



PORTFOLIO HOLDER DECISION NOTICE

INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR ENVIRONMENT, HEALTH AND WELLBEING

TOPIC – NEW SEWAGE TREATMENT WORKS AT BRUNEL CLOSE, MICHELDEVER STATION

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Head of Legal and Democratic Services, the Chief Executive and the Head of Finance are consulted together with Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. In addition, all Members are notified.

If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

Contact Officers:

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SUMMARY

- The 39 homes at Brunel Close in Micheldever Station were constructed about 25 years ago by Natta Homes. The development was provided with its own sewage treatment works (STW) and soakway, which was transferred once the last house was sold into the ownership of a residents' association for Brunel Close set up expressly for the purpose.
- Shortly after the completion of the development, The Dove Inn public house – adjacent to the Close – was connected to the same sewage system.
- This situation is not uncommon in the Winchester District, and officers are aware of at least 20 other residential developments which own and maintain their own sewage treatment facilities.
- Over the past year, officers have been liaising with the residents of Brunel Close because the STW are failing and in need of replacement. The Council has an interest in the issue, in that the Environment Agency can impose a

complete ban on the discharge of effluent if it finds it is not meeting the discharge consent. . If this were to happen the effluent from the STW would have to be tankered away on a very regular basis. This is likely not to be a sustainable long term solution, meaning the Council might need to exercise powers relating to defective drainage. Ultimately this could result in the Council performing works in default.

- In the normal course of things, the residents' association would have paid contributions into a central fund to enable not only the routine maintenance of the STW but also the eventual replacement of the system at the end of its useful life.
- In the case of Brunel Close, the residents feel that
 - a) the system that was installed was never fit for purpose, and has led to a high level of expenditure on ongoing maintenance (including the fitting of a new soakaway three years ago) which has prevented the accumulation of funds for a replacement STW;
 - b) The Dove Inn should never have been connected to the system, which was primarily for domestic and not commercial use;
 - c) inadequate instruction was given to the residents as they moved into the development in relation to the care of the treatment facilities, which has meant that they understood the implications of the faulty system at a relatively late stage.
- The residents have been supported by officers in their deliberations about next steps, and Ward Members have been kept informed. Following professional external advice, they would like to procure and install a new STW with a project overseen by a consultant engineer.
- Although the residents are clear that the responsibility for the project is theirs, they have asked if any financial help might be forthcoming from the Council. Ward Members have indicated that a loan to the residents would demonstrate the Council's willingness to help its residents without setting the more difficult precedent of a grant.
- Although there is no obligation for the Council to provide such a loan, it would help the residents to fund the scheme up front at a time when the reserves of the residents' association are depleted. This would obviate the need for unmanageable cost to individual households or numerous individual bank loans, and give the residents a reasonable period of time to recoup the money through monthly contributions to their central fund.
- There is no legal reason why Members cannot choose to make a loan to assist the Brunel Close residents.

- The proposed loan would be for a maximum of £50,000, subject to final costings obtained via the consultant engineer. It would be repayable over a 3 year period.
- Given that the only asset owned by the residents' association is the STW, it is proposed that the loan be secured against this. The STW is not of any real value – other than to the residents – so Members are asked to note that this is an obvious risk. However, the association has an established record of asking for and receiving capital contributions from the Brunel Close residents and the Inn, with an agreed formula for dividing up costs. The risk is not therefore considered to be excessive.
- There would need to be ongoing scrutiny of the site by officers from the relevant Council teams to ensure that all statutory requirements were being met.
- The terms of the loan would reinforce the requirement for the project to be carried out in full compliance with environmental law. It would also require the residents to put in place a formal scheme of planned contributions towards any future major works.
- The loan would take the form of a 'drafted mortgage' and a draft would need to be submitted to the Land Registry for specific approval before it can be used, and before it can be registered. It would also need to be registered with Companies House.
- Informal feedback suggests that the residents of other similar developments could be better informed about their responsibilities in relation to sewage treatment facilities, and it is proposed that the newly introduced post of Head of Drainage and Streetcare be responsible for developing a package of materials and advice (eg in the form of an occasional touring 'clinic') for residents in similar situations. This would be a proactive means to reduce any future requests to the Council for financial assistance.
- Providing assistance to residents in this way may be considered to be supporting the Active Communities outcome of the Winchester District Community Strategy ('ensuring our communities are healthy and safe'). The completed STW project will contribute to the High Quality Environment outcome ("ensuring that the quality of the place we enjoy is maintained and enhanced").

DECISION

1. That the Head of Legal and Democratic Services be authorised to draft and sign a loan agreement with the Brunel Close and Dove Inn Public House Residents' Association, in consultation with the Head of Finance and Assistant Director for Economy & Communities, for the purposes of procuring and installing a new sewage treatment works;

2. That the principle of a loan to the Residents' Association be agreed, for a maximum of £50,000, repayable over a maximum of 3 years, the exact requirement to be determined by the Head of Finance;
3. That the Head of Drainage and Streetcare be requested to:
 - a) develop and deliver a package of advice and information for residents of other developments responsible for their own sewage treatment facilities, and
 - b) work with the Head of Development Management to ensure developers of new homes are providing adequate information to residents taking up such responsibilities for the first time;

REASON FOR THE DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

A number of forms of assistance have been considered. These have included:

- a) *providing a grant to the residents to reduce the overall cost to individual households.*

Whilst this is the quickest and easiest option for the Council, in terms of the administration and the extent of any legal implications, it was felt by Ward Members to set a difficult precedent in relation to the many other developments in a similar situation.
- b) *commissioning the works directly and recharging the residents over a period of time subsequently.*

This might have ensured a higher standard of works had the residents been intending to do the procurement, but the alternative proposal for a consultant engineer to scope, procure and oversee the project on behalf of the Residents' Association means that this can be achieved without adding to officer workloads. It also reduces the liabilities to the Council in relation to any future defects, and avoids setting a precedent for other developments of this kind. Officers have therefore assisted the residents in finding a suitable engineer to run the project.
- c) *providing advice but no financial support.*

There is no obligation for the Council to provide financial assistance, but Ward Members have been keen from the outset to do so as part of a package which includes advice, site visits and ongoing liaison with the residents. The residents have felt very isolated in dealing with their situation, and have warmly acknowledged the level of support and guidance given by the Council.

RESOURCE IMPLICATIONS:

It is common practice for local authorities to provide loans to community organisations to assist with short term financial issues.

As indicated above, the proposal is to lend a maximum of £50,000. The repayment period will be a matter to be discussed with the residents and an appropriate interest rate will be charged.

The loan will be on the basis that the residents will establish a recovery plan that will ensure that they are able to meet the long term costs of the facility. This will form part of the agreement.

The funding for this loan can be met from the major investment reserve.

CONSULTATION UNDERTAKEN ON THE DECISION

There have been a number of email exchanges with Ward Members over the last eight months, and Steve Brine MP has expressed a hope that the Council can find a way to help the Brunel Close residents.

FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION NOTICE

Following publication of the draft notice, Councillor Lipscomb wished to clarify that whilst he was pleased to note the proposal to help the Brunel Close residents, he favoured option (a) above and the views attributed to Ward Members were not shared by him.

DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR OFFICER CONSULTED

Councillor Gottlieb declared an interest as he controls the company which owns the freehold of the Dove Inn, Micheldever. He was not previously aware of the loan application and did not consider there was any conflict at this time.

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

n/a

Approved by: (signature)

Date of Decision: 03.05.16

Councillor Frank Pearson – Portfolio Holder for Environment, Health and Wellbeing

APPENDICES: None.