



REPORTS FOR DECISION BY THE CABINET MEMBER FOR REGENERATION

Date Issued: **02 July 2009**

	Page Nos.
1. Report of the Assistant Director of Development and Community Strategy - Consideration of Growth Point Revenue Expenditure	1 - 6
2. Report of the Development Control Manger - Response to the Overview and Scrutiny Report: The Enforcement of Planning conditions and Compliance with Sections 106 Agreements	7 - 20

A Record of Decision will be issued following the conclusion of 5 clear working days from the date of issue of the Report

The Reports listed above can be made available in alternative formats for the visually impaired. For further information about this service, or if you have any queries regarding the above items please contact Jill Lucas on 01622 602243

This page is intentionally left blank

MAIDSTONE BOROUGH COUNCIL

CABINET MEMBER FOR REGENERATION

REPORT OF ASSISTANT DIRECTOR FOR DEVELOPMENT AND COMMUNITY STRATEGY

Report prepared by John Foster

Date Issued: 2 July 2009

1. Consideration of Growth Point Revenue Expenditure

1.1 Issue for Decision

- 1.1.1 To consider the expenditure of Growth Point revenue funding in activity to support the local economy.

1.2 Recommendation of Assistant Director for Development and Community Services

- 1.2.1 That the expenditure of Growth Point revenue funding set out in paragraphs 1.3.4 and 1.3.6 is approved and that delegated authority is given to the Director of Property and Regeneration, in consultation with the Cabinet Member for Regeneration, to fund activity in support of the local economy and regeneration up to a total of £25,000.

- 1.2.2 That an annual report on Growth Point revenue funded projects is presented to the Cabinet Member for Regeneration at the end of each year.

- 1.2.3 That a report to consider the rest of the Growth Point revenue funding be presented to Cabinet Member for Regeneration later in the year.

1.3 Reasons for Recommendation

- 1.3.1 Growth Point revenue funding of £403,338 is allocated to pay for staff and activity to support growth (September 2008 Cabinet Report on the Reprioritisation of Growth Point Expenditure).

- 1.3.2 Two specific areas of activity have been identified. The first offers excellent insights and local intelligence into the state of the property market in the Borough and the second aims to support the independent retail sector. These are:

1. Co-star Focus Property database
2. "Make It Maidstone - Make It Independent" campaign

1.3.3 Co-Star is the UK's first and most comprehensive supplier of online commercial property information. Information is updated every 30 days and includes:

- Background, details of each and every property in the Borough
- Comparables, information on market rents and analysis of recent deals done.
- Availability of property, details of properties that are currently on the market
- Demand, establishes market demand of a town through being able to know which operators are already in situ (together with information on the rent and terms of the lease/purchase) and a list of those companies which have an active requirement for the given location
- Occupier Analysis, identify which firms are located in the surrounding area
- Photographs & Maps, displays what the property looks like and where it is

1.3.4 The purchase of this information for a year costs £2,424 for three licenses. The information will aid the Corporate Property Manager obtain best consideration on property sales and purchases and also the Economic Development Manager develop initiatives to promote the local economy. The Development Control team will find the information useful when negotiating S106 agreements with developers and the Spatial Planning team will find the information useful in gathering evidence to support the Local Development Framework and Core Strategy. Maidstone Local Strategic Partnership aims to monitor the state of the local economy and a report summarizing key movements in the property market i.e. vacancy levels etc..., on a monthly or quarterly basis could form part of this intelligence gathering process.

1.3.5 The License fee needs to be renewed annually. A process of evaluating the usefulness of the data will be built into the first year to test the value of it to the Council.

1.3.6 "Make It Maidstone – Make it Independent" is a promotional campaign to support independent retailers in the town centre, in partnership with the KM Group and Town Centre Management. A four week campaign in the KM paper, Extra, kmfm and online will allow independent retailers to advertise themselves and each receive advertising with a media

value worth over £1,200 at today's trading prices for £260 plus VAT (£65 per week). TCMi have also negotiated with Dempson Crooke Ltd, a local paper products manufacturer, a supply of 10,000 paper bags. Each participating retailer will receive around 300 to 400 of these paper bags in support of the campaign and to continue to press the message surrounding the impact on the environment of non recyclable plastic bags. The Council's contribution will be £3,000 which helps keep costs down for the retailers. The Council will have an advertising section in the paper each week as well.

- 1.3.7 Other activity which requires small scale expenditure will inevitably arise during the year. It is proposed therefore that delegated authority is given to the Director of Prosperity and Regeneration, in consultation with the Cabinet Member for Regeneration, to fund such activity where it supports local economic development and regeneration up to £25,000 in total. A report on Growth Point revenue funded activity will be presented to the Cabinet Member for Regeneration at the end of each year.

1.4 Alternative Action and why not Recommended

- 1.4.1 An alternative approach would be not to fund this activity which would result in a significant lost opportunity to become better informed about the state of the property market in Maidstone. It would also mean the loss of the partnership funding provided by TCMi and the KM group in a campaign that will support the town's independent retailers, a sector of the economy which is under particular pressure during this recession.

1.5 Impact on Corporate Objectives

- 1.5.1 The activity set out in this report supports the Council's Strategic Plan 2009-12 which states that a key objective is to "Continue to develop our offer in terms of retail..." and to monitor and manage the impact of the credit crunch and economic downturn.

1.6 Risk Management

Risk Description	Likelihood	Seriousness or Impact	Mitigation Measures
That the independent retailers do not participate in the promotional campaign	D	3	The KM are confident that the offer is attractive to retailers but should the retailers not participate then

			the campaign will not run and the Council's funding contribution will not be required.
--	--	--	--

(Likelihood: A = very high; B = high; C = significant; D = low; E = very low; F = almost impossible)

(Seriousness or Impact: 1= catastrophic; 2 = critical; 3 = marginal; 4 = negligible)

1.7 Other Implications

1.7.1

1.	Financial	X
2.	Staffing	
3.	Legal	
4.	Equality Impact Needs Assessment	
5.	Environmental/Sustainable Development	
6.	Community Safety	
7.	Human Rights Act	
8.	Procurement	
9.	Asset Management	

1.7.2 Funding is sought from Growth Point revenue grant already received from Communities and Local Government.

1.8 Background Documents

1.8.1 None

NO REPORT WILL BE ACCEPTED WITHOUT THIS BOX BEING COMPLETED

Is this a Key Decision?

Yes

☐

No

☒

If yes, when did it appear in the Forward Plan? _____

Is this an Urgent Key Decision?

Yes

☐

No

☒

Reason for Urgency

n/a

How to Comment

Should you have any comments on the issue that is being considered please contact either the relevant Officer or the Member of the Executive who will be taking the decision.

Councillor Malcolm Greer

Cabinet Member for Regeneration

Telephone: 01634 862876

E-mail: malcolmgreer@maidstone.gov.uk

John Foster

Economic Development Manager

Telephone: 01622 602393

E-mail: johnfoster@maidstone.gov.uk

This page is intentionally left blank

MAIDSTONE BOROUGH COUNCIL

CABINET MEMBER FOR REGENERATION

REPORT OF THE DEVELOPMENT CONTROL MANAGER

Report prepared by Ryan O'Connell

Date Issued: 2 July 2009

- 1. RESPONSE TO THE OVERVIEW AND SCRUTINY REPORT: THE ENFORCEMENT OF PLANNING CONDITIONS AND COMPLIANCE WITH SECTION 106 AGREEMENTS**
 - 1.1 Issue for Decision
 - 1.1.1 To consider the Scrutiny Recommendation Action and Implementation Plan (SCRAIP) that has been completed in response to the Overview and Scrutiny report on the Enforcement of Planning Conditions and Compliance with Section 106 Agreements.
 - 1.2 Recommendation of the Development Control Manager
 - 1.2.1 That the SCRAIP be approved as the response to the Regeneration and Sustainable Communities Overview and Scrutiny Committee.
 - 1.3 Reasons for Recommendation
 - 1.3.1 It is a constitutional requirement that a response is given to Overview and Scrutiny reports. The reasons for the responses are given in the SCRAIP where appropriate.
 - 1.3.2 It is important to note that following the restructure many changes are already underway or have been implemented in Enforcement since February 2009. Therefore a number of the responses are listed as ongoing or have already been auctioned.
 - 1.3.3 The response also needs to be considered in the context of the Internal Audit Report on Planning Enforcement that considered and will raise a number of issues that overlap with the recommendations made in the Scrutiny report. As a result both reports will need to be considered before a full response on those issues can be given. The response to the Audit report will therefore be made available to the Scrutiny Committee.

1.4 Alternative Action and why not Recommended

- 1.4.1 An alternative set of responses could be agreed but this is not recommended as the SCRAIP has been completed with the responses given taking into account the feasibility of the proposed actions, the workloads of officers and the existing timetable for changes in Enforcement.

1.5 Impact on Corporate Objectives

- 1.5.1 None

1.6 Risk Management

- 1.6.1 The response has been put together in order to minimize the risk of committing to actions that are not feasible or would have unsustainable financial/staffing impacts on the section.

1.7 Other Implications

1.7.1

1. Financial
2. Staffing
3. Legal
4. Equality Impact Needs Assessment
5. Environmental/Sustainable Development
6. Community Safety
7. Human Rights Act
8. Procurement
9. Asset Management

1.8 Background Documents

- 1.8.1 None

NO REPORT WILL BE ACCEPTED WITHOUT THIS BOX BEING COMPLETED

Is this a Key Decision? Yes ☐ No ☒

If yes, when did it appear in the Forward Plan? _____

Is this an Urgent Key Decision? Yes ☐ No ☐

How to Comment

Should you have any comments on the issue that is being considered please contact either the relevant Officer or the Member of the Executive who will be taking the decision.

Malcolm Greer

Cabinet Member for Regeneration

Telephone: 01634 862876

E-mail: malcolmgreer@maidstone.gov.uk

Ryan O'Connell

Business Support Manager

Telephone: 01622 602503

E-mail: ryanoconnell@maidstone.gov.uk

This page is intentionally left blank

Recommendation¹	Cabinet Member²	Response³	Timetable⁴	Lead Officer⁵
A. Planning Enforcement Training be improved to include the following:	Regeneration	i. With Development Control and Enforcement being brought together joint information is key to ensuring that the services work effectively with each other. An element of this is the production of enforcement web-pages alongside the development control pages. These will provide quick and easy access to information regarding the enforcement process and to provide as much information as is allowed without breaching confidentiality.	End of October 2009	ROC
ii. Ward and Parish Councillors be consulted on the draft content of the planning service information packs;		End of October 2009	RJ	
iii. Ensure the call-centre		TBC in		

using pre-application discussions be formally recognised as the preferred approach to deal with larger applications and that this preference be reflected and encouraged in Council planning literature.		Planning department has recently invested in additional pre-application software to allow better control and quality of pre-application advice, as well as making it more available via the website. Therefore training will be provided where required and pre-applications will continue to be an important element of future planning literature.		
<p>B. Planning Conditions and Section 106 Agreement Monitoring be improved to include the following:</p> <ul style="list-style-type: none"> i. An officer be assigned to monitor and pursue the progress of all cases awaiting further enforcement action to prevent unnecessary delays; ii. The Section 106 Agreement's audit trail include a statement on the direct benefits to the Community of a Section 106 Agreement; iii. The role of Parish Councils in giving the Council notice of 	Regeneration	<ul style="list-style-type: none"> i. and iii. The audit report due to be published in June 2009 will consider and make recommendations on the controls of such areas such as the monitoring of case progress and reporting of breaches. The response to the audit report and action plan will be sent to Overview and Scrutiny for information on the planned actions in these areas. ii. The information for s106 agreements will include the areas on where the money was spent once received. This information can also be included on the website updates on s106 information. iii. See i. iv. The necessary resources to carry out the conditions compliance function are not available. 	<p>TBC in Audit response action plan</p> <p>Immediate and Ongoing</p> <p>----- Immediate and Ongoing</p>	<p>RJ</p> <p>ROC</p> <p>ROC</p>

<p>suspected breaches of planning control as early as possible be formalised; and</p> <p>iv. The Council pursue a proactive approach to monitoring planning conditions and Section 106 Agreements and that the time until the condition expires be used in prioritising what is monitored to ensure the opportunity to take action is not lost.</p>		<p>However, we will continue to prioritise compliance with conditions on major schemes. The post of s106 compliance officer was made permanent in the recent restructure which will allow proactive monitoring of s106 agreements.</p>		
<p>C. Communication be improved to include the following:</p> <p>i. Quarterly updates be distributed to Ward and Parish Councillors from Planning Enforcement and Section 106 Officers on information regarding new Section 106s, information with regard to early stages of enforcement action and any changes to conditions. Reported omissions and amendments from the</p>	Regeneration	<p>i. S106 updates have recently been improved by providing the information on our website. This information is updated when relevant changes occur. The quality of quarterly enforcement updates to parishes and Councillors is undergoing changes following bringing the Enforcement IT system in line with Development Control. This allows easier tracking of all stages of a case through the enforcement process and enables the production of better quality information that is less resource intensive to produce. A letter has been written to parishes informing them of the</p>	Immediate and Ongoing	ROC

<p>contact for Ward and Parish Councillors to ensure consistency in information received;</p> <p>v. Publicise successful finalised enforcement action, including using the Borough Update;</p> <p>vi. Relationship with developers be enhanced by expanding training opportunities for them and exploring possible best practice awards in Maidstone;</p> <p>vii. Parish Councils be consulted when considering the removal of conditions that had been initially requested by Parish Councils;</p> <p>viii. Join an organisation such as NAPE or SEOG to share best practice and receive the benefits of their training; and</p> <p>ix. Ensure that the complainants of breaches of conditions or of non compliance of Section 106 Agreements are</p>		<p>recommendations on communications and reporting. The response and action plan will be circulated to the Scrutiny Committee once it is produced.</p> <p>v. Where it is appropriate to do so we will use this approach. In addition we will produce quarterly enforcement updates for planning committee.</p> <p>vi. The Developers' Forum is a recent initiative that has been successful at bringing Developers, Members and Planning Officers together. The issue of best practice awards and training requirements will be raised at the next forum to find if there is an appetite from developers for those opportunities.</p> <p>vii. Section 73 applications are required for the removal of conditions. Parish Councils are consulted on these applications.</p> <p>viii. We will investigate membership of NAPE and SEOG for our enforcement officers.</p> <p>ix. The audit report due to be published in June 2009 will consider and make recommendations on communications and reporting. The response and action plan will be circulated to the Scrutiny Committee once it is produced.</p>	<p>action plan</p> <p>Immediate and Ongoing</p> <p>7 October 2009</p> <p>Ongoing</p> <p>Immediate and Ongoing</p> <p>TBC in Audit response action plan</p>	<p>RJ</p> <p>RJ</p> <p>RJ</p> <p>RJ</p>
--	--	---	--	---

regularly updated, with explanation for any delays, to improve customer service and avoid unnecessary phone calls.				
D. The legal framework under which bonds can be used to procure compliance with planning obligations set out within a Section 106 Agreement with a land owner be explored to ensure S106 compliance;	Regeneration	The potential for using bonds will be investigated.	Oct'09	ROC
E. A list of developers who have failed to comply with Section 106s or planning conditions be compiled to inform future monitoring requirements of Section 106s and planning conditions and serve as a possible justification of bond requirement;	Regeneration	The potential for doing this will be investigated with legal services.	Oct '09	ROC
F. The Council undertake registration of a notice of non-compliance on the local land charges register as a form of enforcement action to ensure Section 106 compliance;	Regeneration	This process is already in place and consists of two stages: 1. A letter of non-compliance is sent to the developer, including a date to comply by. If compliance is not met then stage 2 is carried out. 2. The letter of non-compliance is placed on the land charges register.	Ongoing	

G. Parish Councils elsewhere in the County be recommended to use Standing Orders as a possible solution to receiving appropriate confidential information;	Regeneration	The KALC can provide advice to Parish Councils on these issues.	N/A	
H. The revisions to the prioritisation matrix include evolved policy such as landscaping and that all Councillors and Parish Councils be consulted on the revisions to the matrix to ensure support and that the prioritisation matrix be reviewed periodically to ensure its continued effectiveness; and	Regeneration	Landscaping is already considered in Matrix prioritisation under environmental considerations. The matrix will be reviewed annually and any changes to the matrix system agreed by Members will be consulted upon.	Annual	RJ
I. Informatives be used to encourage developers to inform the Council of commencement dates and changes of developer.	Regeneration	Informatives to this effect can be added to permissions for major developments.	Immediate and Ongoing	RJ

Notes on the completion of SCRAIP

¹ Report recommendations are listed as found in the report.

² Insert in this box the Cabinet Member whose portfolio the recommendation falls within.

³ The Officer/Cabinet Member responsible for responding to the recommendation should indicate in this box either the acceptance or rejection of the recommendation.

If the recommendation is rejected an explanation for its rejection should be provided. The 'timetable' and 'lead officer' boxes can be left blank

If the recommendation is accepted an explanation of the action to be taken to implement the recommendation should be recorded in this box. Please also complete the 'timetable' and 'lead officer' boxes.

⁴ The Officer/Cabinet Member responsible for responding to the recommendation should indicate in this box when the action in indicated in the previous box will be implemented.

⁵ The Officer/Cabinet Member responsible for responding to the recommendation should indicate in this box the Officer responsible for the implementation of the action highlighted in the 'response' box.

This page is intentionally left blank