halted.
6. All individuals taking part in hybrid committee meetings must ensure that no sensitive documents or materials are visible via the cameras used.

Hybrid Committee meeting protocols for officers and third parties

1. Join the meeting five minutes before the meeting start time, if you are attending the entire meeting, with your camera on but your mic off. If you are attending for a particular item only, please listen and follow the agenda online then join ready for you item.
2. For third parties, the DSO will admit you to the meeting. Be aware that you will be entering straight into the live meeting (not a waiting room) so your mic should be muted, your camera should be on and you should be ready to be on camera.
3. Ensure that the name you display on joining the meeting is correct.
4. Keep your microphone muted until invited to speak by the Chair.
5. Let the DSO / Chair know if you want to speak or respond to a point by raising a virtual hand (press the raised hand icon third from right on the bottom row of icons. To cancel the raised hand, press it again) and wait to be invited to speak.
6. Do not use the in-meeting chat facility, unless it is to alert the DSO to technical issues. Be aware that anything written in the in-meeting chat may be seen by everyone 'present' in the Google Meet.
7. Have your camera on for the duration of the item / meeting, but your mic off when not speaking.
8. If you need to leave a meeting early, let the DSO know by sending a Google chat message.
9. You must share any presentation/s you are planning to give during the meeting with the DSO before the meeting starts, so that members have a back-up if the connection is poor.
10. The Chair may decide, if an officer's connection is poor and clear communication is not possible, to remove the officer from the meeting. The Chair may then decide whether to defer the item the officer was present to advise upon, or not.

Hybrid committee meeting protocol for elected members

1. No political insignia like rosettes and badges, either physically or 'virtually' in the form of avatars, etc, are to be worn.
2. Join the meeting five minutes before the meeting start time, if you are attending the entire meeting, with your camera on but your mic off. If you are attending for a

particular item only, you can watch or listen to the broadcast and join 2 minutes before its scheduled start time / the DSO will message you when your item is about to start.

3. Ensure that the name you display on joining the meeting is correct.
4. Have your camera on for the duration of the item / meeting, but your mic off when not speaking.
5. Let the DSO / Chair know if you want to speak or respond to a point by raising a virtual hand (press the raised hand icon third from right on the bottom row of icons. To cancel the raised hand, press it again) and wait to be invited to speak
6. Do not use the in-meeting chat facility, unless it is to alert the DSO to technical issues.
7. If you need to leave a meeting early, let the DSO know by sending a Google chat message.
8. Do not attempt to share your screen.
9. The Chair may decide, if an elected member's connection is poor and clear communication is not possible, to remove the elected member from the meeting. The Chair may then decide whether to defer the item the elected member was present to advise upon, or not.

Retention period

The existing audio recordings have not been deleted since recordings started, back in 2014.

The change to audio-visual will require a specified retention period, given that information is published 'to the world' on the Internet. There is no statutory requirement to retain the AV recordings for a specified period so we have discretion.

Item 6

Governance Committee

13 February 2024

Subject: Councillor Interest Governance Review Recommendations

Director and Head of Service:

Tricia Marshall - Director Corporate Services

Jan Guyler - Head of Legal Services and Monitoring Officer

Officer:

Jan Guyler - Head of Legal Services and Monitoring Officer

Cabinet Member:

Mike Sole

Key or Non Key decision: Non Key

Decision Issues:

These matters are within the authority of Full Council.

Is any of the information exempt from publication:

This report is open to the public.

CCC ward(s): All

Summary and purpose of the report:

To consider proposed solutions to address recommendations made by the Councillor Interest Governance Review.

To Recommend to Council / To Note:

- 1) **To note the adoption by Management Team of the new forms/process notes listed below:**

 - a) **Call for Sites Submission Form (attached as Appendix 2) which includes an Authority Employee / Member Declaration to be completed by employees or members putting forward sites to alert Planners of a potential conflict of interest so the Monitoring Officer can be informed;**
 - b) **Call for Sites Authority Employee / Member Declaration - Process Note (attached as Appendix 3) requiring planning colleagues to record on a spreadsheet that the authority employee / member declaration has been appropriately reviewed and the Monitoring Officer has been contacted where necessary**
 - c) **Sensitive Interests form (see Appendix 3 of the Councillor Interest Governance Review) for use by the Monitoring Officer to record**

applications for a sensitive interest in accordance with s32 Localism Act 2011

2) To recommend to full Council that delegated authority be given to the Monitoring Officer, in consultation with the Head of Paid Service, to:

- a) amend the Members Code of Conduct to include the requirement for Members to register all directorships as Other Registrable Interests, whether or not they include a pecuniary interest;**
 - b) make further changes to the constitution that relate to the proposed amendments to the Members' Code of Conduct, including for example, changes to procedure rules in terms of when members with a DPI and OSI may speak at a meeting to mirror the addition of Other Registrable Interests and in relation to sensitive interests;**
 - c) amend the Arrangements for dealing with Councillor Conduct Complaints to require the Monitoring Officer to refer a matter to the police where there is a potential criminal offence regarding the failure by a Councillor to appropriately disclose a Disclosable Pecuniary Interest (Localism Act 2011).**
-

Next stage in process:

The report will be presented to full Council on 22 February 2024 to ensure all the audit recommendations are met and to provide delegated authority to the Monitoring Officer to make the necessary amendments to the Constitution, including the Members' Code of Conduct, procedural rules and the Arrangements for dealing with Councillor Conduct Complaints. A verbal update regarding discussions on this matter at the Standards Committee on 7 February will be provided at the Governance Committee as there will not be time to update this report between the two committees.

1. Introduction

There has been considerable public interest in a Private Eye article about the inclusion of a site owned by councillors in the draft local plan and allegations that planning permission had been granted for that site, all without appropriate levels of transparency. This prompted CCC to ask the East Kent Audit Partnership (EKAP) to undertake an investigation to review the adequacy and effectiveness of governance arrangements for potential parcels of land owned by officers or members to be considered for inclusion in the Local Plan. EKAP's work did not include an investigation regarding the conduct of Councillors that would normally be carried out by the Monitoring Officer in relation to Members' Code of Conduct complaint.

2. Detail

The EKAP report and covering report from the Audit Committee on 24 January 2024 are attached to this report as Appendix 1. The EKAP report makes three recommendations which are set out below together with an overview of how each will be implemented. The

Audit Committee on 24 January 2024 made two further recommendations which are also set out below.

R1- Consideration should be given to adding a declaration (similar to that on a Planning Application) seeking confirmation whether the landowner is an Officer, Member or is related to one, adding a box for agents / developers with the option stating 'Not Known'. With a footnote to read, if this applies, to forward the information to the Monitoring Officer. The Monitoring Officer on receipt of such information may then ensure that any decisions made regarding the site are handled in accordance with the constitution, and also will be prepared to provide advice regarding declaring interests, and briefing colleagues as necessary.

Implementation - Planning Officers have updated their Call for Sites Submission Form to include a Declaration by Employees or Members where they are putting forward sites to flag for the planners a potential conflict of interest. Planning Officers have also updated their Process Note to require them to record that any Authority Employee / Member declaration has been appropriately reviewed and that the Monitoring Officer has been contacted where necessary. The Form is attached as Appendix 2 and the Process Note as Appendix 3.

The form is used at the information gathering stage of the Strategic Land Availability Assessment (SLAA) process which is prescribed in national planning policy and guidance. No amendments to the constitution are required.

R2 - Consideration to adopt (in the next updated version) the wording of the Model Code to include the requirement to declare "a) any unpaid directorships".

Alternatively to be discussed at Kent Secretaries regarding some additional wording added after the definition of Other Significant Interests (OSI's) in the Members' Code to provide some examples of OSIs which could include highlighting that members need to be alive to any directorship, even if they do not receive financial gain.

Implementation - CCC have adopted the Kent Members' Code of Conduct which has been approved by the Kent Secretaries Group, a forum for Heads of Legal and Monitoring Officers and provides safety in numbers in terms of working through any periodic recommended updates to the Code. The Monitoring Officer has consulted with the Kent Secretaries working group regarding the proposed recommendation and the group agreed that the recommendation should be adopted so that all members are required by the Members' Code of Conduct to register any unpaid directorships as Other Registrable Interests. All Monitoring Officers in the working group had been involved in cases where members had found the Regulations confusing in terms of when a directorship amounted to a Disclosable Pecuniary Interest and when it didn't. The blanket requirement to register unpaid directorships as Other Registrable Interests as well as directorships that amount to DPI's would provide further protection to members.

It is therefore proposed that delegated authority be given to the Monitoring Officer to make the necessary amendments to CCC's Members' Code of Conduct to incorporate this requirement. The Members' Code of Conduct forms part of the Council's Constitution so will require the approval of the Standards Committee, Governance Committee and full Council to make the proposed changes.

Changes will need to be made to the following sections of the Members' Code of Conduct to add in the requirement for members to register any unpaid directorships:

- Paragraph 1.7
- New paragraph 1.10
- Paragraph 1.12
- Paragraph 4
- Paragraph 5
- Paragraph 6.1
- Paragraph 7.2

Further amendments to the Constitution are required in the Procedure Rules in terms of when a Member can speak on an agenda item, or not, when they have a Disclosable Pecuniary Interest (DPI), Other Significant Interest (OSI) and reference to Other Registrable interests will need to be added to this section. The Monitoring Officer will undertake a careful check of the Constitution as a whole to identify whether any other sections need to be updated to reflect this change and action the changes accordingly.

R3 - Consideration given to adopting a 'control sheet' to record all s32 requests received, the evidence reviewed and the outcome of the decision (whether granted or denied) to be retained by the Monitoring Officer.

Implementation - It is proposed that the draft form proposed at Appendix 3 of the Councillor Interest Governance Review report be adopted with the addition of a summary of the provisions of S32 of the Localism Act 2011 provided on the second page of the form as a reminder of the legal test and the table setting out the evidence has been made larger to allow information to be added. This form will be completed by the Monitoring Officer and record the Member's reasons for seeking a s32 Sensitive interest, evidence to support the request and the MO's decision. It will then be stored in the Legal Services case management system. The Constitution will be checked to identify any necessary amendments to reflect this change and changes made by the MO under this delegation.

R4 - Proposed by the Audit Committee - The Arrangements for dealing with Councillor Conduct Complaints, which form part of the Constitution, be amended so that if officers are aware of any possible offences they report it to the police. The Arrangements currently provide that while assessing a councillor conduct complaint it transpires that there is a potential criminal offence in relation to a Councillor's failure to disclose a DPI then the Monitoring Officer should advise the complainant to refer the matter to the police.

Implementation - It is proposed that paragraph 4.4 of Annex 1 of the Arrangements be amended to read as follows: "If the complaint identifies potential criminal conduct or potential breach of other regulations by the Subject Councillor or any other person, the Monitoring Officer shall report the complaint to the police or other prosecuting or regulatory authority....."

R5 - Proposed by the Audit Committee - A recommendation to Cabinet that an external investigation is carried out.

Cabinet will consider this recommendation and if any issues arise for the Standards Committee and Governance Committee the matter will come to a future committee.

3. Relevant Council policy, strategies or budgetary documents

Where relevant, these have been referred to within this report.

4. Consultation planned or undertaken

The issues raised in this report do not require a consultation.

5. Options available with reasons for suitability

Option 1 - To Recommend to full Council / To Note:

1) To note the adoption by Management Team of the new forms/process notes listed below:

a) Call for Sites Submission Form (attached as Appendix 2) which includes an Authority Employee / Member Declaration to be completed by employees or members putting forward sites to alert Planners of a potential conflict of interest so the Monitoring Officer can be informed;

b) Call for Sites Authority Employee / Member Declaration - Process Note (attached as Appendix 3) requiring planning colleagues to record on a spreadsheet that the authority employee / member declaration has been appropriately reviewed and the Monitoring Officer has been contacted where necessary

c) Sensitive Interests form (see Appendix 3 of the Councillor Interest Governance Review) for use by the Monitoring Officer to record applications for a sensitive interest in accordance with s32 Localism Act 2011

2) To recommend to full Council that delegated authority be given to the Monitoring Officer, in consultation with the Head of Paid Service, to:

a) amend the Members Code of Conduct to include the requirement for Members to register all directorships as Other Registrable Interests, whether or not they include a pecuniary interest;

b) make further changes to the constitution that relate to the proposed amendments to the Members' Code of Conduct, including for example, changes to procedure rules in terms of when members with a DPI and OSI may speak at a meeting to mirror the addition of Other Registrable Interests and in relation to sensitive interests;

c) amend the Arrangements for dealing with Councillor Conduct Complaints to require the Monitoring Officer to refer a matter to the police where there is a potential criminal offence regarding the failure by a Councillor to appropriately disclose a Disclosable Pecuniary Interest (Localism Act 2011).

Option 2 - To amend the recommendations

Option 3 - To reject the recommendations.

6. Reasons for supporting option recommended, with risk assessment

Option 1 is recommended as it provides a resolution for all 3 recommendations of the EKAP audit and one of the two recommendations made by the Audit Committee. The forms are

user friendly and provide more clarity and the suggested amendments to the Members' Code of Conduct and other sections of the Constitution will provide greater protection for members as the legislation on directorships as DPs is confusing.

Options 2 and 3 run the risk of not meeting the recommendations from the EKAP report.

7. Implications

(a) Financial

None identified.

(b) Legal

None identified.

(c) Equalities

None identified.

(d) Environmental including carbon emissions and biodiversity

None identified.

Other implications

Not applicable.

Contact Officer: Jan Guyler, Head of Legal Services & Monitoring Officer

Background documents and appendices

Appendix 1 - Audit Committee papers (Councillor Interest Governance Review and covering report)

Appendix 2 - New form to be used by Planning Officers when preparing a local plan

Appendix 3 - New Process Note to be used by Planning officers

Appendix 4 - Climate Change Impact Assessment

Additional document(s) containing information exempt from publication:

No

Appendix 1:

Governance Review - Local Plan Interests

1.0 Information

Summary of Investigation:	To review the adequacy and effectiveness of governance arrangements for potential parcels of land owned by officers or members to be considered for inclusion in the Local Plan. EKAP's work will not include any investigation that would normally be carried out by the Monitoring Officer as a Code of Conduct complaint.
Commissioning Manager:	Head of Paid Service
Date Investigation Commenced:	19.09.23
Date Investigation Concluded:	23.11.23

2.0 Schedule of Meetings Held

Capacity (employee, witness, manager)	Date of meeting	Scope of Meeting
Manager	20.09.23	Outline the processes involved in compiling the Draft Local Plan
Manager	22.09.23	Outline Constitution and Decision Making processes
Manager	22.09.23	Explain s.32 Localism Act processes and the three decisions made
Manager	09.10.23	Outline the changes to the New Local Plan and new Member Working Party arrangements
Manager	24.10.23	Local Plan process and political decisions made
Witness	27.10.23	To receive evidence of allegations of wrongdoing and how that impacts the scope of this review
Manager	01.11.23	Interim update meeting, to cover several outstanding questions

3.0 Findings

There has been considerable public interest in a Private Eye article about the inclusion of a site owned by councillors in the draft Local Plan and allegations that planning permission had been granted for that site, all without appropriate levels of transparency. As a result, EKAP is being asked to:

3.1 Review the processes surrounding the inclusion of the Milton Manor site into the draft Local Plan and whether they complied with the Council's constitution and any other relevant Council procedures or guidance in place at the time;

Meetings were held with relevant staff to gain an understanding of the overall process and the adopted procedures. The relevant requirements for local authorities is set out in [Section 3](#) of the [National Planning Policy Framework](#) (NPPF) which requires that each local planning authority should prepare a Local Plan for its area.

The Council's Constitution provides the framework for the rules for all decision making and delegations. In relation to the Local Plan process the stages for decision making were all in accordance with Council procedure. The key decision making points are listed on the Timeline at Appendix 1.

The call for sites is not limited to a certain stage in preparing a plan as nominations for land to be evaluated and considered may be received at any time. However an early step in the formal process is the advertisement to the 'world at large' for the call for sites. The digital form used by the Council for submissions to be made does not require a declaration to be made regarding whether the landowner of the submitted site is either an officer or member of the Council, or is related to one. This fact was benchmarked with other East Kent councils resulting with none of the councils requiring such a declaration at this stage. It was determined, this is not a requirement at a scoping stage or screening opinion or pre-planning advice stage either. In fact, of course any of these submissions may be made by an agent or developer at any time without the landowner yet 'being on board' or even aware.

In this specific case, the agent wrote (an email 15.07.20) separately to the planning team advising them of the ownership details of the land, with the clear intention to declare the ownership, stating: *"Whilst the form did not enquire as to the nature of the landowners and whether they have a connection to the Council, both Councillors are keen to ensure that their land ownership is known by officers to ensure disclosure"*. There was however a missed opportunity, as the information was not passed to the Monitoring Officer at that time.

Recommendation 1

Consideration should be given to adding a declaration (similar to that on a Planning Application) seeking confirmation whether the landowner is an Officer, Member or is related to one, adding a box for agents / developers with the option stating 'Not Known'. With a footnote to read, if this applies, to forward the information to the Monitoring Officer. The Monitoring Officer on receipt of such information may then ensure that any decisions made regarding the site are handled in accordance with the Constitution, and also will be prepared to provide advice regarding declaring interests, and briefing colleagues as necessary.

3.2 Comment on whether improvements could practically be made to the Constitution or any other relevant Council procedures or guidance in order to improve transparency and public confidence in decision making on the Local Plan and sites allocated within it for development that are owned by councillors or officers;

There is National Guidance for Councillors in respect of interests and the expectation of complying with the Seven Principles of Public Life, this includes a paragraph which reads;

“What are pecuniary interests?”

A person’s pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property)”.

This National Guidance also provides a link to a Model Code of Conduct for Members, and informs the reader that *“Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members’ interests”.*

The Council’s Code sets out clearly what is to be declared in the register of interests, and this is shown at Appendix 2. The only relevant difference identified as part of this review, between CCC’s current Members’ Code of Conduct, and the Model Code is at appendix B Table 2: Other Registerable Interests, where the Model Code states;

“You must register as an Other Registerable Interest : a) any unpaid directorships”

The remainder of the table is the same in both (see Appendix 2).

The Council’s Members’ Code of Conduct is a collaborative code discussed, and agreed via the Kent Secretaries network then adopted by each of the local authorities. The Monitoring Officer has confirmed that *“once the LGA Model Code was published the Kent Secretaries group set up an officer’s working group to consider the Model Code and propose an amended Kent Code accordingly. A lot of the Model code was added to the Kent Code, the bits that were not incorporated were ones that exceeded what legislation requires”.*

The circumstances of this case include an allegation that a company directorship was incorrectly omitted from the Register of Interests. However, a review of Companies House records confirmed that the specific circumstances were such that it did not need to be declared as the company did not operate *“for profit or gain”* - it did not trade nor hold any assets per the public record. After looking more closely at the provision under Part 8 however, it would appear that part b) (ii) does apply to this case as the shares held exceed 1/100th of the total issued share capital in CCH Milton Manor Park Ltd. Meaning that this should have been declared under 8 Part G. Whether this is a breach of the Localism Act 2011 or not, is outside the scope of this review .

If the Council were to adopt part a) above from the Model Code, into its own Members’ Code this would prevent any ‘uncertainty’ in future, as in future all positions of office would need to be declared.

Recommendation 2

Consideration to adopt (in the next updated version) the wording of the Model Code to include the requirement to declare “a) any unpaid directorships”.

Alternatively to be discussed at Kent Secretaries regarding some additional wording added after the definition of Other Significant Interests (OSI’s) in the Members’ Code to provide some examples of OSI’s which could include highlighting that members need to be alive to any directorship, even if they don’t receive financial gain.

3.3 Similarly, review the processes around any planning applications and screening/scoping opinion requests relating to this site;

The timeline at Appendix 1 records interactions with the Council by the agents acting for the landowners in respect of screening, scoping, pre planning advice, planning interactions; also summarised as follows:-

- 14.12.22 Screening report
- 02.03.23 Pre planning advice
- 26.05.23 EIA scoping report
- 20.09.23 Outline Planning Application

None of the first three stages require a declaration regarding whether the application is on behalf of a member or officer of the Council (or a close associate of one), by the time the Planning Application was submitted (September 2023), (which does require such a declaration) the landowners were no longer serving councillors and thus did not apply.

No recommendation for improvement needed, but cross reference this to the spirit of Recommendation 1.

3.4 Comment on whether improvements could practically be made to the constitution and any other relevant Council procedures or guidance in order to improve transparency and public confidence in consideration of planning applications/opinion requests by councillors or officers;

The Constitution clearly sets out at Appendix E - its Planning Code of Practice. Paragraph 6 of which covers “development proposals submitted by councillors, officers and Council development”. There are no enhancements required at this time, the protocol and standing order is very clear.

<https://democracy.canterbury.gov.uk/documents/s117324/Appendix%20E%20-%20Planning%20Local%20Code%20of%20Good%20Practice.pdf>

No recommendation for improvement needed, but cross reference this to the spirit of Recommendation 1.

3.5 Comment on the submitted evidence supporting a request for anonymity under s32 of the Localism Act and seek assurance that the decision to grant anonymity was proportionate, consistent and justified on all three occasions. - to include a review of the MO’s previous decisions in 2015 and 2019 (- while maintaining confidentiality over the details).

The Monitoring Officer (MO) explained that the decision to permit anonymity under s.32 of the Localism Act had been taken three times, as follows;

- 2015 - Monitoring Officer Sarah B
- 2019 - Monitoring Officer Stephen B
- 2023 - Monitoring Officer JG

There was no documented file retained covering the evidence considered in 2015 or 2019 to agree to the request under s.32. Such a request remains in place until circumstances change and the Councillor updates that it may be removed, or is removed when the Councillor is no longer in office. It does not automatically expire or require annual review. The 2023 assessment was made on 07/02/2023 and was considered and granted by the Monitoring Officer the same day. The published interests therefore indicated that five properties had been disclosed to the MO, and that these were to remain undisclosed under s32. It is not for this review to challenge the decision of the Monitoring Officer, the 2023 decision is recorded and the outcome was shared with the senior governance colleagues via email.

The local news covered an article 21.09.23, claiming to be quoting the individual concerned, and the article expresses some detail regarding the personal safety of the individual.

<https://www.kentonline.co.uk/canterbury/news/nightclub-owner-s-manor-house-could-become-100-home-estate-293784/>

*“I am nervous about people knowing where I live because of what I do for a living”. “People know when we’re at work - our cars are parked outside the venue. They know when the house hasn’t got us in it. Our kids are here with a babysitter, and it scares the s*** out of me, to the point where sometimes I’ll be at work and I have to come home.” Mrs Jones-Roberts says over the years she has been the subject of intimidation and even “murder threats” while at work. “There are nasty, violent people about,” she said.”*

Recommendation 3

Consideration given to adopting a ‘control sheet’ to record all s.32 requests received, the evidence reviewed and the outcome of the decision (whether granted or denied) to be retained by the Monitoring Officer (draft proposed at Appendix 3).

4.0 Conclusion leading to Recommendations

- 4.1 Agreed processes for including the site into the Draft Local Plan were followed, an opportunity to enhance public confidence in compiling the Local Plan was identified in **Recommendation 1**.
- 4.2 The majority of required declarations of interest were made, but a directorship in a non trading company with shares of £25 value was not declared. To remove any uncertainty, consideration could be given to adopting the wording of the Model Code into the next version of the Council's Members' Code of Conduct to include as Other Registerable Interests "*any company with which they are associated including any unpaid directorships*", as set out in **Recommendation 2**.
- 4.3 Agreed processes for planning applications and screening/scoping opinion requests relating to this site were followed, an opportunity to enhance public confidence was identified in **Recommendation 1**.
- 4.4 Potential improvements to the Constitution or any other relevant Council procedures or guidance in order to improve transparency and public confidence in consideration of planning applications/opinion requests by councillors or officers were not identified; but as in 4.1 and 4.3 above one opportunity to ensure these circumstances are not ever repeated is set out in **Recommendation 1**.
- 4.5 The use of s.32 of the Localism Act was considered by three different Monitoring Officers, the records for which may be standardised and retained through the use of a control sheet as suggested in **Recommendation 3**.

5.0 Summary of Appendices Attached

Appendix 1 - Timeline

Appendix 2 - Required Declarations from CCC Members' Code of Conduct

Appendix 3 - Suggested Control Sheet for Recording s.32 Requests and their outcome

Appendix 4 - Action Plan of Recommendations

Timeline

27.05.21 = Committee Process

Date	Relevant Event / Action	Outcome
08.05.19	New Member declarations to MO following Elections	5 private addresses correctly declared. Withheld from the public register under s.32. Directorships in several companies included but CCH MMP Ltd. was not declared. 25% shareholder after resignation until it was dissolved 14.09.21
30.06.20	Call for Sites submission submitted electronically to the Council Call For Sites 30.06.20 APZNZA~1.PDF	Iceni Projects agents submitted the form which covers more than this one site.
15.07.20	Email from Agents to Planning re Call For Sites alerting to MM being in the name of CCH Build Solutions Ltd. being owned by the Cllrs.	Received by the Planners undertaking the scoring for the land submitted as part of the call for sites assessment process. (ST advised the Planners to advise the Cllrs to update the MO- it was not passed on to the MO by officers).
27.05.21	Policy Committee received the report: <i>Canterbury District Local Plan to 2040 - options consultation</i> - see minute 13 "The consultation did not include specific sites. However, at the next stage, when the draft Local Plan was published, a draft selection of sites would be included for public consultation." https://democracy.canterbury.gov.uk/documents/g12630/Printed%20minutes%2027th-May-2021%2019.00%20Policy%20Committee%20-%20Decommissioned%2019522.pdf?T=1	Cllr LJ-R was in attendance declared a financial interest in one of the sites submitted in the call for sites in the Local Plan to 2040, and abstained from voting; as recorded in the minutes.
19.10.22	Cabinet received the report: <i>Draft Local Plan - seeking approval to consult</i> https://democracy.canterbury.gov.uk/do	It was resolved to approve to enter into consultation under regulation 18.

	cuments/s119631/Minutes.pdf	Cllr L J-R was not in attendance.
14.12.22	Overview & Scrutiny received the report: <i>Consultation on the draft Canterbury District Local Plan To 2045 and associated strategies and plans</i> https://democracy.canterbury.gov.uk/ielistDocuments.aspx?CId=756&MId=13306&Ver=4	Opportunity for members of the Overview and Scrutiny Committee to gain a greater understanding of the key strategies within the draft Canterbury District Local Plan comments would be fed into the consultation process which closed 16 January 23. Cllr L J-R was not in attendance.
14.12.22	EIA Screening Report https://pa.canterbury.gov.uk/online-applications/applicationDetails.do?keyVal=RN4TDPEA05C00&activeTab=summary	Decided - Development could have significant effects on the environment, thus an EIA is required.
05.01.23	Council Agenda Item 14: <i>To receive the following minutes of the meetings specified and to receive questions and answers on any of the minutes</i> https://democracy.canterbury.gov.uk/ielistDocuments.aspx?CId=138&MId=13110&Ver=4	Received by general assent the minutes of Cabinet 19.10.22 (which resolved to go out to consultation on the Draft Local Plan). Cllr L J-R was in attendance. As there was no debate or vote, there was no requirement to declare any interest in the Cabinet minutes.
07.02.23	The Monitoring Officer reconsidered and decided on a request under s.32 of the Localism Act.	The home address of both Cllrs L J-R and M J-R was not published on the register of interests.
02.03.23	Pre- Planning Advice was issued, the standard fee of £5,304 was paid.	Written Planning Advice issued regarding the site.
26.05.23	EIA Scoping Report https://pa.canterbury.gov.uk/online-applications/applicationDetails.do?keyVal=RV9W8UEA01U00&activeTab=summary	Decided - No Objection
20.09.23	Outline Planning Application ref; CA/23/01766 received by the Council https://pa.canterbury.gov.uk/online-applications/applicationDetails.do?keyVal=S19Y7MEA04Q00&activeTab=summary	Validated and commenced processing. The applicants are no longer Councillors.

Appendix 2

Extract from the Constitution - Members' Code of Conduct

DISCLOSABLE PECUNIARY INTERESTS, AS PRESCRIBED BY REGULATIONS, ARE AS FOLLOWS:

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession, or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a councillor, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: a) under which goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate Tenancies	Any tenancy where (to M's knowledge): a) the landlord is the relevant authority; and b) the tenant is a body in which the relevant person has a beneficial interest.

Securities	<p>Any beneficial interest in securities of a body where:</p> <p>a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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The National Model Code goes further and also includes;

Table 2: Other Registrable Interests

<p>You must register as an Other Registrable Interest :</p> <p>a) any unpaid directorships</p> <p>b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority</p> <p>c) any body</p> <p>(i) exercising functions of a public nature</p> <p>(ii) directed to charitable purposes or</p> <p>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which you are a member or in a position of general control or management</p>

DRAFT s.32 Control Sheet

Date Request Received:

Submitted By:

Date Decision Made and Issued:

Decision Made By:

Test	Consideration / Evidence	Outcome
Necessity/ Justification	list any evidence submitted / link to emails etc.	Met / Not Met
Proportionality		Met / Not Met
Searches Made	Internet searches / electoral role other sources checked to test what is already easily available to the 'world at large'.	Met / Not Met

The request for s.32 is **Granted** /or **Denied** (delete as appropriate)

Signed:

Dated:

SUMMARY OF RECOMMENDATIONS AND ACTION PLAN

Priority	Main Control Risk	Audit Recommendation to mitigate risk	Proposed Action or Action Taken	Proposed Completion Date & Responsibility
High	A lack of shared / or siloed knowledge. may impair governance over Member's interests and the implications.	1. Consideration should be given to adding a declaration (similar to that on a Planning Application) seeking confirmation whether the landowner is an Officer, Member or is related to one, adding a box for agents / developers with the option stating 'Not Known'. With a footnote to read, if this applies, to forward the information to the Monitoring Officer. The Monitoring Officer on receipt of such information may then ensure that any decisions made regarding the site are handled in accordance with the Constitution, and also will be prepared to provide advice regarding declaring interests, and briefing colleagues as necessary.	Agreed	May 2024 Monitoring Officer
High	Councillors may overlook DPis in error.	2. Consideration to agree to adopt (in the next version) the wording of the Model Code to include the requirement to declare "a) any unpaid directorships". Alternatively, to be discussed at Kent Secretaries, regarding some additional wording added after the definition of Other Significant Interests (OSI's) in the Members' Code to provide some examples of OSI's which could include highlighting that members need to be alive to any directorship, even if they don't receive financial gain.	Agreed	May 2024 Monitoring Officer
Medium	Lack of management trail leading to ineffective handover/ evidence.	3. Consideration given to adopting a 'control sheet' to record all s.32 requests received, the evidence reviewed and the outcome of the decision (whether granted or denied) to be retained by the Monitoring Officer (draft proposed at Appendix 3).	Agreed	May 2024 Monitoring Officer



Canterbury District Call for Sites Submission Form

You will need to provide:

- Details about who you are;
- A location plan;
- Information about the availability and ownership of the site; and
- Information about what you think it could be developed for

About you

The contact details provided will be used as the main contact for the site submission.

If you are completing this form on behalf of a client or an organisation, you will also be required to provide their details later in the form.

All questions with an asterix () are required fields.*

First name*

.....

Last name*

.....

Email*

Please enter a valid email address

.....

Phone number

.....

Address line 1*

.....

.....
Town*

.....
Postcode*

.....
In what capacity are you completing this form?*

Personal/An individual

On behalf of a client

An organisation

Client address

If applicable please provide us with the address of the organisation that is submitting a site.

Client/Organisation name*

.....
Address line 1*

.....
Town*

.....
Postcode*

Authority Employee / Member Declaration

It is an important principle of decision-making that the process is open and transparent. For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the local planning authority.

Do any of the following statements apply to you and/or client and/or landowner?
With respect to the authority, I am: (a) a member of staff (b) an elected member (c) related to a member of staff (d) related to an elected member

YES / NO

If Yes, please provide details of their name, role and how you are related to them.

.....

About the site

Site details

Site name*

.....

Site address*

.....

Site postcode

.....

Please attach a site location plan to the end of the form*

Site area (Hectares)

.....

Please choose the option that best describes the site from the options below*

Previously developed land

Not previously developed land

Mixed

Don't know

What is the current land use?*

If vacant, what was the last known use?

.....

Site ownership

What is your interest in the site?*

Landowner

Parish Council

Agent

Developer

Housing Association

Other

If Other please specify

Are you, or your client, Sole or Part owner of the site?*

Sole owner

Part owner

Not land owner

Other

Is the site being marketed?*

Yes

No

If Yes please provide details

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.....

.....

Are there any legal restrictions such as covenants or ransom areas?*

Yes

No

If Yes please provide details

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.....

.....

.....

Planning History

Has the site previously been submitted to the council in a previous Call for Sites?*

Yes

No

Please specify the relevant Site Reference number if known*

.....

Are there any previous planning consents or applications? Please provide details of any previous planning consents or refusals*

.....

.....
Are there any trees on your site subject to a Tree Preservation Order?*

Yes

No

If Yes please provide details

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.....
.....
.....

Is vehicular access to the site possible?*

Yes

No

If Yes please provide details

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.....
.....
.....
.....

Does the site front a road or highway?*

Yes

No

If Yes please provide details

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.....
.....
.....
.....

Is the site in close proximity to a footpath or cyclepath?*

Yes

No

If Yes please provide details

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.....

.....

.....

Is the site directly accessible by foot or bicycle?*

Yes

No

If Yes please provide details

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.....

.....

Is the site accessible by public transport?*

Yes

No

If Yes please provide details

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.....

Is mains water available to the site?*

Yes

No

Don't know

Is mains wastewater available to the site?*

Yes

No

Don't know

Is mains electricity available to the site?*

Yes

No

Don't know

Is mains gas available to the site?*

Yes

No

Don't know

Is broadband internet available to the site?*

Yes

No

Don't know

Is mobile network available to the site?*

Yes

No

Don't know

If Yes please provide details

.....

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.....

Is the site affected by or in close proximity to uses which may impact how the site might be developed, such as power lines, pylons, railway lines, major highways or industrial and other noisy uses?*

Yes

No

If Yes please provide details

.....

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.....

.....

.....

Please tell us anything else about the location of the site and the physical features?
E.g. topography, severe slope, vegetation cover etc.

.....

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.....

Your proposal

The following questions are an opportunity for you to tell us what you think the site is suitable for.

Please give details of the proposal*
Please provide a high-level description of your proposal

.....

.....

.....

.....

.....

What is your proposed use?*

You can select more than one choice

- | | |
|--------------------------------|--|
| Housing | Affordable Housing |
| Student Accommodation | Older Persons Housing (C2 and wider) |
| Employment | Research and Development/sciences |
| Offices | Light Industrial |
| Storage and Distribution | General Industry |
| Retail | Sports and Leisure (incl Hotels) |
| Gypsy/Traveller Pitch | Community and Cultural facilities (incl Education) |
| Wildlife/Biodiversity Habitats | Other |

If other please provide details

.....

If applicable, what is the estimated capacity of floorspace (sqm)?

.....

If applicable, what is the estimated number of dwellings?

.....

What type of dwellings are proposed?

You can select more than one option

Housing (including bungalows)

Flats/apartments

Student bed spaces/studios

Affordable Housing

If the site is 11 dwellings or over can the site provide 30% affordable housing?*

Yes

No

Not applicable

What tenure are you proposing?*

You can select more than one option

Social rent

Affordable rent

Shared ownership

Other intermediate product

Don't know

Deliverability

What are the timescales for the delivery of your proposal?*

0 - 5 years

6 -10 years

11 years+

Please explain why you think the site can be developed within the selected timescale*

.....

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.....

Supporting evidence

Which of the following choices apply to your proposal*

We have set out the supporting evidence required depending on the size of the site in our technical guidance. We recommend you follow this guidance.

LESS than 10 dwellings

MORE than 11 dwellings

MORE than 100 dwellings

Over 0.25 hectares non-residential use

Not yet defined

If you are submitting any a Landscape and Visual Impact Assessment please attached this to the end of the form.

If you are submitting any a Transport Assessment or Transport Statement please attached this to the end of the form.

Have discussions with Highways England or KCC Highways taken place?*

Yes

No

If Yes please provide details

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Have any discussions taken place with the Environment Agency?*

Yes

No

If Yes please provide details

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If you are submitting any a Flood Risk Assessment please attached this to the end of the form.

Have discussions taken place with any utilities providers?*

Yes

No

If Yes please provide details

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.....

Viability

Are you submitting evidence to support the deliverability of the site?*

If the site is not previously developed land, can you confirm that the benchmark land value of the site does not exceed £150,000 per gross acre?*

Yes

No

Don't know

Please note - As part of the local plan review, we will expect development proposals to clearly identify how they can achieve land values in line with the local plan review viability work. Benchmark land values for previously developed land will be considered as part of this process.

Are there any known significant abnormal development costs?*

Yes

No

If Yes please provide details

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Does the site require significant new infrastructure investment to be developed?*

Yes

No

If Yes please provide details

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Are there any issues that may influence the economic viability, delivery rates or the timing of the development?*

Yes

No

If Yes please provide details

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Have any design or master planning work been undertaken?*

Yes

No

If Yes please provide details

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Additional information

Is there anything else you would like to tell us?

.....

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If you would like to submit any additional information please attached this to the end of the form.

By submitting this form you agree to our privacy notice which can be found on the website.

We will publish the results of the Call for Sites in due course.

Call for Sites Authority Employee / Member Declaration - Process Note

- The Call for Sites questionnaire is saved on an internal system, and can be accessed by the Policy Team.
- The team periodically checks for new survey submissions. Once a new submission has been received, the data is downloaded in .xlsx format. An officer then undertakes an assessment of the site, reviewing all the information submitted.
- All assessments are reviewed by a Principal Policy Officer. A tick box and date column have been added to the Call for Sites assessment spreadsheet to record that the authority employee / member declaration has been appropriately reviewed and the Monitoring Officer has been contacted where necessary.

Appendix 4: Climate Change Impact Assessment (Checklist)

Please provide an assessment of the impact of the proposal under each of the headings below. If none, please say so.

1. Climate Change impacts

Impact of proposal Positive/ Neutral/ Negative	Explanation of impact If you have any relevant data, please include that in the explanation and reference the source. Neutral - N/A	Mitigation N/A
Impact on the council's target of being carbon neutral by 2030 This applies to emissions of carbon dioxide as a direct result of our own activities and services. Please consider the whole life impact of your proposals		
Neutral		
Impact on carbon emissions in the Canterbury district This applies to the carbon dioxide emissions in the district as a result of your proposal. Please consider the whole life impact of your proposals.		
Neutral		
Emission of other climate changing gases including methane, CFCs, nitrous oxide		
Neutral		

2. Adaptation to climate change - Impact on our resilience to the effects of climate change

The greatest risks posed by climate change to the UK are:

- Flooding and coastal changes including erosion from extreme events
- Risks to health caused by high temperatures
- Water shortages and drought
- Risk to natural environments & services - landscape, wildlife, pollinators, timber etc
- Risk to food production & trade

- Emergence of new pests and diseases affecting people, plants & animals

What impact do your proposals have on our ability to resist or tackle these problems in the future?

Impact of proposal Positive/ Neutral/ Negative	Explanation of impact	Mitigation
Neutral	No impact	N/A

3. Further assessment work

Is a further more detailed assessment required at a later stage of this proposal? No

If yes, please give a brief description