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To: Members of the Cabinet

Date: 1 July 2015
Our Ref:
Your Ref:

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Dear Councillor

CABINET - FRIDAY 3RD JULY, 2015

I refer to the agenda for the above meeting and now enclose the following reports which were unavailable when the agenda was printed.

Agenda No.

Item

6. Contract Extensions for Public Health Services (Pages 111 - 122)
Report of the Director of Public Health attached

11. Sefton Local Plan: Submission Draft (Pages 123 - 130)
Supplementary report of the Director of Built Environment attached

A petition has been submitted by Patricia O'Hanlon from the Maghull and Lydiate Action Group, which contains 27 signatures.

The petition states: We are concerned that Sefton Council's Local Plan will result in Maghull and Lydiate losing virtually all its prime agricultural land and "We ask the Council to listen to the community, to re-examine Sefton Council's Local Plan and, above all, question the information supplied by Sefton Council officers in the formulation of this Local Plan."

The petition will be considered prior to the report (previously circulated) and the supplementary report of the Director of Built Environment

16. St Ambrose Barlow Catholic High School - Approval to Consult on the Closure of the School (Pages 131 - 138)

Report of the Director of Young People and Families attached

In accordance with Section 100B (4) (b) of the Local Government Act 1972, the Chair has agreed that the report be considered as a matter of urgency by reason of the need for the Cabinet to consider the commencement of the

statutory consultation process relating to the proposal to close the school.

Yours sincerely,

G. BAYLISS

Director of Corporate Services

Report to:	Cabinet	Date of Meeting:	3 rd July 2015
Subject:	Contract Extensions for Public Health Services	Wards Affected:	All Wards
Report of:	Director of Public Health		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	No – Rule 27 Consent Received
Exempt/Confidential	No		

Purpose/Summary

To report a breach of the Council's Contract Procedure Rules.

To seek approval from Cabinet to ensure ongoing service provision of key public health services for a further 12 months, with effect from the 1st April 2015, for the following contracts:

- Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2)
- Smoking Cessation Medicine Management IT system for NRT;
- NHS Health Checks

To seek permission to re-commission the NHS Health Checks contract.

To note that officers will be undertaking reviews as detailed in the report.

The cost of full 12 month extension to include the above current contracts would be £722,200. The individual breakdown is as follows:

- £300,000 aligned to NHS Health Checks. Each of the 52 individual contracts is less than £9000.
- £410,840 for smoking cessation services NRT, CHAMPIX. The providers are Sefton Pharmacies of which all 76 deliver this service. Each pharmacy is individually contracted.
- £11,360 for the Smoking Cessation Medicine Management IT system. The provider is Webstar. This system is also used for sexual health, substance misuse and Care at the Chemist for medicines management.

Recommendation(s)

Cabinet is asked to:

1. Note the breach of Contracts Procedure Rules Rule 1.2.8.
2. Grant a waiver of the Council's Contract Procedure Rules with respect to the

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contracts for:

- a) Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2)
 - b) Smoking Cessation Medicine Management IT system for NRT;
 - c) NHS Health Checks
3. Note that the contracts for the Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2) and the Smoking Cessation Medicine Management IT system for NRT will be re-commissioned and procured as part of the previously authorised Integrated Wellness Service.
 4. Authorise the Head of Commissioning Support and Business Intelligence and the Interim Director of Public Health to commission the NHS Health Checks Service for 2016/17 immediately. Such commissioning to be the subject of a further report to the Cabinet Members for Health and Wellbeing and Regulatory, Compliance and Corporate Services to confirm the process, the timescale and any other pertinent information.
 5. To note that a preliminary review is being undertaken by officers (Head of Commissioning Support and Business Intelligence supported by colleagues in Public Health) as to how these particular contracts have been allowed to lapse, resulting in a breach of the Council's contract procedure rules. This review will be reported to the Leader of the Council and will inform the basis for a more comprehensive review.
 6. To note that a comprehensive review will be led by the Head of Commissioning Support and Business Intelligence and reported to the Cabinet Member Regulatory, Compliance and Corporate Services to map current contract procurement processes across the Council, practice against those current processes and to review as appropriate to improve confidence and assurance into the Council's contract procurement processes. Such a review is to be completed and reported to the Cabinet Member no later than 1 September 2015.
 7. Note that the proposal is a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Adult Social Care) had been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by the Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because the continued provision of mandatory public health services would cease in the event of a delayed decision.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being	√		
5	Children and Young People	√		
6	Creating Safe Communities	√		
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

Reasons for the Recommendation:

This is due to:

- Officers must comply with the Council's Contract Procedure Rules (Chapter 11 of the Constitution section H rule 129). Under the Contracts Procedure Rules contract extensions must be dealt with in line with Rule 1.2.8. Extension of contracts with a value below the applicable EU Spend threshold will require the written approval of the Cabinet Member following consideration of a written report from the Service Director setting out a justifying business case. Variations shall only be granted in exceptional circumstances if it can be established that this will achieve Best Value for the Council. Cabinet Member approval was not sought. Extending the contracts for these particular services in this way will not breach EU procurement rules.
- The current contractual arrangements expired on the 31st March 2015.
- The services covered by these contracts make an important contribution to improving public health outcomes particularly in relation to cardiovascular disease and cancer and are included in the Council's public health responsibilities as outlined in the Health and Social Care Act 2012. The NHS Health Checks contract is a mandatory public health service.
- A 12 month extension of this particular contract will ensure that the service continues to be delivered during 2015/16. A new service specification will be issued with the 2013 Public Health contract for the 15/16 contractual term.

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These services are delivered by NHS providers; predominantly through Sefton's 52 General Practitioners.

- Preparation for procurement of the NHS Health Checks programme from 2016/17 onwards is currently being considered. Discussion will be initiated with the Clinical Commissioning Groups (CCG's) to explore integrated commissioning opportunities which will strengthen clinical governance, training and contract management arrangements.
- Each of these services sits within the umbrella of the new Integrated Wellness Service previously agreed at Cabinet. The smoking services will be procured as part of the Integrated Wellness Service procurement process. As the most appropriate provider of the NHS Health Checks service it is possible that local GPs will continue to deliver the service and there is a desire to explore integrated commissioning arrangements with the Clinical Commissioning Groups (CCGs). This service will be commissioned and procured separately, whilst ensuring an effective route is implemented from and to the Integrated Wellness Service.

Alternative Options Considered and Rejected:

1) Procure a new service

Retendering is a protracted process which would result in cessation of key public health services in the interim. Furthermore, alternative providers are very limited. Following contract expiration providers have continued to deliver services from 1st April 2015. Commissioning arrangements for 2016/2017 are currently being developed. The smoking cessation contracts will be included in the Integrated Wellness Service tender and discussions will be initiated with the Clinical Commissioning Groups (CCGs) to explore integrated commissioning arrangements for the NHS Health Checks programme.

2) Cease service delivery

Within the Health and Social Care Act 2012 Local Authorities are required to provide NHS Health Checks which are a mandatory Public Health service. The implications of deciding not to procure replacement services would be:-

- A reputational and financial risk to the authority by the potential failure to perform its statutory duty to deliver these services. In addition to potential litigation the Public Health Grant may be compromised as this could constitute a failure to meet the grant conditions.

What will it cost and how will it be financed?

(A) Revenue Costs -

The cost of the contract extensions will be met from within the Public Health budget allocated for this purpose. The funding for this provision is included within the Annual Revenue Budget.

There would be no additional in year costs with regard to the Council extending the current contracts.

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However, recognising the uncertainty of future funding, the renewed contract paperwork makes it clear that the price agreed for the contract is subject to the ongoing availability of sufficient funding. In the event that during the contract period the Local Authority does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation with the Commissioner such that the contract price remains within the funding available.

(B) Capital Costs - there are no capital costs for this report.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial

The cost of full 12 month extension to include all current contracts would be £722,200. Any contract extension is subject to the ongoing availability of sufficient funding and this is built into the contractual arrangements. In the event that during the contract period the Local Authority does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation.

Cessation and or break in these services may result in failure to meet the Public Health Grant conditions.

Legal

These services are included in the Health and Social Care Act 2012. NHS Health Checks are specifically identified as a mandatory service.

Officers must comply with the Council's Contract Procedure Rules (Chapter 11 of the Constitution section H rule 129). Under the Contracts Procedure Rules contract extensions must be dealt with in line with Rule 1.2.8. The relevant rule reads "Extension of contracts with a value below the applicable EU Spend Threshold will require the written approval of the Cabinet Member following consideration of a written report from the Service Director setting out a justifying business case. Variations shall only be granted in exceptional circumstances if it can be established that this will achieve Best Value for the Council".

Cabinet Member approval was not sought.

Breach of the Constitution has to be reported to Cabinet.

At the time of writing the report, no European Law consequences have been identified. Should this situation change, then the Council's Monitoring Officer may need to prepare a report in accordance with Section 5 of the Local Government and Housing Act 1989.

Human Resources

None

Equality

1. No Equality Implication

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- | | | |
|----|--|--------------------------|
| 2. | Equality Implications identified and mitigated | |
| 3. | Equality Implication identified and risk remains | <input type="checkbox"/> |

Impact of the Proposals on Service Delivery:

Extension of current contracts will ensure that there is no break in service provision thereby mitigating the impact on service users.

Public Health have been working to ensure that the extension times have been reduced as much as possible to avoid unsettling providers and service users and to ensure that mandatory services continue to be delivered effectively.

What consultations have taken place on the proposals and when?

Consultation for the Integrated Wellness Service, which includes all of the contracts referred to in this report, involved the CCG's and other health providers.

The Head of Corporate Finance & ICT has been consulted and comments have been incorporated into the report (FD 3648/15)

The Head of Corporate Legal Services has been consulted and comments have been incorporated into this report (LD 2941/15)

Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet Meeting

Background Papers:

There are no background papers available for inspection.

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1. Introduction/Background

- 1.1 The contracts referred to in this report expired on 31st March 2015. This has resulted in a constitutional breach which occurred as a result of both officer, and system, oversight, which was contributed to by changes in personnel, both within Public Health and Commissioning Support services. The specific circumstances and action required to prevent recurrence will be examined further by the reviews referred to below and in recommendations 5 and 6 of this report. In the interim providers have continued to deliver these services.
- 1.2 To address the above issues all public health contracts, which transferred during the transition to the Council, are currently being reviewed to specify the status of each contract irrespective of value. This is being done in conjunction with the Commissioning Support and Procurements team and as part of the wider review referred to in this report. The role of each team in the commissioning and procurement process is also being reviewed to ensure that any future oversight is eliminated.
- 1.3 These particular contracts were considered by Cabinet in January 2013 when it approved the extension of all public health contracts until 31st March 2014, as part of the transfer of Public Health from the NHS to the local authority. Cabinet considered these contracts again in December 2013 when it approved their further extension until 31st March 2015, to allow for the completion of a number of audits and reviews being undertaken. The preliminary review, outlined in paragraphs 1.2 and 6.1, will seek to understand what happened after that time.

2. Public Health Services

- 2.1 To ensure continued delivery of these services a 12 month contract extension is requested. The total cost of these three contracts is £722,200. The cost of the contract extensions will be met from within the Public Health budget allocated for this purpose. There would be no additional in year costs with regard to the Council extending the current contracts. The funding for this provision is included within the Annual Revenue Budget.
- 2.2 Local authorities have, since 1 April 2013, been responsible for improving the health of their local population and for public health services. Local authorities' statutory responsibilities for public health services are set out in the *Health and Social Care Act 2012*. Section 12 of the Act lists some of the steps to improve public health that local authorities and the Secretary of State are able to take, including:
 - carrying out research into health improvement, providing information and advice (for example giving information to the public about healthy eating and exercise);
 - providing facilities for the prevention or treatment of illness (such as smoking cessation clinics);

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- providing financial incentives to encourage individuals to adopt healthier lifestyles (for instance by giving rewards to people for stopping smoking during pregnancy); and,
- providing assistance to help individuals minimise risks to health arising from their accommodation or environment (for example a local authority may wish to improve poor housing where this impacts on health).

2.3 There are specific duties and services outlined in Part 2 of the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013* (SI 2013/351) which describe the steps to be taken by local authorities in exercising their public health functions. Regulations 4 and 5 relate to the duties of local authorities to provide or make arrangements to provide for health checks for eligible people (depending upon age and health status).

2.4 The public health grant is provided to give local authorities the funding required to discharge these responsibilities.

2.5 The contracts referred to in this report relate to public health services described within the Health and Social Care Act 2012. These services have been delivered in Sefton, predominantly through primary care providers, including general practitioners and pharmacy. The contracts for these services expired on 31st March 2015. Cabinet is asked to approve a waiver to Contracts Procedure Rules and authorise a 12 month extension, with effect from the 1st April 2015, for the following contracts:

- Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2)
- Smoking Cessation Medicine Management IT system for NRT;
- NHS Health Checks.

2.6 The extension to contracts will ensure that services continue to be delivered and that there is no cessation in the provision to service users.

3. Smoking Cessation in Pharmacy

3.1 Smoking is addictive with approximately 41,000 smokers in Sefton. Sefton smokers cost society an estimated £69million a year alone. Smoking is the leading cause of preventable death causing more preventable deaths nationally than obesity, alcohol, drugs, suicide, HIV and traffic accidents combined. Smoking prevalence is decreasing but smoking rates within our most deprived wards still remain high (29% in Linacre compared to 4.1% in Harrington) and smokers need and want help to quit. The recommended treatment model focuses on preventing relapse in the early stages of a quit attempt by providing treatments such as Nicotine Replacement Therapy (NRT) which acts by providing a 'clean' alternative source of nicotine that the smoker would have otherwise received from tobacco. The National Institute of Health and Care Excellence (NICE) advises that NRT and Champix should be recommended for use to stop smoking within the stop smoking service offer. These products have been rigorously evaluated and are extremely cost effective and efficacious.

- 3.2 The contracts referred to in this report support the delivery of the stop smoking service as they provide treatment for the clients accessing the stop smoking support via Pharmacy. All 76 Pharmacies in Sefton provide this service and are individually contracted. This service includes provision of advice, screening and NRT prescribing. Within each contract there are three levels of service specification all of which include a combination of advice, screening and prescribing to varying levels of intervention. Pharmacies can choose to deliver one or all three levels of the service specification.
- 3.3 Webstar provide a medicines management IT system which supports the delivery of the stop smoking service. This system is also used for sexual health, substance misuse and Care at the Chemist for medicines management by the Clinical Commissioning Groups in pharmacies, the Integrated Sexual Health Services in Sefton (ISIS) and Lifeline.
- 3.4 The current provision is performing well, is meeting targets and has a good geographical coverage across the borough. Providing a 12 month contract would allow for market stability.
- 3.5 The cost of full 12 month extension to these contracts would be £422,200.

4. NHS Health Checks

- 4.1 The NHS Health Check programme is a mandatory public health service for adults in England which aims to prevent heart disease, stroke, diabetes, kidney disease and certain types of dementia. Everyone between the ages of 40 and 74, who has not already been diagnosed with one of these conditions or have certain risk factors, will be invited (once every five years) to have a check to assess their risk of heart disease, stroke, kidney disease and diabetes and will be given support and advice to help them reduce or manage that risk.
- 4.2 NHS bodies were instructed to begin offering Health Checks in 2009 and Sefton has commissioned and worked in partnership with all Sefton GP Practices, since this time, to invite those eligible to be screened every five years. Public Health continues to work in partnership with the CCG's through a joint Cardiovascular Disease Strategy Group and the Local Medical Committee to help improve uptake and implement best practices. In April 2013 the NHS Health Check became a mandated public health service in England.
- 4.3 The national service specification for NHS Health Checks includes a number of requirements for the call and recall of individuals for screening and clinical tests composite as part of the Check. Historically GP's have provided this service, ensuring good geographic coverage, access to patient data and opportunity for opportunistic screening to ensure optimum take up of the programme.
- 4.4 The cost of full 12 month extension to this contract would be £300,000.

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5. Future Commissioning Arrangements

- 5.1 The smoking services referred to in this report are included within the remodelled Integrated Wellness Service (IWS), which was approved by Cabinet in January 2015, as such the smoking cessation contracts will be included as part of the retendering process which is already underway. New contractual arrangements will be in place for 2016/2017.
- 5.2 Whilst part of the IWS pathway, as the most appropriate provider of the NHS Health Checks service it is possible that local GPs will continue to deliver this service and there is a desire to explore integrated commissioning arrangements with the Clinical Commissioning Groups (CCGs). The NHS Health Checks Programme will not be tendered as part of the Integrated Wellness Service commissioning process. To ensure that a new contract is in place for the NHS Health Checks Programme in April 2016 the commissioning process will be initiated subject to Cabinet approval. This will ensure that contractual arrangements are in place for 2016/17 and ongoing service provision safeguarded. A commissioning plan will be developed and presented to the Cabinet Member for Health and Wellbeing outlining the process which will include a review of the programme efficiency and efficacy to ensure value for money and best outcomes for service users. Discussion will also be initiated with the Clinical Commissioning Groups (CCG's) to explore longer term integrated commissioning opportunities to enhance clinical governance, training and contract management arrangements.
- 5.3 The financial position regarding the Public Health Grant may change. Recognising the uncertainty of future funding, the contracts will be clear that the price agreed for the contract is subject to the ongoing availability of sufficient funding and that in the event that during the contract period the Local Authority does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation with the Commissioner such that the contract price remains within the funding available.

6. Reviews

- 6.1 In order to fully understand how these particular contracts have been allowed to lapse, resulting in a breach of the Council's contract procedure rules, and prevent future recurrence, a preliminary review is being undertaken by officers (Head of Commissioning Support and Business Intelligence supported by colleagues in Public Health) This review will outline what has happened in these cases; the lessons to be learnt; any immediate actions to be taken; and will further inform the scope and timescale for the more comprehensive review referred to below. The preliminary review will be reported to the Leader of the Council by 6th July 2015.
- 6.2 In order to prevent similar breaches in respect of other contract procurements and to improve confidence and assurance in the Council's contract procurement processes, a comprehensive review will be led by the Head of Commissioning Support and Business Intelligence. Whilst the scope of this review will be further informed by the preliminary review referred to above, it

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will include reviewing the information held in relation to contracts and commissioned services; mapping current contract procurement processes across the Council; assessing practice against those current processes; and identifying necessary improvements to ensure assurance in our contract procurement processes. This comprehensive review will be completed and reported to the Cabinet Member Regulatory, Compliance and Corporate Services by 1st September 2015

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This report is a supplementary report to Agenda Item 11 for Cabinet on 3rd July 2015.

1. Introduction

1.1 On 22nd January 2015 the Council resolved to approve the draft Local Plan for publication and then submission to the Secretary of State for examination unless there was any material change to circumstances.

1.2 Section 6 of the main report outlines such a material change in circumstances - updated household projections released by the Department of Communities and Local Government (CLG) in February 2015. These projections had been anticipated, and it was expected that the housing requirement figure contained in the draft Plan would be able to accommodate any modest change which might result from these updated projections.

1.3 The 2012-based household projections were published by CLG in February 2015. Over the full 25 year period 2012-2037, they project annual household growth in Sefton of 533 per annum. This is a significant increase on the previous 2011-based (Interim) projections (400 household per annum [hpa] between 2011 and 2021) and the 2008-based household projections (323 hpa) between 2008 and 2033. When comparing the 2012-based projections (533hpa) with the 2008-based projections (323hpa) – the last full set of household projections - this is a 65% increase, one of the highest rises experienced by any authority in the country (the information can be obtained at this web-site: <https://www.gov.uk/government/collections/household-projections>: the relevant part is headed 'detailed data for modelling and analytical purposes').

1.4 This unexpected rise relates in large part to under-recording of population in Liverpool during previous population projections and the incremental net migration to Sefton arising therefrom. This only came to light as information from the 2011 Census fed through into the most recent projections. This has been compounded by an ageing population and other trends in household formation in Sefton which has resulted in a growth in smaller households. The cumulative effect of all of these various factors has been significantly higher levels of household growth in the borough than shown in previous household projections.

1.5 The Council's consultants NLP have previously calculated the level of "objectively assessed needs" for housing in Sefton. They updated their analysis to take account of the latest household projections. However, any update of this kind should also reflect latest employment forecasts, as required by paragraph 158 of the National Planning Policy Framework (NPPF). These employment forecasts, and the consequent labour supply implications, have also gone up significantly since earlier

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forecasts which were reflected in the housing land requirement contained in the draft Local Plan.

1.6 These employment forecasts and the consequent labour supply implications have gone up very significantly since earlier forecasts which were reflected in the housing land requirement contained in the draft Plan. Specifically, the Cambridge Econometrics economic forecasts used in the 2012 Employment Land and Premises Study Refresh which informed previous NLP work, were based on a suggested borough employment increase of some 3,400 jobs over the period 2011-2031. In comparison the “blended average” of the most recent 2015 Experian and Oxford Economics forecast models used in the latest NLP work predict 10,099 jobs growth in Sefton in the period 2012 to 2030. This is an increase of almost 300% and reflects the current much more positive outlook for the economy, compared to the position in 2012. In particular, it reflects the expected sharp period of growth projected for 2013-2016 as the UK recovers from recession.

1.7 The Council’s current housing land requirement is 615 a year. The consequence of the various factors identified above is that the objectively assessed needs for housing rises to 690 a year (based on a purely demographic assessment unrelated to any economic growth). If the latest employment scenarios are factored in, this rises to between 710 to 1,290 a year, depending upon the extent of that growth. These are the figures (710 – 1,290) which NLP conclude should provide the range of objectively assessed needs for Sefton, and within which the Council should determine its “housing requirement figure”.

1.8 These updates have provided the Council with very significant new information which it could not reasonably have anticipated when approving the Plan in January 2015, a view confirmed in an email exchange with the Chief Statistician from the Department of Communities and Local Government in March 2015. This suggests a revised housing requirement which is significantly in excess of the current housing requirement of 615 dwellings a year, as hitherto agreed by the Council.

1.9 Although the suggested new range is much greater than the figure in the draft Local Plan, and seems difficult to reconcile with previous assessments, this range is not disproportionate when compared to the housing requirement of other north-west metropolitan authorities, as set out in the table below.

NW Local Authority	Population (2011 Census)	Housing Requirement (per annum)
Sefton	273,790	
Wigan	317,849	1,000
Trafford	226,578	678
Cheshire West & Chester	329,608	1,100
St Helens	175,308	570

2. Possible options

2.1 There are three potential options as to how the Council might respond to this updated analysis of objectively assessed needs for housing:

OPTION 1 - Withdraw the Plan.

2.2 This would allow for the new figures to be fully considered in a revised Local Plan. However, this approach would lead to significant delay and uncertainty, and potentially to 'planning by appeal' as a new plan is prepared. It would result in an unacceptable delay in plan-making with all the attendant problems of not being able to guide development to appropriate locations. There would be a consequent and significant need for evidence to be updated. It would also mean that all the housing (including affordable housing) and employment development which is ready to take place as soon as the Plan is adopted would be put on hold for a minimum of 18 months.

2.3 The consequences of withdrawing the Plan at this far advanced stage are of a major delay in getting an adopted Plan for Sefton by 18 months – 2 years, risk of not being able to guide development to appropriate locations through not having an up-to-date plan, cost of up-to-dating evidence and delay in securing the new homes and employment (to meet the borough's needs) which are contingent on the Plan being adopted. This is considered to be an unacceptable option and should not be pursued, unless there is no other option.

OPTION 2 - Proceed with 615 dwellings a year as the Council's 'objectively assessed need'.

2.4 This would be a very high risk approach as the housing requirement figure of 615 is now out of date and based on national projections that have been superseded,

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notwithstanding that it comprised the objectively assessed need at the time of the resolution in January 2015. The figure of 615 was the appropriate housing requirement figure at the time the draft Plan was approved, but this is no longer the case. To continue with the figure of 615 would almost certainly lead to an unsound Local Plan as it would not comply with the National Planning Policy Framework, (NPPF), paragraph 158, which requires up to date and relevant evidence to support a Local Plan.

2.5 An Inspector would be likely to find that a Plan submitted on this basis would be 'unsound', and would ask the Council to re-do its Plan to take account of a higher housing requirement. The Inspector would be likely to advise the authority of this following an "exploratory meeting" which is expected to be in September. (S)he would almost certainly ask the authority to go back and review the Plan to take account of objectively assessed needs. This has happened to many authorities who have failed to base their plans on the most recent evidence of housing needs.

2.6 The consequences of this Option would be very similar to Option 1, but would be delayed until the Inspector formally advises the authority of this course of action. It is therefore recommended that this option should also not be pursued.

OPTION 3 - Submit the Local Plan as it stands on the basis that it would be impossible to meet needs in full, at least in the short term, but commit to an immediate review linked to wider sub-regional work

2.7 It is open to the Council to promote a plan which does not meet the full objectively assessed needs provided that to do so would be consistent with other policies in the NPPF. This approach still carries risks, but there are a number of arguments which can be advanced in its favour:

- Environmental limits: If Sefton had to meet a significantly higher housing requirement inside the Borough boundaries it would have an unacceptable impact on the environment – there is a limit to what the Borough can reasonably accommodate. The land required to meet this would have to be found almost entirely through additional Green Belt release. In practical terms there are no or very few potential additional sites that could be allocated in Southport, Bootle, Netherton, or Crosby, and only a small number in Formby. The vast majority of potential additional sites are in Sefton East (Maghull/Lydiat, Aintree, and Melling), which is already proposed to take the largest proportionate share of the housing allocations relative to its existing population. There is a point at which the local market in this area would become saturated and unable to absorb the number of houses required, even if additional sites were identified. Therefore, in order

to meet a significantly higher land requirement it would be likely that land would have to be identified in adjacent Boroughs.

- Duty to Co-operate: Further to Section 110 of The Localism Act 2011, local planning authorities have a statutory duty to co-operate with each other in relation to planning of sustainable development, with specific reference to co-operation in relation to plan-making. This “duty to co-operate” is clearly set out in the NPPF:

Para 178: “Public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to the **strategic priorities** set out in paragraph 156 (*this includes ‘the homes and jobs needed in the area’*). The Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities.

Para 179: “ ... Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas - for instance, because of a lack of physical capacity or because to do so would cause significant harm to the principles and policies of this Framework”.

As part of a well-established commitment to cooperate to meet this obligation, the officers of the Liverpool City Region authorities are currently finalising a ‘Statement of Cooperation’ committing them to undertake a joint assessment of housing need, and to review respective Local Plans following this if required. This process is already in motion and would provide the mechanism for adjacent districts to explore the potential for addressing those needs which cannot be met in Sefton.

- Commitment to immediate review of Plan: The draft Plan already contains a commitment to an early review of the Plan to take account of a sub-regional study of Port related uses, and paragraph 4.44 of the Plan states:

‘This early review will also be able to take account of the findings of a future sub-regional strategic housing market assessment, should this imply a significantly higher housing requirement’.

This commitment therefore already exists, and can be strengthened to include reference to an immediate review which could take place as soon as the findings of the sub-regional study have been finalised (late 2016 onwards).

- Implications of delay for investment in homes and jobs: The latest NLP report, and the statistics that underpin it, have emerged very late in the Plan preparation process. We could not have foreseen this magnitude of change in advance. The implications of delaying further at this stage for housing

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delivery and investment in the Borough would be severe. If the Inspector were to allow the Plan to proceed in its current form, with a commitment to immediate review, it would allow for the identified sites to be removed from Green Belt and developed for the benefit of the local housing market and economy thereby meeting short term needs.

- Legal precedent: There is legal precedent to support this approach. In the case of Grand Union Investments Ltd -v - Dacorum BC [2014], the High Court considered whether a local planning authority could lawfully adopt its local plan without first having assessed the full housing needs of its area and whether those needs could be met but committing itself to an early review in which that work will be done. The High Court held that a local planning authority could lawfully do so. Inspectors have found other plans sound subject to an early review in co-operation with neighbouring authorities, to fully address objectively assessed needs for housing (e.g. Hertsmere 'Revised Core Strategy', December 2012, and Suffolk Coastal 'Core Strategy and Development Management Policies Development Plan Document', June 2013).

2.8 Risks:

- There have been discussions by the Liverpool City Region authorities about participating in a joint Green Belt study consequent on the outcome of the sub-regional Strategic Housing Market Assessment, though no formal timetable has yet been agreed.
- The Inspector may take the view that, for the reasons outlined above, this is a reasonable approach which enables a Plan to be adopted and allows important development to go ahead while further work is being undertaken. Alternatively the Inspector might decide that it is essential for Sefton to agree a revised housing requirement to take account of the recently available household projections before the Plan can be examined.

2.9 Further work to support this option:

- The Council carried out a Consequences Study in 2013 to identify the implications for Sefton and adjoining authorities of various options, before the Council decided on its Preferred Option. It is recommended that the Council commission an update of this study to fully assess the implications of meeting or not meeting a significantly higher housing requirement in the Borough. This should be undertaken urgently to be available before the examination hearings start (anticipated to be November).
- A further piece of work should also be commissioned, specifically to review the robustness of the economic forecasts for Sefton and the related labour

supply issues, to help the Council determine where the housing land requirement figure should be within the range of 710 – 1,290.

3. Conclusions

3.1 Having taken legal advice, Option 3 is the recommended Option. This Option has the lowest level of risk, albeit it still carries a significant risk. This offers the best chance of getting a Plan in place and it will allow the Council to further address its objectively assessed needs, through an immediate review of the Plan, in a co-ordinated manner across the Liverpool City Region.

3.2 The Local Plan should therefore be submitted for examination using the current agreed objectively assessed needs for housing of 615 a year. At the same time it is acknowledged that a higher range of objectively assessed needs has been recommended for Sefton, based on economic needs, which the Plan will not meet.

4. Required action

4.1 If the Council agrees to proceed with Option 3, it is important that this is followed up with specific action, as set out below.

4.2 The Liverpool City region authorities are already committed at officer level to carrying out a sub-regional strategic housing market assessment and employment study. The Council will continue to work closely with the other authorities to urgently agree a timetable for these studies including a sub-regional review of the Green Belt.

4.3 The Council will commission, without delay, further studies as set out in paragraph 2.9. These comprise updating the Consequences Study and assessing in more detail the implications of the economic forecasts for the need for new homes in the Borough.

Recommendations

It is therefore **recommended** that Cabinet recommends to Council to:

- submit the Local Plan for examination using the current agreed objectively assessed needs for housing of 615 a year
- commit to an immediate review of the draft Plan
- as part of the Duty to Co-operate, collaborate with the other Liverpool City Region authorities to carry out a sub-regional Housing study, Employment study and Green Belt study

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- urgently review and update the 'Consequences Study', and undertake further work reviewing the economic forecasts and related labour supply issues.

Background papers:

Email exchange between Alan Young, Sefton Council, and Bob Garland, Chief Statistician, Department of Communities and Local Government, 10th and 16th March 2015

NLP HEaDROOM Update Report: Non-technical summary. Review of the Objectively Assessed Need for Housing. Sefton Council, June 2015.

Report to:	Cabinet	Date of Meeting:	Friday 3 July 2015
Subject:	St Ambrose Barlow Catholic High School - : Approval to consult on the closure of the school	Wards Affected:	St Oswalds and neighbouring wards where St Ambrose Barlow pupils reside
Report of:	Director of Young People and Families		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	No
Exempt/Confidential	No		

Purpose/Summary

The purpose of this report is to provide background information relating to St Ambrose Barlow Catholic High School and to seek approval for the commencement of the statutory consultation process relating to the proposal to close the school.

Recommendation(s)

Cabinet is recommended to:

- 1) Note the request from St Ambrose Barlow's Governing Body to close the school because they are no longer financially viable due to falling pupil rolls.
- 2) Note the statutory process outlined in the report for the closure of the school:
- 3) Approve the commencement of the statutory consultation process relating to the proposal to close St Ambrose Barlow Catholic High School with effect from 31 August 2016.
- 4) Note that the proposal was a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Children's Services and Safeguarding) had been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because the consultation should commence before the end of term.
- 5) Note that the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Children's Services and Safeguarding) had given her consent under Rule 46 of the Overview and Scrutiny Procedure Rules for this decision) to be treated as urgent and not subject to "call in" on the basis that it/they cannot be reasonably deferred because the consultation should commence before the end of term.

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How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		<input type="checkbox"/>	
2	Jobs and Prosperity		<input type="checkbox"/>	
3	Environmental Sustainability		<input type="checkbox"/>	
4	Health and Well-Being		<input type="checkbox"/>	
5	Children and Young People		<input type="checkbox"/>	
6	Creating Safe Communities		<input type="checkbox"/>	
7	Creating Inclusive Communities		<input type="checkbox"/>	
8	Improving the Quality of Council Services and Strengthening Local Democracy		<input type="checkbox"/>	

Reasons for the Recommendation:

The local authority has the statutory power to close a maintained school following the statutory process detailed in the report

What will it cost and how will it be financed?

(A) Revenue Costs

There are no costs arising out of this report and it is anticipated that any costs associated with closure of St Ambrose Barlow High School will be ultimately contained within the DSG or from the Council's Closed Schools Reserve Account

(B) Capital Costs N/A

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal: The consultation on the proposal to close the school will be carried out in accordance with the requirements of the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013.

Human Resources: As part of the consultation process there will be meetings held with staff in the school

Equality

1. No Equality Implication
2. Equality Implications identified and mitigated
3. Equality Implication identified and risk remains

Impact of the Proposals on Service Delivery:

N/A

What consultations have taken place on the proposals and when?

The Head of Corporate Finance & ICT has been consulted and comments are below (FD 3651/15).

Should a decision to close St Ambrose Barlow be delayed, the risk to the school of going into a significant deficit from 2016/17, and beyond, would be greatly increased. The position shown in the table at paragraph 3.2 below is based on current expectations and is containable within the finite resources available to support any closure.

However, from the moment a decision is made to consult on the closure of the school, there is always a risk, that parents may choose to withdraw their children in advance of any agreement to a planned and structured closure. This, in turn, would have a direct and detrimental impact on the level of DSG funding to the school in its final year of operation. The School Funding Formula is predominately pupil driven and each pupil on St Ambrose Barlow school roll is currently funded at approximately £5,350.

Staffing levels in school could also be at risk, as staff look for alternative employment / certainty of tenure. This may in turn lead to an inability of the school to be able to offer an adequate curriculum in the final year. The situation, therefore, is very fluid and will need careful monitoring to ensure appropriate assistance is put in place and to ensure the pupils and staff who are still in school are supported through the final year.

Head of Corporate Legal Services has been consulted and comments have been incorporated into the report (LD 2944/15).

Are there any other options available for consideration?

There are no alternative viable options.

Implementation Date for the Decision

Immediately following the call in period for the minutes of this meeting.

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Background Papers:

None

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1. Background

- 1.1 St Ambrose Barlow has suffered from falling pupil numbers for a number of years. The school has a capacity of 600 pupils but currently only has 384 on roll (May 2015 census).
- 2.1 Governing Bodies have a duty to set a balanced budget each year and the Governing Body of St Ambrose Barlow has worked very hard over the last few years to reduce costs and set a balanced budget. This has been against a backdrop of funding freeze, falling pupil numbers and increasing cost.
- 2.2 The Governing Body of St Ambrose Barlow met on 29 June 2015 to consider the financial position of the school going forward in the light of no foreseeable increase in pupil numbers and increasing cost. This is exacerbated by pension changes which will increase staffing costs by around 3% and the continued freeze in education funding at 2010 levels. The Governing Body consider that they could not reduce costs further and be able to operate as a school delivering a suitable broad curriculum and a good standard of education. Given the legal requirement to set a balanced budget they have come to the sad conclusion that St Ambrose Barlow is no longer viable as a school and passed a resolution asking the Archdiocese to request Sefton Council to consult on the closure of St Ambrose Barlow High School in August 2016.

3. Financial Position

- 3.1 St Ambrose Barlow has been struggling financially for a number of years and the Governing Body has worked hard to reduce costs and set a balanced budget.
- 3.2 The table below summarises the financial position of the school over the last two years and the projected financial position for 2015/16 and 2016/17.

Year	2013/14	2014/15	2015/16	2016/17
	£	£	£	£
Total Expenditure	2,980,712	2,695,497	2,603,639	2,604,180
Total Funding	2,781,084	2,481,610	2,414,722	2,297,111
Budget surplus / deficit	(199,628)	(213,887)	(188,917)	(307,069)
Balances B'fwd	670,565	470,937	257,050	68,134
Est. Balances C'fwd	470,937	257,050	68,134	(283,936)

- 3.3 As stated above the Governing Body has worked hard to reduce costs each year as a result of significant reductions in funding due to insufficient pupil numbers. However, even with savings in expenditure, the school has had to use approximately £200,000 of school balances each year to balance the budget.
- 3.4 The current financial position indicates that the school is currently overspending by approximately £190,000 this year, at a time when the school is potentially required to increase resource expenditure to raise standards, and will have all but exhausted its available balances by the end of March 2016. The projected financial position for 2016/17 is a deficit of £284,000.

- 3.5 As stated in 2.2 above the Governing Body have considered all options and are not able to provide an action plan to address the increasing deficit and bring the budget back into a balanced position. As a result St Ambrose Barlow is, therefore, not financially viable beyond the end of the 2015/16 financial year.

4. Standards

- 4.1 St Ambrose Barlow is classed as 'requiring improvement' by Ofsted and is due a further inspection imminently.
- 4.2 In 2014 the percentage of pupils gaining 5A*-C including English and Maths at GCSE was broadly in line with similar schools in the area and a significant improvement on the previous year which is a credit to the Governing Body, School leadership and staff. Given the continued financial pressures the school, however, the school are not able to invest in improving standards in order to move to, good, at their next inspection.

5. Pupil Places

- 5.1 There are significant surplus pupil places in secondary schools in the south of the Borough. The School Organisation Data Book indicates that there are 2,235 pupils in schools in the Bootle planning area with 2,966 places (surplus of 731) and a total net capacity of 3,107. Similarly there are 460 surplus places in the Litherland Area, 468 surplus places in the Crosby Area and 393 surplus places in Maghull Area. Analysis of individual schools data shows that there is sufficient net capacity in other Catholic secondary school in the area to accommodate all of the pupils from St Ambrose Barlow and significant alternative options should families wish to go to another school.

6. Statutory process and outline timescale

- 6.1 Local authorities are under a statutory duty to ensure that there are sufficient school places in their area, promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential. To help them meet these duties and restructure local provision they have the power to close all categories of maintained schools.
- 6.2 The statutory process for closing a school has five stages:

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Stage 1	Consultation	No prescribed timescale (minimum of 6 weeks recommended; school holidays should be taken into consideration and avoided where possible). Likely to be no longer than 12 months.
Stage 2	Publication	1 day
Stage 3	Representation	Must be 4 weeks (this is prescribed in legislation and cannot be shortened or lengthened).
Stage 4	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator. Where permitted appeals must be made within 4 weeks of the decision.
Stage 5	Implementation	No prescribed timescale – but must be as specified in the published notice, subject to any modifications agreed by the decision-maker.

6.3 Under section 16(3) of the Education and Inspections Act 2006 a proposer of a school closure must have regard to any guidance issued by the Secretary of State. The Secretary of State considers that those bodies listed below should be consulted in the case of the proposed closure of schools:

- LA (as appropriate);
- parents of pupils;
- where the LA is a county council the local district or parish council where the school that is the subject to the proposal is situated;
- in the case of a special school – any LA which maintains a statement of special educational needs in respect of a registered pupil at the school.
- the Governing Body (as appropriate);
- pupils at the school¹;
- (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group²;
- the trustees of the school (if any);
- teachers and other staff at the school;
- any LA likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
- the governing bodies, teachers and other staff of any other school that may be affected;
- parents of any pupils at other schools who may be affected by the proposal including where appropriate families of pupils at feeder primary schools;
- any trade unions who represent staff at the school; and representatives of any trade union of staff at other schools who may be affected by the proposal;

¹ Under section 176 of the Education Act 2002

² Under the DBE Measure 1991 Church of England schools must consult with their diocese before making closure proposals

- MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal; and
- any other interested body/person that the proposer thinks is appropriate.

6.5 The consultation will consist of meetings with staff, governors and families and provide the opportunity for discussion and written representation. Following the consultation Members will receive a report which will consider the outcome of the consultation as well as detail on pupil numbers and admissions, arrangements for pupils from the closing school, community impact, impact on denominational provision and any implications for adjacent schools.

7. Consultation Proposal

7.1 Given the financial position of the school beyond the current financial year the consultation proposal will be to close the school from August 2016.

7.2 The consultation process will enable all stakeholders to express their views but it is important to begin the process as soon as possible so that parents and families (particularly those due to begin in year 7 in September) are made aware and can consider their options prior to the start of the new academic year.

7.2 The consultation process will be used to develop proposals to meet the needs of pupils in St Ambrose Barlow should a decision to close the school be made, particularly those who have embarked on their GCSE courses and are choosing options for the following year.

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