



## AGENDA

### CABINET MEETING

Date: Wednesday, 20 March 2019

Time: 7.00pm

Venue: Council Chamber , Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Sarah Aldridge, Bowles (Chairman), Mike Cosgrove, Duncan Dewar-Whalley, Alan Horton, Gerry Lewin (Vice-Chairman) and David Simmons.

Quorum = 3

#### RECORDING NOTICE

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1. Emergency Evacuation Procedure

Pages

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

## 2. Apologies for Absence

## 3. Minutes

To approve the [Minutes](#) of the Meeting held on 6 February 2019 (Minute Nos. 475 - 485) as a correct record.

## 4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

**Advice to Members:** If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as

early as possible, and in advance of the Meeting.

## Part B Reports for Decision by Cabinet

- |     |   |              |
|-----|---|--------------|
| 5.  | Financial Management Report: April - December 2018  | 5 - 28       |
| 6.  | Swale Strategic Air Quality Action Plan 2018-22   | 29 - 72      |
| 7.  | Tender award report for Multi-Function Devices (MFDs) and specialist printing machines                              | 73 - 78      |
| 8.  | Housing Enforcement Civil Penalties Policy - An alternative to prosecution for certain housing legislation offences | 79 - 96      |
| 9.  | Tree Maintenance Policy 2019-2023   | 97 - 120     |
| 10. | Lorry Parking in the Borough  | 121 -<br>124 |
| 11. | Recommendations of the Swale Joint Transportation Board meeting held on 4 March 2019                                | 125 -<br>126 |
| 12. | Recommendations of the Local Plan Panel held on 14 March 2019 - to-follow   |              |
| 13. | Exclusion of the Press and Public   |              |

To decide whether to pass the resolution set out below in respect of the following item:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Act:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

- |     |   |              |
|-----|---|--------------|
| 14. | Exempt Addendum Report - Financial Management Report: April - December 2018 | 127 -<br>128 |
|-----|---|--------------|

## Issued on Monday, 11 March 2019

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Cabinet, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

Chief Executive, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	20 March 2019
<b>Report Title</b>	Financial Management Report – April – December 2018
<b>Cabinet Member</b>	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance & Performance
<b>SMT Lead</b>	Nick Vickers, Chief Financial Officer
<b>Head of Service</b>	Nick Vickers, Chief Financial Officer
<b>Lead Officer</b>	Phil Wilson, Financial Services Manager / Caroline Frampton, Principal Accountant
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Recommendations</b>	<p>Cabinet is asked to:</p> <ol style="list-style-type: none"> <li>1. Note the projected revenue underspend on services of £270,950 (Table 1 refers).</li> <li>2. Note the capital expenditure of £12,240,144 to end of December 2018 (Paragraph 3.14 and Table 4 Appendix I refers).</li> <li>3. Top up the Pension and Redundancy reserve from the General Reserve by £250,000</li> </ol>

## 1. Purpose of Report and Executive Summary

- 1.1 This report shows the revenue and capital projected outturn activity for 2018/19 as at the end of December 2018. The report is based on service activity up to the end of December 2018 and is collated from monitoring returns from budget managers.
- 1.2 The headline figures are:
  - Total forecast revenue underspend of £270,950;
  - Capital expenditure of £12,240,144.

## 2. Background

- 2.1 The Council operates a monthly budget monitoring process for budget managers, with regular reports to the Cabinet Member for Finance & Performance and the Strategic Management Team.
- 2.2 Financial monitoring reports are presented to Cabinet on a quarterly basis.

## 3. Proposals

### Revenue Outturn

- 3.1 As at the end of December the forecast revenue underspend projected to 31 March 2019 is £270,950. The last reported variance to Cabinet in December 2018 (to end of period 6 – September) was an underspend of £227,000. This represents a movement of £43,950. Table 1 in Appendix I details the significant movements.

**Table 1: Projected Variance by Service**

		<b>Working Budget</b> £	<b>Projected Outturn</b> £	<b>Projected Variance</b> £
Chief Executive	M. Radford	336,630	287,630	(49,000)
Democratic Services	K. Bescoby	993,140	917,140	(76,000)
Policy, Communications & Customer Service	D. Clifford	1,160,490	1,113,490	(47,000)
Director of Regeneration	E. Wiggins	219,740	212,740	(7,000)
Commissioning, Environment & Leisure	M. Cassell	5,435,020	5,165,020	(270,000)
Planning	J. Freeman	902,450	811,450	(91,000)
Housing, Economy & Community Services	C. Hudson	3,147,080	3,147,080	0
Property	A. Adams	555,490	557,490	2,000
Resources: Finance, Revenues & Benefits and Resilience	N. Vickers	2,969,590	2,803,590	(166,000)
Information Technology	C. Woodward	1,166,310	1,139,310	(27,000)
Audit	R. Clarke	176,160	179,160	3,000
Environmental Health	T. Beattie	532,020	517,020	(15,000)
Human Resources	B. Sandher	379,170	340,170	(39,000)
Legal	P. Narebor	437,390	431,390	(6,000)
Corporate Items	N. Vickers	167,320	684,370	517,050
<b>NET REVENUE SERVICE EXPENDITURE</b>		<b>18,578,000</b>	<b>18,307,050</b>	<b>(270,950)</b>
<b>Financed by:</b>				
Revenue Support Grant		0	0	0
Business Rates		(8,441,000)	(8,441,000)	0
New Homes Bonus		(2,046,000)	(2,046,000)	0
Collection Fund Surplus		(178,000)	(178,000)	0
Council Tax		(7,913,000)	(7,913,000)	0
<b>TOTAL FINANCING</b>		<b>(18,578,000)</b>	<b>(18,578,000)</b>	<b>0</b>
<b>NET EXPENDITURE</b>		<b>0</b>	<b>(270,950)</b>	<b>(270,950)</b>
<b>Table 2: Projected Variance by Directorate</b>				
		<b>Working Budget</b> £	<b>Projected Outturn</b> £	<b>Projected Variance</b> £
Chief Executive		336,630	287,630	(49,000)
Democratic Services		993,140	917,140	(76,000)
Regeneration		10,864,780	10,449,780	(415,000)
Resources		3,692,400	4,045,450	353,050
Mid Kent Services		2,691,050	2,607,050	(84,000)
<b>NET REVENUE SERVICE EXPENDITURE</b>		<b>18,578,000</b>	<b>18,307,050</b>	<b>(270,950)</b>

3.2 Table 1 in Appendix I details the significant service movements by type of variance.

3.3 Table 2 in Appendix I details the line-by-line service variations.

### **Business Rates**

3.4 The Council is due to collect £48m of business rates in 2018/19. After the complicated system of levies and tariffs has been accounted for, the Council is forecast to receive £8.4m.

- 3.5 The Council has previously agreed to the establishment of a Business Rates Volatility Reserve, in order to assist the Council in managing the anticipated volatility in business rate income resulting from the introduction of business rate localisation from 2013/14. There are a number of causes of this volatility, such as new businesses opening, existing business growing or closing, rating appeals, and collection rates. The balance on the reserve is currently £3.5m.
- 3.6 The Council has set aside £8.5m for business rate appeals. This indicates how business rate income can vary greatly as a result of a decision made on business rate appeals.
- 3.7 This financial year the Council has participated in a Kent wide pilot full localisation of business rates. The financial impact will be reported in the year end Finance report in July.

### Improvement and Regeneration Funds

- 3.8 Table 3 below details the position on a number of reserve funds. Total reserves not committed is £593,000. This includes an overspend on the Pension and Redundancy fund of £114,000.
- 3.9 Cabinet in July approved the topping up of funds as detailed in the table below.
- 3.10 Table 3 in Appendix I details the approvals from the Improvement and Regeneration Funds during 2018/19. These total £742,000.
- 3.11 The staffing reductions in Revenues and Benefits needed to balance the 2019/20 budget but meant that the Council incurred redundancy costs of £118,651 and pension fund strain costs of £98,263. Therefore, it is recommended that £250,000 is transferred from the General reserve to top up the Pension and Redundancy reserve.
- 3.12 The Council has been involved in negotiations with the previous owner of the Dockyard Church, Sheerness over compensation for the Compulsory Purchase of the church in 2011. We have arrived at a point where the Director of Regeneration, the Monitoring Officer and the Head of Legal Partnership believe a settlement is in the best interests of the Council. The Chief Financial Officer will use the General Reserve to fund the settlement costs. More information on the proposed settlement is included in the exempt report.

**Table 3: Improvement and Regeneration Funds**

<b>Funds</b>	<b>Balance as at 1 April 2018</b>	<b>Topping up of funds in 2018/19</b>	<b>Funds Committed as at 1 April 2018</b>	<b>Funds Committed (refer to Appendix I) 2018/19</b>	<b>Funds Not Yet Committed/ (Overdrawn)</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Performance	316	300	(265)	(106)	245
Regeneration	350	300	(217)	(221)	212

<b>Funds</b>	<b>Balance as at 1 April 2018</b>	<b>Topping up of funds in 2018/19</b>	<b>Funds Committed as at 1 April 2018</b>	<b>Funds Committed (refer to Appendix I) 2018/19</b>	<b>Funds Not Yet Committed/ (Overdrawn)</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Communities	111	75	(40)	(71)	75
Pension & Redundancy	205	0	0	(319)	(114)
Local Loan Fund	200	0	0	(25)	175
<b>TOTAL</b>	<b>1,182</b>	<b>675</b>	<b>(522)</b>	<b>(742)</b>	<b>593</b>

### Capital Expenditure

3.13 This section of the report details actual capital expenditure and highlights any variations between the revised 2018/19 capital budget and the projected outturn.

3.14 A reconciliation between the original and revised capital budgets is set out below:

**Table 4: Reconciliation of Original to Revised Capital Budget**

	<b>£</b>
<b>Original Budget</b>	<b>33,717,110</b>
2017/18 rollovers (Minute 112/07/2018)	2,027,980
Leisure Centres (Minute 40/05/2018)	1,000,000
Queenborough Causeway (Minute 104/07/2015)	60,000
Former Bus Depot, East Street (Minute 198/09/2017)	1,155,690
Swale Lifts Replacement (Minute 194/09/2017)	73,060
Agresso Upgrade (Minute 112/07/2018)	25,000
Dolphin Yard Sailing Museum (Delegated Authority 06/11/2018)	105,000
Disabled Facilities Grant (DFG) additional funding from KCC	548,000
Rephasing of projects already approved by Cabinet	(18,276,978)
<b>Revised Budget</b>	<b>20,434,862</b>

3.15 Actual expenditure to end of December 2018 is £12,240,141 (Table 5 below refers). This represents 60% of the revised budget. Further details by Heads of Service are set out in Table 4 in Appendix I.



**Table 5: Capital Programme Expenditure**

	<b>Revised Budget 2018/19</b>	<b>Actual to end of December 2018</b>	<b>Projected Full Year Variance 2018/19</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Commissioning, Environment & Leisure	2,485	217	0
Housing, Economy & Community Services	17,762	11,919	54
Property	79	73	0
Environmental Services MKS	57	8	0
ICT MKS	27	18	0
Finance	25	5	0
<b>Total Swale Borough Council funded</b>	<b>16,637</b>	<b>10,930</b>	<b>54</b>
<b>Total Partnership funded</b>	<b>3,798</b>	<b>1,310</b>	<b>0</b>
<b>Total Capital Programme</b>	<b>20,435</b>	<b>12,240</b>	<b>54</b>
% spent to date compared to Revised Budget		60%	

3.16 The phasing of the capital programme will not be equal through the year and Sittingbourne Town Centre (STC) spend is greater in the second half of the year with the commencement of the leisure build.

3.17 The 2018/19 capital programme expenditure of £12,240,141 is funded as set out in Table 6 below.

3.18 In January 2019 the Council took out two loans of £5m each, from other local authorities. One loan is for 12 months at a rate of 1.1% and the other for 18 months at a rate of 1.21%.

**Table 6: Capital Programme Funding**

<b>Source of funding</b>	<b>Revised Budget 2018/19</b>	<b>Actual to end of December 2018</b>	<b>Projected Full Year Variance 2018/19</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Internal Borrowing	16,140	10,678	0
Partnership funding (including S106 Grants)	3,798	1,310	0
Earmarked Reserves	391	244	54
Capital Receipts	106	8	0
<b>Total Funded</b>	<b>20,435</b>	<b>12,240</b>	<b>54</b>

## Payment of Creditors

3.19 The payment of creditors to end of December 2018 is 98.92% paid in 30 days against the target of 97%.

## Debtors

3.20 Tables 5 and 6 in Appendix I analyse the sundry debt outstanding.

## 4. Alternative Options

4.1 None identified – this report is for information.

## 5. Consultation Undertaken or Proposed

5.1 Heads of Service and Strategic Management Team have been consulted in preparing this report.

## 6. Implications

Issue	Implications
Corporate Plan	Good financial management is key to achieving our Corporate Plan priority of being “A council to be proud of”.
Financial, Resource and Property	As detailed in the report.
Legal, Statutory and Procurement	None identified at this stage.
Crime and Disorder	None identified at this stage.
Environment & Sustainability	None identified at this stage.
Health & Wellbeing	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

## 7. Appendices

7.1 The following documents are published with this report and form part of the report:

- Appendix I: Financial Monitoring as at the end of December 2018;

## 8. Background Papers

8.1 [Budget 2018/19 and Medium Term Financial Plan 2018/19 to 2020/21](#)

## Financial Monitoring Report – April – December 2018

**Table 1: Service Movements by Type**

Service/Contract	Reason for Variance	Projected Variance (September 2018) £'000	Projected Variance (December 2018) £'000
<b>Additional Income:</b> (brackets in variance mean additional income)			
Parking Management	Additional off- street parking income	(143)	(121)
Parking Management	Net income on-street parking	(39)	(59)
Planning	Net additional planning income	(265)	(316)
Planning	S106 monitoring fees	-	(20)
Licensing	Hackney Carriage (net)	(34)	(34)
Corporate	External interest (net)	(103)	(83)
Highways	Street naming	(20)	(17)
Seafront	Beach hut income	(6)	(13)
Refuse Collection/Street Cleansing/Public Conveniences	Additional income from sale of wheeled bins	(32)	(78)
<b>Loss of Income:</b>			
Development Control	Pre-Application Planning Advice	18	0
Land Charges	Reduced income from fees (net)	45	50
Parking Management	Penalty charge notice	25	16
Licensing	Gambling licence fees	22	22
Housing Benefit & Council Tax	Loss of Admin Grant (net)	108	91
Homelessness	Reduced income	18	18
Stay Put Scheme	Reduced income from Disabled Facilities Grants (DFG) fees	3	3
<b>Total Net Income</b>		<b>(403)</b>	<b>(541)</b>

<b>Service/Contract</b>	<b>Reason for Variance</b>	<b>Projected Variance (September 2018) £'000</b>	<b>Projected Variance (December 2018) £'000</b>
<b>Procurement /Shared Service Savings/Costs: (brackets in variance mean underspend)</b>			
Refuse Collection/Street Cleansing/Public Conveniences	Contracts	(73)	(31)
Parking	Partnership	34	29
Internal Audit	Shared service	12	3
Environmental Services	Shared service	(10)	(15)
CCTV	Additional contract costs	8	(3)
Leisure	Swallows operating & management costs saving	(13)	(18)
Democratic Services	MKS graduate shared service (underspend in 17/18)	(38)	(38)
Enforcement Service – Council Tax	Additional expected profit shared service	(46)	(46)
Legal	Shared service	-	-
Planning	Shared service	30	36
Planning	Additional costs building control	(8)	31
<b>Total Procurement/Shared Service Savings/Costs</b>		<b>(104)</b>	<b>(52)</b>
<b>Additional Costs:</b>			
Homelessness	Temporary accommodation – landlord payments (net)	102	63
Sittingbourne Master Plan	Consultancy fees re Sittingbourne Town Centre project	55	55
Parking Management	Car Parks – business/water rates	28	13
Parking Management	Car Parks – cash security and RingGo fees	51	66
Refuse Collection/Street Cleansing/Public Conveniences	Purchase of wheeled bins	39	82

<b>Service/Contract</b>	<b>Reason for Variance</b>	<b>Projected Variance (September 2018) £'000</b>	<b>Projected Variance (December 2018) £'000</b>
Additional Minimum Revenue Provision (MRP) costs	Confirmation of timing of MRP costs from treasury advisers	103	202
<b>Total Additional Costs</b>		<b>378</b>	<b>481</b>
<b>Underspends: (brackets in variance mean additional underspend)</b>			
Salaries	(refer to note A below)	(151)	(391)
Chief Executive	Special projects	(10)	(10)
Democratic Services	Members' allowances & travel	(30)	(34)
Legal	External legal fees	(11)	(19)
Corporate	Pension Enhancements	(15)	(17)
Markets	Business rates	(16)	(16)
<b>Total Underspends</b>		<b>(233)</b>	<b>(487)</b>
<b>Total Variance</b>		<b>(362)</b>	<b>(547)</b>
<b>Movement on reserves (See Corporate Items Table 2 in Appendix I)</b>		137	206
<b>Set aside to fund the 2019/20 Budget</b>		-	74
<b>Other Net Variances</b>		(2)	(4)
<b>Net Total Variance</b>		<b>(227)</b>	<b>(271)</b>
<b>Net Movement</b>			<b>(44)</b>

Note A – The projected underspend on salaries includes £197k savings being made in Revenue Services to offset the loss of DWP Housing Benefit Grant.

**Table 2: Projected Net (Under)/Overspend / Income Shortfall  
as at end of December 2018 by Service**

<b>Service – Cabinet Member (Budget Manager)</b>	<b>£'000</b>	<b>Explanation</b>
<b>CHIEF EXECUTIVE – Mark Radford (Cllr A. Bowles)</b>		
Chief Executive & Corporate Costs	(49)	(£38k) Underspend – net staff costs. (£10k) Underspend – special project costs. (£1k) Net Underspend.
<b>TOTAL CHIEF EXECUTIVE</b>	<b>(49)</b>	
<b>DEMOCRATIC SERVICES – Katherine Bescoby (Cllr A. Bowles)</b>		
Democratic Process	(53)	(£21k) Underspend – members' allowances. (£13k) Underspend – members' travel. (£5k) Net savings salary costs. (£14k) Savings other costs.
Elections & Electoral Registration	11	£27k Additional canvassing costs. (£19k) Additional grant income. £3k Additional costs.
MKS shared Service Corporate Costs	(34)	(£38k) Underspend on costs of MKS graduate shared service costs from MBC as a result of underspend in 2017/18. £4k Additional costs re MKS Director.
<b>TOTAL DEMOCRATIC SERVICES</b>	<b>(76)</b>	
<b>POLICY, COMMUNICATIONS AND CUSTOMER SERVICES – David Clifford (Cllr D. Dewar-Whalley)</b>		
Communications	(8)	Savings net salary and agency staff costs.
Customer Services	(92)	(£14k) Savings net salary and agency staff costs. (£31k) Savings salary staff costs offsetting overspend in Transformation Team. (£30k) Savings – Sheerness Gateway contract cost (£17k) Savings net other costs.
Policy	(28)	Underspend net salary costs.
Transformation	61	£61k Net staff costs due to extension of Project Team to the end of February. These costs are offset by savings in Revenues & Benefits (£34k) and Customer Services (£31k).
Information Governance	20	£20k Net agency staff.

<b>Service – Cabinet Member (Budget Manager)</b>	<b>£'000</b>	<b>Explanation</b>
<b>TOTAL POLICY, COMMUNICATIONS AND CUSTOMER SERVICES</b>	<b>(47)</b>	
<b>REGENERATION – Emma Wiggins (Cllr M. Cosgrove &amp; Cllr A. Horton)</b>		
Head of Regeneration	(7)	(£7k) Underspend – net salary costs.
<b>TOTAL REGENERATION</b>	<b>(7)</b>	
<b>HOUSING, ECONOMY AND COMMUNITY SERVICES – Charlotte Hudson (Cllr A. Horton, Cllr D. Simmons, Cllr M. Cosgrove, Cllr A Bowles, Cllr D. Dewar-Walley &amp; Cllr K. Pugh)</b>		
Community Services		
CCTV	(3)	£8k Additional contract costs. (£13k) Line rental savings. £2k Other fees & charges.
Community Halls and Centres	0	Nil variance reported.
Community Safety	(24)	Net staff costs saving.
Economy & Community Services, Cultural & Economic	(23)	Net salary and agency staff costs saving.
Members' Grants	0	Nil variance reported.
Economic Development	2	Net staff costs.
Learning, Business & Skills	13	£17k Additional cost of apprentices. (£4k) Savings licence cost.
Tourism	6	Net staff costs.
Arts Events & Activities	0	Nil variance reported.
Markets	(17)	(£5k) net business rates saving Sittingbourne. (£1k) Additional rental income. (£11k) net business rates saving Faversham.
Sports Development	(7)	Net staff costs saving.
Sub-total	(53)	
<b>Housing / Health</b>		
Homelessness Temporary Accommodation	63	(£68k) Landlord payments less than forecast. £141k Benefit income less than forecast. (£10k) Net savings other costs.

<b>Service – Cabinet Member (Budget Manager)</b>	<b>£'000</b>	<b>Explanation</b>
Homelessness Temporary Houses	23	£18k Reduced income rent received from the three properties. £5k Net other additional costs.
Housing Advice / Options	(14)	Net salary and agency staff costs underspend.
Housing Development and Strategy	(5)	(£4k) Savings salary costs. (£1k) Net savings other costs.
Private Sector Housing	(3)	£7k Staff costs. (£10k) Net additional income.
Stay Put Scheme	(11)	(£14k) Net salary and agency staff costs saving. £3k DFG fees reduced income.
Sub-total	53	
<b>TOTAL HOUSING, ECONOMY &amp; COMMUNITY SERVICES</b>	<b>(0)</b>	
<b>PLANNING – James Freeman (Cllr G. Lewin)</b>		
Building Control/ Dangerous Structures	31	£28k Partnership – significant slump in building control applications. £3k Additional costs – dangerous structures.
Development Control	(239)	(£316k) Additional income – planning fees – increase in applications. £90k Additional costs – agency fees – Enforcement. (£15k) Underspend – planning appeal. (£20k) Additional income – S106 monitoring fees. (£39k) Net savings salary costs. £30k Additional external legal fees. £31k Net other additional costs.
Development Services	(26)	(£133k) savings salary costs offset by £80k additional costs - agency fees. £20k Additional costs – training. £7k Additional costs – recruitment adverts.
Local Land Charges	47	£50k reduced income from land charges. (£3k) reduced costs – MKPS.



<b>Service – Cabinet Member (Budget Manager)</b>	<b>£'000</b>	<b>Explanation</b>
Local Planning & Conservation	60	£79k additional costs – Local Plan (£19k) Underspend – Conservation and Design <b>N.B. Any underspend or overspend on the local plan will be transferred to the ring-fenced reserve to be used solely to fund Local Development Framework (LDF) associated work.</b>
Mid Kent Planning Service (MKPS)	36	Additional costs.
<b>TOTAL PLANNING</b>	<b>(91)</b>	
<b>COMMISSIONING, ENVIRONMENT AND LEISURE – Martyn Cassell (Cllr A. Horton &amp; Cllr D. Simmons)</b>		
Commissioning, Contracts & Procurement	(39)	(£43k) Savings salary costs. £4k Net miscellaneous costs.
Environmental Response Team	(53)	(£8k) Savings salary costs. (£29k) Net additional Anti-Littering penalty income. (£11k) Savings re Dog Kennelling and Returned Dogs additional income. (£3k) additional income Pest Control commission. (£2k) Savings use of skips.
Client & Amenity Services and Technical Services	(53)	(£48k) Net savings salary and agency staff costs. (£5k) Net savings miscellaneous costs.
Refuse Collection / Street Cleansing/ Public Conveniences/Recycling & Waste Minimisation	(28)	(£31k) Contract costs savings. (£78k) Additional income wheeled bins. £82k Wheeled bins costs additional expenditure (offset by the £78k of additional income). (£11k) Net additional income Special Collections, including A249 Litter Picking. £7k Additional costs – fly tipping etc. (£3k) Savings Public Conveniences rates. £6k Reduced income – garden waste collection.
Grounds Maintenance	(5)	Net grounds maintenance costs saving.
Cemeteries and Closed Churchyards	14	£13k Loss of income interments. £1k Other net costs.
Highways SBC	(17)	(£17k) Street naming & numbering fees additional income.

Service – Cabinet Member (Budget Manager)	£'000	Explanation
Parking Management	(81)	(£7k) Staff costs saving. £29k Additional costs – Parking Partnership. £13k Additional costs – business rates and water rates. £6k Additional costs – cash security costs for cash in transit. £60k Additional costs – increased use of cashless parking option RingGo. We collect their fees for additional services and then pay them back out. Offset by increased income. (£121k) Net additional income – pay & display fees (including season tickets). £16k Reduced income – Penalty charge notices. (£59k) Net surplus on-street parking (see note below). (£18k) Other net savings/income. <b>N.B. Any surplus on street parking will be transferred to the ring fenced on-street parking account under Section 55 of the Road Traffic Act 1984.</b>
Seafront and Harbour & Quays	(11)	£4k Salary costs. (£13k) Net additional income Beach Huts. (£12k) Additional income memorial benches. £4k Additional non-contract grounds maintenance. £2k Additional cost RNLI contract. £4k Other net costs.
Leisure, Sports, Open Spaces, Parks, Countryside and Country Parks	3	(£18k) Leisure centres net operating and management contracts costs saving. £8k Cesspool clearance Barton's Point. £32k Play Areas on non-contract grounds maintenance, equipment purchase and signage, offset by (£31k) Savings play areas equipment maintenance. £11k Net other costs.
<b>TOTAL COMMISSIONING, ENVIRONMENT AND LEISURE</b>	<b>(270)</b>	

Service – Cabinet Member (Budget Manager)	£'000	Explanation
<b>RESOURCES – Nick Vickers</b>		
<b>ENVIRONMENTAL HEALTH – Tracey Beattie (Cllr. D. Simmons)</b>		
Environmental Health MKS	(10)	Underspend on shared service as a result of vacant posts.
Environmental Services	(5)	Net underspends/savings on client side.
<b>Sub Total</b>	<b>(15)</b>	
<b>FINANCE, RESILIENCE AND LICENSING, REVENUES &amp; BENEFITS – Nick Vickers (Cllr D. Dewar-Whalley)</b>		
Finance	(11)	(£11k) Net savings.
Resilience & Licensing	(34)	(£39k) Additional income – Hackney Carriage licences. £7k Additional costs – Hackney Carriage. £22k Reduced income – gambling licence fees. (£23k) Net savings salary and agency staff costs. (£1k) Net savings other costs. <b>N.B. Any surplus on Hackney Carriage Licensing will be transferred to the ring-fenced reserve to be used solely to fund Hackney Carriage related work</b>
Revenues & Benefits	(121)	£306k Loss of income Benefit Admin Subsidy; (£212k) Additional DWP Housing Benefit Grant; (£197k) Staff cost savings; (£3k) Additional DWP grant income. <b>N.B. The net saving of (£106k) detailed above will be transferred to reserves at year end.</b> (£34k) Additional staff cost savings offsetting overspend in Transformation Team. £35k Loss of income – from under recovery of overpayments of Housing Benefits. (£46k) Additional income – MKS Debt Enforcement Partnership anticipated surplus for 18/19. £30k Additional costs.
<b>Sub Total</b>	<b>(166)</b>	
<b>PROPERTY – Anne Adams (Cllr. D. Dewar-Whalley)</b>		
Administrative Buildings	6	£6k Net additional costs.

<b>Service – Cabinet Member (Budget Manager)</b>	<b>£'000</b>	<b>Explanation</b>
Property Services	(5)	£5k Net savings.
Property Management	1	(£6k) Savings on utility costs at Sheerness District Office. £7k Net additional costs on general fund properties.
Building Maintenance	0	Nil variance.
<b>Sub Total</b>	<b>2</b>	
<b>TOTAL RESOURCES</b>	<b>(163)</b>	
<b>IT SERVICES – Chris Woodward (Cllr D. Dewar-Whalley)</b>		
Telecommunications (Admin Buildings)	(27)	(£15k) savings on equipment maintenance. (£10k) savings on line rental. (£2k) savings on courier fees.
Mid Kent ICT	0	<b>N.B. Any variance at year-end on IT maintenance &amp; software will be transferred to the ring-fenced reserve to be used solely to fund IT related expenditure in future years.</b>
<b>TOTAL IT SERVICES</b>	<b>(27)</b>	
<b>INTERNAL AUDIT – Rich Clarke (Cllr D. Dewar-Whalley)</b>		
Mid Kent Audit	3	Variance reported
<b>TOTAL INTERNAL AUDIT</b>	<b>3</b>	
<b>HUMAN RESOURCES – Bal Sandher (Cllr D. Dewar-Whalley)</b>		
Mid Kent HR Service	(39)	Saving on shared service partnership
<b>TOTAL HUMAN RESOURCES</b>	<b>(39)</b>	
<b>LEGAL – Patricia Narebor (Cllr D. Dewar-Whalley)</b>		
Mid Kent Legal Partnership	0	£107k additional costs – net salary and agency costs. £3k additional costs – net running costs. (£110k) additional income – from MBC and TWBC.
External Legal Fees	(19)	Underspend reported.
Legal Income	13	Variance reported.
<b>TOTAL LEGAL</b>	<b>(6)</b>	

Service – Cabinet Member (Budget Manager)	£'000	Explanation
<b>NON-SERVICE BUDGETS</b>		
Corporate Items	517	<p>£55k Additional Expenditure - Sittingbourne Town Centre Regeneration – consultants and specialist advice for regeneration works.</p> <p>£10k Additional Expenditure – Princess Street Retail Park – service charges.</p> <p>(£77k) Additional net income – including external interest (£83k). Increase in cash flow and an improved return on our investments.</p> <p>£202k Due to MRP confirmation of timing of MRP costs for STC from treasury advisers.</p> <p>£70k Salary savings in 2018/19 budget not being achieved.</p> <p>£6k Additional expenditure – Insurance premiums.</p> <p>(£17k) Reduced expenditure – Annual Pension.</p> <p>£206k net contribution to reserves ring fenced services as detailed in the table above.</p> <p>£74k to fund 2019/20 budget.</p> <p>(£11k) Net other savings.</p>
<b>TOTAL</b>	<b>517</b>	
	<b>(271)</b>	<b>NET REVENUE EXPENDITURE (Underspend)</b>

**Table 3: Improvement & Regeneration Fund Allocations 2018/19  
as at the end of December 2018**

<b>Performance Fund</b>	<b>Amount £</b>
Housing Register Apprentice	9,895
Best Companies b-Heard Survey 2018/19	12,000
Transformation Team	17,812
Independent Housing Consultant	20,000
High Priority Projects to Leisure Section	46,500
<b>Total Performance Fund Approved as at December 2018</b>	<b>106,207</b>
<b>Regeneration Fund</b>	<b>Amount £</b>
Member Grants	47,000
Delivering For You - Public Realm Improvements	7,310
Delivering For You - Town and Borough Sign Replacement	18,000
Delivering For You - New Litter Bins	25,000
Delivering For You - Bus Shelter Refurbishment	11,886
Delivering For You - Flood Lane Space Improvement	2,550
Delivering For You - Street Name Plates	8,307
Delivering For You - Floral Planters	3,800
Regeneration Officer 2019/20	52,755
Economic Development Officer 2019/20	44,166
<b>Total Regeneration Fund Approved as at December 2018</b>	<b>220,774</b>

<b>Communities Fund</b>	<b>Amount £</b>
The Mount Garden	5,000
Dolphin Sailing Barge Museum	35,000
Feasibility works for TS Hasarde	13,700
Sittingbourne Orpheus Choral Society	3,000
Sittingbourne & Milton Swimming Club	4,000
Volunteer swale awards 2019	4,900
Salt giveaway	3,807
Catenary wires Sheerness	1,842
<b>Total Communities Fund Approved as at December 2018</b>	<b>71,249</b>
<b>Pension &amp; Redundancy Fund</b>	<b>Amount £</b>
Pension and Redundancy costs	318,818
<b>Total Pension &amp; redundancy Fund Approved as at December 2018</b>	<b>318,818</b>
<b>Local Loan Fund</b>	<b>Amount £</b>
Borden Sport Limited	24,999
<b>Total Local Loan Fund Approved as at December 2018</b>	<b>24,999</b>
<b>Total All Funds Approved as at December 2018</b>	<b>742,047</b>

Table 4: Capital Programme 2018/19

	Original Budget 2018/19	Revised Budget 2018/19	Actual to December 2018	Projected Full Year Variance 2018/19	Notes
	£	£	£	£	
<b><u>Commissioning, Environment &amp; Leisure - M. Cassell</u></b>					
Faversham Recreation Ground Improvements – External Grant	0	133,950	63,250	0	
Faversham Recreation Ground Improvements – S106	0	27,440	3,144	0	
Gunpowder Works Oare Faversham - S106	0	9,000	0	0	
Iwade Orchard Artwork – S106	0	5,000	5,000	0	
Leisure Centres – Internal/External Borrowing	1,000,000	2,000,000	0	0	
Open Spaces Play Equipment – S106	100,000	14,000	0	0	
New Play Area - Thistle Hill - S106	0	26,380	26,382	0	
Nursery Close/Queenborough Lines Bridge Replacement - Reserves	0	400	400	0	
Play Area Refurbishment - Milton Recreation Ground - S106	0	45,190	45,185	0	
Play Area – Windermere Faversham – S106	0	13,890	13,892	0	
Queenborough Causeway - Reserves	0	60,000	60,000	0	
Resurfacing Promenade, The Leas - External Grant	0	30	34	0	
Play Area Improvements – Reserves	0	150,000	0	0	
<b>Total Commissioning, Environment &amp; Leisure</b>	<b>1,100,000</b>	<b>2,485,280</b>	<b>217,287</b>	<b>0</b>	



Table 4: Capital Programme 2018/19

	Original Budget 2018/19	Revised Budget 2018/19	Actual to December 2018	Projected Full Year Variance 2018/19	Notes
	£	£	£	£	
<b><u>Housing Economy &amp; Community Services – C. Hudson</u></b>					
CCTV - Reserves - Repairs & Renewals	15,000	15,000	0	0	
Disabled Facilities Grants - External Grant	1,664,800	3,290,640	1,076,693	0	
Dolphin Yard Sailing Barge Museum – S106	0	70,000	70,000	0	
Dolphin Yard Sailing Barge Museum - Reserves	0	35,000	35,000	0	
Easthall Farm Community Centre - S106	0	158,170	3,604	0	
Faversham Creek Basin Regeneration Project (swing bridge) - Capital Receipts	0	0	0	0	
Former Bus Depot, East Street – Internal Borrowing	0	1,155,690	1,155,694	0	
Home Repair Grants - Over 60 – Reserves	0	0	1,825	1,825	(a)
Home Repair Grants - Winter Warmth Grants – Reserves	0	0	16,347	16,347	(a)
RHB2 Decent Home Loans Owner Occupier – Reserves	0	0	35,463	35,463	(a)
The Mill Project, Sittingbourne Skate Park - S106	0	4,020	2,675	0	
The Mill Project, Sittingbourne Skate Park - Capital Receipts	0	50,000	0	0	
The Mill Project, Sittingbourne Skate Park - Capital Grant	0	0	0	0	
Sittingbourne Town Centre – Internal/ External Borrowing	30,833,920	12,983,862	9,522,289	0	
<b>Total Housing Economy &amp; Community Services</b>	<b>32,513,720</b>	<b>17,762,382</b>	<b>11,919,590</b>	<b>53,635</b>	
<b><u>Property - A. Adams</u></b>					
Swale House - Lifts Refurbishment – Reserves	0	78,560	73,064	0	
<b>Total Property</b>	<b>0</b>	<b>78,560</b>	<b>73,064</b>	<b>0</b>	

Table 4: Capital Programme 2018/19

	Original Budget 2018/19	Revised Budget 2018/19	Actual to December 2018	Projected Full Year Variance 2018/19	Notes
	£	£	£	£	
<b><u>Environmental Services – T. Beattie</u></b>					
Replacement of Air Pollution Monitoring Station – Capital Receipts	0	56,640	7,798	0	
<b>Total Environmental Health</b>	<b>0</b>	<b>56,640</b>	<b>7,798</b>	<b>0</b>	
<b><u>ICT - C. Woodward</u></b>					
ICT infrastructure and equipment replacement – Reserves	103,400	27,000	17,780	0	
<b>Total ICT</b>	<b>103,400</b>	<b>27,000</b>	<b>17,780</b>	<b>0</b>	
<b><u>Finance – N Vickers</u></b>					
Agresso Upgrade	0	25,000	4,625	0	
<b>Total Finance</b>	<b>0</b>	<b>25,000</b>	<b>4,625</b>	<b>0</b>	
Total Capital Programme Funded by Swale Borough Council	31,952,320	16,637,152	10,930,285	53,635	
Total Capital Programme Funded by Partners	1,764,800	3,797,710	1,309,859	0	
<b>Total Capital Programme</b>	<b>33,717,120</b>	<b>20,434,862</b>	<b>12,240,144</b>	<b>53,635</b>	

(a) These schemes will be funded from recycled receipts at the end of the year.

**Table 5: Total Debt (Including Not Due) by Due Date**

	<b>December 2018 £'000</b>	<b>September 2018 £'000</b>	<b>December 2017 £'000</b>
Not Due (less than 1 Month)	221	368	514
1 – 2 Months	368	43	81
2 – 6 Months	48	59	52
6 – 12 Months	78	75	53
1 – 2 Years	28	28	24
2 – 3 Years	17	18	37
3 – 4 Years	31	33	9
4 – 5 Years	6	7	7
5 – 6 Years	3	4	1
> 6 Years	34	35	36
<b>Total</b>	<b>834</b>	<b>670</b>	<b>814</b>
<b>Total Due</b>	<b>613</b>	<b>302</b>	<b>300</b>
<b>% Total Due</b>	<b>74%</b>	<b>45%</b>	<b>37%</b>

Note – 1- 2 months includes an invoice for £298,000 relating to recycling credits. This has now been paid.

**Table 6: Total Debt (Including Not Due) by Head of Service**

	<b>December 2018 £'000</b>	<b>September 2018 £'000</b>	<b>December 2017 £'000</b>
Property	191	193	152
Housing Services	87	117	164
Commissioning, Environment & Leisure	366	51	54
Economy & Communities	28	10	29
Environmental Health	1	0	2
Planning	7	3	13
Finance	3	0	0
Legal	37	0	0
Communications	1	0	2
Other	113	296	398
<b>Total</b>	<b>834</b>	<b>670</b>	<b>814</b>

Note – Property includes £108k relating to one company. Commissioning, Environment & Leisure includes £298,000 relating to recycling credits which has now been paid. The 'Other' includes £87K of S106 Income.

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<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	20 March 2019
<b>Report Title</b>	Air Quality Action Plan and Public Consultation
<b>Cabinet Member</b>	Cllr David Simmons, Cabinet Member for Environment & Rural Affairs
<b>SMT Lead</b>	Nick Vickers, Chief Financial Officer
<b>Head of Service</b>	Tracey Beattie, Mid Kent Environmental Health Manager
<b>Lead Officer</b>	Steve Wilcock, Environmental Protection Team Leader
<b>Classification</b>	Open
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. To note the comments and outcome of the public consultation on the draft Air Quality Action Plan 2018 - 22.</li> <li>2. To approve the additional measures in the draft Air Quality Action Plan for submission to DEFRA.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report forms the last in a series of reports to Cabinet charting the development of Swale's Strategic Air Quality Action Plan 2018 – 22 before submission to the Department for Environment, Food & Rural Affairs (DEFRA). This is in fulfilment of the Council's responsibility in the Local Air Management regime under the Environment Act 1995.
- 1.2 At the October 2018 Cabinet meeting it was agreed to undertake a public consultation on the measures recommended to improve air quality within the Air Quality Management Areas (AQMAs) before submitting the document to DEFRA and return to Cabinet for final approval.
- 1.3 A public consultation was undertaken from 22 November 2018 extended to 29 January 2019 because of the Christmas and New Year holidays. It required respondents to prioritise the measures they felt would improve air quality within the AQMAs and provided them with an opportunity to identify measures not included within the consultation. Three focus groups were also held in Sittingbourne, Faversham and Newington where participants could discuss in more detail the measures being proposed and identify others they felt could contribute to air quality improvements in the AQMAs.
- 1.4 Of the strategic measures proposed, the Clean Air Zone – Create a HGV Restriction Area received the most support followed by the implementation of a Low Emissions Strategy for Swale Borough Council. Development of air pollution alerts and continuing support for the Eco Star scheme attracted the least support.

- 1.5 The local measures that received the most support were for Local School and Business Travel Plans followed by improving Pinch Point Parking. A Local Low Emissions Vehicle Car Club was seen as the least important measure.
- 1.6 The comments received through the survey were wide ranging with some questioning whether the measures being proposed were radical enough to improve air quality; others were more supportive. Issues also mentioned related to housing developments, poor road infrastructure, locating freight distribution nearer to the M2, by-passes and an additional junction with the M2 between Junction 5 and 6. Many of these suggestions although understandable, do not come within the control of the Council to deliver, are financially prohibitive or only impact on air quality improvement for specific AQMAs.
- 1.7 A couple of suggestions that emerged from the focus group meetings warrant particular attention such as the omission of a link between the Local Plan and the AQAP, and a need to promote modal shift, better public transport and infrastructure for the borough.
- 1.8 A number of the issues raised can be included within the AQAP as separate measures whilst others can be included within the Low Emissions Strategy for Swale BC where they impact on corporate policies.
- 1.9 The Council has demonstrated its commitment to the issue of air quality through providing more air quality monitoring than any other Kent authority and resolving this issue is a high priority. It has to be recognised that whilst the statutory responsibility for preparing the AQAP rests with the Council, the 'big picture' solutions to air quality issues sit with Central Government. This Council is making a clear statement that we cannot wait for the improvements in air quality which will come naturally from reductions in vehicle emissions.

## **2 Background**

- 2.1 The interim Air Quality Action Plan (AQAP) approved by Cabinet (September 2017) contained air quality measures recommended from an initial source apportionment and options assessment report produced by air quality consultants Phlorum. Their report gave a baseline assessment of air quality modelled for 2018, 2020 and 2022. It also gave information on traffic counts and through automatic number plate recognition the proportion of vehicle class movements (source apportionment) for each AQMA. The purpose of the Interim AQAP was to provide Defra with our intention to form one strategic AQAP and identify potential measures which would be confirmed by assessment and detailed options appraisals.
- 2.2 The source apportionment showed that a high proportion of NO<sub>2</sub> came from diesel vehicles. Light Goods Vehicles (LGV) formed 15% of the fleet and produced 20% of the NO<sub>2</sub> emissions and Heavy Goods Vehicles (HGVs) made up only 3% of the fleet but are responsible for between 18 – 20% of the NO<sub>2</sub> emissions. The study also identified that the older vehicles produced significantly higher

emissions than the newer Euro 5 and 6 vehicles. This information informed the choice of potential AQAP measures suggested in the report, the most radical suggestion being the need for Clean Air Zone (CAZ) measures. The investigation of which form of CAZ type would be suitable required further data modelling and detailed assessment.

- 2.3** The Air Quality Steering Group chaired by Cllr Simmons approved the additional work for the next stage of the development of the AQAP. The second Phlorum consultant's report provided an evaluation of the required NO<sub>2</sub> reduction needed within each AQMA for the various CAZ models (as defined by DEFRA) with more detailed assessment of the impact various measures would have on air quality for each AQMA. The aim was to identify the best and most practical measures to deliver air quality improvements for all residents and people visiting the area.

The report identified two combinations of CAZ that could deliver necessary NO<sub>2</sub> reduction by 2022. The 'No Charge' (Scenario E) involved the targeted engagement of Euro I – IV HGVs and a 10% reduction in HGV fleet on the A2. The voluntary scheme would need signage and funding for the retro fit of Euro I-IV vehicles to Euro VI. The second option, Scenario F would involve engagement with a lower number of HGVs for retrofitting but would result in a 20% reduction in HGV fleet on the A2. This would be achieved through a charging scheme with strategic camera installations and periodic enforcement. The report also recommended implementing a number of other measures to assist with air quality improvements.

- 2.4** The Cabinet approved the report and agreed the public consultation of the measures proposed. In total seven strategic and five local measures formed the basis of the public consultation. These were;

#### **Strategic Measures**

1. Clean Air Corridor – Create a HGV Restriction Area
2. Clean Air Corridor – Signage and Information System
3. Low Emission Strategy for Swale B C
4. Swale Freight Management Plan
5. Swale Eco Star Scheme
6. Development of Air Pollution Alerts
7. Work with KCC to develop a County Wide Low Emissions Strategy

#### **Local Measures**

1. 20 is Plenty
2. Pinch Point Parking Alternatives
3. Local LEV car clubs
4. Local School and Business Travel Plans
5. Quiet Delivery Zones

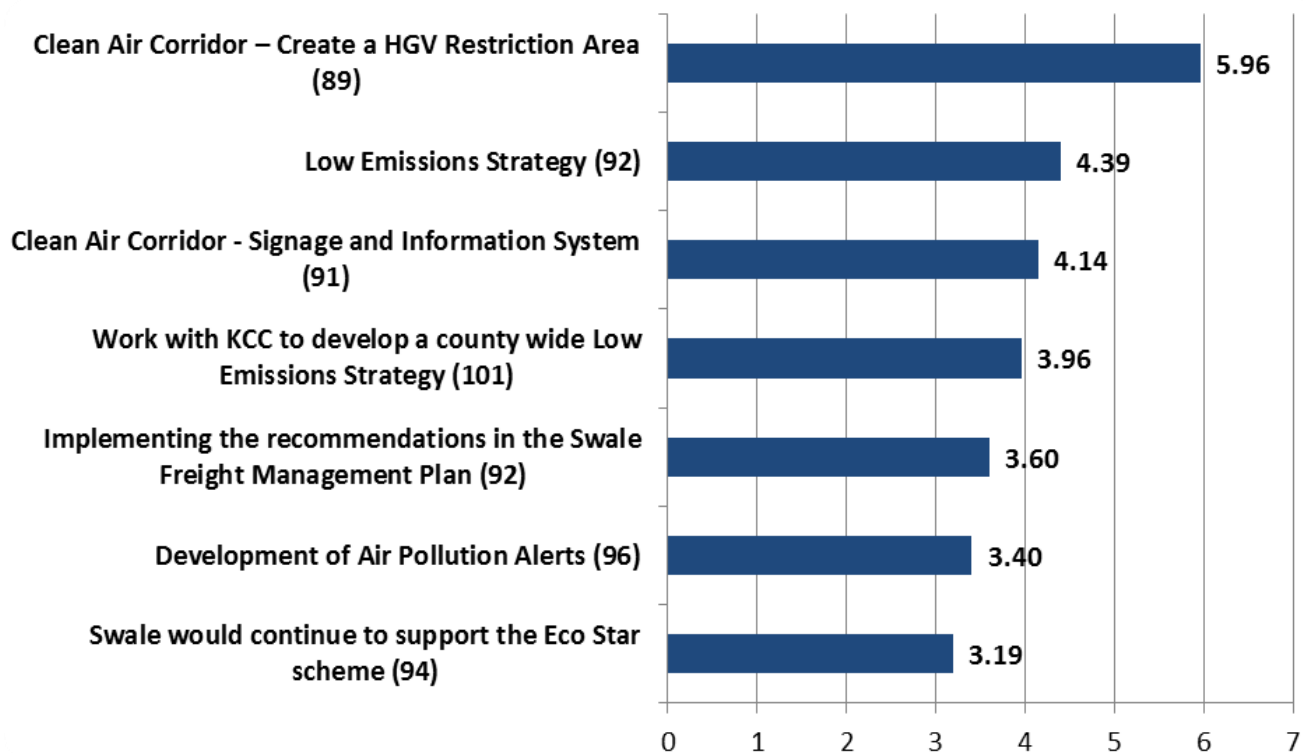
- 2.5** The consultation was open for an extended period due to the Christmas and New Year and ran from 22 November to 29 January 2019. The survey was promoted on line through the Council's website and social media channels. A post box drop of letters advertising the focus groups and survey was also undertaken to

residents in the AQMAs. Respondents were asked to put the proposed Strategic and Local measures in order of importance. A total of 151 people responded to the survey, including 20 stakeholders who included Parish Council's, Public Transport Providers and Schools.

## 2.6 Strategic Measures

As mentioned, respondents were asked to put the proposed Strategic Measures in order of importance. In order to assess this data a weighted average has been used with the measures placed as first receiving seven points, the second six points and so on with the measure ranked last given 1 point. These were then added together and divided by the number of respondents to give a weighted average.

The chart below shows the weighted average responses for the strategic measures, with the total number of respondents to each shown in brackets. No weight is applied to measure that have not been ranked. For example if a respondent only ranked their top three measures no value would be assigned to the unranked measures.



2.7 The responses show the most support for the Clean Air Corridor – Create HGV Restrictions with the greatest proportion of respondents placing this measure as first (58.4%) and lowest proportion placing it last (4.5%).

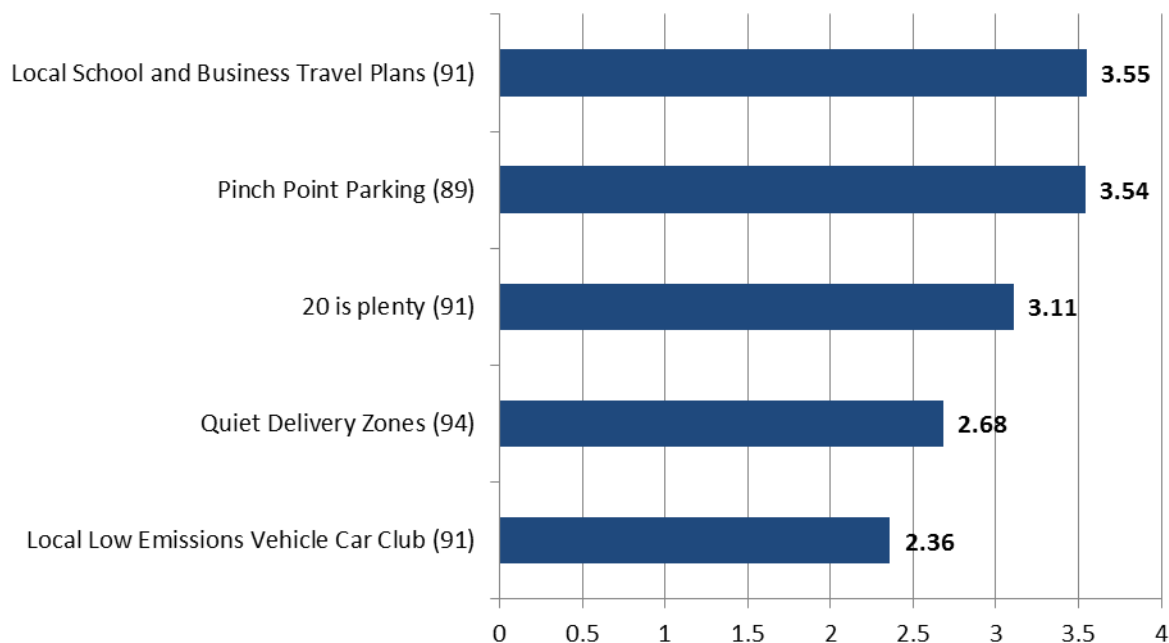
2.8 The Clean Air Zone proposal would require targeted engagement with the most polluting HGVs and 20% reduction in HGV fleet on the A2. It would most likely only be achieved through a charging Clean Air Zone scheme with strategic camera installations and periodic enforcement. The impact of an A2 charging



scheme would through time reduce HGV numbers through avoidance, diversion to the M2 and retro-fit programme.

## 2.9 Local Measures

Improving air quality will require implementation of strategic measures and complementary local measures and initiatives. Again the same methodology described in the above paragraph was used to compile the responses in the table below.



The Local School and Business Travel Plan ranked the highest measure local measure. Overall 26.4% of respondents ranked this measure as the most important (1<sup>st</sup>) and had the lowest proportion of respondents that ranked it at 5<sup>th</sup> (7.7%).

## 2.10 Other Measures – Suggestions

A total of 66 comments were submitted by respondents suggesting other measures that they felt would impact positively on air quality that they felt the Council should consider.

Theme	No. of related Comments
Planning and Development – further development of housing and commercial development mean more traffic. Any development needs commensurate infrastructure with it.	34
Traffic Infrastructure	19
Public Transport systems – improvement of current system, supporting buses	11
Modal Shift	10

Theme	No. of related Comments
Greening and Tree Planting	6
Scope to carry out air quality actions/lack of Isle of Sheppey in plan/dissatisfaction with monitoring/importance of achieving other carbon emissions reductions	7

### 2.11 Focus Groups

The focus groups provided an opportunity for residents to provide more rounded feedback on the measures proposed from the Air Quality Options Assessment Report. 40 residents attended three focus groups on the 8, 10 and 17 January held in Sittingbourne, Faversham and Newington respectively. Overall, five of the six groups placed Clean Air Corridor – create a HGV restriction area as the most important strategic measure.

The Faversham groups placed this measure top and added in joint top, the Local Plan. In Sittingbourne one group placed this measure top alongside a Low Emission Strategy with the reasoning that this was the only measure felt to be within Swale BC's control. It also felt that some of the measures being discussed should be Local Plan policies. Similarly Newington placed the same measures in their top three with all groups placing Clean Air Corridor - Create HGV Restriction Area as the most important.

- 2.12 There was a perception that the measures being proposed would not lead to significant improvements in air quality and an element of doubt that increased volumes of traffic from developments would not see a parallel increase in poor air quality. Concern was raised that the issue of particulates from traffic sources was being ignored. The concerns raised will be evaluated over the course of the AQAP through the air quality monitoring the Council undertakes and used to review the accuracy of the modelling undertaken within the options assessment report (October 2018). The focus groups did not in themselves doubt the measures being proposed.
- 2.13 There were a few consistent messages from each group which merit consideration for inclusion within the AQAP, such as the linking the AQAP with the next development of the Swale's Local Plan. Suggestions for average speed cameras along parts/whole of the A2.
- 2.14 The full Air Quality Action Plan Consultation report is provided in Appendix I

## 3 Proposals

- 3.1 The public consultation has provided a useful process enabling officers to understand the public's perception of how to address the improvement of air quality within the different AQMAs. It showed that there was wide support for the implementation of the Clean Air Corridor – Create HGV restrictions from the

strategic measures with the necessary charging and enforcement of the scheme. Although the public remain sceptical of its success.

- 3.2 The numerous suggestions to link the AQAP and the Local Plan is a logical proposal to address air quality controls for new developments and move towards advancing modal shift and infrastructure improvements that support improved air quality.
- 3.3 Many of the other suggestions made by the respondents and the focus groups could be included within a Swale Low Emissions Strategy. Where policy ownership lies under other services within the Council these would be referenced to within the document. For example a tree planting and greening policy would be the responsibility of Planning Policy and Development Control; greener licensed vehicles (Taxis and Private Hire Vehicles) sit with the Licensing Service.
- 3.4 The AQAP also needs to reflect the existing work undertaken by the Council with key groups such as the Quality Bus Partnership and the role of the Joint Transport Board have in improving air quality and encouraging modal shift.
- 3.5 The measures in the plan can be prioritised according to the weighting made from the consultation.
- 3.6 The Air Quality Action Plan has been amended to include the changes identified in 3.2 – 3.5. The format of the Action Plan remains unchanged, as this is determined by DEFRA. The amended Air Quality Action Plan measures are included in Appendix II

## **4 Alternative Options**

- 4.1 Cabinet has agreed to the consultation for the AQAP before submitting to DEFRA. The outcome has produced suggestions that strengthen and support the strategic nature of the Swale Air Quality Action Plan 2018 -22.
- 4.2 The alternative would be disregarding some or all suggestions made through the consultation process.

## **5 Consultation Undertaken or Proposed**

- 5.1 This report provides an evaluation of the consultation undertaken for the AQAP process.

## **6 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Supports the objective of being a Borough to be Proud of.
Financial,	Council allocated an additional £50,000 for Air Quality work.

Resource and Property	This has funded the SWECO traffic modelling, additional Nox tubes and will fund the additional Project Officer once appointed.
Legal, Statutory and Procurement	The AQAP will meet the Council's statutory obligation under the Environment Act 1995 to provide an AQAP that meets DEFRA approval. Adopting a new realistic and achievable AQAP will demonstrate the Council's commitment to meeting the National Air Quality Standards.
Crime and Disorder	None identified.
Environment and Sustainability	The approach will support Climate Local Swale and the Kent Environment Strategy.
Health and Wellbeing	The AQAP seeks to improve the health of the residents of the borough.
Risk Management and Health and Safety	None identified.
Equality and Diversity	None identified.
Privacy and Data Protection	None identified.

## 7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Public Consultation Report
  - Appendix II: Amended Strategic Air Quality Action Plan 2018 -22

## 8 Background Papers

Cabinet reports 4 October 2017, 11 July 2018, 31 October 2018  
[https://services.swale.gov.uk/meetings/documents/s8358/AQAP%20report\\_postA\\_S.pdf](https://services.swale.gov.uk/meetings/documents/s8358/AQAP%20report_postA_S.pdf)  
[https://services.swale.gov.uk/meetings/documents/s10361/Final%20-%20StrategicAQAP\\_Cabinet2017\\_draft%20v6.pdf](https://services.swale.gov.uk/meetings/documents/s10361/Final%20-%20StrategicAQAP_Cabinet2017_draft%20v6.pdf)  
<https://services.swale.gov.uk/meetings/documents/s11019/aq%20cab%20oct%2018%20post%20CAB.pdf>

# Air Quality Action Plan Consultation

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## Background

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The survey was promoted online through the Council's website and our social media channels. A post box drop of a leaflet advertising the focus groups and the survey was also undertaken and stakeholders including local transport providers and parish councils were also emailed notification of the survey.

Three focus groups were also held at Sittingbourne, Faversham and Newington, altogether 40 people attended focus groups.

The first part of this report discusses the response to the survey and the second part of this report considers the feedback from the focus groups.

There were two stakeholder submissions outside of the survey and focus group, these have been included at the end of the report.

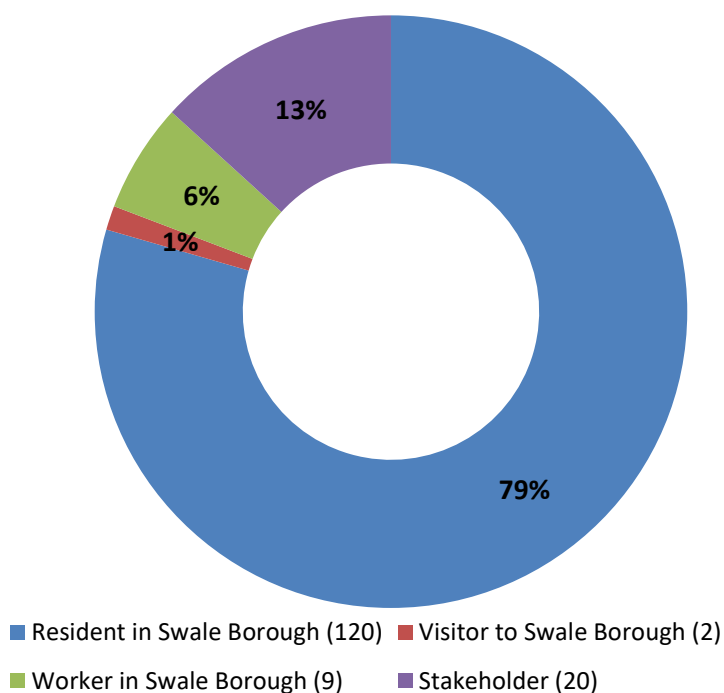
## Survey

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Please note not every respondent answered every question, therefore the total number of respondents refers to the number of respondents for the question being discussed not to the survey overall.

### Respondents

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A total of 151 people answered this question, including 20 stakeholders.

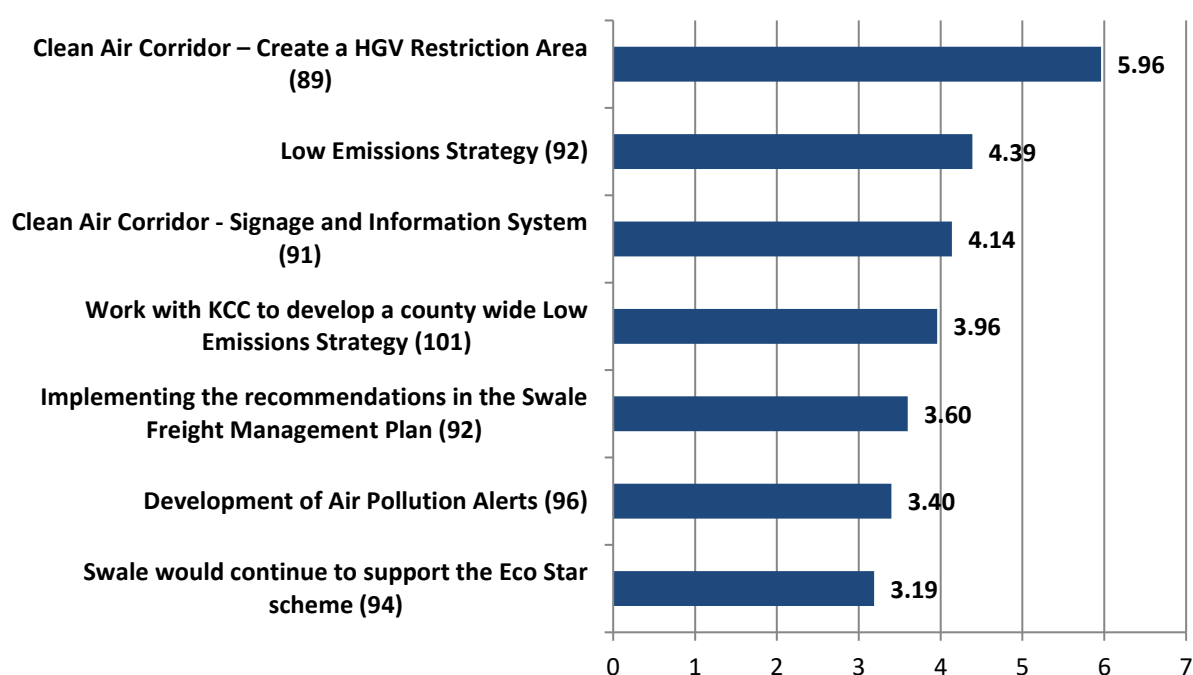
Almost four out of five respondents said they were a residents of Swale Borough.

As there were low responses from visitors and workers in the borough the responses of these groups have been included in the overall result but further analysis of these groups is not available.

## Strategic Measures

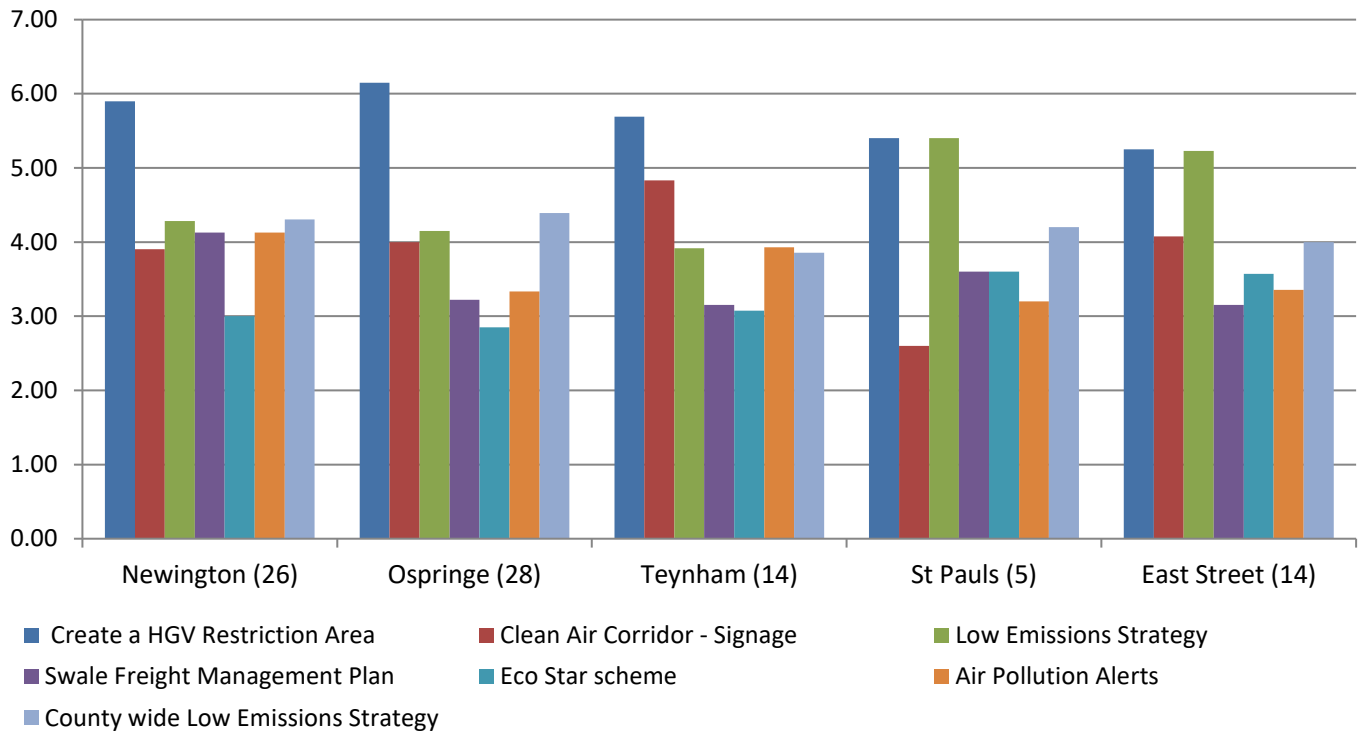
Respondents were asked to put the proposed Strategic Measures in order of importance. In order to assess this data a weighted average has been used with the measures placed as first receiving seven points, the second six and so on with the measure ranked last given 1 point. These are then added together and divided by the number of respondents to give a weighted average.

The chart below shows the weighted average with the total number of respondents to each shown in brackets. No weight is applied to measures that have not been ranked. For example if a respondent only ranked their top three measures no value would be assigned to the unranked measures.



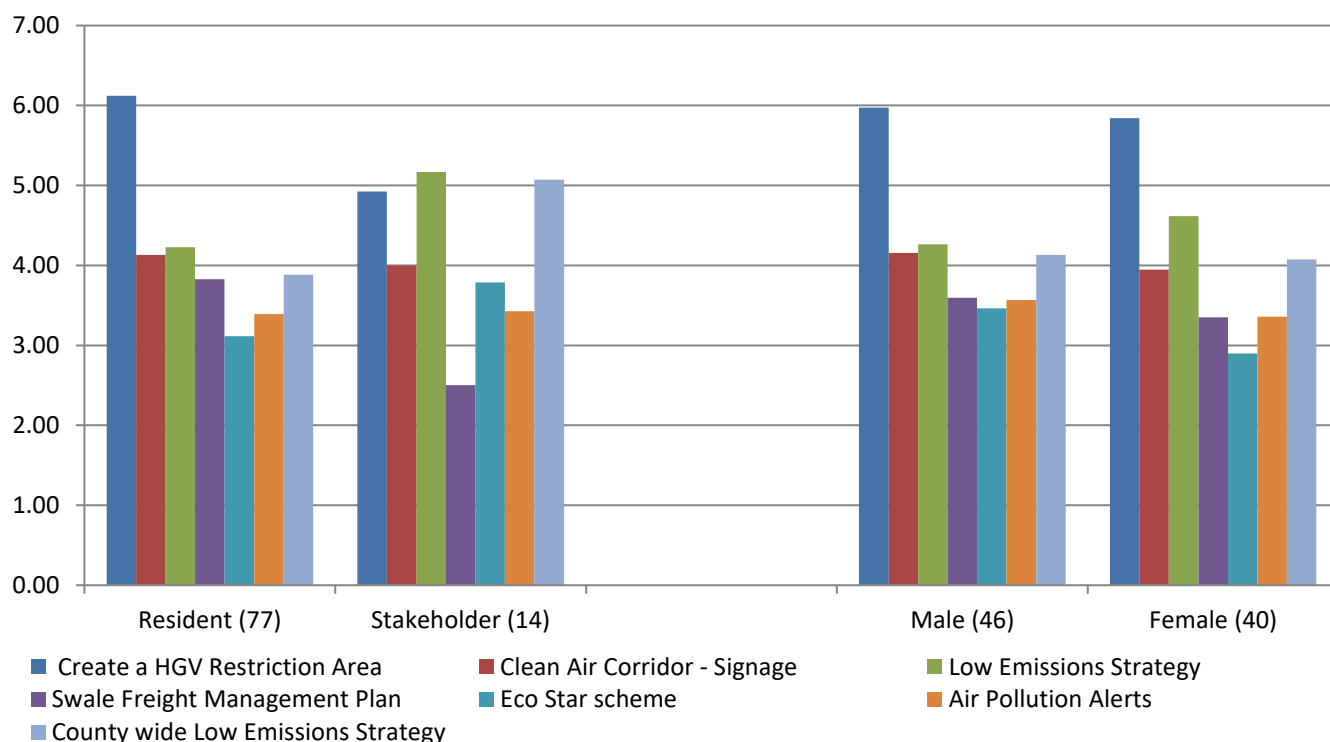
- Clean Air Corridor – Create a HGV Restriction Area achieved the greatest score. It also has the greatest proportion of respondents placing this measure as first at 58.4% and lowest proportion placing it last 4.5%. Overall, almost three out four respondents placed this measure in their top two showing strong support for this measure.
- The Eco-Star Scheme received the lowest score overall and also has the lowest proportion of respondents placing this measure first at 2.1%.
- Air Pollution Alerts also scored low with more than four in ten respondents placing this measure as sixth or seventh.
- The measure ‘Work with KCC to develop a county wide Low Emissions Strategy’ had the greatest proportion placing this measure last at 20.8%.

The data showed some differences in popularity of the measures based on where respondents lived in the borough. Caution should be used when considering the results by area due to the small populations (the maximum respondents answering in each area is shown in brackets next to area names).



- The creation of a HGV restriction area was the top scoring measure across all areas. Respondents living in and near St Pauls were split between this measure and a Swale Low Emission Strategy.
- Both St Pauls and East Street gave higher scores to a Low Emission Strategy for Swale than the other areas assessed.
- Teynham was the only area that scored Clean Air Corridor – Signage and Information System higher than either a local or county-wide Low Emission Strategy.
- Continuing with the Eco Stars scheme was the least popular measure for respondents from Newington, Ospringe and Teynham.

The chart below shows the difference in responses from residents and stakeholder and male and female respondents.



- For residents the creation of a HGV Restriction Zone is the most important measure and the continuation of the Eco-Star scheme is the lowest scoring measure – mirroring the overall results.
- Stakeholders scored a Local Low Emission Strategy as their most important measure and the implementation of the recommendations in the Swale Freight Management Plan as the least important measure.
- The profile of responses between men and women is broadly aligned with each other, except male respondents placed Clean Air Corridor- Signage and Information system as third and having a County-wide Low Emission Strategy as fourth and female respondents score these two the other way around (Signage & Information Systems being fourth and County-wide Low Emission Strategy placed third).
- The data suggests women respondents were likely to rank the continuation of the Eco-Stars Scheme as less important than male respondents.

### Other Demographics Assessed

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The data was grouped by respondent's ages: 18 to 34 years, 35 to 64 years and 65 years and over. All age groups scored Create a HGV Restriction Zone as their more important measure and the Continuation of the Eco-Stars Scheme as the least important measure.

The data was grouped by respondents that had said they had a disability or long-term limiting illness and those who said they did not. Both groups also scored Create a HGV Restriction Zone as their



more important measure and the Continuation of the Eco-Stars Scheme as the least important measure.

## Comments on Strategic Measures

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There were 47 comments submitted regarding the proposed Strategic Measures.

There were fifteen comments that have been classified as being sceptical about the impacts of the proposed measures or think that the action plan should go further. Several of these stated that enforcement would be required to make the measures work. Two were concerned that the measures were too focused around freight traffic and another was disappointed that there was no mention of EU traffic. Generally these comments were uncertain that the proposed impact would be achieved or that the measures would come to fruition considering competing priorities in the borough – namely house building.

There were twelve comments about development in the borough, many expressed dissatisfaction about proposed housing developments. Several commenters said that the amount of development needs to reduce and that increased housing meant increased traffic. Others stated that developers need to consider traffic corridors. There were also a couple of people that made comment about depot and freight receivers being placed close to the motorway and the planners should consider the location of future housing development to avoid areas of high air pollution.

There nine comments that have been categorised as relating to traffic or congestion and seven that were categorised as relating to road infrastructure, several comments here related to both categories. Here it was mentioned that there was a need for a bypass or relief road or additional motorway junction to reduce or improve air pollution and congestion. Other comments in these categories said that the road network in Kent needs a strategic view with others mentioning tailbacks and increased traffic due to development.

There were five people that made comments relating to public transport. These stated there should be a greater focus on this and getting people out of cars. One person said that public transport provision was poor.

There were five people that made comments regarding HGVs. One stated they were a problem in Newington High Street and another said speeding lorries were an issue in Teynham & Lynsted. The other comments here mentioned the M2 motorway saying that access here could be improved and that companies using HGVs should be based close to the M2.

There were thirteen comments that contained a suggestion for improvement these included: building a bypass, introducing traffic calming measures such as lower speed limits, planting trees, restrictions for HGVs and on the use of wood burners, using rail for freight and development of alternative transport routes across the borough.

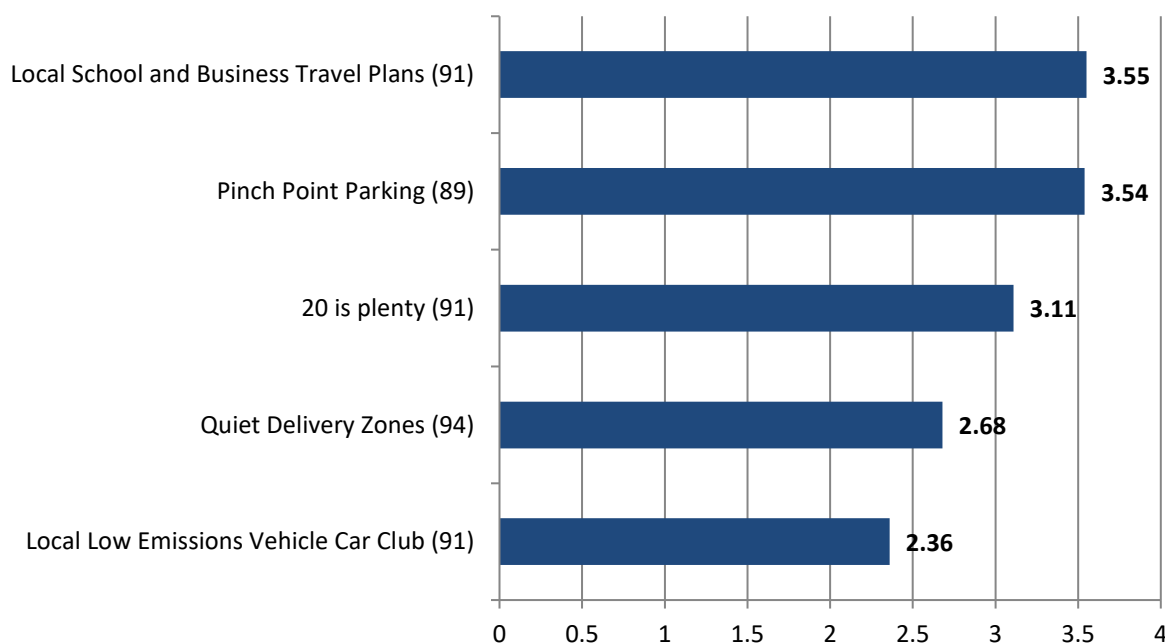
There were six comments that have been categorised as relating to the action plan. Here commenters stated the need for actions to be multi-agency and that measures need to be supported KCC. One said the strategic measures should be the most important and another said it wasn't clear how effective each measure would be in reducing air pollution and said that the approach to air

quality should start with development control and planning, this commenter was concerned that there was too much focus on HGV traffic. One commenter was positive about the 20 is plenty measure and the last comment in this group said that the priority should be on implementing the possible measures first.

## Local Measures

Respondents were asked to put the proposed Local Measures in order of importance. In order to assess this data a weighted average has been used with the measures placed as first receiving five points, the second receiving four points and so on, with the measure ranked last given 1 point. These are then added together and divided by the number of respondents to give a weighted average.

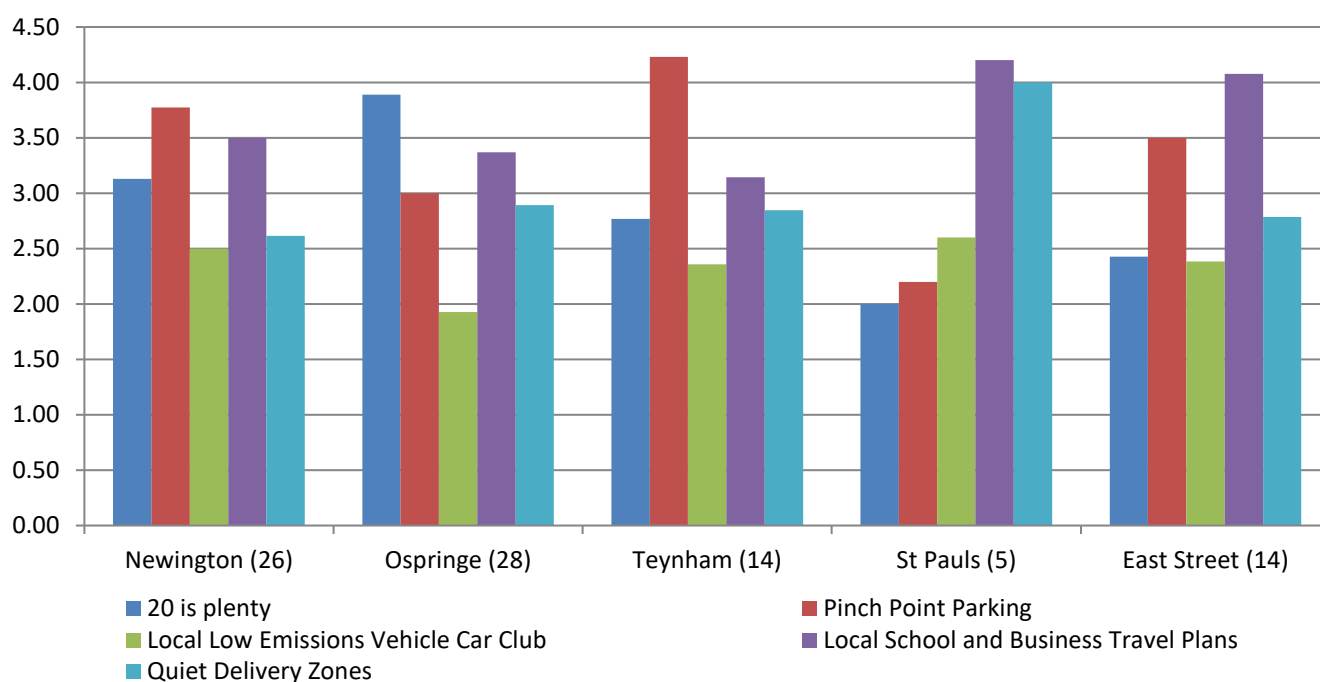
The chart below shows the weighted average with the total number of respondents to each shown in brackets. No weight is applied to measures that have not been ranked. For example if a respondent only ranked their top three measures no value would be assigned to the unranked measures.



- Local School and Business Travel Plan was the highest ranked local measure. Overall, 26.4% of respondents ranked this measure as the most important (1<sup>st</sup>). This measure has the lowest proportion of respondents that ranked this as fifth at 7.7%.
- Local Low Emission Vehicle Club was the lowest ranked local measure. This measure had the lowest proportion of respondents placing it first at 6.6% and the greatest proportion placing it fifth at 29.7%.
- Pinch-point parking had the greatest proportion ranking this measure 1<sup>st</sup> with a third of respondents answering this way. However, there was a greater proportion of respondent that placed this measure as last compared to the measure 'Local School and Business Travel

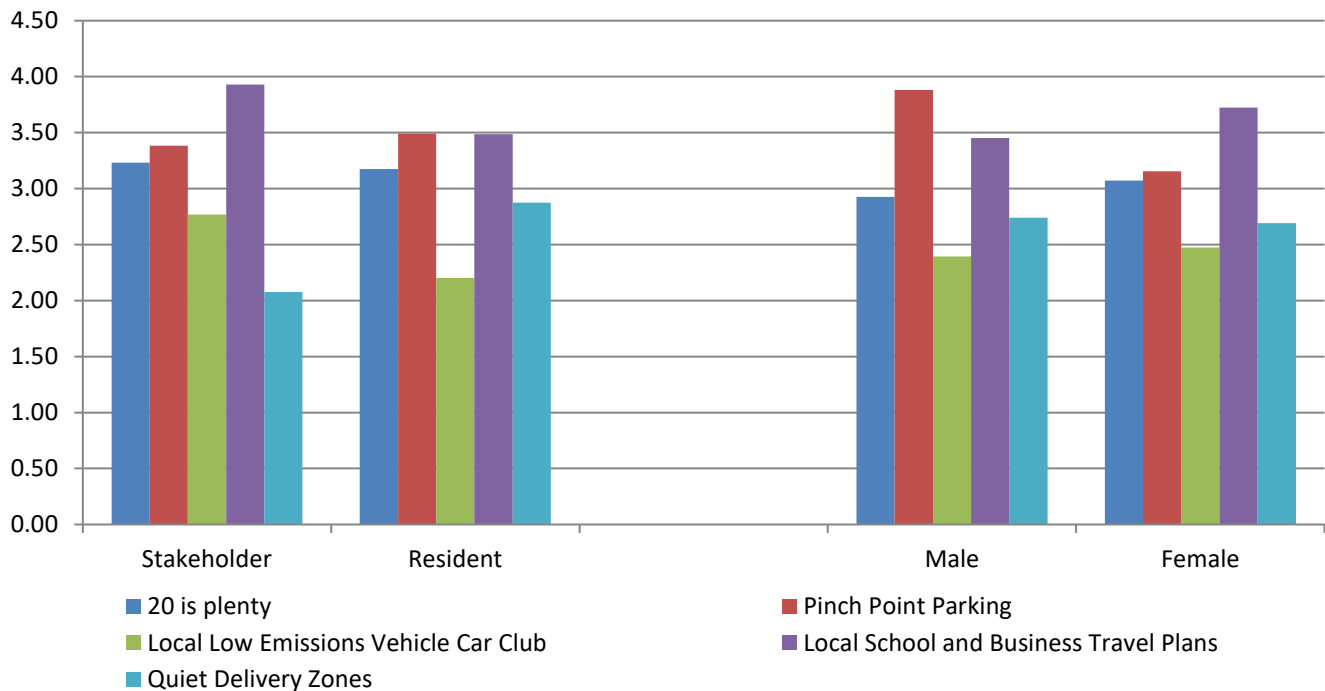
Plans. Overall, 56.2% of respondents placed this measure in their top two compared to 57.1% of respondents who placed Local School and Business Travel Plans in their top two.

The data showed some differences in popularity of the measures based on where respondents live in the borough. Caution should be used when considering the results by area due to the small populations (the maximum respondents answering in each area is shown in brackets next to area names).



- Dealing with Pinch Point Parking was the highest scoring local measure for respondents living in and around Teynham and Newington. Respondents from these areas also ranked the introduction of a Local Low Emission Vehicle Car Club as the least important measure.
- Respondents living in and around Ospringe ranked the Local Low Emission Vehicle Car Club as the lowest important measure. Ospringe ranked the 20 is Plenty Scheme as the most important measure. As this measure did not appear in the top three for Teynham, St Pauls and East Street this could suggest there were particular roads in Ospringe where residents were concerned about speeding cars.
- Respondents from in and around both St Pauls and East Street scored Local School and Business Travel Plans as the most important measure. St Pauls also scored Quiet Delivery Zone much higher than other area however due to the small survey population further research would be required to identify if this is a particular issue in this area.

The chart below shows the difference in responses from residents and stakeholder and male and female respondents.



- For Residents both Pinch Point Parking and Local School and Business Travel Plan were top, scoring the same.
- The highest scoring local measure for Stakeholders was Local School and Business Travel Plans. The lowest scoring measure for Stakeholders was Quiet Delivery Zones.
- Men and women had different highest scoring local measures with men putting Pinch Point Parking as the most important, followed by Local School and Business Travel Plans. Women placed School and Business Travel Plans as first followed by Pinch Point Parking.

## Other Demographics Assessed

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The data was grouped by respondent's ages: 18 to 34 years, 35 to 64 years and 65 years and over. The prioritisation of local measures for the 35 to 64 years and the 65 years and over groups aligns with the overall result order, with all measures in the same positions: Local School and Delivery Plans being first and Local Low Emission Vehicle Car Club being last.

The 18 to 34 years group scored Pinch Point Parking as the most important local measure and Quiet Delivery Zones and the least important local measure.

The data was grouped by respondents that said they had a disability or long-term limiting illness and those who said they did not. The ordering of local measure by respondents with a disability matches the overall result. Pinch Point Parking was the highest scoring measure for respondents without a disability, with Local School and Business Travel Plans a close second.

## Local Measure Comments

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There were 31 comments submitted regarding the proposed local measures.

The area that was most commented on was traffic and infrastructure with twelve comments concerning this. A couple of commenters suggested removing traffic lights on roundabouts to improve traffic flow and a couple mentioned reducing speed limits. As with the strategic measures there was a request for a bypass, a statement that the Electric Vehicle (EV) network needs to be addressed and another commenter that said there should be a greater focus on key junctions to prevent traffic idling.

There were a total of five comments that mentioned idling traffic in addition to the one mentioned above, with one person stating there was a problem around schools at home time and another stating it was not just an issue that schools experience and two mentioning a policy on idling of which one was concerned that to work this would require regulation and community support.

There were four comments that mentioned development in the borough with one stating the new developments require 'distance commuting' suggesting that the EV technology/infrastructure was not in place to support this. One stated that developers need to make sure developments support lower air quality by having EV infrastructure as well as well connect alternative routes for people to travel for example well-lit walkways. One person said that developments should be placed closer to employment and local facilities to prevent unnecessary car usage and the last commenter was critical of development in Swale in particular the dual carriageway, new housing and the Science Park.

Eight comments have been categorised as sceptical. Two of these stated that 20 is Plenty was the only achievable local measure, another said they didn't believe there was enough evidence to support this measure being introduced and another said this measure would only work with enforcement. There was one person who said they were uncertain as the impacts of the proposed measures were not clear and the last two commenters here were negative about Swale's ability to deliver the local measures.

There were six comments that related to public transport, with commenters stating that there should be a survey of local requirements and that the proposed measures do not focus enough on public transport. There was a suggestion of priority bus measures and it was stressed that public transport should be affordable and efficient.

There were two comments regarding school traffic with one saying more should be done to stop parents driving children to school and another querying the distance children travel by bus to attend schools in Sittingbourne.

There were three comments that specifically mentioned better monitoring and enforcement. There were three comments that were categorised as positive with one saying that a Local Low Emissions vehicle Car Club would be able to provide constructive feedback to the Council about issues experienced by this type of vehicle user. Another was positive about the 20 is Plenty measure and another commenter said that these measure should be encouraged, noting that their effectiveness is less than the proposed strategic measures.

## Other Measures - Suggestions

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Survey respondents were asked whether there were any other measures that would impact positively on air quality that they thought the Council should consider: a total of 66 comments were submitted.

The most prominent theme from these comments was planning and development with 34 related comments. There were twenty commenters that were negative about commercial and/or housing development in the borough, saying that permissions should not be given for further house building and that more housing means more cars and in turn more pollution. There were three people in this grouping that mentioned the need for developments to have the appropriate infrastructure to support EV use and four people that said there should be restrictions around the use of log burners. The other commenters in this section stressed the need for developers to consider the positioning of new development in terms of access for employment and school, having alternative travel routes and ensuring that distribution centre are located close to the motorway.

There were 19 comments relating to traffic infrastructure. In this grouping there were five comments that mentioned having a bypass, and six that stated the roads were at capacity with most of these citing developments as the reason for this, or, that development should be stopped due to an inadequate road network. Four people mentioned the removal of traffic lights to improve traffic flow with three of these specifically mentioning traffic lights on roundabouts. One person made comment about the EV charging network not being in place. One person suggested more parking restrictions near schools to reduce the impact of air pollution on children and another suggested looking at the road layouts and the idea of removing road markings.

There were eleven comments that mentioned public transport. Ten of these comments were about ensuring that there is good public transport system, improving the current system, supporting buses either through priority measures of investment and having cleaner buses. There was one person who said that more should be made of the rail network, stating that freight links previously existed.

There were ten people that made comment about modal-shift (i.e moving from cars to more sustainable transport options such as walking, cycling or public transport). The comments here included requests for cycling and walking infrastructure to be put in place, asking the council to discourage unnecessary car use and asking the council to think about car use when designing new developments and their locations.

There were six comments that stated the need for trees and greenery planting, with one suggestion green walls (also called breathing walls) to help cleanse the air. There were four comments that made comments about school traffic. Here it was suggested that there should be more walking buses and children should be educated about air quality and energy conservation. There were three comments about HGVs which suggested they shouldn't be allowed near residential areas and shouldn't be allowed to travel through Sittingbourne as peak times.

There were seven comments categorised as relating to scope or carrying out of air quality actions. One person expressed dissatisfaction that the Isle of Sheppey wasn't included in the plans and another person was critical of the current monitoring stating that inaccurate figures are being

produced. One person stated that a 'strategic approach that ensures that any measures also achieve other objectives on carbon emissions reduction' was required. The remaining four comments in the category were about the monitoring of air quality saying there needs to be more monitoring and sharing of this data.

Other suggestions included 'no idling' rules, signage about air quality in busy areas and measures around bonfires.

## Any Other Comments

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Finally, survey respondents were given the opportunity to make any further comments about the air quality action plan and the proposed measures. A total of 32 people provided additional comments.

There were eleven comments relating to the scope or delivery of the air quality actions. Three of these made comment about the monitoring of actions using data with one stating that the impacts of the measure were not clear and should be quantifiable. There was one commenter that said that the Council need to implement the actions, implying that consultation recommendations have been ignored in the past. One person commented that they thought the plan was poorly written and that the actions needed to go further. There were two comments about having more actions with one stating the actions need to be SMART and two comments about the need for the plan to join up with other departments and agency plans. One person was concerned that the focus of the plan is on Faversham and Sittingbourne, with the Isle of Sheppey left out and lastly there was one commenter who stated that the consultation exercise was duplicitous.

There were six comments that have been classed as sceptical; these commenters were dubious that improvements in air quality would be the result of implementation. One commenter said that the plan fails to 'address the harmful 'friction particulates' of PM2.5 size and below' and another also mentioned that small particles have been ignored in the plans and EVs were just as bad.

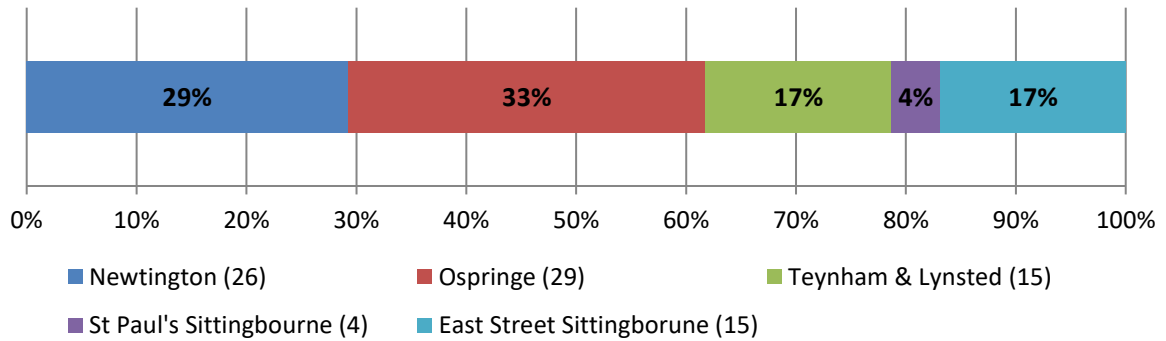
There were seven comments in this section relating to road infrastructure. One person mentioned a bypass and another mentioned turning of traffic lights on roundabouts. There was one person who was concerned the plan assumes that everyone will convert to EVs. There were three comments that expressed concern about the current road infrastructure saying that roads are congested and that idling was an issue on approaches to towns and villages. The last commenter in this section mentioned the need to look at parking space allocations and suggested looking at satellite navigation systems to gain more data. This commenter also highlighted a concern about suitable roads for the type of traffic using them.

There were three comments relating to public transport, these all urged the need for cheap and frequent bus services with one person also mentioning use of rail services. There was one comment that could not be categorised as the intention was unclear.

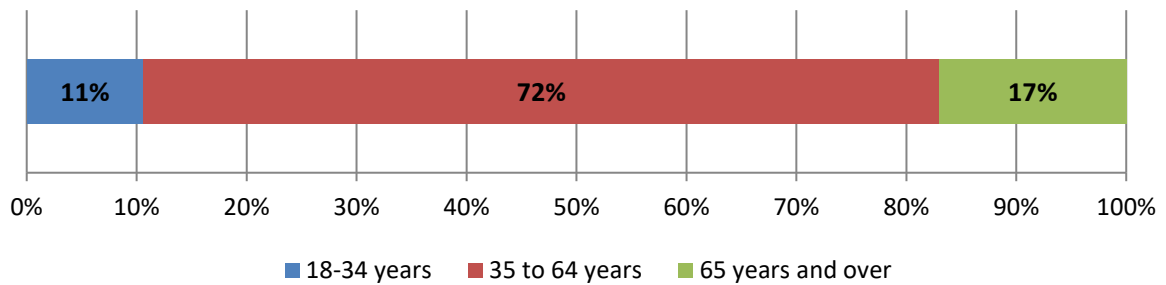
Five comments were broadly positive, with one commenter positive about the workshop which was held in Faversham. The remaining comments in the grouping were supportive of the Air Quality Action Plan stating that the measures are important and need to be implemented urgently.

## Survey Respondent Demographics

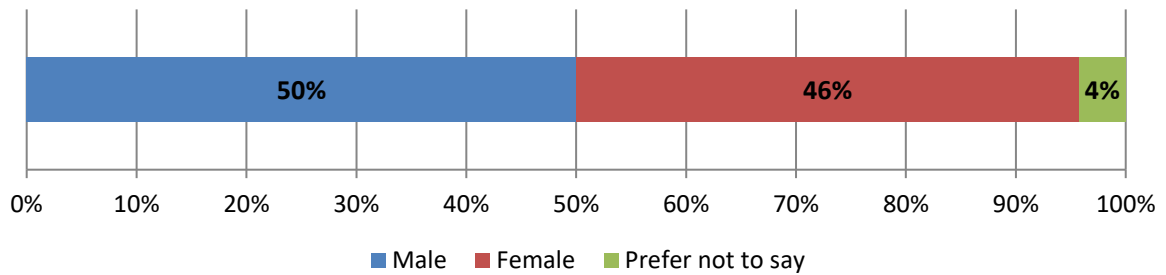
Do you live in or near...



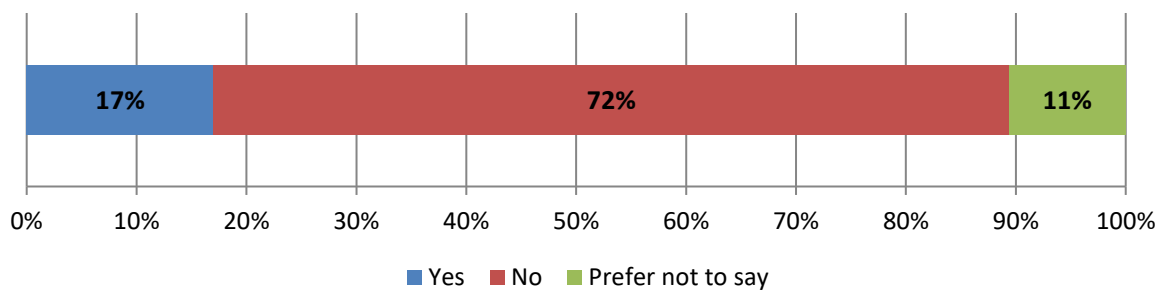
Age



Gender



Disability or Health Problem





# Resident Focus Groups

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Resident focus groups were held at three locations during the period the survey was open in Newington, Faversham and Sittingbourne. These focus groups were advertised on social media and through a leaflet drop in the local area. Altogether 40 residents attended a focus group (8 tables).

At these sessions attendees were given two tasks to complete within their group:

1. To put the strategic measures in order of preference, adding in any additional measures required. The group was then asked to make comments about the strategic measures.
2. To put the local measures in order of preference, adding in any additional measures required. The group was then asked to make comments about the strategic measures.

## Strategic Measures Order of Preference

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Different groups took different approaches to the task with one group in Faversham and one group in Newington chose not to give the strategic measures a hierarchy as they believed all were important for reducing air quality. A total of six tables produced hierarchies.

Overall, five out of the six groups placed Clean Air Corridor – Create a HGV Restriction Area as the most important strategic measure. The Faversham group placed this measure as top and added in, joint top, the Local Plan. In Sittingbourne one group placed this measure top alongside a Low Emission Strategy with the reasoning that this was the only measure felt to be with Swale BC's control. They also felt that some of the measures being discussed should be Local Plan policies.

The Newington groups all had the same measures in their top three with both groups placing Clean Air Corridor – Create a HGV Restriction Area as the most important measure. The Clean Air Corridor - Signage and Information System was second for one table at Newington and Work with KCC to develop a county wide Low Emissions Strategy was third, whereas the other table that provided a hierarchy, at Newington placed developing a county-wide LES as second and the Signage and Information System as third.

Although all the groups were positive about a Local Emission Strategy both locally and county-wide during the discussion it was generally felt that a low emissions strategy would need KCC and wider engagement which will take longer to get acted upon, there was also a fear that Swales needs could be lost in wider plan. However, it was also reasoned that the result of this could create a more sustainable fleet and mind-set for HGV drivers for the future.

The hierarchy of the strategic measures from each group is shown at appendix A.

## Strategic Measures Comments

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**Clean Air Corridor – Create a HGV Restriction Area** – There was comment that having restrictions on HGVs is a good idea however many mentioned the need for enforcement and penalties to ensure

that restrictions were adhered to. Concerns about infrastructure and alternative routes were raised by the groups with a worry that this could just move the problem elsewhere. It was suggested that signage could be added to this measure and that this signage could be interactive

There was a comment that many of the HGVs are from Spade Lane Storage and that these vehicle movements are 24/7 and several people mentioned that a bypass is required. The other concerns that groups had was that there was no mention of reduction of cars or greater polluting cars i.e. model shift policy within the plan.

**Clean Air Corridor – Signage and Information System** –The potential impact of this measure was discussed with groups questioning if this would really change behaviour. As with the previous measure there was a concern about how this would be enforced. Another person was concerned about a potential language barrier as a lot of HGV drivers are from many other European countries.

**Implementing the Recommendations in the Swale Freight Management Plan** – Concerns were raised about how achievable this measure was with groups highlighting the ongoing works at J5 and J7. The groups held in Newington did not feel that this measure was relevant to that area as there are no overnight lorry parks.

**Low Emissions Strategy** – Several attendees commented that this measure was the only one that was in Swale BC's control. Groups were expressed scepticism that this measure would have any impact. In order to improve this measure this was suggested that that the scope of the strategy be broadened, that air pollution information is made available to the public and that it include internal functions such as procurement.

**Swale would continue to support the Eco Star scheme beyond the current funding which ends in 2019** – Concerns about impacts were raised by the groups, it was thought that while some people would join such a scheme the worst offenders were unlikely to.

**Work with KCC to develop a county wide Low Emissions Strategy** – General feeling was that while this was a good idea to ensure consistency across Kent there was a concern that specific areas of poor air quality in the borough may be lost in a strategy covering a wider geographical area.

**Development of Air Pollution Alerts** – The impact of this measure was queried by the groups with the general feeling that there would be no actual impact on air quality. It was voiced that more should be done to change polluter's behaviour and improve air quality generally rather than advising people to change their behaviours to avoid air pollution.

**General Action Plan** – There were several comments about the action plan itself with several comments that it was difficult to gauge the impact of each action and it was suggested they should be ordered in terms of biggest impact.

There were several comments about the monitoring of air quality, with requests for more monitors, in better locations and that monitoring is continuous. It was suggested that there could be on street indicators of live data. It was mentioned that there should be a link to national policy on air quality and it was also suggested that Swale lobby central government for funding and increased powers for dealing with poor air quality. There was comment that the measures should focus on residential areas.

Several attendees displayed frustration and a lack of excitement in relation to the measures, believing the consultation to be a 'tick box exercise' and the action plan to be 'toothless'. Again it was raised that alternatives to cars was not featured. One attendee expressed annoyance at a Councillor being present at the focus group.

## Local Measures Order of Preference

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Different groups took different approaches to the task with one group in Sittingbourne choosing not to give the strategic measures a hierarchy as they believed that the differing areas had different air quality issues facing them and as such there should be different priorities in each area dependant on the local issues. A total of seven tables produced hierarchies.

For six tables the measure 20 is Plenty was deemed the most important local measure, in Newington and in Faversham all tables agreed that this was the most important local measure. There was one table at Sittingbourne and one in Faversham that placed Local Schools and Business Travel Plans as the most important measure saying that routes to school are limited and footpaths are already dangerous, as they are narrow (a Faversham table had two measures ranked most important). A further four tables placed this measure as second.

Four of the seven tables ranked Local Low Emission Vehicle Car Club as the least important, three of these were tables were held in Newington with several tables voicing concerns that this could be too exclusive and not accessible to everyone.

From discussion with the groups it appears that quiet delivery zones and pinch point parking are measures that would only impact certain roads, as the groups queried the wider impact of these measures.

The hierarchy of the strategic measures from each group is shown at appendix A.

## Local Measures Comments

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**Local School and Business Travel Plans** – There was agreement that during term-time congestion was worse. Some considered that this measure could be difficult to implement and would require a strategy. It was also commented that such a scheme should apply to secondary schools as well as primary schools and that more could be done around car sharing and walking buses. There was a suggestion that school start times could be staggered to reduce congestion and it was also suggested that commercial vehicle could be kept of the roads before 9am.

**20 is plenty** – This measure was well received with several comments about how this could make the roads safer. There was however, comment that this was not a new idea as it is already being campaigned for by a local action group. There was a concern about how this could or would be enforced.

**Pinch point parking** – It was discussed that the A2 was narrow in certain places and that there was on-road parking which restricts traffic flow. There was safety concern raised in relation to the school and people being clipped by vehicle wing mirrors when using the footpath.

**Local Low Emissions Vehicle Car Club** – Although this was considered a well-intentioned measure the groups did not rate this measure highly. Concerns were raised about the high cost and maintenance of low emission vehicles feeling that they are not currently accessible to all due to the limitations of the technology (long journeys and lack of charging infrastructure). One group considered the same impact could be achieved by through more car sharing.

**Quiet Delivery Zones** – It was commented that this measure does not to relate to Newington as there are not large depots, although it was expected that timings of deliveries may alter congestion at the busiest times. There was a concern that from an efficiency perspective this measure would be undeliverable in rural areas and how it would be enforced. The impact of this measure was queried as some considered the majority of commercial vehicles in the borough were passing through rather than stopping for deliveries. There was also a query about how to engage with goods shippers and operators in order to implement this measure.

**General Action Plan** – It was commented that these measures should be part of the Local Plan suite of policies.

### Other Focus group Comments & Suggestions by Theme

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#### Transport Infrastructure & Roads

The need for an idling policy was mentioned several times and there were repeated requests for a bypass. Requesters for a bypass say this is justified as the M2 is under used and the A2 was too narrow as in places two lorries, going in opposite directions are unable to pass each other. It was also suggested that the road should be widened in Newington. However, concerns were raised that a bypass could result in an increase in traffic and who would pay for it.

It was suggested several times that traffic lights should be removed, in particular on roundabouts. It was also suggested that traffic lights could have a countdown to when they are going to change.

There were several comments about lorries and signage at Church Lane and requests for speed cameras on the A2. There was also the suggestion that Bull Lane in Newington should become a one-way system

#### Planning and Development

Several comments were made that relate to the Local Plan saying that that its priority should be sustainable transport polices/plans for all new developments, the aim being to cut car use and emissions through a joined up cycling, walking and EV charging infrastructure.

It was also suggested that Planning Policy create a development emissions standard and an air quality SPD.

It was commented that many new developments in the borough are dependent on cars and that developers should be thinking more about access, connectivity and alternative travel arrangements that are sustainable such as cycling and walking, and avoid areas where air quality is poor.

In terms of infrastructure in new developments for EVs a concern was raised that too much planning infrastructure for EV vehicles and parking space allocation in new developments encourages more car use.

There was a query about if brownfield sites were being utilised and a suggestion that contributions from developments should be increased. It was proposed that S106 contributions should fund filtration and forced air systems for local residents.

It was suggested that there could be a review of the Faversham Plan to relocate industry out of town and release the land for sustainable housing alongside this was positive comments about the proposed move of M&S and Gist closer to motorway.

### **Public Transport & School Transport**

There were some suggestions about buses – it was suggested that public transport should be joined up and that subsidised buses should be re-instated, and that the buses should be retrofitted. There was also a suggestion for introducing a Park & Ride Service and a regular bus on the A2 to reduce the number of car journeys.

It was commented that some routes were unsafe for driving children to school due to the layouts of the roads and that the quickest or less polluted routes might not be the safest. One area in particular that was raised was Highsted Road where there was no pavement but the route is used by children going to and from school.

### **Electric Vehicles (EVs)**

There were several comments about EVs and the infrastructure required to support them. It was highlighted that outline planning permission had been given in relation to KCC Electric Vehicle Infrastructure Plan but that two years on there were still no charging points.

There was a concern that the some roads and paths in the borough (Newington was used as an example) are too narrow to enable electrical charging points for cars. This prompted a suggestion that, since charging points will be limited, maybe solar panels could be used to supply the electricity – however there was some scepticism that this would not be achievable or workable.

It was also suggested that incentives should be introduced to increase the take up of EVs/make them more desirable with an example being free parking for low emission vehicles.

### **Health**

Comments were made that cycle provisions in the borough are too poor for cycling to be an alternative to driving. Safety concerns were also raised in regard to cycling.

There was a group that were concerned that there was no mention of PM 2.5 particle in the plan and highlighted that new data on this had recently been released by Public Health England.

It was also commented that the plan does not mention biodiversity and suggested that more trees need to be planted.

## Other Consultation Responses

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There were two written stakeholder responses that were received. These are shown in full below.

### Stagecoach

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**Sent:** 09 January 2019 14:49

**Subject:** SWALE BOROUGH COUNCIL AIR QUALITY ACTION PLAN 2018-2022

Dear Mr Wilcock

I have received the Executive Summary of the AQAP, and would comment as follows:

**From the Introduction:**

*"This Steering Group is made up from the key stakeholder partners; including members and officers from Environmental Health, Planning and other Council departments, and representatives of key external partners, in-particular Kent County Council. "*

It is surprising and disappointing that "key stakeholder partners" did not include representation from the Bus Operators who are party to the Swale Quality Bus Partnership, to which Swale Borough Council is also a party.

We would welcome measures to **"encourage alternative modes to car use to reduce congestion and pollution"**, although the report makes no mention of bus services, the role they can play in reducing dependency on car use, or what these measures might be. Swale's track record in this regard is less than impressive, and has led to the removal of buses from Sittingbourne High Street to make way for a street market, the remodelling of the town centre with no facility for terminating buses to stand between departures (resulting in circuitous and unnecessary journeys around the town centre), inadequate bus stop infrastructure and the construction of a large multi-storey car park as part of the Spirit of Sittingbourne development, which will only encourage greater car use. To this we can add a failure to allocate a realistic budget to improve the waiting environment for bus users with more and better maintained shelters, and a general lack of enthusiasm in tackling parking issues that impede the operation of bus services.

**From Appendix 1:**

**Items 1 and 2:** We note proposed measures to create **Clean Air Corridors**, with the aim of achieving a reduction in pre Euro VI HGVs. We will leave it to the road haulage industry to comment on the viability of this. Buses are not mentioned in this context, but if they were, we would comment as follows:

The majority of Stagecoach bus services operating in Swale are run with buses meeting Euro V standard, with a small number of journeys run with buses compliant with Euro III or Euro IV. Current plans envisage that the Euro III buses in the local fleet will be replaced with newer vehicles compliant with Euro V.

Stagecoach fleet policy is to replace older buses with new ones meeting the latest Euro VI standards rather than retrofit kits intended to improve emission standards. We have found that such retrofits increase fuel consumption and engine wear, which results in premature engine failures and

consequent higher repair costs. The capital costs of the retrofits cannot be justified on vehicles with limited remaining life expectancy. Further, the viability of most bus services in Swale cannot support the capital cost of brand new buses.

**From Appendix 2:**

**Item 8 "20 is plenty" zones:** Stagecoach is generally supportive of the introduction of 20mph zones in appropriate locations and circumstances, as the reduction in traffic speeds lead to reduced accidents and casualties. However it is doubtful that such measures would result in improved air quality. 20mph zones usually contain traffic calming measures (either horizontal or vertical deflection) which means that a consistent speed cannot be maintained. The frequent acceleration/deceleration, coupled with the need to drive in a lower gear tends to result on lower fuel consumption for all vehicles. Poorer fuel consumption results in more pollution.

**From Appendix IV:**

**Item 10: "*That partners providing services, e.g. provision of taxis for taking children to school, and bus companies, consider the fuel that is being used*":**

Stagecoach already uses diesel fuel with at least a 10% bio content, which results in lower particulate emissions compared with standard diesel.

**Item 12: "*That 'on-demand' bus service initiatives should be looked into*":** An "on-demand" service already exists in Sittingbourne. This is operated by Arriva and is branded Arriva Click.

*"The AQ Steering Group will pursue discussions with KCC on the viability of this proposal, taking into consideration the impact this type of service may have on the licensed taxi trade within the borough "*  
The lack of mention of the possible impact on operators of registered local bus services is disappointing and concerning.

**Item 13: "*That taxi and bus licensing to improve to be more 'green'*":** Whilst Swale Borough Council is the licensing authority for taxis, the licensing of bus operators and their vehicles is a matter for the Traffic Commissioner and the Driver and Vehicle Services Agency, not the Council.

**Item 14: "*That bus stop lay-bys be added to enable vehicle flow*":** Other than at termini or other layover points, bus operators generally are not supportive of bus stop lay-bys. Buses are usually delayed trying to re-enter the traffic flow (leading to delays, longer and less attractive journey times, and hindering reliability) and the lay-bys themselves tend to encourage other vehicles to park in them, resulting in the stop becoming obstructed. This in turn causes issues for bus users with reduced mobility. This appears to be a measure designed to ease car use and runs contrary to the stated aim of encouraging alternative modes to car use to reduce congestion and pollution.

Thank you for giving us the opportunity to comment.

## Public Health England

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Re: Swale Borough Council Air Quality Action Plan 2018-2022

Thank you for your correspondence of 18 December 2018 in which a draft of the above Air Quality Action Plan (AQAP) was shared for consultation.

Public Health England (PHE) is the expert national public health agency which fulfils the UK Secretary of State for Health's statutory duty to protect health and address inequalities, and executes his power to promote the health and wellbeing of the nation. PHE is an executive agency of the Department of Health and Social Care (DHSC). It is a distinct delivery organisation with operational autonomy to advise and support national government, local authorities and the NHS in a professionally independent manner.

Within the UK, air pollution is the largest environmental risk linked to deaths every year<sup>1</sup>. The current evidence indicates that air pollution can be associated with cardiovascular disease, lung cancer, respiratory disease, asthma and stroke. Air pollution disproportionately affects the young, older people, those with underlying cardiopulmonary conditions and the most deprived within our communities. This may result in reduced physical activity, increased hospital attendance and premature mortality.<sup>2</sup>

Air pollution is now associated with much greater public health risk than was understood even a decade ago, and more risks are emerging.

We welcome the development of this draft AQAP, to help tackle poor air quality in Swale. The draft AQAP proposes a range of measures, many that are ongoing, to reduce air pollution as a contributor to ill-health; and support the UK Government in meeting the EU air quality thresholds. We would encourage the Council to maximise the potential health benefits of actions and potential associated co-benefits such as increased physical activity; climate change mitigation and adaptation; community cohesion and road safety.

### **Mitigation and complementary measures**

PHE supports measures to reduce sources of air pollution and people's exposure, such as those outlined in the draft AQAP. As well as measures targeting defined areas which may otherwise not be fully compliant, such as the East Street and Ospringe Air Quality Management Areas (AQMAs), we note that many of the measures outlined are aimed at improving air quality across the Council's area. This acknowledges the transient nature of pollution; whereby the negative effects of air pollution may occur at locations other than where the emissions occur. There are no thresholds of effect identified for nitrogen dioxide (NO<sub>2</sub>) and particulate matter and therefore health benefits can be expected from improving air quality even below concentrations stipulated by the EU and UK standards.

Interventions can seek to remove sources of pollution, reduce the levels, or enable people to minimise personal exposure to air pollution. We note that the draft AQAP proposes all three approaches, for example promoting travel alternatives (measure 11) will remove some vehicle pollution sources, the Heavy Goods Vehicle (HGV) "Clean Air Corridor" (measure 1) will reduce



emissions along the A2, while air pollution alerts (measure 6) should enable vulnerable people to avoid or reduce exposure.

Preventative interventions, which remove sources of pollution, are likely to have the largest impact. However, we would particularly encourage the use of ‘packages of interventions’ to suit your target areas and population. These interventions could be assessed on their combined effectiveness and potential impact. For example, the “Clean Air Corridor” signage and information scheme in isolation may only show small improvements, but introduced together with Eco Stars driving measures, the Swale Freight Management Plan, and school/business travel plans, it can all help to make a difference to pollutant concentrations as well as potential public health co-benefits such as improved uptake of walking/cycling. We encourage evaluation strategies to be put in place where possible to monitor the effectiveness and share wider learning.

### Recommendations

We would recommend:

1. including more supporting detail for the decision to target East Street and Ospringe AQMAs. The AQAP mentions that the three other AQMAs (St Paul’s, Teynham and Newington) will be fully compliant by 2020 or 2022, however the compliance measures aren’t clearly explained.
2. widening the definition of vulnerable people (measure 6) to include those with asthma, heart disease and pregnant women. There is robust evidence linking exposure to air pollution with adverse health effects in wider population groups.<sup>3</sup>
3. considering which alternative routes may be used by non-compliant vehicles if the proposed Clean Air Corridor is introduced, and whether this may simply shift the pollution problem.
4. attempting to quantify the Target Pollution Reduction for the listed interventions, as this may assist with the prioritisation exercise. This should be extended to any packages of interventions which are proposed.

### Summary

In summary, interventions that are aimed at reducing air pollution can contribute to increased life expectancy and also help reduce premature deaths from cardiovascular and respiratory disease. We encourage a focus on improving air quality as a whole including interventions that reduce emissions, whilst also embracing measures that can be adopted at an individual level such as promoting active travel and awareness of the effects of air pollution on health.

### References

1. Public Health England (PHE). Public Health Matters - Understanding the impact of particulate air pollution, 2015 Available at: <https://publichealthmatters.blog.gov.uk/2015/11/03/understanding-the-impact-of-particulate-air-pollution/>
2. World Health Organization (WHO). Review of evidence of the health aspects of air pollution - technical report, 2013. Available at: <http://www.euro.who.int/en/health-topics/environment->

[and-health/air-quality/publications/2013/review-of-evidence-on-health-aspects-of-air-pollution-revihaap-project-final-technical-report](#)

3. Public Health England (PHE). Health Matters: air pollution, 2018. Available at: <https://www.gov.uk/government/publications/health-matters-air-pollution/health-matters-air-pollution>

<b>Sittingbourne Table 1</b>	
1.	Clean Air Corridor – Create a HGV Restriction Area
2.	Implementing the recommendations in the Swale Freight Management Plan
3.	Work with KCC to develop a county wide Low Emissions Strategy
4.	Development of Air Pollution Alerts
5.	Clean Air Corridor - Signage and Information System.
6.	Low Emissions Strategy
7.	Swale would continue to support the Eco Star scheme beyond the current funding which ends in 2019

<b>Sittingbourne Table 2</b>	
1.	Low Emissions Strategy & Clean Air Corridor – Create a HGV Restriction Area
3.	Swale would continue to support the Eco Star scheme beyond the current funding which ends in 2019 & Clean Air Corridor - Signage and Information System.
4.	NEW Local Plan Policies
5.	Development of Air Pollution Alerts
6.	Work with KCC to develop a county wide Low Emissions Strategy
7.	Implementing the recommendations in the Swale Freight Management Plan

<b>Sittingbourne Table 3</b>	
1.	Implementing the recommendations in the Swale Freight Management Plan
2.	Clean Air Corridor - Signage and Information System.
3.	Swale would continue to support the Eco Star scheme beyond the current funding which ends in 2019
4.	Clean Air Corridor – Create a HGV Restriction Area
5.	Work with KCC to develop a county wide Low Emissions Strategy – linked to below
6.	Low Emissions Strategy – linked to above
7.	Development of Air Pollution Alerts

<b>Faversham Guild Hall</b>	
1.	Clean Air Corridor – Create a HGV Restriction Area & Local Plan
2.	Work with KCC to develop a county wide Low Emissions Strategy & Clean Air Corridor - Signage and Information System & Low Emission Strategy
5.	Swale would continue to support the Eco Star scheme beyond the current funding which ends in 2019
6.	Development of Air Pollution Alerts
7.	Implementing the recommendations in the Swale Freight Management Plan

<b>Newington – Table 1</b>	
1.	Clean Air Corridor – Create a HGV Restriction Area
2.	Clean Air Corridor - Signage and Information System
3.	Work with KCC to develop a county wide Low Emissions Strategy
4.	Low Emissions Strategy
5.	Development of Air Pollution Alerts
6.	Swale would continue to support the Eco Star scheme beyond the current funding which ends in 2019
7.	Implementing the recommendations in the Swale Freight Management Plan

<b>Newington – Table 2</b>	
1.	Clean Air Corridor – Create a HGV Restriction Area
2.	Work with KCC to develop a county wide Low Emissions Strategy
3.	Clean Air Corridor - Signage and Information System
4.	Development of Air Pollution Alerts
5.	Swale would continue to support the Eco Star scheme beyond the current funding which ends in 2019
6.	Implementing the recommendations in the Swale Freight Management Plan
7.	Low Emission Strategy

Sittingbourne Table 1
No order for local measures as this is dependent on each local area so group suggestion that Local measures should be examples and each area should have its own relevant actions.

Sittingbourne Table 2
1. Local School and Business Travel Plans
2. 20 is plenty
3. Pinch point parking
4. Local Low Emissions Vehicle Car Club
5. Quiet Delivery Zones

Sittingbourne Table 3
1. Pinch point parking & 20 is plenty
3. Quiet delivery zones & Local School and Business Travel Plans
5. Local Low emission vehicle car club

Faversham Guild Hall Table 1
1. 20 is plenty
2. Local schools and Business Travel Plans
3. Local Low Emission Vehicle Car Club
4. Pinch point Parking
5. Quiet delivery zones

Faversham Guild Hall Table 2
1. Local School and Business Travel Plans & 20 is plenty
3. Quiet Delivery Zones
4. Local Low Emission Vehicle Car Club
5. Pinch Point Parking

Newington Table 1
1. 20 is plenty
2. Pinch point parking
3. Local School and Business Travel Plans
4. Quiet Delivery Zones
5. Local Low Emission Vehicle car club

Newington Table 2
1. 20 is plenty
2. Local School and Business Travel Plans
3. Quiet Delivery Zones
5. Pinch Point Parking
6. Local Low Emission Vehicle Car Club

Newington Table 3
1. 20 is plenty
2. Local School and Business Travel Plans
3. Pinch Point Parking
4. Quiet Delivery Zones
5. Local Low Emission Vehicle Car Club



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# Swale Borough Council

## Air Quality Action Plan (2018 – 2022)

## APPENDIX II: AMENDED AIR QUALITY ACTION PLAN MEASURES: STRATEGIC AQAP MEASURES

Measure No.	Measure	EU Category	EU Classification	Lead Authority	Planning Phase	Implementation Phase	Key Performance Indicator	Target Pollution Reduction in the AQMA	Progress to Date	Estimated Completion Date	Comments
1.	HGV "Clear Air Corridor"	Promoting Low Emission Transport	Low Emission Zone (LEZ) or Clean Air Zone (CAZ)	KCC/SBC	2019	2020 – 2022	Reduction in pre-Euro VI HGV	(2022 target) 6.8 µg.m <sup>-3</sup> East St, 1.5 µg.m <sup>-3</sup> Ospringe,	To start	2022	Create a HGV (Euro emission class) restriction zone along A2 with strategic ANPR cameras and enforcement. Targeted retrofitting of HGV Euro I-IV to meet Euro VI standard and a 20% reduction in HGV fleet on A2.
2.	Air Quality and Low Emission Strategy	Policy Guidance and Develop't Control	Low Emissions Strategy	SBC	2019	2019 – 2022	Developments with LES	Unquantifiable	Revision 2019/20	2021	<b>LES – to include</b> -, electric vehicle charging, taxi and private hire low emissions standards. (includes sustainable procurement, SBC fleet improvements, low emission fuels, construction vehicles and installation (STOR) guidance).  Link to Quality Bus Partnership work to support modal shift and improvements to transport infrastructure.  The work of the Joint Transport Board on improving air quality.
3.	Develop't of Air Quality standards within new Local Plan	Policy Guidance and Develop't Control	Low Emissions Strategy	SBC	2020	2020 -2022		Unquantifiable			Policy development for Tree and Greening Projects, standards for low emissions boilers to new homes/developments, parking standards policy, mitigation measures and use of s106

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Measure No.	Measure	EU Category	EU Classification	Lead Authority	Planning Phase	Implementation Phase	Key Performance Indicator	Target Pollution Reduction in the AQMA	Progress to Date	Estimated Completion Date	Comments
4.	“Clear Air Corridor” signage and information scheme”	Freight and Delivery Management	Route Management Plans/ Strategic routing strategy for HGV’s	KCC	2019	2019 – 2022	Reduction in pre-Euro VI HGV	Part of measure 1.	To start	2022	Roadside information includes “switch-off engine”, congestion information signage information on A2
5.	KCC development control policies	Policy Guidance and Development Control	Low Emissions Strategy	KCC	2018/19	2019 – 2022	Controlled parking allowances for developments	n/a	In progress	On-going	KCC have developed low emission parking and electric vehicle infrastructure requirement policy
6.	Swale Freight Management Plan (2016)	Freight and Delivery Management	Delivery and Service plans	KCC	2016	2018- 2022		Unquantifiable, contributes to measure 1	On-going		KCC and SBC to support Swale FMP by delivering recommendations (section 5)
7.	Air pollution alerts and information	Public information	Via other mechanisms	SBC	-	2018 – 2022	Number of (vulnerable) people using the alert service in Swale	n/a			Communications and marketing directed to vulnerable people (COPD) and information on health effects Use business forums to promote best eco practices for travel
8.	Eco Stars	Vehicle Fleet Efficiency	Driver training and ECO driving aids	SBC	2014	2019-2022	Number of HGV and LGV drivers taken through scheme.	Part of measure 1			Ecostars pilot continues in 2017 (Initially 14 companies signed up in Swale with 812 vehicles

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## APPENDIX II AIR QUALITY ACTION PLAN MEASURES: LOCAL AQAP MEASURES

Measure No.	Measure	EU Category	EU Classification	Lead Authority	Planning Phase	Implementation Phase	Key Performance Indicator	Target Pollution Reduction in the AQMA	Progress to Date	Estimated Completion Date	Comments	
Page 66	1.	Local school and business travel plans	Promoting travel alternatives	Promotion of walking and cycling and travel plans	KCC (+ PH SBC)	2019	2013 Swale already participating in the Kent Travel scheme and involved in Better business for all	% participant in Kent smarter travel challenge recorded by KCC	Unquantifiable	Annual bids to the KCC	Ongoing	Community steering group proposal to be consulted on.(AQMA's: all). Work with schools, KCC and businesses.
	2.	Pinch-point parking alternatives (red-route)	Traffic Management	Parking Enforcement on highway	KCC	2019	2020 -2022	A2 parking space reduction	Unquantifiable	Consultation to start	2022	Remove pinch point A2 parking by providing alternate off-street parking and/or camera enforcement of loading bays (AQMA's: 1,2,4, 5)  The Swale Planning Policy team is preparing a Vehicle Parking Supplementary Planning Document. This will involve a Members' workshop and general consultation

Measure No.	Measure	EU Category	EU Classification	Lead Authority	Planning Phase	Implementation Phase	Key Performance Indicator	Target Pollution Reduction in the AQMA	Progress to Date	Estimated Completion Date	Comments
3.	"20 mph zones"	Traffic Management	Reduction of speed limits, 20mph zones	KCC	2019	2020 - 2022	Number of zones	Unquantifiable	To consult	2022	Community steering group proposal to be evaluated. (AQMA's: 1,2,3,4,5)
4.	Quiet delivery zones	Freight and delivery management	Quiet and out of hours delivery	KCC	2019	2020 – 2022	Number of quiet delivery zones	Unquantifiable	To consult on	2020	Community steering group proposal to be evaluated. School and night-time hours restricted freight delivery times for noise and AQ. (AQMA's: all)
5.	Local LEV car-club	Promoting Low Emission Transport	Other	SBC	2019	2020 – 2022	LEV car club vehicle no.	Unquantifiable	Yet to start review	Ongoing	Set-up low emission community car club or car-share scheme for AQMA's (AQMA's: 1,2,4, 5)

# Appendix III AQMA location maps

FIGURE C 1 AQMA 1: NEWINGTON AQMA MAP



FIGURE C 2 AQMA 2: OSPRINGE AQMA MAP

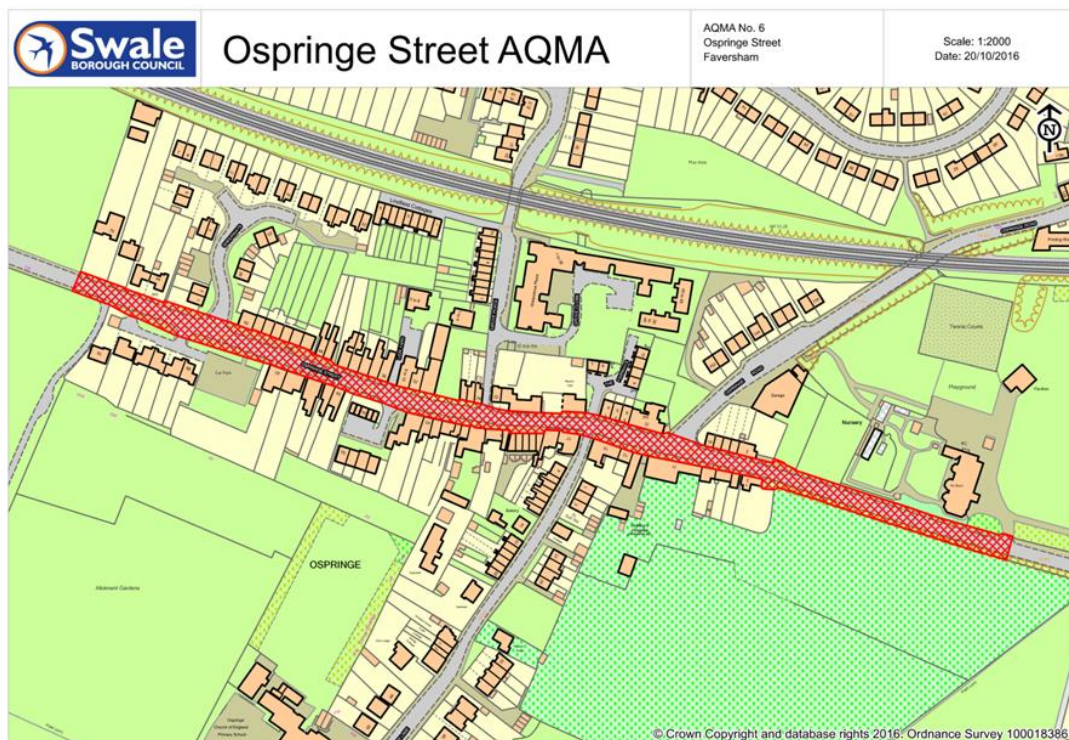


FIGURE C 3 AQMA 3: EAST STREET AQMA MAP



FIGURE C 4 AQMA 4: ST PAUL'S AQMA

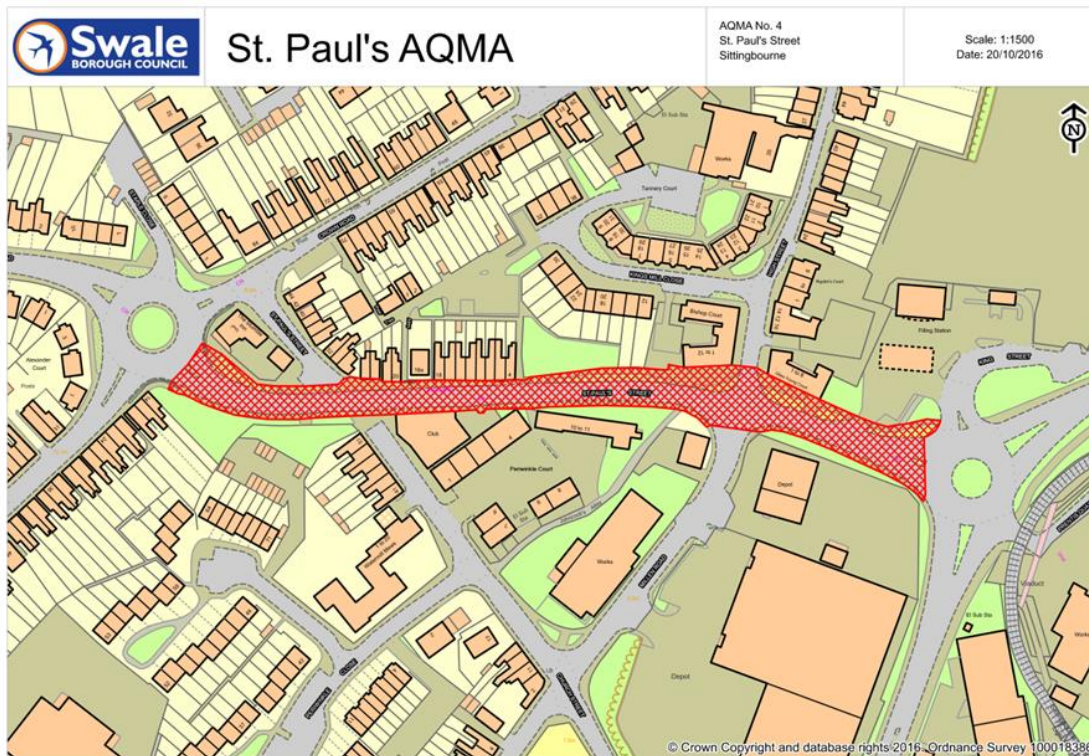


FIGURE C 5 AQMA 5: TEYNHAM AQMA



## Appendix VI Glossary of Terms

vAbbreviation	Description
AQAP	Air Quality Action Plan – A detailed description of measures, outcomes, achievement dates and implementation methods, showing how the local authority intends to achieve air quality limit values'
AQMA	Air Quality Management Area – An area where air pollutant concentrations exceed / are likely to exceed the relevant air quality objectives. AQMAs are declared for specific pollutants and objectives
AQS	Air Quality Strategy
ASR	Air quality Annual Status Report
CAZ	Clean Air Zone
Defra	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
EU	European Union
JAQU	Joint Air Quality Unit (Defra and DfT)
LAQM	Local Air Quality Management
NO <sub>2</sub>	Nitrogen Dioxide
NO <sub>x</sub>	Nitrogen Oxides
PM <sub>10</sub>	Airborne particulate matter with an aerodynamic diameter of 10µm (micrometres or microns) or less
PM <sub>2.5</sub>	Airborne particulate matter with an aerodynamic diameter of 2.5µm or less





<b>Cabinet Meeting</b>		<b>Agenda Item: 7</b>
<b>Meeting Date</b>	20 March 2019	
<b>Report Title</b>	Procurement of Multi-Functional Devices and specialist printing machines	
<b>Cabinet Member</b>	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance and Performance	
<b>SMT Lead</b>	Emma Wiggins, Director of Regeneration	
<b>Head of Service</b>	Martyn Cassell, Head of Commissioning, Environment & Leisure	
<b>Lead Officer</b>	Charlotte Knowles, Commissioning Officer Martyn Cassell, Head of Commissioning, Environment & Leisure	
<b>Key Decision</b>	Yes	
<b>Classification</b>	Open	
<b>Forward Plan</b>	<b>Reference number:</b>	
<b>Recommendations</b>	1. That the Cabinet approves the appointment of Konica Minolta Business Solutions (UK) Ltd as Multi-Functional Device and specialist printing machines supplier until 30 November 2024	

## 1 Purpose of Report and Executive Summary

- 1.1 Swale's current contract for Multi-Functional Devices expires on 29 April 2019. Maidstone Borough Council carried out a one stage tender process for the Mid Kent Partnership (Maidstone, Swale and Tunbridge Wells Borough Councils). The decision was based on the most economically advantageous tender (MEAT) evaluated on 60% price and 40% quality.
- 1.2 The contract is to provide Multi-Functional Devices (MFDs) and specialist printing requirements that are leased by the Authorities and will include all maintenance, repairs, servicing within the rental costs. Consumables (excluding paper) will be provided by the supplier as part of the lease costs.
- 1.3 This report summarises the procurement process and its results, and seeks Cabinet approval of the recommended contractor.

## 2 Background

- 2.1 The opportunity was advertised in accordance with Maidstone Borough Council's current contract standing orders, with interested parties asked to complete an

Invitation to Tender (I.T.T). Six tenderers replied and scores were allocated according to the criteria explained in the tender document.

- 2.2 The I.T.T. was structured so that the requirements for each Authority are included within a different lot as well as a separate lot for Maidstone's Print Room and Swale's Print Room. Bidders were required to bid for all lots.

**Lot 1** was for Maidstone Borough Council's MFDs with a term of five years.

**Lot 2** was for Maidstone Borough Council's Print Room with a term of five years.

**Lot 3** was for Swale Borough Council's MFDs and Plotter ending 30 November 2024 to co-terminate with the Print Room equipment.

**Lot 4** was for Swale Borough Council's Print Room with a term of five years but not commencing until 1 December 2019.

**Lot 5** is for Tunbridge Wells Borough Council's MFDs and Print Room with a term of two years.

- 2.3 The tender evaluation panel consisted of the Commissioning Officer (SBC), Interim Procurement Manager (MBC), Procurement Manager (TWBC), Facilities Officer (MBC), Mid Kent Planning Support Manager and Mid Kent ICT Technical Services Manager. The tenderer that submitted the most economically advantageous tender, were invited to a clarification interview. The interview was not part of the evaluation process; it was for clarification purposes only.

### **3 Proposals**

- 3.1 Cabinet is requested to approve the proposal to enter into a contract with Konica Minolta Business Solutions (UK) Ltd until 30 November 2024.
- 3.2 Konica Minolta Business Solutions (UK) Ltd are an organisation with over 700 directly employed staff and several other similar contracts within Kent. They scored highly in both the price and quality evaluation due to the evidence they supplied of their track record, policies and procedures and approach to social value and therefore submitted the most economically advantageous tender.
- 3.3 Table 1 shows the prices submitted by all six tenderers and the price and quality scores.

Table 1: Clarified bids:

Company name	Lot 3 SBC Price for 5 years	Lot 4 SBC Print Room Price	Additional software / support	Total for Swale	Price score	Quality score	Quality weighted score	Total score
Konica Minolta Business Solutions (UK) Ltd	£140,138.45	£170,407.60	£23,475.23	£334,021.28	60.0	28.0	11.2	71.20
Company B	£153,971.35	£176,575.58	N/A	£330,546.93	53.3	23.5	9.4	62.73
Company C	£162,697.75	£195,566.76	N/A	£358,264.51	48.4	28.6	11.5	59.90
Company D	£156,573.60	£214,590.63	N/A	£371,164.23	47.1	27.5	11.0	58.13
Company E	£207,395.50	£214,092.65	N/A	£421,488.15	38.7	16.3	6.5	45.22
Company F	£409,675.00	£251,240.35	N/A	£660,915.35	25.4	24.8	9.9	35.34

3.4 The annual spend for Swale in 2017/18 under the current MFD contract was £32,185.29. The lease costs for the SBC Print Room in 17/18 were £17,270.80 and the click costs were £27,396.56. The proposed annual cost under the new contract is £66,804.26, a saving of £10,048.39 per annum. Therefore this new contract represents a potential saving of £50,241.95 over the contract term.

3.5 Lot 3 of the new contract proposes a reduction of two MFDs, it replaces the Planning Plotter which is at the end of its life and also includes a desk top printer.

## 4 Alternative Options

4.1 Refuse this tender and carry on with current supplier - legislation dictates that we must meet the Public Contract Regulations 2015. Due to the value of the contract, the only option with our current contract expiring was to undertake this tender process. The bids from all companies were evaluated against the tender specification with a clear audit trail. Furthermore the current devices are old and would likely start to fail more regularly.

4.2 Award Lot 3 only. The tender document stated that 'SBC reserve the right to award the contract for Lot 3 but not award for Lot 4'.

## 5 Consultation Undertaken or Proposed

- 5.1 Senior Management team were updated on the approach prior to tender and asked to make decisions on the level of service we required. This helped form the tender documents.
- 5.2 The internal officer Procurement Board was updated on the process.
- 5.3 The Cabinet Member for Finance and Performance has been regularly updated.
- 5.4 Mid Kent ICT, Property Services and Planning Services have been regularly updated.

## 6 Implications

Issue	Implications
Corporate Plan	Appointing a contractor that meets a good quality standard and provides good value for money contributes towards Priority 3: Delivering the council of tomorrow.
Financial, Resource and Property	The total anticipated annual spend on the proposed contract is £66,804.26. The total contract value for the duration of the contract is therefore estimated as £334,021.28. This represents an estimated £10,048.39 saving per annum based on the current contracts and meets the current budget available.
Legal, Statutory and Procurement	<p>The contract will be the standard Council contract and undertaken using the Council’s current Terms and Conditions.</p> <p>EU procurement legislation applied to this tender process and all requirements have been followed.</p> <p>Public Services (Social Value) Act 2012 - The tender submission stated that if successful, Konica would roll out projects which they have delivered successfully in other locations such as: working with local schools on their preparation for work programmes, education programmes, work experience, trainee &amp; apprenticeship programmes.</p> <p>They also outlined how their proposal would reduce the Council’s carbon footprint and improve energy efficiency including: energy saving technologies such as sleep mode and automatic duplex printing, reduced power consumption, print preview to reduce misprints, Eco Dashboard to increase users’ environmental awareness.</p>

Crime and Disorder	Not relevant in this report
Environment and Sustainability	The new software and printers allow better tracking of usage and therefore we will be able to look at trends and try to reduce use of paper as a result.
Health and Wellbeing	Not relevant in this report
Risk Management and Health and Safety	The tender specification asked for the company's health and safety credentials.
Equality and Diversity	Not relevant in this report.
Privacy and Data Protection	Secure print release places jobs in a holding state until the user authenticates and releases the job at the MFD, preventing data from sitting uncollected at the printer.

## **7 Appendices**

7.1 None required.

## **8 Background Documents**

8.1 None.

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<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	4 March 2019
<b>Report Title</b>	Housing Enforcement Civil Penalties Policy - An alternative to prosecution for certain housing legislation offences.
<b>Cabinet Member</b>	Cllr Alan Horton, Cabinet Member for Housing and Safer Communities
<b>SMT Lead</b>	Emma Wiggins, Director of Regeneration
<b>Head of Service</b>	Charlotte Hudson - Housing, Economy and Community Services.
<b>Lead Officer</b>	Glyn Pritchard- Private Sector Housing Manager
<b>Key Decision</b>	yes
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Adopt and implement the use of Civil Penalties Policy as an alternative to prosecution. Appendix I.</li> <li>2. Delegation to the Head of Housing, Economy and Community Services all powers to issue, use and enforce civil penalties as detailed in the Housing and Planning Act 2016 and any regulations made there under, including deciding on the level of penalty and dealing with representations.</li> <li>3. The Head of Housing, Economy and Community Services in consultation with the Cabinet Member for Housing and Safer Communities be delegated to make amendments to the policy, to maintain functionality and reflect changes in guidance or legislation.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report seeks approval to use civil penalties and sets out how the Council will implement new enforcement powers contained in the Housing and Planning Act 2016. This allows financial penalties to be imposed as an alternative to prosecution for certain housing offences under the Housing Act 2004 and for a breach of a banning order under the Housing and Planning Act 2016.
- 1.2 The introduction of civil penalties will provide an additional enforcement tool to improve accommodation in the private rented sector. It will add to the options available for effective enforcement against criminal landlords.
- 1.3 Income received from civil penalties can be retained by the Council and used in relation to its housing enforcement functions.

## 2 Background

- 2.1 Local Authorities have various statutory powers under the Housing Act 2004. There is a range of action that can be taken when an offence is committed. This includes the service of notices, cautions and prosecutions.
- 2.2 The Housing & Planning Act 2016 introduced civil penalties (CP) as an alternative to prosecution of individuals and organisations for offences under the Housing Act 2004. The penalty is a financial penalty, which can be imposed by a local authority, up to a maximum of £30,000
- 2.3 The Government introduced these CP's as part of its campaign to clamp down heavily on criminal landlords. Councils have been given the authority to determine whether to prosecute or to impose a CP. All monies collected following the issue of a CP can be retained by the Council to further its statutory functions in relation to private housing enforcement work.
- 2.4 The Council will be able to impose penalties as an alternative to prosecution for offences under the Housing Act 2004 and Housing and Planning Act 2016
- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004);
  - Offences in relation to licensing of Houses in Multiple Occupation (section 72 of the Housing Act 2004);
  - Offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004);
  - Offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004);
  - Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004)
  - Breach of a banning order (section 21 of the Housing and Planning Act 2016)
- 2.5 The Council will determine, on a case-by-case basis, whether to instigate prosecution proceedings or to serve a civil penalty in respect of any offences listed above.
- 2.6 In addition to existing offences under housing legislation, section 23 of the Housing and Planning Act 2016 provides that a CP may be imposed in respect of a breach of a Banning Order.
- 2.7 Banning Orders prohibit landlords and agents from letting or managing residential properties. An order can prohibit a person from:
- Renting out a residential accommodation
  - Engaging in letting agency work
  - Engaging in property management work



- 2.8 The Ministry for Housing, Communities and Local Government has issued under S23(10) Schedules 1 and 9 of the Housing and Planning Act 2016 statutory guidance about the implementation of CP's and in order to issue fines, the Council must first adopt a policy that has regard to this guidance. The recommended policy for the Council in determining its approach in setting its financial penalty is set out at Appendix I.
- 2.9 Adopting a Policy Statement on CP's will provide additional enforcement options to help protect occupants and help ensure residents can live in safe homes.
- 2.10 The proposed introduction of CP's will allow for a greater range of enforcement tools that can be considered and applied to the worst offenders when informal and formal actions have failed.
- 2.11 It is the Council's intention to encourage landlords to meet their obligations without the need to impose a fine. However, the ability to impose such a fine is likely to be a deterrent and encourage compliance. Prosecution will remain the primary tool in dealing with most serious housing offences.
- 2.12 A penalty will only be imposed where the Council is satisfied that there would be a realistic prospect of a conviction if we proceeded to prosecution. The criminal burden of proof, beyond all reasonable doubt, must be satisfied
- 2.13 The maximum amount of fine permitted is £30,000. There is no minimum penalty level. In setting the level of a penalty the Council must have regard to the Government Guidance and take into account the following:
- severity of the offence;
  - culpability and track record of the offender;
  - harm or potential harm caused to the tenant, e.g. physical injury, damage to health or distress caused to a tenant;
  - punishment of the offender, to deter the offender from repeating the offence;
  - deter others from committing similar offences, and
  - remove any benefit the offender may have obtained as a result of committing the offence.
- 2.14 In determining the level of a CP, the matrix below has been developed to allow the spread of fines that reflect the severity of the offence and its consequence on a tenant. The table takes in to account the elements set out in government guidance linking culpability and harm criteria as outlined in the policy Appendix I. The starting point for each penalty will be midway of each band, this will allow it to be adjusted up or down after considering any aggravating or mitigating factors explained in the policy. The actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord's previous record of offending.

Table 1. Financial Penalty Banding

<b>Culpability/Harm</b>	<b>Harm Level 4</b>	<b>Harm Level 3</b>	<b>Harm Level 2</b>	<b>Harm Level 1</b>
<b>Low culpability</b>	£500-£999	£1,000-£1,999	£2,000-£3,999	£4,000--£7,999
<b>Medium culpability</b>	£1,000-£1,999	£2,000-£3,999	£4,000-£7,999	£8,000–£15,999
<b>High culpability</b>	£2,000-£3,999	£4,000-£7,999	£8,000-£15,999	£16,000-£19,999
<b>Very High Culpability</b>	£4,000-£7,999	£8,000-£15,999	£16,000–£19,999	£20,000-£30,000

- 2.15 CP's are subject to appeal to the First Tier Property Tribunal (FTPT); therefore, it is important that the Council sets the penalty at reasonable level, which it can successfully defend upon appeal. This matrix will offer transparency, aid consistency in the enforcement process and assist in the defending of appeals.
- 2.16 The policy also makes provision for a 25% discount for early payment of a fine. An early acceptance of guilt is in the public interest. It saves public time and money.
- 2.17 It should be noted, that this proposed policy is an alternative action to prosecution and this authority has not needed to seek to prosecute a landlord for non-compliance since the introduction of the Housing Act 2004.

### **3 Proposals**

- 3.1 It is proposed that the council adopts policy and implements the use of Civil Penalties as an alternative to prosecution Appendix I
- 3.2 Delegate to the Head of Housing, Economy and Community Services all powers to issue, use and enforce civil penalties as detailed in the Housing and Planning Act 2016 and any regulations made there under, including deciding on the level of penalty and dealing with representations.
- 3.3 The Head of Housing, Economy and Community Services in consultation with the Cabinet Member for Housing and Safer Communities be delegated to make amendments to the policy, to maintain functionality and reflect changes in guidance or legislation.

## 4 Alternative Options

- 4.1 Do nothing. This is not recommended as this would provide no alternative to prosecution and no retention of any fines if imposed through prosecution in court.

## 5 Consultation Undertaken or Proposed

- 5.1 Legal Services were consulted and discussions held with other local authorities via Kent Private Sector Housing Group have taken place to assist in development of the policy.
- 5.2 The penalty charges and policy will be clearly advertised on the relevant pages of the Council's website. Along with the proposed implementation date of 1 April 2019.

## 6 Implications

Issue	Implications
Corporate Plan	The Civil Penalty Policy would contribute to the Council's Corporate Plan priorities 1 and 2 by providing additional enforcement tools to help improve the quality of housing and homes within the Borough.
Financial, Resource and Property	The Government published The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017 that state the income from Civil Penalties can be retained by the Local Authority. The income must be used to cover the administration and legal costs and the expenses incurred in carrying out its private rented sector enforcement function. Any amount outside of that must be paid in to the Consolidated Fund. It is uncertain how often these powers will be used but they are not expected to provide a regular source of income.
Legal, Statutory and Procurement	The power to impose a civil penalty as an alternative to prosecution for offences was introduced by sections 23 and 126 and Schedule 1 and 9 of the Housing and Planning Act 2016. The act amended the Housing Act 2004 to allow for penalties to be issued.
Crime and Disorder	The adoption of additional enforcement powers as proposed would give the Council further tools with which to address poor housing standards and reduce associated crime and anti-social behaviour.
Environment and Sustainability	There are no implications resulting from use of this legislation.
Health and Wellbeing	Housing is one of the wider determinants of health. The introduction of civil penalties will provide an additional enforcement tool to help improve poor conditions in the private rented sector.
Risk Management and Health and	There are no additional risk management implications arising from adopting this policy.

Safety	
Equality and Diversity	The revised policy will assist officers in seeking to improve housing conditions. This will have a beneficial impact in improving the quality of life for many vulnerable people across the Borough.
Privacy and Data Protection	There are no changes or implications for the council's compliance with data protection legislation and individuals' expectation of privacy.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Swale Borough Council Housing Enforcement - Civil Penalties Policy

## 8 Background Papers

Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/697644/Civil\\_penalty\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf)

## Swale Borough Council

### Housing Enforcement - Civil Penalties Policy

Section 23(10) and 126 and Schedule 9 of the Housing and Planning Act 2016 (“the 2016 Act”) allow financial penalties to be imposed by Local Housing Authorities as an alternative to prosecution for certain housing offences. This Policy outlines how the Council will apply these penalties.

Under section 249A of the Housing Act 2004 and the 2016 Act, a Local Housing Authority may now impose a financial penalty on a person if satisfied, beyond reasonable doubt that the person's conduct amounts to a “relevant housing offence”.

The relevant housing offences are offences under the 2004 Act, namely:

- Section 30 – Failure to comply with an improvement notice
- Section 72 (1) – Failure to licence a House in Multiple Occupation (HMO)
- Section 72 (2) – Operating a licensed HMO which is overcrowded
- Section 72 (3) – Failure to comply with HMO licence conditions
- Section 95 (2) – Failure to comply with a property licence condition
- Section 139 – Overcrowding notice for HMO
- Section 234 – Non-compliance with the HMO Management Regulations

A person who commits any of the above-mentioned offences without reasonable excuse is liable on summary conviction to a fine of any amount in the Magistrates' Court or a financial penalty imposed by a Local Housing Authority as an alternative that must not exceed £30,000.

#### Breaches of banning orders

The 2016 Act also introduced banning orders under Chapter 2 of Part 2. A Local Housing Authority may apply to a First-Tier Tribunal for a banning order against a person who has been convicted of a “banning order offence”. A banning order offence is an offence set out in the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018 (SI2018/216).

A banning order made by a First-Tier Tribunal may prohibit a person from engaging in one or more of the following activities:

- Letting housing;
- Engaging in letting agency work;
- Engaging in property management work.

A person who breaches a banning order commits an offence under section 21(1) of the 2016 Act and is liable on summary conviction to imprisonment, or to a fine, or to both. However, a Local Housing Authority may instead impose a financial penalty under section 23 of the 2016 Act of an amount not exceeding £30,000.

## **Procedure in determining an appropriate penalty**

The decision to impose a civil penalty will fall in line with Swale Borough Council's current enforcement policies published on the Council's website; the Council will usually seek to remedy the disrepair informally where appropriate.

Where the legislation allows a civil penalty to be issued or a prosecution, each offence will be considered on a case by case basis. Where the landlord has breached housing legislation in the past and continues to be considered such a poor landlord and a banning order is considered necessary, a prosecution will be the first choice with an aim to proceed for a banning order.

It should be noted that for certain offences within the Housing Act, letting agents, property agents and managing agents can also be prosecuted and therefore under this policy they can be issued with a civil penalty. The term "landlord" within this policy refers to all of these groups. The level of civil penalty issued can be different for each party in regard to the same offence and will consider the circumstances specific to the individual party.

The legislation does not permit Local Authorities to impose a civil penalty and prosecute for the same offence. The criminal standard of proof is required before issuing a penalty. There must be sufficient evidence for a 'realistic prospect of conviction' in accordance with the Crown Prosecution Service Code for Crown Prosecutors, and upon any appeal of a civil penalty the Local Authority must demonstrate an offence has been committed 'beyond reasonable doubt'.

If a landlord receives a civil penalty, that fact can be taken into account if considering whether the landlord is a fit and proper person to be the licence holder for a House in Multiple Occupation (HMO) or any other property subject to licensing.

Civil penalties are subject to appeal to the First Tier Property Tribunal (FTPT).

## **Determining the level of penalty and factors considered**

In determining the amount of any civil penalty, the Local Housing Authority will give regard to the statutory guidance issued under Schedule 9 of the Housing and Planning Act 2016 and to any other relevant published guidance. This takes into account the risk to the occupants (as determined using the Housing Health and Safety Rating System) and the level of culpability of the landlord. The Council will therefore set any penalty at a reasonable level which it can objectively justify.

The Council will consider the following to ensure that the level of civil penalty given is appropriate:

- **The severity of the offence:** the more serious the offence, the higher the penalty should be;
- **The culpability and track record of the offender:** a history of non-compliance or deliberate action should increase the penalty amount;

- **The harm caused to the tenant:** the greater the harm or potential for harm, the higher the penalty should be;
- **The punishment of the offender:** the penalty should be set at a level to reflect how that offence could be dealt with in a court of law and should have an impact upon the recipient;
- **Whether it will deter the offender from repeating the offence:** the level of the penalty should be set to help ensure that the offender does not offend again;
- **Whether it will deter others from committing the offence:** the civil penalty will not be in the public domain. However, there is likelihood that there will be an awareness of penalties issued through informal channels. The level of the penalty should seek to demonstrate the impact that non-compliance can have; and
- **Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence:** the offender should not benefit as a result of committing an offence i.e. it should not be cheaper to offend, than to properly manage and maintain a property.

**Table 1: Levels of Culpability of the Landlord**

Examples of factors that will be considered when determining the culpability include:

<b>Very High Culpability</b>	<b>The Landlord/Agent has the intention to cause or threatened to cause harm:</b> the highest culpability where an offence is planned (for example where the landlord deliberately removes/disables the heating or leaves work partially complete which exposes the tenant to risk or fails to comply with a correctly served improvement notice). A landlord will be deemed to be highly culpable when they intentionally breach or wilfully disregard the law.
<b>High Culpability</b>	<b>The Landlord/Agent is reckless as to whether harm is caused:</b> i.e. the offender appreciates at least some harm would be caused but proceeds giving no thought to the consequences, even though the extent of the risk would be obvious to most people. This will also include ignoring warnings raised by the local Council, tenants or others and allowing risks, breaches or offences to continue over a long period of time. Despite several opportunities to comply, they have failed to do so.
<b>Medium Culpability</b>	<b>The Landlord/Agent has knowledge of the specific risks entailed by his actions:</b> even though they do not intend to cause harm to the tenants they fail to comply or act in a reasonable manner (negligent), for example, partial compliance with a schedule of work to an enforcement notice but failure to fully comply with all schedule items.
<b>Low Culpability</b>	The offence committed has some fault on the part of the landlord or property agent or there are other

	circumstances for example obstruction by the tenant to allow a contractor access for repairs, or damage caused by tenant negligence. Minor breaches, isolated occurrence or where significant effort has been made to comply but was inadequate in achieving compliance.
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Where no actual harm has resulted from the offence, the Local Housing Authority will consider the relative danger that persons have been exposed to as a result of the offender's conduct, the likelihood of harm occurring and the gravity of harm that could have resulted (as assessed under the Housing Health and Safety Rating System).

**Table 2: Levels of Harm to the Tenant**

<b>Harm Level 1</b>	There is a very high likelihood of severe harm (i.e. death or life changing injury) to one or more of the occupants or visitors if the issue is not resolved. These will typically be rated as Band A in the Council's HHSRS assessment but may include multiple Category 1 hazards of a lower band.
<b>Harm Level 2</b>	There will be one or more Category 1 and/or multiple Category 2 hazards which carry some risk of life changing injury or death to the occupants.
<b>Harm Level 3</b>	There may be one or more Category 2 hazards, but these are unlikely to cause severe injury.
<b>Harm Level 4</b>	All other cases not falling within Level 1, 2 or 3, e.g. where there is a disrepair issue for which the landlord is responsible, but the risk to the health of the occupants or visitors is low.

**Table 3: Fine Levels**

<b>Culpability/Harm</b>	<b>Harm Level 4</b>	<b>Harm Level 3</b>	<b>Harm Level 2</b>	<b>Harm Level 1</b>
<b>Low Culpability</b>	£500-£999	£1,000-£1,999	£2,000-£3,999	£4,000-£7,999
<b>Medium Culpability</b>	£1,000-£1,999	£2,000-£3,999	£4,000-£7,999	£8,000-£15,999
<b>High Culpability</b>	£2,000-£3,999	£4,000-£7,999	£8,000-£15,999	£16,000-£19,999
<b>Very High Culpability</b>	£4,000-£7,999	£8,000-£15,999	£16,000-£19,999	£20,000-£30,000

### **Aggravating and Mitigating Factors to take into account**

Once the Council has determined the appropriate levels of culpability and harm, it will then determine which fine level this equates to and how much the final penalty will be. The Council will start at the middle of the penalty level and take into account any aggravating or mitigating factors in order to determine the final amount to be demanded.



Below is a list which will be considered as part of the determination. This is not an exhaustive list and other factors may be considered depending on the circumstances of each case.

### **Aggravating Factors**

- Previous convictions giving regard to the offence to which it applies, and time elapsed since the offence;
- Offences motivated by financial gain ;
- Obstruction of the investigation ;
- Deliberate concealment of any activity/evidence;
- Number of items of non-compliance – the greater the number, the greater the potential aggravating factor;
- Record of non-compliance;
- Record of letting substandard accommodation;
- Record of poor management/inadequate management provision;
- Lack of a tenancy agreement/rent paid in cash;
- Number of and vulnerability of people affected; and
- Actual harm

### **Mitigating Factors**

- Co-operation with the investigation;
- Voluntary steps taken to address issues e.g. submission of a licence application;
- Willingness to undertake training;
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns;
- No previous convictions;
- Vulnerable individual(s) where their vulnerability is linked to the commission of the offence;
- Exemplary conduct; and
- Tenant behaviour

### **Vulnerable Individual**

The statutory guidance states that the harm caused and vulnerability of the individual, are important factors in determining the level of penalty. The Housing Act 2004 defines a vulnerable individual(s) as one who is at greater harm and therefore the penalty should be greater when vulnerability is an issue.

The following are examples of what the Council would potentially consider as a vulnerable individual(s):

- Elderly person
- Children
- Pregnant women

- Single parent families
- Receives domiciliary care
- Has health needs – mental health, drug dependency, alcohol dependency etc
- Requires assistance in conducting their own affairs
- Has payments made to him/her or to an accepted representative in pursuance of arrangements under the Health and Social Care legislation
- Receives a service or participates in any activity provided specifically for persons who have particular needs because of age, has any form of disability or has a prescribed physical or mental problem
- Financial issues – low income/benefits
- Those who have difficulty in understanding, speaking or reading English
- An individual in a difficult situation such as bereavement or threat of deportation etc.

The above list is not exclusive and other factors may affect vulnerability when considering the level of any penalty.

### **The Level of Penalty**

The assumed starting point for the penalty will be the middle of the fine bands -

For example, someone found to have low culpability and placed into harm level four should expect to have an assumed starting point of £750. Each aggravating factor will generally increase the fine by 10% up to the maximum of that band, with mitigating factors reducing the fine by 10% to the minimum of the band. So, to be issued with the maximum of £999, there must be generally four aggravating factors and no mitigating factors.

If actual harm has occurred or the number of people exposed to the risk of harm is greater, as in an HMO, the Council may generally consider increasing the amount of financial penalty in line with the harm outcome. It is likely the Council will then seek to review the financial penalty upwards by 20% or more for any factor.

To ensure fairness and transparency, every decision to impose a financial penalty will be subject to review by a senior manager of the Council. In the first instance, the imposition of a financial penalty will be proposed by the Private Sector Housing Manager, who will provide an assessment of any written representations received. The proposal will be reviewed by the Head of Housing, Economy and Community Services and an officer of similar or higher seniority, and a final decision made by that senior manager before a notice of intent or final notice is served.

### **Notice of Intent**

Before imposing a financial penalty, the Council must first give the offender notice of its intention to impose such a penalty. This type of notice is known as a “Notice of Intent”.

The Notice of Intent must be served within six months of the offence date. However, if the offence is ongoing, the Notice of Intent may be served at any time while the

conduct is continuing. If the conduct stops, the Notice of Intent must be served within six months of the date the conduct ceased.

For example, if a person fails to licence an HMO subject to mandatory licensing without reasonable excuse, the Council may at any time while the HMO remains unlicensed, serve a Notice of Intent. If such a person makes a valid licence application, the Council will still have the option to serve a Notice of Intent, but if it chooses to do so, it must serve the Notice of Intent within six months of the date the valid licence application was made. The Notice of Intent must set out:

- The amount of the proposed financial penalty
- The reasons for proposing to impose the financial penalty, and
- Information about the right to make representations to the Council.

### **Written Representations**

Any person served with a Notice of Intent may make written representations to the Council about the proposal to impose a financial penalty. Any representations must be made within 28 days of the date the Notice of Intent was served.

Written representations may be made in respect of any matter.

### **Review of Representations**

The Council will carefully review any written representations received during the 28-day period before taking any further action. There is no statutory timeframe for the review process, but the Council will seek to make a decision as to its proposed course of action as soon as possible.

The Council will take one of the following courses of action:

- Withdraw the proposal to impose a financial penalty;
- Impose a financial penalty of an amount lower than that proposed in the Notice of Intent;
- Impose the financial penalty proposed in the Notice of Intent;
- Propose to impose a financial penalty of an amount higher than that specified in the Notice of Intent.

If the Council decides to withdraw the proposal to impose a financial penalty, it will confirm its decision in writing. If the Council decides to impose a financial penalty of a lower or equal amount to that proposed in the Notice of Intent, it will serve a Final Notice.

- If the offender has provided written representations that increase the severity of the offence committed, the Council may seek to impose a higher financial penalty. If the Council decides to take that course of action, it will withdraw the original Notice of Intent and serve a revised Notice of Intent proposing an increased financial penalty.
- The offender would then receive an additional 28 days in which to make further written representations.

## **Financial Position of the Offender**

The offender may wish to submit information as to their financial position. If the Council was aware of the financial position of the offender before serving the Notice of Intent, the Council may have already made adjustments to the proposed financial penalty. However, this may not be the case and offenders are advised to use the 28-day period for submitting written representations to make the Council aware of their financial situation, particularly if they would have difficulties in paying the proposed financial penalty.

It is for the offender to disclose to the Council such data relevant to his financial position as this will enable the Council to assess what s/he can reasonably afford to pay.

Where the Council is not satisfied that it has been given sufficient reliable information, it will be entitled to draw reasonable inferences as to the offender's financial means from the evidence it holds and from all of the circumstances of the case which may infer that the offender can afford to pay any financial penalty.

The statutory guidance states that a guiding principle of Civil Penalties is that they should remove any financial benefit that the landlord may have obtained as a result of committing the offence. This means that the amount of the Civil Penalty imposed must never be less than what it would have cost the landlord to comply with the legislation in the first place. When determining any gain as a result of the offence the Council will take into account the following issues:

- Cost of the works required to comply with the legislation;
- Any licence fees avoided;
- Rent for the full period of the non-compliance - reviewed in conjunction with any potential Rent Repayment Order;
- Growth of portfolio based on income received; and
- Any other factors resulting in a financial benefit

As offenders may own or manage one or more properties, it is likely that they will have assets that they can sell or borrow against. After taking into account any mortgages on the property, the Council may determine the amount of equity that could be released from the property. If an offender claims that they are unable to pay a financial penalty and shows that they have only a low income, consideration will be given to whether any of the properties can be sold or refinanced.

## **False or Misleading Information**

It is important to note that any person, who knowingly or recklessly supplies information to the Council that is false or misleading in connection with any proposed financial penalty, is committing an offence and is liable on summary conviction in the Magistrates' Court to an unlimited fine.

## **Final Notice and Right of Appeal/ Contents of Final Notice**

If the Council decides to impose a financial penalty following its review of any written representations received, it will serve a “Final Notice” on the offender.

The Final Notice will set out:

- The amount of the financial penalty;
- The reasons for imposing the penalty;
- Information about how to pay the penalty;
- The period for payment of the penalty;
- Information about rights of appeal; and
- The consequences of failure to comply with the notice.

The period in which a financial penalty must be paid has been determined by statute. All financial penalties must be paid within 28 days of the date the Final Notice was served.

## **Appeals**

A person on whom a Final Notice has been served may appeal to the First-Tier Tribunal against:

- The decision to impose the financial penalty; or
- The amount of the financial penalty.

Appeals should be made within 28 days of the date the Final Notice was served.

Once an appeal has been lodged, the Final Notice is suspended until the appeal has been finally determined or withdrawn.

The First-Tier Tribunal have the power to confirm, vary (reduce or increase), or cancel the Final Notice. If the First-Tier Tribunal decides to increase the financial penalty, it may only do so up to the statutory maximum of £30,000.

As of 2019, the address and contact details of the First-Tier Tribunal (Southern Region) were:

First-Tier Tribunal - (Property Chamber) Residential Property  
Havant Justice Centre  
The Court House  
Elmleigh Road  
Havant  
Hampshire  
PO9 2AL

Email: [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) Tel: 01243 779 394 | Fax: 0870 7395 900

The address of the First-Tier Tribunal changes from time to time, but the latest address will be detailed on any Final Notice served and can be found at: <https://www.gov.uk/courts-tribunals/first-tier-tribunal-property-chamber>

## **Reduction for Early Acceptance of Guilt**

As with criminal prosecutions, the Council is of the opinion that an early acceptance of guilt is in the public interest. It saves public time and money. An offender can demonstrate an early acceptance of guilt by paying the financial penalty within 21 days of the date the Final Notice was served. If payment is made within this time period, the offender can benefit from a 25% reduction in the amount of financial penalty payable.

A Final Notice will set out the finalised financial penalty amount determined having regard to this policy and an amount equal to 75% of that sum, which would be accepted if received within the 21-day period.

If the Council is required to defend its decision at the First-Tier Tribunal, there will inevitably be additional costs in officer time and expenses. As such, no reduction is available for cases subject to an appeal to the First-tier Tribunal. If an offender makes an early payment at the reduced rate, but then decides to appeal at a later date, the Council will generally seek the full finalised amount during the appeal proceedings.

## **Unpaid Financial Penalties**

### **County Court**

The Council will take robust action to recover any financial penalty (or part thereof) not paid within 28 days of the date the Final Notice was served.

An application for an order of the County Court will be made in respect of all unpaid financial penalties. A certificate signed by the Chief Finance Officer of the Council stating that the financial penalty (or part thereof) has not been paid will be accepted by the Court as conclusive evidence of that fact, in accordance with Paragraph 11 of Schedule 13A to the 2004 Act (relevant housing offences) and Paragraph 11 of Schedule 1 to the 2016 Act (breaches of banning orders).

In taking court action, the Council would seek to recover interest and any court expenses incurred, in addition to claiming the full amount of unpaid financial penalty.

### **Enforcement**

If an offender does not comply with an order of the Court, the Council will make an application to enforce the judgement. The type of enforcement action pursued would depend on the circumstances of the case and the amount owed. The most likely types of enforcement action are shown below.

#### **Court bailiffs**

A court bailiff will ask for payment. If the debt is not paid, the bailiff will visit the offender's home or business address to establish whether anything can be seized and sold to pay the outstanding debt.

#### **Charging Order - Order of Sale**

The Council can apply to place a charging order on any property owned by the offender. If a debt remains outstanding after a charging order has been registered, the Council can make an application for an order of sale. The property would then be subject to an enforced sale and the proceeds used to settle the debt owed to the Council.

### **Attachment to Earnings Order**

If the offender is in paid employment, the Council can apply to the Court for an attachment to earnings order. Such an order would require the offender's employer to make salary deductions. Amounts would be deducted regularly at the direction of the Court until the debt owed to the Council has been fully discharged.

### **Review**

This Policy will be subject to review and amended to reflect any change in legislation, corporate policy or official guidance. Any amendment shall be in line with meeting the requirements of the legislation and the public interest.

### **Help and Advice**

If you would like further advice or clarification, the Private Sector Housing Team can help.

Please ring us on 01795 417538 and speak to one of our officers. We can also be contacted by email on: [housing@swale.gov.uk](mailto:housing@swale.gov.uk)

Alternatively, you can write to us at:

Private Sector Housing Team  
Swale Borough Council  
Swale House  
East Street  
Sittingbourne  
Kent  
ME10 3HT

**Category 1 Hazard:** The highest rating of hazard under the Housing Health and Safety Rating System undertaken under the Housing Act 2004. These are all hazards assessed under the System to fall within bands A-C. These include hazards where the occupant or visitor to the property is likely to suffer serious injury or death as a result. The Council has a duty to take action where a Category 1 hazard has been identified.

**Category 2 Hazard:** Includes all of the lower hazard bands Identified under the Housing Health and Safety Rating System Assessment. The Council does not have a duty to act upon these, although it does have the power to do so if it deems necessary. Swale Borough Council will generally take enforcement action on high Category 2 hazards (i.e. Bands D and E) or take action where multiple Category 2 hazards have been identified. Action taken is at the discretion of the authority on a case by case basis.

**Housing Health and Safety Rating System (HHSRS):** The government mandated means of assessing a dwelling for housing defects under the Housing Act 2004.

**Improvement Notice:** A legal notice served by the Local Housing Authority requiring work to be undertaken. This can be served on the owner, managing agent or person the Council deems to be in control of the property.

### Links

Housing and Planning Act 2016

<http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

Housing Act 2004

<https://www.legislation.gov.uk/ukpga/2004/34/contents>

Housing Health and Safety Rating System

<https://www.gov.uk/government/publications/hhsrs-operating-guidance-housing-act-2004-guidance-about-inspections-and-assessment-of-hazards-given-under-section-9>



<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	20 <sup>th</sup> March 2019
<b>Report Title</b>	Tree Maintenance Policy 2019 - 2023
<b>Cabinet Member</b>	Cllr David Simmons , Cabinet Member for Environment and Rural Affairs
<b>SMT Lead</b>	Emma Wiggins, Director of Regeneration
<b>Head of Service</b>	Martyn Cassell, Head of Commissioning, Environment and Leisure
<b>Lead Officer</b>	Mike Marsh. Leisure & Technical Services Manager
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. Cabinet to approve the Tree Maintenance Policy 2019-2023 as drafted.

## 1 Purpose of Report and Executive Summary

1.1 The report identifies the process undertaken to update the Council Tree Policy which:

- Sets out the services and advice that the Council provides in managing its trees across Swale.
- Is clear about what we will do/won't do in managing our 4,765 trees within the resources allocated.
- Identifies the Council's responsibilities.
- Advises what residents are able to do for themselves.

## 2 Background

2.1 The Tree Maintenance Policy 2019-2023 (hereafter the 'Policy') is an update of the 2015-2019 Tree Policy which identified the need for regular review.

2.2 The policy describes the value of trees, the Council's obligations and risk management, how we inspect along with who undertakes this and how residents can contact us or get involved.

2.3 In a recent internal Leisure services review, the need to amend and update the document was identified, as the range and number of queries we get was unmanageable. The aim was to ensure there was less ambiguity and greater clarity in the new policy so that officers, Members and residents understood the processes and limits of the Council's responsibilities for its trees. This would help to improve response times to public enquires and provide a more efficient service.

2.4 The resulting policy therefore makes it clearer how we prioritise works to our trees and how we will respond the types of queries that we receive.

### 3 Proposals

3.1 Cabinet to approve the Tree Maintenance Policy 2019-2023 as drafted.

3.2 The policy will be added to the Council's website as an easy to read 'guidance summary' will be created for the Trees page.

### 4 Alternative Options

4.1 Retain the existing tree policy for another 4 years. This would be contrary to the recommendations of the service review and would not make it clearer for all parties involved, resulting in continued over demand for services.

### 5 Consultation Undertaken or Proposed

5.1 The draft policy was considered by PDRC on the 27<sup>th</sup> November 2018. Members raised a wide range of comments, leading to the Chairman requesting that an updated policy be brought back to PDRC which took place on the 12<sup>th</sup> February. It was apparent that some members were seeking a compendium of tree services and advice covering all trees in the Borough, whereas the Tree Policy is designed to set out the Council's responsibilities only for the trees it owns and maintains in open spaces, woodlands etc.

5.2 Amendments were made to make it clearer where residents can go for more specific planning advice or for the legal position relating to trees owned by other parties.

5.3 There has also been clarifications added for what happens after severe 'weather events', communication arrangements for significant tree works, poisonous fruits and berries, subsidence damage process, hedge row and artificial turf surfaces.

### 6 Implications

Issue	Implications
Corporate Plan	<b>Priority 2: Delivering improved quality of life</b> 2.1 Keep the borough clean and well-maintained, and continue to provide excellent environmental stewardship.
Financial, Resource and Property	<b>Tree Maintenance Resources: 2018/19</b> Tree Maintenance budget £17,500.00 Tree Maintenance Contract Variations £11,300.00 Perry Wood £10,960.00 Milton Creek Country Park £4,200.00*

	<p>Nursery Stock £3,500.00*</p> <p>*Average spend on tree maintenance from general maintenance budget</p> <p>Officer Resource – responsibility for this sits in Leisure and Technical Services and more specifically Greenspaces Officer. Estimate 50% of full time role. Tree Preservation Officer (Planning) – Part time one day per week</p>
Legal, Statutory and Procurement	<p>Section 5 in the Policy sets out statutory legal obligations and risk.</p> <p>There are no procurement specific issues relating to the policy.</p>
Crime and Disorder	<p>The primary crime issue is acts of vandalism resulting in damage to trees.</p>
Environment and Sustainability	<p>The provision of trees encourages important habitat and biodiversity. Open Spaces and woodland reduce CO2 emissions, improving air quality and are particularly important for protected species including migrating birds.</p>
Health and Wellbeing	<p>The provision of woodland and open spaces provides proven health benefits for both physical and mental well-being. There are a wide array of community groups accessing woodland including educational visits</p>
Risk Management and Health and Safety	<p>Section 6 in the policy sets out the Council's approach to tree risk management, which has included a comprehensive assessment survey of all Council trees to categorise trees from no action to immediate action and by low to high risk zones.</p>
Equality and Diversity	<p>There are no differential equality issues raised by the proposals in this report.</p>
Privacy and Data Protection	<p>The tree service is compliant with data protection legislation and individuals' expectation of privacy more generally.</p>

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Tree Maintenance Policy 2019-2023

## 8 Background Papers

None

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# Tree Maintenance Policy



*“Three hundred years growing. Three hundred years standing. Three hundred years decaying.”*

Lifecycle of English Oak & Sweet Chestnut - Peter Collinson 1776

**Draft Policy for 2019-2023**

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**13. What can residents do?**

**14. Who to contact for Council tree issues**

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**Appendix 1: Legal Obligations and Risk**

**Appendix 2: Tree Inspection Form**

Document Control

1	Tree Policy 2015 – Approved Cabinet Member 21 December 2015
2	First Review PDRC – 27 November 2018
3	Revised version PDRC 12 February 2019
4	Final draft for Cabinet 20 March 2019

# 1. Introduction

Trees are an important asset throughout Swale playing a vital role in contributing to the visual amenity and ecological value of both rural and urban landscapes.

Kent is often referred to as “The Garden of England” and Swale while having the three main urban towns of Faversham, Sheerness and Sittingbourne, is predominantly a rural borough. The borough is characterised by the North Kent Downs Area of Outstanding Natural Beauty to the south, North Kent Marshes along the north coast with a central mainland plain of orchards and arable land. Significant areas of the borough have nature conservation designations and trees are present along our mosaic of highways, in public open space and within private land. Important areas of woodland can be found to the south and east of the borough including the fringes of The Blean ancient woodland at Dunkirk.

Against these positives and benefits are problems and risk associated with root damage, obstruction of lighting and danger of falling limbs or whole trees. There is a recent background of increased claims for structural damage so the defence of claims in addition to pure health and safety is increasingly an issue.

This policy sets out Swale Borough Council’s responsibility for trees on its land including open space, woodland, country parks, allotments, car parks, closed churchyards and cemeteries. Swale has a role in managing, maintaining and enhancing the environment and aims to sustain a balanced and healthy tree population while recognising the constraints of budget and prioritising safety first. There are also other public bodies and wildlife charities that look after trees in Swale.



## 2. Scope

This policy relates to **trees within Swale Borough Council (SBC) ownership** or responsibility, which can predominantly be identified within the boundaries of the following areas:

- Parks and open spaces
- Country parks
- Woodlands
- Amenity land
- Allotments
- Cemeteries
- Closed churchyards (only those formally transferred to SBC)
- Car parks
- Retained development land

As well as the urban area, the Council is responsible for approximately 120ha of woodland across 7 sites: Perry Wood, Oare Gunpowder Works Country Park, Milton Creek Country Park, Rose Hill Wood, The Meads, Thistle Hill and Kings Borough Manor Community woodlands

The Council has identified and surveyed 4,765 individual trees and 115 hectares of woodland that fall within the scope of our ownership.

## 3. The Value of Trees

Trees and woodlands bring many benefits to the local environment especially in the urban area. They soften and enhance the landscape by providing form, colour and diversity that change with the seasons. They help improve air quality, provide shade, screening, shelter and cooling, play a part in water management and offer valuable habitats for a wide range of wildlife.

Trees are complex living organisms that are one of the longest lasting assets of the natural environment. However they are subject to pests and disease, climatic and site changes that can seriously affect their health. Incidence of Dutch Elm disease and Bleeding Canker of Horse Chestnut has had a dramatic effect on the landscape of local parks and Ash Dieback Disease has the potential to be as devastating. In addition some species have characteristics that are undesirable or are difficult to manage as they mature. Development, changes to the location and well intentioned, but ultimately inappropriate planting in the past has also left a legacy of problems.



## **4. The Council's role as the Local Planning Authority (LPA) and the impact on trees in Swale**

This policy is centred around the management and maintenance of our own tree stock. However the sections below will help signpost residents to other elements relating to trees, particularly around planning policy.

### **Local Plan**

The Swale Local Plan sets out a strategic framework for the Borough over the next four years. Alongside key issues such as employment, housing and population growth it also identifies land use issues including the protection of existing ancient woodland and the potential of creating new open spaces and 'green corridors, often funded by developer contributions.

### **Tree preservation orders and Conservation Areas**

The Council receives a wide range planning applications for prospective developments. We advise applicants on existing trees with preservation orders (TPO's), the issuing of new TPO's to protect a tree or a specific group of trees, related restrictions and finally enforcement issues where TPO's have not been complied with. SBC follows the national planning legislation in order to undertake its duty to investigate.

### **Hedgerows**

Countryside / ancient hedgerows

The Hedgerows Regulations (1997) protect countryside hedgerows. You could get a fine up to £5,000 if you break the rules for removing them. In serious cases you could get an unlimited fine for removing hedgerows in cases referred to the Crown Court.

Removal of Hedgerows

You should discuss your proposal to remove a hedgerow with your local planning authority (SBC) first to make sure it's legal to do so. You must apply to the Council in writing before you remove it.

All of this falls within national legislation and you can view further information on: <https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management> & <https://magic.defra.gov.uk/>. This includes how to determine if a hedgerow is protected, the process you need to go through to remove or how to report an offence.

## **Developer contributions**

Planning and Open Spaces Council staff also assess the open space needs for new planning applications such as housing and other large scale developments, specifying to the developer, the types of trees and shrub varieties, play equipment etc that should be included in their plans. Such requirements usually form planning conditions as part of a planning approval.

The ongoing maintenance of existing open spaces, trees, shrubs and community facilities on such developments are funded by the developer who pay the Council a 'commuted sum' (lump sum) to provide maintenance for 10 years . At the end of the period, the responsibility of the maintenance of the open spaces and facilities transfers to the Council without an increase in the council budget.

In 2018 the Council agreed in its new 'Open Spaces and Play Strategy (2018-2022)' to no longer adopt new open space and landscaping unless it was of strategic value to the Borough..

## **5. Legal Obligations and Risk**

Each year between 5 and 6 people in the UK are killed when trees fall on them. Thus the risk of being struck and killed by a tree falling is extremely low and as almost the entire population of the UK is exposed, the risk per person is about 1 in 10 million. However, the low level of overall risks may not be perceived in this way by the public, given attitudes in a risk-averse society.

Under both civil law and criminal law, an owner of land on which a tree stands has responsibilities for the health and safety of those on or near the land and has potential liabilities arising from the falling of a tree or branch.

The duty holder who has control over the trees management whether as owner, lessee, licensee or occupier of the land has in general terms a duty to take reasonable care as a reasonable and prudent landowner for the safety of those who may come within the vicinity of a tree and to consider the risks posed by the tree.

See **appendix 1** for further health and safety information.

## **6. Tree Risk Management**

Defendable management is consistent with a duty of care based on reasonable care, reasonable likelihood and reasonable practicality. Being reasonable involves taking actions proportionate to the risk, both proactive and reactive to achieve a balance between the benefits trees provide to the environment and people and on the other hand, risks posed to public safety.

A key objective is to maintain a defendable position at the lowest cost while avoiding the loss of valued trees.

Tree management has both reactive and proactive elements that plan and guide management decisions and practice based on three essential elements:

- Zoning: understanding trees in relation to people or property
- Tree inspection: assessing obvious faults
- Managing risk: identifying, prioritising and undertaking safety work

## **7. Inspections**

The Council undertook a comprehensive survey of all of our trees in 2017, where every tree was assessed and prioritised by five categories from 'immediate action', to 'medium priority' to 'no action' and by zone. All of the information from this survey is stored in a specialist software package called MyTrees.

### **Which Trees – Zoning**

The first step in 'tree risk management' is understanding the location in context of levels of use. It considers all the trees on the property and determines which are in areas of high public access or close to property that could be damaged. A score of 1-6 is applied, resulting in a prioritisation made up of three zones, high, medium and low.

- High Risk zones (1-2) – used by many people every day, busy roads, railways, car parks, private dwellings, buildings and children's play areas.
- Medium Risk zones (3-4) – moderate use by people and road users, adjacent to private dwelling gardens, parks and gardens.
- Low Risk zones (5-6) – deep woodland, rarely used open space.

### **Frequency of Inspections**

Trees in the High Risk Zone will be inspected every 12 to 18 months unless otherwise stated. This will facilitate one inspection in the summer months, followed by the next inspection in the winter months and vice-versa.

Trees in the Medium Risk Zones will be inspected every 3 to 4 years unless otherwise stated.

Trees in the Low Risk Zones will receive no, or only informal inspections unless otherwise stated.

In addition to specified formal inspections, it is expected that any Council Officer or contractor will visually inspect trees and report defects whenever on site and that following a significant weather event such as severe gale force winds a visual inspection of high risk trees will be undertaken.

### **Who Inspects**

Following Zoning, tree inspection requirements and level will be identified by reference to their size, condition and the level of use within its fall distance.

- *Informal Observations* – people with good local knowledge of the site and its trees. Typically this will not be a tree specialist but a member of staff, Councillor or the public who understands the way the site is used and the implications/danger should a tree be found falling apart or uprooting.
- *Formal Inspections* – require general tree knowledge and the ability to recognise normal and abnormal appearance and growth of trees for the locality. They will be able to recognise obvious visual signs of ill health and significant structural problems. Staff carrying out these inspections will have undertaken a Tree Inspection course and have experience of working with trees.
- *Detailed Inspections* – Will be carried out by a competent person, experienced in the field of investigation to be carried out, having attained the Certificate of Advanced Tree Inspection and/or qualified to the level of Diploma/Technical Certificate in Arboriculture.

We utilise a range of personnel for the above, including our own staff, those of our grounds maintenance contractor or specialist tree consultants.

Trees will be assessed by means of scheduled, systematic, visual assessment from ground level.

- Consideration of the trees location allied to other structures in the landscape/proximity.
- Visual inspection of the tree for symptoms and overall vitality and health.
- If a defect is suspected on the basis of the symptoms, the presence or absence of the defect must be confirmed by thorough examination
- If the defect is confirmed, it must be quantified, remedial action identified and a priority of works recorded.

### **Prioritisation**

Where defects are confirmed as posing unacceptable risk or physical damage to structures following a regular tree inspection, or from direct customer contact, appropriate remedial action should be identified and timescale specified. Action response times are based on specific action times as identified following the condition survey.

Prioritisation	Hazard examples
Category 1- immediate action, response within 1 hour to make safe	Emergency work, for example a leaning tree in danger of collapse, or a fallen tree causing an obstruction
Category 2 – high priority action within 1 month	A standing dead tree, significant dead branches in Zone 1-2, vegetation interference with carriageway and/or footpaths, trees touching property
Category 3 – medium priority action within 6 months	A tree showing significant signs of decline, uplifting works to trees, dead wooding, removal of epicormic growth

Category 4 – low priority action within 1 year	Removal of stakes, minor uplifting of canopy, minor dead wooding. Other minor works as dictated by budget
Category 5 – no action required	No action required

The Council will prioritise actions based on risk and works that are deemed to be necessary for safety reasons will override any other priorities that exist within tree works schedules.

### Records

Full and readily accessible records will be made, whether as part of the routine inspection regime, response to a complaint or in connection to maintenance work. The Council currently use MyTrees to manage the condition survey data to all Council owned and/or managed trees. Data recorded will vary depending upon the level of inspection, but will be a positive record, i.e. a report even in the event there is no defect. MyTrees is maintained on an independent server accessible to staff with appropriate access rights.

A specimen inspection record is shown in **Appendix 2**

<p><b>Objective 1</b></p> <p>To ensure the safety of the users of the Council’s land</p> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>• SBC will arrange for the inspection of trees on SBC owned land using suitably qualified staff. Safety works will be prioritised and subject to budgetary constraints, will be undertaken within the timescale recommended by the inspector. The felling of trees will only be undertaken when other maintenance techniques have failed or are impractical.</li> <li>• This document and the process of guiding the inspection and maintenance of trees will be reviewed to ensure they meet the current legal duty of care standards.</li> </ul>
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## 8. Type of Works

The following table identifies the type of works typically undertaken to manage the health and health and safety of our tree stock.

Works Undertaken	Description
Remove epicormic growth	Removal of new growth, which usually is from dormant buds breaking directly from the stems or trunk.

Pollard/ re-pollard	Removal of the top of a tree to a prescribed height to encourage multi stem branching. Once pollarded, trees need to be re-pollarded every 5-7 years, depending on species to the initial pollard point.
Deadwood	Removal of significant sized dead branches and stems throughout the canopy of the tree. It is not possible to remove every dead stem, priority must be given to the larger branches more likely to cause damage or injury.
Crown thin	Crown thinning is the removal of smaller branches to provide a uniform density of foliage and an evenly spaced branch structure.
Crown reduction	The reduction in height and/or the reduction in spread by a percentage to the overall crown of the tree.
Fell	Removal usually to ground level of the tree. Treatment or removal of the remaining stump may also be undertaken.
Crown lift	Usually this task is undertaken to help alleviate low branches on a tree where they might interfere with the movement of people, either by vehicle or pedestrians. It is usual for trees to be crown lifter to 2.4m for pedestrians, and 5m for vehicular traffic.

Enquiries and service requests are logged through the Council's "My CouncilServices" system and acknowledged upon receipt. Response times are advised to the customer, with assessment ranging from immediate to 1 month. Following assessment the work is prioritised and ordered from contractors to complete.

<b>Enquiry</b>	<b>Timescale</b>
Dangerous	Immediate
Damage caused, damage to, dead branch, fallen, fungal growth, pest infection	Assessment within 7 days
Basal Growth, low branches, overgrown, overhanging, interference	Assessment within 1 month

All birds, bats and active nests and roosts are protected by law by the Wildlife and Countryside Act 1981 from intentional harm. As such inspections are made and work may be delayed by their presence at certain times of year.

Trees can be damaged as a result of poor workmanship, resulting in a reduction in the health of the tree, increased risk and increased future maintenance costs.

Arboriculture contractors require specialist knowledge and skill to adequately undertake maintenance operations. Contractors will as a minimum have appropriate trained staff, the correct equipment with maintenance records, a

suitably trained person to undertake risk assessments, a staff training programme and a Health and Safety Policy. This is in addition to any normal contractor requirements of working for the Council

Contractor working and office practices will be subject to regular monitoring and review by the Council.

### **Objective 2**

To maintain and enhance the stock of SBC trees

#### **Action:**

- SBC will use qualified arboricultural contractors when undertaking tree maintenance.
- SBC will monitor preferred contractors on a regular basis and ensure that their workmanship, competency, qualifications, and equipment meets required standards.

## **9. Communication**

The Council has a duty to maintain its trees in a safe condition. It also has a responsibility to respond to queries and provide information where its actions impact on the local amenity. Often, concerns can be raised due to a lack understanding or knowledge of proposed or necessary tree works.

The Council will maintain a web page that provides appropriate information and advice to assist the community and clearly identifying the Council's responsibilities and priorities.

We will keep interested parties such Ward Members, Parish Councils, Tree Wardens and colleagues (Planning) informed of any locally sensitive tree works and also where significant programmed works are proposed, a letter drop at least a week in advance to local residents will also be implemented and contractors will display information boards with the Council contact details.

### **Objective 3**

To communicate tree management and maintenance information

#### **Action:**

- SBC will maintain a web page that identifies clear information and priorities to assist residents at the first opportunity.
- SBC will provide information on surveys and tree works to organisations and individuals as requested.

- SBC will carry out letter drops to local residents in the immediate vicinity of the tree/s at least one week in advance of undertaking significant programmed tree works.

## 10. Nuisance

Nuisance is often difficult to define, screening by trees may be acceptable and welcomed by one person, but cause shading and interference with TV signals for a neighbour.

Trees can be viewed as a nuisance because of leaf fall, seed dropping, shading, branch overhang, TV interference or honeydew deposition. Solutions to these problems are difficult if not impossible short of removal of the tree and maintenance can often worsen the original issue by promoting strong regrowth. There is no legal requirement for an owner of a tree to carry out works to abate this type of nuisance.

Certain types of nuisance fall into the category of legal nuisance and the owner of a tree must take steps to abate the nuisance. Problems associated with root damage and subsidence falls into this category.

### Objective 4

To minimise the likelihood of insurance or other claims against SBC

#### Action:

- SBC will seek appropriate advice from qualified advisors, legal advisors and insurers in respect of action required to mitigate any claim or future claim that may arise.

Works over and above the need to maintain a tree in a safe or healthy condition will be considered on an individual tree basis and will only be undertaken in the severest cases - usually due to insurance claims. Works will not normally be undertaken on a tree to reduce shading, leaf or fruit fall, or to improve TV signal reception.

The table below identifies common cause of nuisance and the Council's response.

Enquiry	Response
Tree overhanging property	We will not prune or fell a tree in Council ownership or managed by the Council to alleviate the nuisance of overhanging branches.



	<p>Residents have a common law right to cut back encroaching vegetation to their boundary, and to offer the arising's back, although the Council does not have to accept the arising's.</p> <p>Throwing the trimmings back over the boundary could constitute fly tipping.</p>
Tree blocking light	<p>We will not prune or fell a tree in Council ownership or managed by the Council to allow natural light into a property. There is no automatic right to direct sunlight, only daylight.</p>
Tree blocking view	<p>We will not prune or fell a tree in Council ownership or managed by the Council to improve a view for a property.</p>
Tree touching building	<p>If a tree in Council ownership or managed by the Council is touching a property we will take action to remove the nuisance in a timeframe based on the priority criteria in section 7.</p> <p>It will be usual practice to prune the tree to reduce or remove the nuisance, but occasionally it may be necessary to fell the tree. This will only be considered if pruning is not sufficient to reduce or remove the nuisance.</p> <p>It is advised to contact the Council to arrange for removal of the nuisance/arising's. However, residents have a common law right to cut back encroaching vegetation to their boundary. Any works organised by the resident should be carried out by a qualified arboriculturist, after advising the Council that the work is to be undertaken. Before any work is undertaken, it is necessary to check whether the tree is covered by a Tree Preservation Order, and is within a Conservation Area, and the appropriate consent sought.</p>
Tree dropping leaves	<p>We will not prune or fell a tree in Council ownership or managed by the Council to stop or reduce leaf fall. Autumn leaf drop is part of the natural cycle of trees and cannot be avoided by pruning. Council contractors carry out removal of leaves from highways and open spaces but will not enter private property to remove leaves.</p>
Tree dropping sap/honeydew	<p>We will not prune or fell a Council owned or managed tree to remove or reduce honeydew or other sticky residue from trees.</p> <p>Honeydew is a seasonal problem caused by aphids</p>

	<p>(greenfly) feeding on the sap and excreting a sticky residue, which often gets colonised by a black sooty mould. Aphids are almost impossible to remove from a tree, and any pruning would only offer a brief respite from the problem. The flush of growth following pruning would result in an increase in the problem as this would be more prone to aphid infestation.</p>
Tree dropping flowers	<p>We will not prune or fell a Council owned or managed tree to remove or reduce blossom from trees.</p> <p>Spring blossom is part of the natural cycle of trees and cannot be avoided by pruning. Council contractors will remove blossom from highways and footpaths in open spaces as part of their contractual obligations, but will not enter private property to remove fallen blossom.</p>
Trees dropping fruit/seeds	<p>We will not prune or fell a Council owned or managed tree to remove or reduce the nuisance of fruit or seeds. Production of fruit and seeds is part of the natural cycle of trees and cannot be avoided by pruning.</p> <p>Council contractors will remove fallen fruit and seeds from highways and footpaths in open spaces as part of their contractual obligations, but will not enter private property to remove fallen fruit or seeds.</p> <p>Occasionally, there may be significant anti-social behaviour associated with fallen fruit such a fruit being thrown at cars or properties. We will consider removal of the tree and replacement of a more suitable tree species. Where there is evidence of vulnerable adults, children and animals that will be exposed to poisonous fruit or berries, the situation will be investigated, and a decision made on the most appropriate action.</p>
Trees and bird droppings	<p>We will not prune or fell a Council owned or managed tree to reduce or remove bird droppings from trees, or to remove bird droppings from private land.</p> <p>Though bird droppings can be considered a nuisance, it is not a significant reason to carry out pruning or felling works to a tree. All birds, nests and eggs are protected by the Wildlife and Countryside Act.</p>
Trees and insect/animal pest	<p>We will not prune or fell a Council owned or managed tree to remove or reduce insect pests such as bees, wasps or brown-tailed moth, or wild animals.</p> <p>Bees are endangered in the UK, and no action will be</p>

	<p>taken to control bees. If there is evidence of an active wasp nest in the tree, this should be reported to the Council for eradication if practical to do so. It is not practical to treat a mature tree for brown tailed moth, although smaller trees and shrubs can be treated, based in an individual assessment.</p>
Trees and TV signal	<p>We will not prune or fell a Council owned or managed tree to prevent interference with TV/satellite installation or reception.</p> <p>It may be possible for your satellite or TV provider to suggest an alternative solution to the problem, for example relocating the aerial/dish or means to boost the signal.</p>
Tree “too tall/hasn’t been pruned” or “may fall in high wind”	<p>We will not prune or fell a Council owned or managed tree because it is considered to be 'too big' or 'too tall' or “hasn’t been pruned for some time”.</p> <p>There is a common misconception that all trees should be regularly pruned. A tree is not dangerous just because it has grown large within its surroundings. The Council will carry out pruning or felling of trees if there is an identified risk to people or property. Any trees reported as dangerous will be inspected and appropriate work carried out if identified as necessary.</p>
Tree related subsidence damage	<p>If you suspect a Council owned or managed tree is causing subsidence damage to a property, it is advised the resident contacts the Council in the first instance and also alert their insurer to discuss concerns and agree on an appropriate course of action. Any claim will be investigated and, if it is proven the Council’s trees is at fault, appropriate action will be taken.</p>
Tree roots- in garden/causing damage	<p>The Council will not prune or remove a tree because there are tree roots in a resident’s garden.</p> <p>Residents have a common law right to cut back encroaching roots to their boundary, provided it does not adversely affect the health of the tree.</p> <p>If there is suspected root damage to a property, artificial turf surfaces or drains, the claimant will usually be required to provide supporting evidence through their insurance company.</p>
Tree growing through overhead	<p>We will not fell a Council owned or managed tree to remove or reduce interference with overhead wires.</p>

lines	<p>There may be instances where the Council will consider undertaking works to prune trees and reduce interference to telephone wires where pruning will be an effective measure as part of our general tree work programme.</p> <p>Any enquiries relating to trees interfering with overhead power cables will need to be referred to the appropriate utility company in the first instance.</p>
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## 11. Replanting

With concern at the loss of trees and particularly mature specimens, there is often a desire for replacement planting. However it does not necessarily follow that it is suitable to replant on a site utilised originally some years ago. Factors can change, such as increased utility service provision, increased vehicular or pedestrian access and the presence of diseases.

The Council is committed to the replanting of trees to ensure that the amenity of the area is maintained and enhanced. However this will only be undertaken following consideration of all the constraints that may make a site unsuitable.

The Council actively supports and encourages community groups to undertake new tree planting on council managed open spaces, country parks and woodland where there has been gradual loss over time and to increase the overall stock of Council managed trees while recognising the Council's wider financial constraints.

Any planting will be undertaken during the correct planting season (November – March) and with an appropriate species for the particular site.

### Objective 5

To maintain and enhance the Public Open Spaces tree stock and ensure that tree species are appropriate to the specific site and where possible enhance biodiversity

#### Action:

- Where appropriate SBC will undertake the replanting on a 1:1 basis of trees removed..
- SBC will seek appropriate alternative sites and funding opportunities where site constraints and budgets prevent replanting.

## 12. Resource

The Council will regularly review the resource requirement to deliver against this policy and manage its trees, both in terms of inspections and works arising from both proactive and reactive responses.

Currently one Greenspaces Officer is responsible for managing the Council's tree stock using an allocated revenue budget of £26,800 (2018/19 budget figure). The Council also employs a part time Tree Preservation Officer who is available to offer specialist advice.

## 13. What can residents do to help?

Residents can assist the Council by informal observation of trees in public open spaces. Whilst we have the monitoring processes and resources stated above, early advice to the Council can be very useful;

- Let us know if you spot any damage or disease
- Help by watering new trees during dry weather. A couple of buckets of water once a week will make a difference.
- Be careful when cutting around trees. Any damage to the bark will reduce the life of the tree.

### Volunteering

There are regular community activities and events organised by SBC and volunteer groups such as the Friends of Oare Gunpowder Works, Swale in Bloom and Friends of Perry Wood to undertake tree planting, coppicing and tree craft.

Visit:

- <http://miltoncreek.co.uk/events/event/>
- [www.gunpowderworks.co.uk](http://www.gunpowderworks.co.uk)
- <https://www.swale.gov.uk/swale-in-bloom/>

## 14. Who to contact for Council tree issues

Enquiries and service requests are logged through the Council's "My CouncilServices" system and acknowledged upon receipt.

Online contact form: <https://www.swale.gov.uk/contact-us/>

Customer Services: phone: 01795 417850

## 15. Review

The Council will review this policy every 4 years to ensure its compliance with recognised guidance and best practice, and to ensure that it meets its legal duty of care.

This document was written with reference to “Common Sense Risk Management of Trees – Guidance on trees and public safety in the UK for owners, managers and advisers” by the National Tree Safety Group (ISBN 978-0885538-840-9).

## **Appendix 1: Legal Obligations and Risk**

Relevant legislation includes:

- The Occupiers Liability Act 1957 & 1984
- Health and Safety at Work Act 1974
- Health and Safety at Work Regulations 1999
- Highways Act 1980
- The Compensation Act 2006
- Wildlife and Countryside Act 1981

The Health and Safety Executive has in its Sector Information Minute 01/2007.5 *Management of the risk from falling trees*, identified the risk as “broadly acceptable”.

Exposure to an element of risk is an unavoidable consequence of trees being in the environment, but in considering management policy, it is necessary to strike a balance between risk and benefit.

Trees can also damage property either directly from the action of roots or from the desiccation of susceptible soils (clay). Exposure to a risk of increasing insurance claims needs to be managed through proactive inspection and maintenance; and with adequate and timely intervention when necessary.



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<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	20 March 2019
<b>Report Title</b>	Lorry Parking within the Borough
<b>Cabinet Member</b>	Leader
<b>SMT Lead</b>	Mark Radford, Chief Executive
<b>Head of Service</b>	
<b>Lead Officer</b>	
<b>Key Decision</b>	Not at this stage
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. That Cabinet give authority to officers to explore further with Canterbury City Council, Kent County Council and Highways England potential options for lorry parking within Swale.

## 1 Purpose of Report and Executive Summary

1.1 This report is presented to Cabinet to enable further background work to be undertaken by officers to identify whether there are any opportunities to avoid the inappropriate lorry parking on both the strategic highway network as well as locally in unsuitable commercial and residential locations.

1.2 Kent has an urgent and unmet need for official lorry parking facilities. Legal requirements on drivers necessitate regular rest breaks and it is common for these to be taken in Kent either before or after making the Channel crossing at the Channel Tunnel or Port of Dover. This causes a proliferation of unofficial and inappropriate lorry parking on Kent's roads, the damaging effects of which are felt by our residents – noise and air pollution from refrigeration units, anti-social behaviour and littering, negative road safety impacts, and damage to verges and kerbs.

## 2 Background

2.1 Members will be aware of the difficulties experienced across the Borough with inappropriate lorry parking in laybys on the strategic road network and in unsuitable commercial and residential locations.

2.2 Whilst there are borough wide areas where laybys are almost exclusively used by lorries, which gives rise to health and safety concerns for other vehicular traffic in particular on the A249, there is a specific issue along the M2/A2 corridor. The Leader has had initial discussions with Canterbury City Council given the mutual interest in

exploring potential solutions. Canterbury City Council are experiencing similar issues with lorry parking in laybys along the A2 corridor in their borough. There appears to be a common desire to consider options that could alleviate the problems being experienced by our communities.

2.3 As a result a preliminary meeting with all interested parties was convened. At the same time Kent County Council have been seeking to address similar concerns on a countywide basis. They recently commissioned work to identify potential sites for commercial lorry parks that the private sector might be interested in developing and operating, targeted at where the problem was most acute and where there is a lack of existing official lorry parking provision. An area near Brenley Corner is one under consideration.

2.4 Members will appreciate that any proposal of this type results in a number of considerations and interdependencies. In certain circumstances it may be possible for local authorities to take a longer term view in terms of payback on investment. In addition there is the need to, amongst other things to:

- a) develop and assess the financial and business case,
- b) ensure that any planning concerns are addressed
- c) understand any legal implications and land title issues and
- d) ensure that the appropriate enforcement arrangements in place.

2.5 In relation to d), alongside the provision of any lorry park is the need to have robust enforcement and the experience of recent Ashford Borough Council (ABC) needs to be understood. To enforce you have to show that there is dedicated lorry parking provision to send lorries to. ABC do this currently via an experimental traffic regulation order which includes an overnight parking ban in the designated 'exclusion' area, first time clamping and a 45 minute grace period if required to move lorries on. Lorries are only moved on where space is available in the dedicated lorry parks.

2.6 Highways England (HE) are looking nationally at a network of lorry parks but no details are currently available. HE have also carried out what they call a "Public Information Exercise" on how to avoid Operation Stack and the wider problem of overnight lorry parking.

2.7 Modelling will be critical to ensure that any location works. This is important given current levels of congestion at peak time at Brenley Corner and other preliminary traffic factors that are becoming apparent through the Local Plan process.

2.8 The Ministry of Housing, Communities and Local Government (MHCLG) has made positive changes within the National Planning Policy Framework (NPPF) to promote the need for overnight lorry parks nationally. Paragraph 107 of the revised NPPF now states

*"Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres*

*should make provision for sufficient lorry parking to cater for their anticipated use.”*

2.9 This has already returned positive results with the Cobham Services (M25) and Corley Services (M6) being granted lorry parking expansions at appeal despite being located within the Greenbelt. The inspector ruled in both cases that the need for overnight parking was greater than the loss of land within the Greenbelt. The revisions to national planning policy will weigh in favour of future applications for lorry parking within Kent.

### **3 Proposals**

3.1 Members will understand that discussions are at a preliminary stage and consideration of a proposal of this type requires a detailed understanding of all the issues given the length of any lead in time to take any proposal through the planning process and construction. This is a matter that both councils wish to see progressed as soon as possible. As the pre-election period approaches it is felt that matters should not be put on hold and the proposal is that Cabinet give authority to officers to explore further with Canterbury City Council, Kent County Council and Highways England potential options for lorry parking within Swale. This would enable further background work and due diligence to be undertaken so that a further report can be presented to Cabinet as early as possible in the new civic year.

### **4 Alternative Options**

4.1 Do nothing – this is not recommended as there is clearly a matter of mutual interest between the two councils. The proposal enables further detailed investigation and analysis to happen and avoids any potential delays.

### **5 Consultation Undertaken or Proposed**

5.1 The initial meeting with Canterbury CC, Kent CC and Highways England established the potential way forward. Consultation will be considered further if a detailed option is agreed.

### **6 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Any proposal to alleviate inappropriate lorry parking would contribute to the corporate plan priority of delivering improved quality of life for both residents and businesses currently affected

Financial, Resource and Property	Any proposal will need to be supported by a fully costed business case which would need to demonstrate a reasonable payback period and return on investment, potential sources of funding and a risk analysis.
Legal, Statutory and Procurement	The nature of any option going forward is likely to be complicated and it will be essential that appropriate legal advice on any emerging models of delivery is sought early on in the process. The issues of any supporting enforcement regime will need to be developed having regard to statutory powers. If the matter progresses to planning application stage then there will be a need to ensure that there is clear delineation between the Council as a potential joint promoter of any scheme and the Council as Local Planning Authority. The title to the land will need to be investigated.
Crime and Disorder	Any proposal will positively affect the council's commitments in the current community safety strategy in relation to the reduction of anti-social behaviour which is often associated with unauthorised lorry parking.
Environment and Sustainability	The potential provision of a dedicated lorry park should minimise the environmental impacts of current inappropriate parking. A lorry park is likely to have a marked positive impact on litter around the high speed roads and could create a saving on current street cleansing costs.
Health and Wellbeing	None identified at this stage.
Risk Management and Health and Safety	Risks will be considered as part of any business case.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

## 7 Background Papers

None

## **Recommendations for approval**

### **Swale Joint Transportation Board – 4 March 2019**

Minute No. (to-follow) – Petition – Parking Review – Conyer Road, Teynham

(1) That officers undertake an informal consultation with residents to remove the single yellow line on one side of Conyer Road and slightly extend the double yellow lines.

Minute No. (to-follow) – Formal Objection to Traffic Regulation Order – Swale Amendment 15

(1) That the report be noted and that officers proceed with the proposed installation of double yellow lines on the junction of Terrace Road and Murston Road in Sittingbourne.

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

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