

**Wednesday 4 April 2018**  
**6pm**



Notice is hereby given that a **MEETING** of the **COUNCIL OF THE BOROUGH OF GOSPORT** will be held in the **TOWN HALL, GOSPORT** on **WEDNESDAY** the **FOURTH DAY** of **APRIL 2018** at **6PM**, AND **ALL MEMBERS OF THE COUNCIL ARE HEREBY SUMMONED TO ATTEND TO CONSIDER AND RESOLVE THE FOLLOWING BUSINESS –**

1. To receive apologies from Members for their inability to attend the Meeting.
2. To confirm the Minutes of Meeting of the Council held on 7<sup>th</sup> February 2018 (copy herewith).
3. To consider any Mayor's Communications.
4. To receive Deputations in accordance with Standing Order No 3.4 and to answer Public Questions pursuant to Standing Order No 3.5, such questions to be answered orally during a time not exceeding 15 minutes.

(**NOTE:** Standing Order No 3.4 requires that notice of a Deputation should be received by the Borough Solicitor **NOT LATER THAN 12 O'CLOCK NOON ON THURSDAY 29 MARCH 2018** and likewise Standing Order No 3.6 requires that notice of a Public Question should be received by the Borough Solicitor **NOT LATER THAN 12 O'CLOCK NOON ON THURSDAY 29 MARCH 2018**).

5. Questions (if any) pursuant to Standing Order No 3.3.

(**NOTE:** Members are reminded that Standing Order No 3.3 requires that Notice of Question pursuant to that Standing Order must be received by the Borough Solicitor **NOT LATER THAN 12 O'CLOCK NOON ON TUESDAY, 3 APRIL 2018**).

6. To receive the following Part II minutes of the Boards of the Council:

<b>BOARD</b>	<b>DATE</b>	<b>Minute No.</b>
Community Board	7 March 2018	35-36
Economic Development Board	14 March 2018	43-45

## 7. GOSPORT LOTTERY

The purpose of the report is to recommend that the Council facilitates a Gosport community lottery in order to raise funds for local charities, voluntary organisations and good causes in the Borough.

## 8. RIGHTS OF WAY AROUND FORT GILKICKER

To seek authority from Council to take the necessary steps to dedicate footpaths around Fort Gilkicker as formal rights of way.

**DAVID WILLIAMS  
CHIEF EXECUTIVE**

**TOWN HALL  
GOSPORT**

23 March 2018

### **FIRE PRECAUTIONS**

(To be read by the Mayor if members of the public are present)

**In the event of the fire alarm being activated, please leave the Council Chamber and Public Gallery immediately. Proceed downstairs by way of the main stairs or as directed by GBC staff, follow any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.**

**This meeting may be filmed or otherwise recorded. By attending this meeting, you are consenting to any broadcast of your image and being recorded.**

**MEMBERS ARE REQUESTED TO NOTE THAT:**

**(1) IF THE COUNCIL WISHES TO CONTINUE ITS BUSINESS BEYOND 9.30PM THEN THE MAYOR MUST MOVE SUCH A PROPOSITION IN ACCORDANCE WITH STANDING ORDER 4.11.18**

**(2) MOBILE PHONES SHOULD BE SWITCHED OFF OR SWITCHED TO SILENT FOR THE DURATION OF THE MEETING**

**MINUTES OF THE MEETING OF THE COUNCIL  
HELD ON 7 FEBRUARY 2018 AT 6.00pm**

Attendance:

The Mayor (Councillor Mrs Batty) (P) (in the Chair);

Councillors Allen (P), Ms Ballard (P), Bateman (P), Beavis (P), Bergin (P) , Burgess (P), Carter (P), Chegwyn (P), Mrs Cully (P), Ms Diffey (P), Earle (P), Edgar (P), Farr (P) Mrs Forder (P), Foster-Reed (P), Mrs Furlong (P), Hammond (P) Hicks (P), Hook (P), Mrs Hook (P), Huggins (P) Hylands (P), Jessop (P), Mrs Jones (P), Miss Kelly (P), Mrs Morgan (P), Murphy (P), Philpott (P) , Prickett (P), Raffaelli (P), Ronayne (P), Scard (P), and Wright (P).

Also in attendance: Honorary Freeman O'Neill

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**APOLOGIES**

There were none.

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**MINUTES**

COUNCIL RESOLVED: That the Minutes of the meeting of the Council held on 13 December 2017 be confirmed and signed.

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**MAYOR'S COMMUNICATIONS**

There were none.

**DEPUTATIONS**

There were no deputations received.

**QUESTIONS PURSUANT TO STANDING ORDER 3.4**

There were no questions received.

## **BUSINESS PLAN UPDATE AND COUNCIL DWELLING RENTS 2017/2018**

Consideration was given to a recommendation by the Community Board at its meeting held on 24<sup>th</sup> January 2018.

### **COUNCIL RESOLVED THAT:**

- The revised HRA Business Plan extract (Appendix A) and associated 2017/18 Revised Budget and 2018/19 Budget (Appendix B) is agreed.
- That Council Dwelling rents decrease by 1% (an average of £0.80 per week), continuing the four year reduction programme as detailed in the new national rent policy introduced in April 2016.
- The rent for older style garages is increased in line with inflation, as agreed in the Garage Renewal strategy and rent for non GBC tenants who have garages is increased by £1 per week.

## **PART II MINUTES**

**COUNCIL RESOLVED:** That the following Part II Minutes be received.

- Community Board: 17 October 2017 and 24 January 2018
- Economic Development Board: 31 January 2018
- Policy and Organisation Board: 6 February 2018

## **COUNCIL BUDGET 2018/2019**

Consideration was given to a Report of the Borough Treasurer detailing the budget and Council Tax for 2018/19 and the medium term budget forecast 2019/20 to 2021/22.

It was recommended that the Council approve:

- 2.1 A Revised Budget for 2017/18 of £10,163,000 as set out in Appendix A
- 2.2 A Budget for 2018/19 of £10,288,000 as set out in Appendix A
- 2.3 Any variation arising from the final Local Government Finance Settlement be accommodated by a transfer to / from the Revenue Financing Reserve.

- 2.4 That the level of Council Tax be increased by £6.38 per annum for a Band D property for 2018/19
- 2.5 It be noted that the Borough Treasurer Officer has determined that the Council Tax Base for the financial year 2018/19 will be 26,524.9 [item T in the formula in Section 31 B(1) of the Local Government Finance Act 1992, as amended (the "Act")].
- 2.6 That the following amounts be now calculated by the Council for the financial year 2018/19 in accordance with Section 31 and Sections 34 to 36 of the Local Government Finance Act 1992:

(a)	£ 52,312,233	Being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act.
(b)	£ 46,498,240	Being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
(c)	£5,813,993	Being the amount by which the aggregate at 2.6 (a) above exceeds the aggregate at 2.6(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31B(1) of the Act.
(d)	£219.19	Being the amount at 2.6 (c) above (Item R), all divided by Item 2.5 above (Item T), calculated by the Council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year.

(e) Valuation Bands (Gosport Borough Council)

A £	B £	C £	D £	E £	F £	G £	H £
146.13	170.48	194.84	219.19	267.90	316.61	365.32	438.38

Being the amounts given by multiplying the amount at 2.6 (d) above by the number which, in the proportion set out in Section 5(1) of the Act, is applicable to dwellings listed in a particular valuation band divided by the number which in that proportion is applicable to dwellings listed in Valuation Band D, calculated by the Council, in accordance with Section 36(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings in different valuation bands.

- 2.7 That it be noted that for the financial year 2018/19 Hampshire County Council is proposing the following amounts for the precept to be issued to the Council in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of the dwellings shown below:

Valuation Bands (Hampshire County Council)

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
800.64	934.08	1,067.52	1,200.96	1,467.84	1,734.72	2,001.60	2,401.92

- 2.8 That it be noted that for the financial year 2018/19 the Hampshire Police & Crime Commissioner is proposing the following amounts for the precept to be issued to the Council in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of the dwellings shown below:

**Valuation Bands (Hampshire Police & Crime Commissioner)**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
118.31	138.02	157.74	177.46	216.90	256.33	295.77	354.92

- 2.9 That it be noted that for the financial year 2018/19 Hampshire Fire and Rescue Authority are recommended to approve the following amounts for the precept issued to the Council in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of the dwellings shown below:

**Valuation Bands (Hampshire Fire & Rescue Authority)**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
43.83	51.14	58.44	65.75	80.36	94.97	109.58	131.50

- 2.10 That having calculated the aggregate in each case of the amounts at 2.6(e), 2.7, 2.8 and 2.9 above, the Council, in accordance with Sections 31A, 31B and 34 to 36 of the Local Government Finance Act 1992 as amended, hereby sets the following amounts as the amounts of Council Tax for the financial year 2018/19 for each of the categories of dwellings shown below:

**Valuation Bands (Total Council Tax)**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
1,108.91	1,293.72	1,478.54	1,663.36	2,033.00	2,402.63	2,772.27	3,326.72

- 2.11 The Borough Treasurer be given delegated authority to implement any variation to the overall level of Council Tax arising from the final notification of the Hampshire County Council, Hampshire Police & Crime Commissioner and Hampshire Fire and Rescue Authority precepts.
- 2.12 The Council determines in accordance with Section 52ZB of the Local Government Finance Act 1992 that the Council's basic amount of Council Tax for 2018/19, which represents a 3.0% increase, is not excessive in

accordance with the principles approved by the Secretary of State under Section 52ZC of the Act.

- 2.13 As the billing authority, the Council has not been notified by a major precepting authority (Hampshire County Council, the Police and Crime Commissioner for Hampshire or the Hampshire Fire & Rescue Authority) that its relevant basic amount of Council Tax for 2018/19 is excessive and that the billing authority is not required to hold a referendum in accordance with Section 52ZK of the Local Government Finance Act 1992.
- 2.14 Members have had regard for the Statement of the Section 151 Officer in accordance with the Local Government Act 2003 as set out in section 12.
- 2.15 The Capital Programme 2017/18 to 2020/21 as set out in Appendix D is approved.
- 2.16 That the Pay Policy Statement 2017/18 as set out in Appendix E is approved

It was requested and proposed that recommendation 2.15 of the report be considered individually.

This was not agreed.

It was proposed that the approval of the Members Allowance Scheme Appendix F be added as recommendation 2.17

**Voting was thereupon taken and the names of the Members voting for and against the Recommendations and those abstaining were read to the Council:**

**FOR THE RECOMMENDATION:** Councillors Allen, Bateman, , Beavis, Bergin Burgess, Carter, Mrs Cully, Edgar, Farr, Mrs Forder, Hook, Mrs Hook, Mrs Huggins, Mrs Furlong, Jessop, Mrs Jones, Mrs Morgan, Murphy, Philpott, Raffaelli, Ronayne, Scard, Wright, The Mayor **(24)**

**AGAINST THE RECOMMENDATION:** Councillors Ms Ballard, Chegwyn, Ms Diffey, Earle, Foster-Reed, Hammond, Hicks, Hylands, Miss Kelly, Mrs Prickett. **(10)**

**COUNCIL RESOLVED: That the recommendations including the additional recommendation 2.17 be approved.**

## **TREASURY MANAGEMENT AND PRUDENTIAL INDICATORS 2018/19**

Consideration was given to a report of the Borough Treasurer outlining the Council's prudential indicators for 2018/19 and recommending that the Council approve:



- The Prudential Indicators as identified in 2.1 of the report
- Minimum Revenue Provision Policy, as identified in 2.2 of the report; and
- The Treasury Management Strategy, as identified in 2.3 of the report.

**Voting was thereupon taken and the names of the Members voting for and against the Recommendation and those abstaining were read to the Council:**

**FOR THE RECOMMENDATION:** Councillors Allen, Ms Ballard, Bateman, Beavis, Bergin Burgess, Carter, Chegwyn, Mrs Cully, Ms Diffey, Earle, Edgar, Farr, Mrs Forder, Foster-Reed, Hammond, Hicks, Hook, Mrs Hook, Mrs Huggins, Hylands, Mrs Furlong, Jessop, Mrs Jones, Miss Kelly, Mrs Morgan, Murphy, Philpott, Mrs Prickett, Raffaelli, Ronayne, Scard, Wright, The Mayor **(34)**

COUNCIL RESOLVED: That the recommendations be approved.

### **ELECTION OF MAYOR AND DEPUTY MAYOR 2018-19**

The Council was informed that in accordance with Standing Order 2.4 the Borough Solicitor and Deputy Chief Executive had written to Group Leaders and Members of the Council to invite Member nominations for the selection of Mayor-Elect and Deputy Mayor-Elect for the next Municipal Year.

It was reported that one nomination had been received Councillor Mrs. D.H. Furlong for Mayor-Elect and one nomination Councillor P Bergin for Deputy Mayor-Elect for the 2018-19 Municipal Year. The Council accordingly approved the nominations.

The meeting concluded at 6.47pm

The Mayor.

**A MEETING OF THE COMMUNITY BOARD  
WAS HELD ON 7 MARCH 2018 AT 6PM**

The Mayor (Councillor Mrs Batty), Councillor Hook (ex-officio) (P), Councillors Bateman (P), Burgess (P), Earle (P), Mrs Hook (P), Mrs Huggins (P), Hylands (P), Mrs Jones (P), Miss Kelly (P), Mrs Morgan (P), Murphy (P), Ronayne (P), Scard (P), Wright (P)

**PART II**

**35. PROPOSED PSPO HARDWAY**

Consideration was given to a report of the Borough Solicitor and the Deputy Chief Executive informing the Community Board of the responses received from stakeholders and the public in relation to the consultation exercise on a proposed public spaces protection order for Hardway Green in the form of Appendix 1 ("Draft PSPO").

Members welcomed the report, but expressed disappointment at the Police's response to the proposal.

Members expressed concern at levels of anti-social behaviour across the Borough and in particular noted that the Police had advised that the issue of anti-social behaviour in Bridgemark was much larger.

Members acknowledged that the issue in Bridgemark had been ongoing for six or seven years and welcomed that the order would bring peace to the residents, concern was expressed that there was not enough resources, either within in the Police or within the Council to enforce the order.

Members acknowledged the hard work of the Councillors and hoped the order could be extended.

Members advised that the 101 emergency number was not working and that often calls went unanswered for 30 minutes or more, people had become disillusioned with the service and as a result, not all incidents were recorded.

In addition, it was advised that some calls were not receiving crime reference numbers and the figures of reporting were distorted further.

Members acknowledged that it was important to recognise that the unacceptable behaviour was caused by a small majority of young people and that it was important to recognise that most young people in the Borough were decent, honest and hardworking.

Councillor Allen was invited to address the Board as Ward Councillor for Hardway.

He advised the Board that he welcomed the proposal and that it would prevent a small amount of people damaging the enjoyment of the area for others. He advised that the report clearly listed many incidents of unacceptable and acknowledged that with the order standing from April to October it would

address the issues when they were most problematic

Councillor Allen advised the Board that the PSPO had more power than previously used Section 35 notice as it allowed for a long term solution to addressing the problems caused rather than a 24 hour limit.

Councillor Allen advised that he would like to congratulate the Residents' Action Group for their work to bring the PSPO forward.

**RESOLVED:** 1. The Community Board notes:

1.1 the content of the letter dated 23<sup>rd</sup> February 2018 from Chief Inspector Patrick Holdaway of Hampshire Constabulary, which states that Hampshire Police do not consider the implementation of the Draft PSPO necessary and proportionate at this time.

1.2 the content of the response from the youth council , which states that the Draft PSPO should not be implemented as the ASB on Hardway Green is no worse than in other areas in Gosport, the council can apply for ASB injunctions to target the persistent offenders, and the negative impact on young people through stereotyping

1.3 results of the public survey, which overall shows that the public believe the Draft PSPO will have a positive impact if it is properly enforced,

14.the informal intervention work the council and its partner agencies undertake with young people to prevent the behaviour escalating as set out in sub section 2 of the report, and

1.5 the existing anti-social behaviour powers and other enforcement tool the council and police have at their disposal. as set out in sub section 2 of the report

2.The Community Board is satisfied from the petition and community impact survey there has been persistent and unreasonable ASB at Hardway Green which has a had detrimental effect on the quality of life of those in the locality

3. The Community Board is satisfied upon reasonable grounds that, notwithstanding the intervention measures and existing enforcement regime that the implementation of the Draft PSPO is justified in order to effectively tackle the ASB.

4. The council shall adopt the Draft PSPO (appendix 1), which will take effect on 13<sup>th</sup> April 2018.

5. The Borough Solicitor shall have delegated authority to take the necessary steps for the Draft PSPO to take effect, including the publicity requirements.

## **36. ANY OTHER ITEMS**

The Chairman advised that he had completed the paperwork to purchase a two-bedroom flat that had become available to add to the housing stock.

The meeting concluded at 18.14

CHAIRMAN

**A MEETING OF THE ECONOMIC DEVELOPMENT BOARD  
WAS HELD ON 14 MARCH 2018**

The Mayor (Councillor Mrs Batty) (ex-officio), Councillors Hook (P), Ms Ballard (P), Bateman (P), Beavis (P), Mrs Cully (P), Ms Diffey, Edgar, Farr (P), Mrs Forder, Mrs Furlong, Mrs Huggins (P), Miss Kelly (P), Philpott (P), Mrs Prickett, Raffaelli (P).

It was reported that in accordance with Standing Order 2.3.6 Councillors Hook, Mrs Hook, Jessop Earle and Hammond had been nominated to replace Councillors Edgar, Mrs Forder, Mrs Furlong, Ms Diffey and Mrs Prickett respectively for this meeting

**PART II**

**43. GOSPORT WATERFRONT AND TOWN CENTRE SUPPLEMENTARY PLANNING DOCUMENT (SPD): ADOPTED VERSION**

Consideration was given to the report of the Deputy Head of Planning Services, (Policy) requesting that consideration be given to adopting the Gosport Waterfront and Town Centre Supplementary Planning Document, as set out in Appendix 1.

Kathy Azopadi was invited to address the Board. She advised that the reason for her deputation was that she had attended the consultation and responded to it and felt that when reading the report insufficient provision had been given to cycling. She advised the Board that there could be stronger recognition for the importance of cycling in the Town.

The Board was advised that Gosport had a cycle rate where at least 75% of residents cycled once a month and that many towns and cities had invested heavily to try and achieve similar results. The Board was advised that it was hoped that Gosport would have more aspirations for cyclists and cycle routes and that the SPD could help improve bad elements of the current network and make areas safer.

Ms Azopadi advised the Board that electric bikes, trikes and mobility scooters were allowing more people to stay active longer and that electric bikes in particular supported this.

The Board was advised that the importance of cycling should not be overlooked and that benefits it could bring to the Borough and the economy were important. The Board was advised that cycle ways should run parallel to pedestrian paths to provide opportunities for cyclist to enjoy routes and view points, and that the separation of the two separate paths would help to remove any potential conflict before it arose.

The Board was advised that key elements that should be included in the SPD were, examining the storage provision for bicycles at the ferry. It was requested that different types of cycle storage be installed as many people were reluctant to use two tier storage racks.

Ms Azopadi requested that more detail be given to proposals for Mumby Road as there was a large number of accidents on the road and it requested that consideration be given to the removal of the free car parking spaces along Mumby Road and South Street, as there was additional capacity within the car parks. This would allow for nicer streetscapes

and safer cycle lanes and it was also requested that consideration be given to the development of a cycle strategy.

In answer to a Members question, Ms Azopadi advised the Board that she had responded to the consultation and that some, but not all of her comments had been included in the SPD. She advised that she would have liked to have seen more reference and inclusion for policies on cycle parks, shared use paths, green infrastructure, green space access and proposals for Walpole Park. The Board was advised that the Ex estuary in Devon previously only had walking routes and that this had created conflict as cycle users would also use the pedestrian path. This had been resolved by the addition of a cycle path, on a lower route but with viewpoints to allow for stops and picnics. The Board was advised that to do this in Gosport may require a change in policies or bylaws but advised that it may help reduce traffic on the A32 as currently there was no safe route for cyclists to the ferry.

The Board was advised that 11,000 cyclists passed through the continental ferry port in Portsmouth annually, many travelling onwards to the South Downs National Park and the New Forest to cycle. It was felt that Gosport and Portsmouth could capture cyclist tourism and benefit from it economically.

The Deputy Head of Planning, (Policy) advised that Ms Azopadi's comments had been included in the accompanying summary and analysis of consultation responses document and that a section on potential cycle improvements could be found on page 39 of the SPD and that it specifically mentioned the enhancement of provision, including links with wider areas and the national cycling routes, cycle parking, cycle safety, signage, cycle crossings and provision at junctions, surfacing and improvements of Mumby Road and South Street.

The Board was advised that the role of the SPD was not to provide the detailed points of plans but to provide a vision for the Town Centre and that cycling was important to this and had been recognised.

The Deputy Head of Planning (Policy) advised the Board that there were a number of small amendments proposed to the SPD, circulated as an addendum to Members of the Board to improve clarity, consistency and address typographical errors in the document. Members welcomed the clarification that the Falklands Gardens would not be redeveloped.

The Chairman advised the Board that he wished to consider each element of the document individually to allow Members to comment.

## Housing

The Chairman advised that the Supplementary Planning Document was supplemental to the Local Plan 2011-2029, which had already been agreed. Within the next 18 months to two years the opportunity would arise to statutorily review the Local Plan with the option to extend it until 2036.

Some members expressed concern and objected to the proposals that included provision for 700-900 properties and advised that members of the public had raised concern about this proposal and that with the addition of properties at Haslar and Daedalus, the infrastructure of the Borough would not be able to cope. Members advised that whilst the plan stated that public transport would be used, in reality it would not.

The Board was advised that the proposals for 700-900 properties for the Town Centre had been included within the Local Plan, which had been previously agreed by the Council within Policy LP4 of the Local Plan. It was therefore not a matter for the consideration of the Board as the SPD was a supplementary document to the Local Plan.

The Chairman advised the Board that the document did not state in any form that there would be 1000 luxury flats.

The Board was advised that the Local Plan, including Policy LP4 had been unanimously agreed by the Council and it stated that the required properties would be a mix of housing and property types required, including affordable homes, sheltered accommodation, accommodation for the elderly, and extra care provision all as detailed in the SPD.

A Member advised the Board that the SPD was the beginnings of putting flesh on to the bones of the Local Plan and that it created a vision for the future. It was felt that all Members wished to see the High Street and waterfront area thriving and used to its full potential. The Board was advised that a large number of the properties in the Town Centre were not owned by the Borough Council but that the SPD created the vision for what was desired for the area.

The Board was advised that Councils were obligated to hold a provision for 5 years' worth of housing stock and that if the 700-900 properties were not located within the Town Centre, they would still need to be located within the Borough. The Council were in a strong position in comparison to other authorities who did not have such supply and were as a result now being subjected to planning applications for properties in areas in which they were not desired. It was noted that planning powers were being removed from Local Authorities who were not approving and supplying suitable housing stock and in having a robust plan in Gosport, the decision making powers would remain within the Authority.

A Member questioned the provision of medical care and infrastructure for the additional properties and was advised that the Inspectorate had examined the Local Plan in 2015 and deemed it sound, not only for 2015 but until 2029 and it was considered robust.

It was reiterated that nothing additional in the form of properties was being added to the existing proposals in the Local Plan and it had included the provision for a mixture of types of properties. The Board was advised that the provision for additional GP's surgeries was the responsibility of NHS England and that most surgeries were private businesses. One of the key problems with doctor's surgeries in Gosport was attracting GP's to work in the Borough. It was hoped that improvements to the Borough and the Town Centre would help make the Borough more attractive to GP's.

The Chairman advised the Board that there was provision for improved infrastructure as the Local Plan required there to be provisions for analysis of flood risk, high quality outdoor space, provision for sewerage and water and utilities, but that these would all be delivered by private companies.

## CAR PARKING

In answer to a Member's question, the Board was advised that the multi-storey car park had been mentioned as an option that could be looked at in terms of feasibility, amenity of residents, townscape. No site had been identified and it had been included only as a potential option.

The Board was advised that parking surveys, undertaken at various times in 2016 and 2017, had shown that at the peak time (3/12/16) there was a total of 496 publicly available spaces unoccupied which included 332 empty spaces in the Council's town centre car parks. There was a lot of unused space that could be better used.

A Member advised the Board that they had concerns at the combination of the car parks to be removed and redeveloped as many of them were close to the town centre and facilitated access for those that could not walk great distances or were disabled.

It was suggested that the top tier of the Walpole Park Car Park (adjacent South Street) be designated as short stay and the bottom remain long stay and that a car parking strategy be introduced. Concern was also expressed that a number of the car parks that serviced the Waterside Medical Centre were listed as those potentially being redeveloped and that the removal of the Mumby Road lorry park would cause lorries to queue and park outside residential properties.

The Board was advised that the proposals for amendments to North Cross Street would improve and enhance the frontages of the area, reinstating the shopping area.

In answer to a Member's question, the Board was advised that the car parks situated at Morrisons and Aldi had been included as they were facilitators in the provision of linked trips to the High Street, with people visiting the supermarket and shopping. The Board was advised that consideration had also been given to those spaces available at the Cooperage and Haslar Marina

## BUS STATION

The Chairman advised the Board that the Bus Station site had been marketed and that any development that was brought forward would be the subject of a full and open discussion and consultation with the public on any proposals.

Members advised that they felt that members of the public had indicated their wish not to see a high-rise residential property on the bus station site and expressed concern that £7million had recently been used to extend the bus route, without improving the bus station.

Members expressed concern that a high rise building would overshadow the Falklands Gardens and interrupt the views of existing residents. It was also advised that the existing high-rise buildings were subject to interference by the high winds in that location.

Some Members felt that the site should be used as a hub incorporating facilities for cyclists and pedestrians combining a visitor's centre and the tourist information centre and providing a start point to allow people to enjoy the historical tourist elements of the Borough.

The Board was advised that any proposal would need to be presented to and approved by the Regulatory Board and that there were many different design options available that could be considered. Members appreciated that there was a desire to retain the open elements of the site. It was also recognised that a key factor in the redevelopment of the site would be securing the funding to allow the development to proceed. It was acknowledged that a key factor of this would be the inclusion of a residential element as



without it, redevelopment would not be viable.

Members agreed that there was no wish for the bus station to remain in its current form.

It was reiterated to the Board that there was no plans currently proposed and that when any were forthcoming, they would be subject to consultation and the Regulatory process.

The Board was advised that the £7million extension to the BRT route had been a provision awarded to the County Council from central Government for the specific use of extending the BRT; the money had never been available for any redevelopment works.

The Board was advised that the ferry ticket office remained an integral part of the site and that discussions would be held with the ferry company about its relocation and siting within the proposal.

It was recognised that all Members agreed that the Falklands Gardens should not be overshadowed and that there would be a provision for a transport interchange and that given the location of the site, it was important that any proposal was suitable for the site.

Members advised that they felt the presumption of a tower block had derived from the listing of 95 residential units as part of the marketing of the site. The Board was advised that this was to test the market for potential developers to see what proposals might be forthcoming. It was reiterated that any proposal would be subject to the planning process and be subject to consultation and would need to be viable, and valuable to all.

## FALKLANDS GARDENS

Members felt that there was an opportunity to enhance the gardens, perhaps including a visitor's area, some enhanced planting and some more detailed information regarding the history of the gardens and its previous uses and links to chandlery and the chain ferry.

It was reiterated to the Board that there had never been any intention to redevelop the gardens and that the purpose of them was to provide a shrine to remember the conflict and those that lost their lives. It was reiterated that they were an integral part of the waterfront and that there was potential to enhance them, but they would not be redeveloped.

It was recognised that the gardens were the gateway to Gosport and that their importance as a memorial would not be forgotten.

## ROYAL CLARENCE YARD

In answer to a Member's question, the Board was advised that enhanced signage, including brown tourist signs could be included in the proposal. It was hoped that the walkway could be extended to meet the Millennium walk.

## HIGH STREET

Councillors Hook and Mrs Hook declared a non-pecuniary interest in the item, remained in the room but took no part in the discussion of the subject.

Members felt that it was unfortunate that the SPD could not deliver the high level retail

desired but welcomed the proposal to develop the cultural square and build on the value of the Discovery Centre. The concept of a later opening facility for the Town Centre was welcomed as was the continuation of the developments started as a result of the Portas money. Works undertaken included a new palette for the High Street and additional bicycle racks and seating. There were more aspirations linked to this but funding had not been forthcoming.

Members acknowledged that High Streets across the country were suffering a down turn and that it was key that Gosport looked at the SPD as a whole to help address this. The importance of the Town Centre and Waterfront to this was recognised.

## WATERSIDE

Members welcomed that the centre provided a valuable service in times of austerity and hardship. It was welcomed that the site was linked to Coates Road and that the SPD providing a vision for the future of the site.

## FORMER POLICE STATION SITE

Councillors Hook and Mrs Hook declared a non-pecuniary interest in the item, remained in the room but took no part in the discussion of the subject.

Members were comfortable with residential proposals for the site.

## PRECINCT

A Members advised that there was some good uses of the site and would welcome its retention.

## TRINITY GREEN

Members welcomed that the potential development on the green space had been removed. The importance of green living was highlighted and members of the public had welcomed that it would remain.

Some Members expressed concern at the potential for a permanent café on the site adjacent to Harbour Towers, it was recognised that it was suitable for seasonal events such as the marine festival, but it was felt that it was not appropriate for the entire year. It was felt that the Bus Station site would provide a more suitable location for a permanent facility.

The Board was advised that if Barclay House were to be developed the SPD states that appropriate arrangements would need to be made by those that currently occupy the buildings.

## HASLAR MARINA

Members welcomed that the training that Gosport provided was now being matched with employment opportunities. It was acknowledged that Gosport provided outstanding levels of training in the marine industry and opportunities and jobs to match were welcome. It was also acknowledged that this also had the potential to reduce traffic on the A32.

## GOSPORT LINES

Members welcomed the opportunity to facilitate walking the whole of the lines and recognised that there was a need to bring capital in to progress improvements. It was acknowledged that there may need to be an additional bridge to provide access and that heritage lottery funding may be appropriate to fund works.

Members acknowledged that there were difficulties with the negotiations with the Defence Infrastructure Organisation to release land, but this was common place in negotiations with them.

Members concluded by requesting that the ferry be clearly labelled as a pedestrian and cycle ferry in the SPD so that it was clear that there was no car ferry provision.

The Chairman advised that he welcomed any amendments to the recommendation and that he would adjourn the meeting to allow any amendments to be tabled.

The meeting was adjourned at 20.03 and reconvened at 20.14.

It was proposed and seconded that page 73 of the SPD be amended so that Clarence Road and North Cross Street Car Parks be retained as car parks in the interest of helping the less able users access the High Street and the Waterside Medical Centre.

Members debated the proposed amendment. It was agreed that careful consideration needed to be given to the future use of the car parks and that liaison needed to occur with the medical centre to establish a greater understanding of the provision used and required. It was felt that the provision for disabled drivers needed to be considered, but also that consideration needed to be given to the spaces available at the surgery and further afield at the Cooperage.

Members acknowledged that the proposals for North Cross Street would enhance the area, in terms of frontage and street scene, and that this would also need to be a consideration.

Some Members expressed concern that the proposal was to remove a number of short stay car parks and the Board was advised that the car parking study had covered different times of the year, including Christmas.

The Board agreed that the removal of any car park needed careful consideration and that it was important that discussions took place with the medical centre. Members felt that no agreement for the removal of car parks should take place until further consideration had been given. It was suggested that the amendment be altered to require the Town Centre Car Parking Strategy to be in place before any car parking sites were released for development.

It was proposed and seconded that the SPD be amended on page 73 that there would not be any development of the Car Parks in the Town Centre, including South Street, until a Town Centre Car Parking Strategy was in place.

This was unanimously agreed by the Board.

It was proposed and seconded that on Page 83 of the SPD the paragraph detailing the

space between Harbour Tower and the Millennium promenade be replaced with 'That the use of the space between the Millennium promenade and Harbour Tower is not a permanent building but can be used seasonally and for events such as the Gosport Marine Festival.

Members discussed the amendment, it was recognised that there may be provision for a permanent facility within the Bus Station redevelopment and that residents were concerned that a permanent facility in the location would be detrimental to the amenity of residents and cause harm. It was hoped that any facility could be seasonal, similar to Southsea sea front. The Board also discussed the proposal for a temporary building on the site, such as a pod. The Board also recognised the importance of allowing correct access to the tower by the emergency services.

It was reiterated that any proposal for a building would need to be considered by the Regulatory Board and concern was expressed that the removal of the provision would be detrimental to the wider proposals. It was suggested that a more comprehensive decision on the facility could be made following a more detailed proposal being agreed for the bus station site.

The proposed amendment was put to the Board and was subsequently lost.

Members debated the provision for cycling within the SPD. It was reiterated to the Board that the document contained provision for cycle ways, improvements to Mumby Road and South Street, the linking of routes to the national cycle ways and improved signage.

It was suggested that a Cycle Strategy was included within the proposal. The Board was advised that the proposed realm audit work would consider the facilities for cyclists and would audit any proposals.

It was proposed and seconded that an amendment be made the second paragraph to read;

The proposed public realm work and cycle strategy will consider opportunities and improvements to the quality of the network.

This was subsequently agreed.

A vote was taken on the recommendation to adopt the SPD, subject to the amendments agreed above and those presented by the Deputy Head of Planning Services, (Policy) at the beginning of the item. This was agreed.

RESOLVED: That the Gosport Waterfront and Town Centre Supplementary Planning Document as set out in Appendix 1 of the report and agreed approved amendments including those identified by the Deputy Head of Planning (Policy) and those proposed and agreed by the Board.

#### **44 ADOPTION OF PROPOSED CONSERVATION AREA APPRAISAL, HASLAR BARRACKS (FORMER IMMIGRATION HOLDING CENTRE)**

Consideration was given to the report of the Conservation and Design Manager

recommending the adoption of the Haslar Barracks Conservation Area Appraisal, as set out in Appendix A.

In answer to a Member's question, the Board was advised that the Ministry of Justice had had longer than the six week statutory period to apply for a judicial review and the Board was advised by the Borough Solicitor that a public bodies were unlikely to be granted an extension to this time period if they had not applied within time.

The Board was advised that since the designation of the site, meetings had been undertaken with the Ministry of Justice and that they now had an understanding of the designation and any implications it presented. It was important to acknowledge that the designation did not preclude development of the site.

In 2017 a request had been made to list some of the buildings. Historic England did not feel that was appropriate and this was the subject of an appeal. Notwithstanding this, included in the appendices to the report was a letter from Historic England advising that they fully supported the proposal for the site to be designated as a Conservation Area.

RESOLVED: That the Haslar Barracks Conservation Area Appraisal to support Policy LP12 of the adopted Gosport Borough Local Plan 2011 to 2029 and as a material consideration when determining planning applications be adopted.

#### **45. ANY OTHER ITEMS**

There was none.

The meeting concluded at 9.05pm

CHAIRMAN

## AGENDA ITEM NO.7

<b>Board:</b>	COUNCIL
<b>Date of Meeting:</b>	4 APRIL 2018
<b>Title:</b>	GOSPORT LOTTERY
<b>Author:</b>	Borough Solicitor and Deputy Chief Executive
<b>Status:</b>	FOR DECISION

### **Purpose**

The purpose of the report is to recommend that the Council facilitates a Gosport community lottery in order to raise funds for local charities, voluntary organisations and good causes in the Borough.

### **Recommendation**

It is recommended that:

1. A community run Gosport focused lottery is introduced in 2018, called The Gosport Community Lottery (the Lottery).
2. The purpose of the Lottery is to raise funds for local charities, voluntary organisations and good causes in the Borough.
3. That the Council works with Gosport Voluntary Action (GVA) and Gatherwell ( an external lottery management company) in order to deliver the Lottery.
4. The initial set up fee of £3500 is given by the Council to GVA to initiate the Lottery.
5. The ongoing annual licence fee is assigned from ongoing Lottery income streams.
6. An annual £1,000 marketing budget is allocated to the Lottery (from ticket receipts) to ensure ongoing lotto awareness and promotion to drive ticket sales and to promote the Lottery amongst good causes.
7. That GVA are the holders of the remote operating licence
8. The Council hosts a launch event to promote the Lottery to include press, PR and social media, as well as provide additional first draw prizes (iPad, theatre tickets etc.).
9. Delegated authority is given to the Chief Executive in consultation with the Leader of the Council to agree with GVA a policy and the process for the allocation of the good causes central pot in conjunction with relevant officers.

## **1 Background**

- 1.1 Regulated by the Gambling Act 2005 (the Act), 'society lotteries' were created to

allow for the distribution of lottery proceeds collected by non-commercial societies or local authorities. The Act also allows those societies and local authorities to outsource the running of its lottery or a part of its lottery to a third party, known as an External Lottery Management company (ELM). Where an ELM is employed to make the arrangements for all or part of the lottery, including paying prizes and expenses, the society or local authority is equally responsible with the ELM for the promotion of the lottery.

- 1.2 Society lotteries are promoted for the benefit of a non-commercial society. A society is non-commercial if it is established and conducted:
  - For charitable purposes, in other words the aims and objectives for which the society primarily exists.
  - For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
  - For any other non-commercial purpose other than that of private gain
- 1.3 Lotteries must return a minimum of 20% of the proceeds to the purpose of the society or local authority. The level of expenses and prizes allocated from the proceeds must not be such as to reduce the profits to below 20%. In addition the proceeds can only be used to: provide prizes or to pay expenses 'reasonably incurred' by the ELM, society / local authority organising the lottery.
- 1.4 If the arrangements for the lottery are such that its proceeds may exceed £20,000 the authority or society promoting it must obtain a remote operating licence issued by the Gambling Commission. The licence fee for the initial application is £261.00 and thereafter annual fee of £348.00.
- 1.5 If the arrangements for the lottery are such that its proceeds are less than £20,000 an operating licence is not required to promote it. All that is required is that it must be registered with the Council.

## **2 Report**

- 2.1 Due to financial pressures the Council is unable to provide grants and cash funding to local good causes, charities and voluntary organisations.
- 2.2 The Council wishes to facilitate the Lottery to raise funds for these good causes.
- 2.3 The Council does not have the resources or expertise to promote and run the Lottery.
- 2.4 It is, therefore, proposed that the Lottery will be promoted and run by Gosport Voluntary Action Group (GVA) and Gatherwell Limited, who are an experienced and proven ELM.

- 2.5 GVA is a registered charity, set up for the purposes of improving the quality of life for all residents of Gosport but in particular those with disabilities or who are disadvantaged in some way. It provides help and support to over 200 local, voluntary and community groups in the Borough, that need help with governance issues, finding funding, recruiting and managing volunteers and accessing training. It also represents member group interests at a wide range of strategic meetings.
- 2.6 Other councils have successfully followed this model of community lottery and have raised much needed funds for the local voluntary sector.

### 3.How it works

- 3.1 Importantly, the purpose for introducing a local lottery is to provide grants and cash funding to local good causes, charities and voluntary organisations. The maximum return on each ticket is therefore very important. The table below demonstrates the percentage return that would be available to give back to good causes.

#### 3.2 Where is each pound spent?

##### ELM - Gatherwell

% to Good Causes	% to Prizes	Lottery operat or fees (inc. VAT)	Maximum prize £	Comments	Set up costs
60%	20%	20%	£20,000	Gatherwell will secure the prize money with an insurance policy. This means that the lottery can launch as soon as the licence is approved by the Council.	£3500 inc. licence fee

- 33 When a player buys a ticket at £1 they can either choose for the 'good cause' element to go to a central pot (60% of the value of the ticket) or they can specify a good cause that they want the money to go to (from a pick list on the website). Where purchasers specify the good cause, 40% goes to the good cause and 20% goes to the central pot which will be then distributed via a small grants pot by GVA.



- 3.4 The model offers a further incentive for good causes by enabling organisations to raise income for themselves through the website. The organisation sends their supporters to a bespoke Gosport Community Lottery site (created by Gatherwell) and can collect 60% of all ticket sales made through this route. For the charity or community organisation there are no fees and no administration. All they need to do is promote the lottery to their supporters and community. By actively encouraging their members and family/friends to join and play, the lottery benefits from recommendations and a growing number of people playing the lotto regularly.
- 3.5 For those customers who do not or cannot join the lottery online, a telephone number is also provided.

#### **4. Financial Information**

- 4.1 The use of an ELM represents the most cost effective and efficient method for providing a Community Lottery in Gosport.
- 4.2 Alternative providers to an ELM would incur additional set up and operational costs, offer less prize money as well as providing a potential financial and reputational risk by providing a financial prize which is not underwritten or guaranteed from weekly ticket sales.
- 4.3 The Council would underwrite the initial set up cost of the lottery estimated at £3,500 plus the launch costs of an estimated £1,500. The ongoing running costs will be funded through the Income generated from ticket sales.
- 4.4 If Council approve the recommendation an application will be made by GVA the gambling commission by GVA for a remote lottery operating licence.

#### **5. Risk Assessment**

- 5.1 In circumstances where the proceeds are insufficient to pay the total expenses and the cost of providing prizes in the lottery, the society or local authority must still ensure that 20% of the proceeds are applied to its purposes. In such cases the Council may have to pay the expenses of the lottery and/or the cost of prizes from other (non-lottery) sources of income such as their financial reserves and the lottery may result in an overall financial loss for the promoting society or local authority.
- 5.2 The Council will enter into an agreement with GVA which sets out the parties responsibilities.
- 5.3 Gatherwell is insured against challenge and prize winning exceeding sales so there are no risks associated with this.

#### **6. Conclusion**

- 6.1 It is proposed that the Council facilitate a community lottery promoted by GVA and Gatherwell to provide a new funding resource to support voluntary sector organisations.

<b>Financial Services comments:</b>	Contained in the report.
<b>Legal Services comments:</b>	Contained in the report.
<b>Crime and Disorder:</b>	
<b>Equality and Diversity:</b>	A preliminary Equality Impact Assessment (EIA) is not required as no new services are being recommended and there will be no negative impact on the protected characteristic groups. There will continue to be work with the voluntary and community sector to achieve the aims set out within the report.
<b>Service Improvement Plan implications:</b>	
<b>Corporate Plan:</b>	
<b>Risk Assessment:</b>	Contained within the report.
<b>Background papers:</b>	<b>Section 100D of the Local Government Act 1972</b>
<b>Appendices/Enclosures:</b>	
Appendix 'A'	
Appendix 'B'	
<b>Report author/ Lead Officer:</b>	

## AGENDA ITEM NO.8

<b>Board/Committee:</b>	COUNCIL
<b>Date of Meeting:</b>	4 APRIL 2018
<b>Title:</b>	RIGHTS OF WAY AROUND FORT GILKICKER
<b>Author:</b>	BOROUGH SOLICITOR AND DEPUTY CHIEF EXECUTIVE
<b>Status:</b>	FOR DECISION

### **Purpose**

To seek authority from Council to take the necessary steps to dedicate footpaths around Fort Gilkicker as formal rights of way.

### **Recommendation**

That Council agrees to the creation of rights of way around Fort Gilkicker:

- (i) By entering into a Public Path Creation Agreement with Hampshire County Council in respect of the paths on land within the Council's ownership (the approximate position of which are shown in red on the plan attached as Appendix A) at such time as the land is no longer necessary for the redevelopment of Fort Gilkicker; and
- (ii) Encouraging and supporting the developer to enter into a Public Path Creation Agreement with Hampshire County Council in respect of the paths on land within the developer's ownership (the approximate position of which are shown in blue on the plan attached as Appendix A) at such time as the land is no longer necessary for the redevelopment of Fort Gilkicker; or
- (iii) In the event that the developer is unable or unwilling to enter into a Public Path Creation Agreement as set out at (ii) above, to make a Public Path Creation Order in respect of the paths on land within the developer's ownership at such time as the land is no longer necessary for the redevelopment of Fort Gilkicker.

### **1 Background**

- 1.1 Council will be aware that Fort Gilkicker, a Grade II\* Listed Building and Scheduled Ancient Monument, is being developed into residential accommodation by a private developer. Planning permission for the development was granted by the Secretary of State in 2010 and extended and later varied by this Council, most recently in 2016.
- 1.2 In order to facilitate the development, the Economic Development Board agreed in 2016 to sell the access road (Military Road) and a small area of land and buildings to the north-west corner of the Fort to the developer. This sale required negotiation with the developer and with the golf club before it was concluded in February 2017. As

part of the sale, the Council reserved rights over the land sold for members of the public in perpetuity. As part of this sale, the Council also granted rights to the developer to use an area of land around the Fort for ecological purposes and later as a site compound.

- 1.3 Work began on site in August 2017 and as part of this the developer has erected temporary Heras fencing around land around the Fort, closing or diverting footpaths in the area, although the more direct and level path around the north-west shoulder of the Fort was re-opened shortly afterwards following discussions between the Council and the developer. Some of the paths are on land owned by the Council and some are on land owned by the developer.
- 1.4 As a consequence, local residents have been understandably concerned about developments in the area, particularly the disruption to walking routes around the Fort. In order to address these concerns, the Council held a public meeting on 8 January 2018. Following the meeting, members agreed to take the necessary steps to dedicate pathways around Fort Gilkicker as formal rights of way.

## **2 Report**

- 2.1 Officers have been in communication with Hampshire County Council, the rights of way authority for this area, to discuss possible options for the dedication of public rights of way. There are several options available.

### **2.2 Public Path Creation Agreement**

- 2.2.1 The simplest way to create formal rights of way is for the landowner to enter into a dedication agreement with Hampshire County Council. For the paths on land owned by the Council, this is straightforward. The developer has indicated that it would likewise be willing to enter into a dedication agreement for paths on its land, although not until the development has progressed to a point where land outside the Fort is no longer required. The advantage of this method is that it is quick and simple and does not require lengthy formal procedures or approval from an external body. The disadvantage is that the Council cannot compel the developer to dedicate the paths on its land.

### **2.3 Public Path Creation Order**

- 2.3.1 Alternatively, the Council has the power to compulsorily create a footpath over land in its area where it appears to it to be necessary and they are satisfied that it is expedient that the path should be created having regard to:
  - a) The extent to which the path would add to the convenience and enjoyment of a substantial section of the public or the convenience of local residents; and
  - b) The effect the creation of the path would have on the rights of

persons interested in the land

- 2.3.2 If the owner of the land can show that the dedication of the footpath has resulted in a depreciation of the value of the land or has caused damage to the land, the Council would be required to pay compensation to the landowner equal to the amount by which the value of the land has diminished or the cost of the damage.
- 2.3.3 There is a prescribed formal procedure for making a Public Path Creation Order that involves giving notice and inviting representations. If no representations are received, the order can be confirmed as an unopposed order, but if there are objections which are not withdrawn, the matter must be referred to the Secretary of State for determination.
- 2.3.4 Making a Public Path Creation Order will be more cumbersome and potentially more costly than dedicating rights of way by agreement. Therefore, it will be preferable to proceed with the co-operation of the developer as if he objects to a Public Path Creation Order it could take several months to resolve, and may even end up with a local enquiry if it is deemed necessary. The Council may also be liable to pay substantial compensation to the developer.
- 2.3.5 Should the developer not proceed with a Public Path Creation Agreement, the Council could still make use of its power to dedicate the paths by Public Path Creation Order.

## 2.4 Dedication by long usage

- 2.4.1 A further method by which rights of way can be created is for members of the public to apply to amend the definitive map of rights of way, by showing that there has been continuous uninterrupted use of the paths for a minimum period of 20 years. Such use must be open, without force and without permission.
- 2.4.2 It is certainly possible that members of the public would be able to show that this has been the case in the area around Fort Gilkicker. However, the advice from Hampshire County Council is that there is a 10-year wait for such applications to be considered. Therefore, whilst there is nothing to stop members of the public making an application to Hampshire County Council for the definitive map to be amended, it is likely that any such application would be overtaken by events by the time it came to be considered.

## 2.5 Timing

- 2.5.1 Clearly there are effective mechanisms at the Council's disposal for dedicating the paths in question as rights of way. The issue of timing for when to take these steps is, however, more complicated. The Council has supported the redevelopment of this important heritage

asset and has granted legal rights to the developer to use Council-owned land around the Fort for certain purposes during the early stages of the development. Dedication of the paths as rights of way whilst the land is still required for the purposes of the development, and whilst the developer is exercising his legal rights to use this land, has the potential to frustrate the successful redevelopment of the Fort and could potentially leave the Council exposed to legal action for breach of contract.

2.5.2 Therefore, it is proposed to wait until the development moves inside the Fort and the land around the Fort is fully re-opened to the public before taking further steps to enter into a Public Path Creation Agreement for the dedication of paths on Council land, and before working with the developer to encourage and support the similar dedication of the paths in the developer's ownership. The approximate routes of the paths proposed to be dedicated as rights of way are shown marked on the plan at Appendix A. The routes shown in red are on land owned by the Council and the routes shown in blue are on land owned by the developer.

2.5.3 The developer's rights to use the Council-owned land around the Fort will last for a maximum of five years from the date of the transfer of the road (five years from 27 February 2017, so expiring 26 February 2021). The developer has indicated that the fencing will be in place for approximately three years (from August 2017) and the development will take four years to complete, but this is not something that the Council can control beyond the five year period granted under the transfer and referred to above. Therefore, the proposed dedication of rights of way may be three or four years in the future.

2.5.4 If the developer is not able or willing to dedicate the land by agreement, the Council could then make a Public Path Creation Order at that time.

### **3 Risk Assessment**

3.1 The Council has preserved public access over paths in the area around Fort Gilkicker by imposing covenants on land that it has sold to the developer. In order to address concerns from local residents, however, members have agreed to take the necessary steps to dedicate these paths as formal rights of way. If these steps are not taken, local residents may feel that the Council is reneging on promises it has made publicly.

3.2 If the Council takes steps to dedicate land as rights of way at too early a stage in the redevelopment of Fort Gilkicker, this could leave the Council vulnerable to legal action taken by the developer which could be costly and time-consuming. This is because the Council has granted the developer legal rights to use some of the land

around the Fort for purposes connected with the development.

- 3.3 If the Council seeks to make a Public Path Creation Order in respect of paths on land owned by the developer without first attempting to secure the developer's agreement to enter into a Public Path Creation Agreement, this could result in the Council incurring unnecessary expense in the form of compensation payable to the developer. This would also delay the dedication of the paths.
- 3.4 If the Council dedicates the paths as formal rights of way, any future closure or diversion, even temporary, will necessitate compliance with formal procedures where currently this is not required. This will have resource and time implications for any future maintenance or other works to be carried out on, under or over the pathways, and will need to be considered at an early stage of the planning of any such works. This would also be required on land currently owned by the developer. These additional formal procedures would be likely to cause problems and delay for the progress of the development of Fort Gilkicker should the pathways be dedicated at a stage when works are being carried out outside the footprint of the Fort that require the pathways to be temporarily closed or diverted.

#### **4 Conclusion**

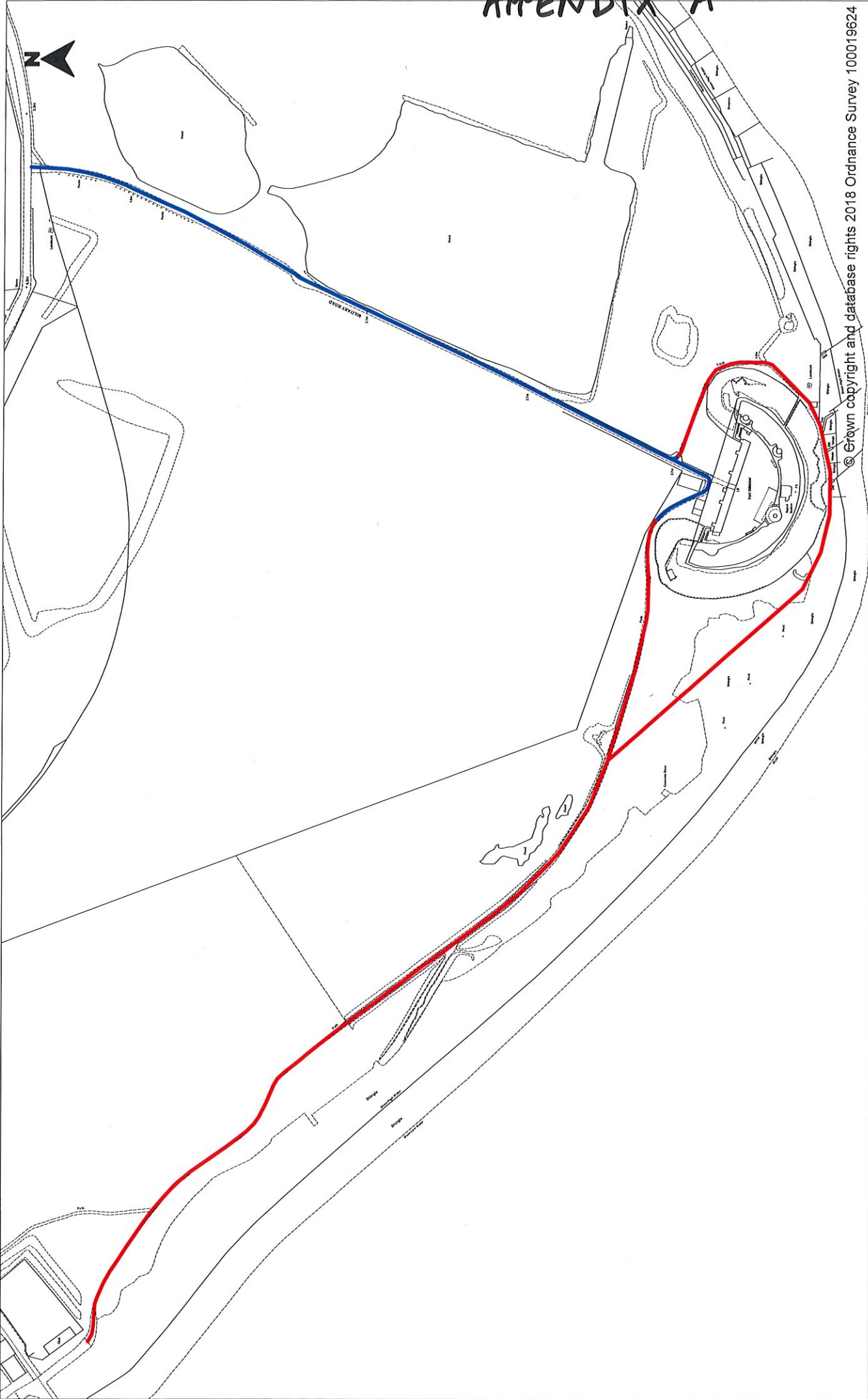
- 4.1 The Council has fully supported the redevelopment of Fort Gilkicker but is also keen to ensure that members of the public are reassured that public access around the Fort will continue over the long-term. Dedicating the paths around the Fort as public rights of way will ensure that there can be no doubt about these rights of access.

<b>Financial Services comments:</b>	None
<b>Legal Services comments:</b>	Contained in the report.
<b>Crime and Disorder:</b>	None
<b>Equality and Diversity:</b>	The provision of pathways as rights of way will be of benefit to everybody. The preservation of a right of way over more level pathways will be of benefit to those with a disability or mobility problem and for pushchairs/prams.
<b>Service Improvement Plan implications:</b>	None
<b>Corporate Plan:</b>	None
<b>Risk Assessment:</b>	Contained in the report.
<b>Background papers:</b>	Ec Dev report Transfer document Information on Council's website
<b>Appendices/Enclosures:</b>	
Appendix 'A'	Plan showing proposed route of rights of way (paths on land owned by the Council –

	shown red, paths on land owned by the developer – shown blue).
<b>Report author/ Lead Officer:</b>	Michael Lawther/Hilary Hudson



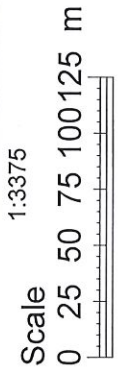
# APPENDIX A



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**TOWN HALL, HIGH STREET,  
GOSPORT,**

DATE :  
15/03/2018



If this map has been transmitted electronically, use the scale bar in preference to the written scale