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Your ref:

BY EMAIL

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January 9nd 2025

Dear Dr Burrell

Folkestone and Hythe District Council audit of accounts 2021/22: Objection under section 27 of the Local Audit and Accountability Act 2014

You have requested that we prepare a report in the public interest under Section 27(1a and 1b), section 28 and section 24 schedule 7 of the Local Audit and Accountability Act 2014 ('the Act'). This letter sets out our decision in respect of your objection, dated 4 March 2023, and the reasons for that decision.

The objection

This letter represents our conclusions in response to your objection to the accounts of Folkestone and Hythe District Council (the Council) for the year ended 31 March 2022 in respect of its aborted Princes Parade Project (the project) and specifically, you asked us to:

- investigate to determine whether the Council has in place, and has exercised, effective governance arrangements.
- determine whether any wrongdoings have taken place and initiate action if appropriate: and
- issue a Public Interest Report.

You requested that we issue a Public Interest Report in respect of these matters and apply to the court for a declaration of unlawful items of account under section 28 of the Act.

We wrote to you on 22 May 2024 confirming that the following matters you had raised were the matters which we would consider as your grounds for making the objection, albeit restricted to the items included within the 2021/22 financial year:

1. The Council's accounts give a false impression of the state of the Council's finances by omitting any reference whatsoever to the Princes Parade development project while it is known to impose a major detrimental impact on the Council's financial resources both during the accounting year and beyond.

2. While being aware prior to the start of the accounting period (1 April 2021) that the Princes Parade project could not be delivered within the then applicable budget set in February 2019, the Council continued to enter into substantial new commitments.
3. The Council decided to continue with the project after being advised of a 56% escalation in cost (to £45.3m) at the January 2022 Cabinet, while failing to disclose knowledge that the leisure centre facility was very poor Value-for-Money.
4. Payments made to suppliers exceeded the contract (or purchase order) approved values, with no evidence of control via a reconciliation process.

We agreed that we would also consider the following factors that you set out in your notice of objection. More specifically, your concerns that:

- Project management methods being employed were ineffective in respect of financial control.
- Control of large projects had been delegated to branch heads who were required to exercise both project and financial management without possessing the full range of necessary expertise.
- The quality of the information upon which the project was based was poor.
- Purchase Orders were raised that fail to specify exactly what was being ordered and that payments were made on a regular basis (usually monthly) irrespective of the work that had been done, and with no statement of the balance outstanding against each original order. You allege that, this inadequacy in control led to payments being made that were substantially in excess of the Purchase Order values.
- The project team used Framework Umbrella contracts in which tasks were “called off” without producing Purchase Orders, which weakened financial control of the project.
- There was no evidence that reconciliations were being undertaken to ensure that each project payment was made correctly in accordance with a Purchase Order or Contract.
- Full Council control of expenditure against the Annual Budget did not exercise sufficient control over the project.
- The Council’s draft 2021/22 Accounts fail to mention the financial commitment to the Princes Parade project. You refer to the fact that the Princes Parade financial commitments were expected to impact on Earmarked Reserves, which you consider to be a misleading omission from the accounts; and
- The Council’s interpretation of what constitutes an “audit trail” was highly deficient and, you have given as an example, the fact that the audit trail supporting the appointment of Faithful and Gould in April 2019 was destroyed after 12 months and not maintained for the required period of 6 years.

In arriving at the conclusions set out in this document, we have taken into account your representations, relevant to the matters in the 2021/22 financial statements, in your emails of 4 March 2023, 14 July 2023, 15 July 2024 and 18 July 2024. We have also taken into account information provided by the Council and have reviewed various reports and other documentary evidence held by the Council,

Our decision – Public Interest Report

We have carefully considered, in the ‘Project summary’ and detailed tables, within the section ‘Findings’ below, the four specific grounds of your objection set out in the section ‘Your objection’ above. We have also given consideration to the supporting factors to your objection, (also set out in the section ‘Your objection’ above) albeit you did not include these within the grounds of the objection itself.

Given the findings set out below, we have concluded that we are not minded to exercise our formal powers under Section 27 1(a) of the Act (concerns a matter in respect of which the auditor could make a public interest report which is in law matter of discretion on our part); or under Section 27 1(b) of the

Act (concerns a matter in respect of which the auditor could apply for a declaration that there is an unlawful item of account, under section 28 of the same Act).

Whilst it is a matter of record that the project did not succeed, the reports that we have seen provide evidence that matters were faithfully reported to members, as much as they could be and that the change in viability of the project could not have been foreseen at a significantly earlier stage. We are clear that even if the challenges could have been foreseen earlier, we do not consider that these are circumstances that would lead us to take the view that a public interest report (or referral to the Court) was an appropriate response.

The public report of the Council's Overview and Scrutiny Committee (OSC) of 14 February 2023 is important as it is evidence of the Council wishing to be transparent with its members and the public over the history of the project and the financial implications of the decision to end the development. We are also assured that the Council will now make the appropriate provisions in its financial accounts for any future revenue liabilities of the decision.

The project structure and governance were what we would have expected for such a key and complex project to the Council and, its eventual failure was not, we consider, attributable to any significant weaknesses in these overall arrangements.

In addition, throughout the history of this project, the statutory officers' advice to members has been, in our opinion, clear on the level of financial risks and uncertainties and drew upon the support of other officers and specialists in a reasonable manner.

In undertaking this work, we have had regard to the requirements of the 2014 Local Audit and Accountability Act, the Code of Audit Practice (2020) and the National Audit Office's Auditor Guidance Notes (AGNs) 04 and 07. In compliance with this framework, we have sought to follow a proportionate response and, as such, have considered:

- the significance of the issues you have raised.
- which action would be in the public interest.
- the Council's response to the issues you have raised, including its plans to remedy any defects in its arrangements.
- given the Council's planned response, whether the issues are likely to recur, and
- more generally, what audit action at this point would make a difference in future.

The Council had sought to structure the project in an appropriate manner, had clearly and objectively reported to members the emerging position at various stages and had been transparent in identifying the lessons learned from its ultimate failure. Furthermore, the reasons for the significant downturn in the Project's estimated financial viability were generally outside the Council's control. Because of these reasons, any further costs of us producing a Report in the Public Interest or seeking a declaration of unlawful item of account would not have been proportionate or necessary, in our opinion.

Work carried out.

As part of scoping our response, we have:

- reviewed your emailed submissions.
- discussed the matters with the Council's Chief Executive and Director of Finance and held a detailed follow up meeting with the relevant Chief Officer.
- undertaken a detailed review of the history of this particular project, including but not limited to, reviewing the reports that informed various key Cabinet decisions, of 13 February 2019, 26 January 2022, 14 December 2022, 12 July 2023, the Leader's decisions of 1 November 2022 and 8 June 2023, and the full Council meeting of 30 November 2022;
- reviewed, the formal public consideration of the matter by the Council's Overview and Scrutiny Committee (OSC) of 14 February 2023.

- raised various questions of officers and have been provided with evidence to support the governance and project management arrangements in place, including the involvement of third-party consultants; and
- undertaken a detailed review of this documentary evidence.

Findings

Project summary

We have considered the Project's timeline and, in particular, those decisions that would have a bearing on the matters raised in your objection. The following 'milestones' are the key points in the governance of this project, along with our commentary and conclusions (**in bold**) on the reasonableness of the matters reported, the recommendations made, and the decisions taken.

Early days

The Project had its origins around 2008 but started to 'take shape' from Dec 2012 Cabinet. Between 2012 and 2018 significant consultation and planning development takes place. The Council's reported Timeline confirms the complexity of the project to be significant.

An early setback to the Project was in 2017 when the Department for Culture Media and Sport withdrew PFI credits due to "*significant and fundamental issues*" with the Project concerning affordability and relationships between partners. The Council were aware of this issue and sought to address it in subsequent development of the Project proposals.

Cabinet Report 13 February 2019

In February 2019 Cabinet formally agreed the Princess Parade scheme.

It was reported to cabinet that a Business Case had been produced by external advisors 'the Sports Consultancy', which includes an affordability analysis. The new sports facilities were an ambitious increase to the level of facility they replaced. The consultants reported that "*The projections show that the new centre should – on average – be able to deliver the Council a positive management fee (estimated to be circa £81,000 per annum over a ten-year period)*". Some soft market testing was undertaken, which indicated an appetite from private providers to work with the Council in eventually running the completed Centre.

In terms of affordability, the consultants reported that "*at present there is a net surplus on the project of circa £1.22 million.*" And "*if required, the Council would have the ability to raise in the region of another £3 million via prudential borrowing should it prove necessary.*" Importantly, they concluded that, "*at this stage, the project is affordable without the requirement to fund an element of the capital costs via borrowing. However, should either the capital costs increase or one or more of the funding sources do not materialise, it is estimated that the Council could fund an additional amount of circa £2.95m via prudential borrowing from the Public Works Loans Board.*"

Therefore, at the time, it is clear to us that the external consultants did not identify any financial/affordability risks to the project.

The Cabinet Report then goes on to say that, "*Arlingclose Limited, the Council's treasury adviser, was commissioned by the Corporate Director for Customer, Support and Specialist Services to undertake a review of the key financial information in the business case for delivering phase 1 and 2 of the Princes Parade project. This included assessing the robustness of the estimates the Council had obtained for:*"

- *The capital cost of the project.*
- *The valuations for the land disposal options to help fund the capital cost, and*
- *The operating cost model. 4.2 The review also included an assessment of the overall capital financing proposed for the scheme, its cashflow implications and the main financial risks."*

The appointment of Arlingclose (a recognised leading advisor in this area), with the above scope is indicative of the Council's desire to ensure the Project was appropriately informed from the start and is the sort of governance arrangement we would expect for such a Project.

We considered the main findings from the Arlingclose Review, which had concluded that:

- The Council has taken the correct approach in obtaining professional advice from experienced consultancy firms for the key cost and funding estimates for the scheme, including the operating cost model, providing assurance the project is achievable.
- These estimates have recently been reviewed to ensure they remain relevant and accurate.
- The capital scheme is deliverable without the need for long term borrowing.
- Short term borrowing will be required to meet cashflow timing issues and the interest cost should be capitalised and added to the overall scheme cost.
- The forecast capital funding streams will produce surplus capital receipts of about £1.2m over the estimated capital cost.
- With no long-term capital financing costs, the operating cost model for the new leisure centre is expected to generate an ongoing revenue saving to the Council compared to the cost of providing its existing facility.
- The most significant financial risk to the project is delays to the capital receipts and S106 contributions (under the provisions of the Town and Country Planning Act 1990) required towards the project with the need for further interim borrowing to meet this should it occur.
- Should for any reason the capital cost exceeds the total capital funding, then for every £1m incurred this will mean an additional ongoing capital financing cost of £45k pa.
- The Council is most likely to have to take on the affordable housing and commercial development elements of the overall project.

The Arlingclose review therefore provided the Council with assurance over the robustness of the key financial estimates for the project and that the operation of the leisure centre was expected to be financially viable over its lifetime.

The then Director of Finance was, however, careful to caveat that *"It is important to highlight that the financial estimates remain indicative at this stage. The actual cost to deliver the scheme and operate the new leisure and commercial facilities will not be known until the outcome of the procurement process and further work on the disposal options for both the Princes Parade and South Road sites are known. Once these are known, a final detailed business case will be prepared for the scheme that will include its full financial implications. The proposed £60k budget to support the procurement process for the appointment of the leisure centre operator can be contained within existing revenue resources earmarked towards the council's corporate development plans."*

The report also summarised the risks to the project under the captions 'funding and delivery risks' and 'planning risks' and assigned high impact and medium likelihood to each of these.

Our overall conclusion for this stage of the process was that the project was properly informed and entered into on a reasonable basis at the time.

Cabinet Report 26 January 2022

26 January 2022 was a key opportunity to abort the project due to knowledge of escalating costs. We challenged officers as to why it took to 2022 to get to this stage, when the Business Case had been approved in Feb 2019. Officers explained these delays as attributable to preparatory works, establishing project management arrangements and tendering for external project support etc. In addition, a lengthy Judicial Review of the proposals, raised by opponents of the project had taken place.

The delays are therefore not unreasonable to us in the circumstances described.

Our review of this Cabinet meeting has found that:

- the Cabinet paper is a comprehensive, detailed and balanced update on the project.
- that Cabinet was fully advised on revised budget and funding requirements, as well as 'headline implications if the project does not proceed'.
- the project had been delayed due to the Judicial Review (referred to above) that had been unsuccessful in December 2020. Between then and the date of Cabinet, various activities had been undertaken to prepare the project, let the contracts and deal with ecological and planning elements.
- procurement for the operator had been completed.
- procurement for the developer resulted in a fixed price, with the developer taking on the risks associated with design, ground conditions, remediation and supply chain issues. The price agreed was £40.5m, out of a total project cost of £45.3m. A £16.24m increase from the original Project estimate was broken down and, in our opinion, explained to members clearly.
- as well as the cost increases there was further funding strain as the delays to the project had resulted in the loss of Homes England grant of £1.98m, although other grant for Brownfield land release of £2m had been secured.
- Members were advised that, whilst officers had identified a Project funding gap of £6,625,569, they had also identified a mitigating a revenue turnaround, estimated at £340,000 per annum, which they reported would be sufficient to cover the costs of funding approximately £10 million of additional borrowing if required. **As such members would have been reassured that, even with the additional capital costs identified in the report, the estimated improved revenue outcomes would have more than covered any additional borrowing needed.**
- Members were also informed that, if aborted, *"the spending on the scheme to date, estimated at £2.56 million, would not be recoverable as a capital cost against the scheme and would need to be charged against the Council's revenue account. This would become a charge during 2021/22 and would create further pressures on the Council's revenue finances"*.
- Project risks were identified, with fixed project costs being reported as a mitigation against increasing costs of project construction; and
- Section 6 of the Report included the Director of Finance's comments on the impact of the additional borrowing, now required to meet the funding gap, on the Council's prudential position.

We have concluded from this Report that, at this stage, the Project still appeared to offer reasonable Value for Money and, therefore, members' decision to continue was not unreasonable. We consider that, the report presented appears thorough, balanced and properly informed.

Leader's decision 1 November 2022

The Leader decided to pause all spending on the Princes Parade project to allow officers to re-evaluate the Project. Cabinet the following December would then consider the options available to the Council. The Report accompanying this decision gives an update on key matters since decisions were made in early 2022. It also concludes that *"in response to significant recent changes in the leisure, energy and financial markets giving rise to a high degree of cost pressures and uncertainty across the economy, the Council is unable to deliver the project within existing budget."*

The dominant factors on the change in position were reported as being due to increased utility costs meaning that the planned leisure operator could not keep to its tendered pricing arrangements and that the increased interest rates prevailing at the time would make any underlying borrowing for the scheme more expensive. The underlying need to borrow had also increased due to the identification of previously unforeseen costs, of between £0.9m and £1.4m.

The Council was proactive in seeking to pause the project in this manner and for these circumstances. We are satisfied that the additional utility and interest rate pressures that resulted in the decision were not possible to have predicted and that the 'previously unforeseen' project costs were not unreasonable for a project of this scale and complexity.

Full Council 30 November 2022

The November 2022 Council included the following motion from the Green Group:

“Council notes the decision on 1 November 2022 by the Leader to pause all spending on the Princes Parade project to allow officers to re-evaluate the project.

Council notes report C/22/56 and the potentially serious impacts on the council's finances of stopping the project and the likely even worse impacts of continuing with the project.

Council notes the vote of the Council meeting of 26 June 2019 to withdraw the planning application.

Council believes that in order to avoid a similar situation arising again, there should be an investigation into how expenditure on the project was allowed to reach £4-£5m from the £2.56m that had been spent by January 2022 despite the fact that the capital receipts had not been secured. This investigation should include a detailed timeline including when problems were first identified in order to establish if there was an earlier point at which the project should have been paused, plus the extent to which the details and risks of the project were adequately communicated to councillors.

Council therefore proposes that the Overview & Scrutiny Committee should consider this issue.

Council understands that the priority of the officers needs to be reevaluating the project and securing the council's financial position but that it is vital to now capture the lessons learned from Princes Parade, particularly given the severe financial implications for the council and taxpayers of decisions that were made.

Council proposes that OSC invites the three councillors for the Hythe ward to take part.”

We consider that this is evidence of the Council seeking to be open and transparent in the matter and wishing to learn from the experiences of the past, as well ensuring that its next steps were properly informed.

Cabinet 14 December 2022

The Project had been paused following the Leader's decision on 1 November 2022. Further options for the Council were set out at this meeting:

Option A – Continue with the project with a changed financial package. This would see the Project continue as planned but would need to become affordable for the Council by reducing the overall cost of the Project either by reducing the build costs, increasing land sales receipts, or reducing borrowing requirements (or a combination of these factors). Officers reported that, in summary, the Princes Parade Project had moved from a project which was conceived and planned on a self-financing basis with no impact on the Council's revenue budget, to a project which is heavily supported by borrowing (estimated at £5m) and for which, increased leisure operating costs would potentially need to be supported by the Council's revenue budget.

Option B – Do just the necessary work to implement the planning permission. Officers stated that just the necessary works could continue in the short term in order to give time for more favourable market conditions to emerge before the Council entered any of the main contracts. They also concluded that, “in the current circumstances there are considerable financial benefits from taking a strategic pause and doing just the necessary works to implement the planning permission. This would reduce the immediate financial risks to the council whilst enabling the development value and community benefits of the project to be retained within the extant planning permission” and that “the advantages of implementing the planning permission are:

- *It keeps options open about the future development of the site within the terms of the existing planning permission and allows for possible variations.*
- *It would deliver value for the council in the development of the site, as land with planning permission will hold a greater value.”*

Officers were, however, clear that, members should note that under accounting regulations it is not permissible to delay the project indefinitely to avoid capital write off to revenue and that, if members were to choose Option B they would need to re-visit the decision within the next accounting period.

Option C - Stop the project while future land uses are evaluated. This option considered the extent of the immediate financial impact on the Council of terminating the project and an assessment of any legal requirement to remediate the known land contamination. Officers advised that at this time the worst-case scenario for ending the project under this option was that the estimated accumulated capital spend of £4.4m which has been or planned to be met from capital resources would have to be met from the Council's revenue budget. As with Option B, a revenue budget of £119k would also need to be allocated for the ongoing site maintenance.

Importantly, officers were clear that all of the three options needed to fall within a tolerable level of risk for the Council and be affordable in the context of the other priorities within the Council's medium-term financial plan.

Option B was agreed, which was not, in our opinion, unreasonable in the circumstances and based on the detail of the report.

We found the report to be clearly presented, with an objective, comprehensive and balanced assessment of each option available to members. It was a more cautious and prudent approach compared to the other options, as it offered the Council more flexibility over its future use of the site.

Overview and Scrutiny Committee (OSC) 14 February 2023

The OSC review requested by full Council on 30 November 2022 was undertaken on 14 Feb 2023, which we have considered in the context of your objection. The meeting included political challenge to officers and demonstrates the Council wishing to be transparent with its members and the public over the history of the project and the financial implications of the decision to end the development. It also provided the opportunity to identify lessons learned for the Council that can be applied in future significant contracts and, indeed, in the future options for the Princes Parade site.

The fact that this review was reported publicly is further evidence that supports our decision not to issue a Report in the Public Interest, particularly noting that the Council's response to the issues you have raised, including its plans to remedy any defects in its arrangements.

Leader's decision 8 June 2023

In December 2022 Cabinet had agreed to pause the Princes Parade Project and agreed to just do the necessary works to implement the planning permission. This report on 8 June 2023 updated members on the position and asked for an extension of the implementation date of 3 years. The extension of the implementation date by 3 years will provide additional time to consider future options and their wider implications, to make formal decisions including the budget required, and to deliver the necessary works on site.

This is not unreasonable given the complexity of matters and the fact that, at the Project was 'on pause' the Council would not be committing itself to significant additional expenditure in the intervening period.

Cabinet Report 12 July 2023

The new administration has expressed their desire to remove the site hoardings as soon as practicable, and to consult with the community and their representatives on the end-uses for the Princes Parade site.

We consider this is evidence that the Council is now moving away from the paused project and is taking forward new proposals for the site.

Ongoing Risk management arrangements

In addition, the project risk was previously escalated to have a dedicated entry on the Council's corporate risk register which was reported to Audit & Governance Committee in report AuG/22/11 on 28th July 2022.

In addition, members had already been updated in July 2022 at the portfolio holder's briefing, Members were advised that there were serious financial and operational concerns being reported from significant

changes in the economic climate. At that stage the impact was not able to be fully quantified as matters were dynamic.

In July 2022 Cabinet was advised (report C/22/24) that due to the extent and nature of the changing economic climate the leisure operator was unwilling to contract under the full terms of the procurement exercise undertaken in the autumn of 2021.

In July 2022 Members were advised that the future operators would not commit at that time to the original contact offer, but the overall costs could be contained within the contingency allowance.

Between August and October 2022, it became apparent that the operating context was increasingly putting intolerable pressures on various aspects of the project and in September 2022 it was clear that the project budget was insufficient.

We consider that risk management has been taken seriously throughout the project, documented and reported at various levels, including being formally escalated to Audit & Governance in reports throughout 2022.

Overall conclusions

Based on the above, our overall conclusions, regarding the specific areas we agreed with you would be investigated are as follows:

Grounds of objection	Overall conclusion
1. The Council's accounts give a false impression of the state of the Council's finances by omitting any reference whatsoever to the Princes Parade development project while it is known to impose a major detrimental impact on the Council's financial resources both during the accounting year and beyond.	Officers have informed us that, the Council's intention is to introduce a provision in its 2023/24 draft accounts to release aborted capital expenditure back to revenue.
2. While being aware prior to the start of the accounting period (1 April 2021) that the Princes Parade project could not be delivered within the then applicable budget set in February 2019, the Council continued to enter into substantial new commitments.	See above. In terms of affordability, members had been informed in February 2019 that there was a net surplus on the project of circa £1.22 million and there was plenty of scope to finance any increase in capital costs via prudential borrowing, should it prove necessary. By January 2022, whilst increases in the anticipated project costs had been identified, officers still considered that they had also identified a mitigating a revenue turnaround, which they reported would be more than sufficient to cover the additional project. There was, therefore, no budget shortfall for the Council 2021/22 annual revenue budget.
3. The Council decided to continue with the project after being advised of a 56% escalation in cost (to £45.3m) at the January 2022 Cabinet, while failing to disclose knowledge that the leisure centre facility was very poor Value-for-Money.	See above, the report to members in January 2022 assured them that increases in the anticipated project costs at the time could more than be absorbed by improved revenue expectations.
4. Payments made to suppliers exceeded the contract (or purchase order) approved	We have seen evidence that appropriate project financial management and governance

values, with no evidence of control via a reconciliation process.

arrangements were in place, making good use of the Council's appointed third-party advisors.

We have seen evidence that contract spend was discussed at multidisciplinary project meetings, that also involved the Council's third-party advisors. All payment applications were verified by the lead consultants, who kept a full reconciliation of all spend with all contractors and consultants which was reviewed regularly at project meetings.

In addition, our overall conclusions against the supporting factors to your objection are as follows:

Supporting factors	Overall conclusion
Project management methods being employed were ineffective in respect of financial control	<p>The lead consultants were appointed as they had significant experience of delivering leisure centre projects.</p> <p>As set out in 'Grounds for objection 4', in the table above, a full financial reconciliation was kept at all times and reviewed regularly at project meetings.</p> <p>All payment applications were provided with supporting information detailing the breakdown of the invoices. Quotes provided by contractors were also interrogated by Hadron, a third-party consultant to ensure best value.</p>
Control of large projects had been delegated to branch heads who were required to exercise both project and financial management without possessing the full range of necessary expertise.	<p>Control of the project was overseen by the lead consultants, who had considerable experience in the development of similar scale projects and having recently delivered successfully a new leisure centre at a nearby authority.</p> <p>The Council's internal team consisted of a director at all times supported by a Chief Officer and other staff members with development and project management expertise.</p> <p>A range of consultants were used providing professional expert advice on a number of complex issues. Updates were provided to members from the lead consultants and the internal project team on a regular basis</p>
The quality of the information upon which the project was based was poor.	<p>The lead consultants were experienced in delivering leisure centre projects. BAM the lead contractor has also delivered multiple leisure centres. Expert advice was commissioned from leading consultants to provide the information required, particularly around the contamination and required remediation.</p> <p>Fortnightly project meetings were held with the project team and main contractors with the consultants presenting when required. All meetings were minuted. We have reviewed evidence of</p>

	these meetings and are satisfied with the level of information the project board was provided.
Purchase Orders were raised that fail to specify exactly what was being ordered and that payments were made on a regular basis (usually monthly) irrespective of the work that had been done, and with no statement of the balance outstanding against each original order. You allege that, this inadequacy in control led to payments being made that were substantially in excess of the Purchase Order values.	<p>We have been informed that, an initial purchase order was raised to cover the Pre-construction Services Agreement (PCSA) works prior to signing the main contract with the developer.</p> <p>As stated above a full contract reconciliation was kept and reviewed at the project meetings. The financial reconciliation was also presented at the member update meetings, so all parties were aware of the project spend.</p> <p>When it became clear that the purchase order value was going to be exceeded, a contract variation was circulated and agreed to increase the purchase order to cover the works completed under the PCSA. We have received a copy of this variation document.</p>
The project team used Framework Umbrella contracts in which tasks were "called off" without producing Purchase Orders, which weakened financial control of the project.	See above, the contract spend was reconciled fully and monitored against the initial PCSA.
There was no evidence that reconciliations were being undertaken to ensure that each project payment was made correctly in accordance with a Purchase Order or Contract.	See above
Full Council control of expenditure against the Annual Budget did not exercise sufficient control over the project.	See above
The Council's draft 2021/22 Accounts fail to mention the financial commitment to the Princes Parade project. You refer to the fact that the Princes Parade financial commitments were expected to impact on Earmarked Reserves, which you consider to be a misleading omission from the accounts.	<p>In meeting with CEO and s151 (the officer with responsibility for the administration of the Council's financial affairs ("section 151 officer") appointed under the Local Government Act 1972).</p> <p>the 151 officer updated us that the Council's intention is to introduce a provision in its 2023-24 draft accounts to release aborted capital expenditure back to revenue.</p>
The Council's interpretation of what constitutes an "audit trail" was highly deficient and, you have given as an example, the fact that the audit trail supporting the appointment of Faithful and Gould in April 2019 was destroyed after 12 months and not maintained for the required period of 6 years.	Council papers do not support this allegation – a good level of audit evidence was provided to support this Review and we have sighted the Call off Contract with Faithful and Gould. The issues in respect of Faithful and Gould and related documentation is insufficient in itself to justify a Public Interest Report in our view,

Seeking a declaration from the Court

Your objection asked us to seek a declaration that an item of accounts is unlawful. As set out above, we have therefore also considered if the matters you raised indicate if unlawful items of account were likely to be present in 2021/22 (the year of your objection). If an item of account appears to us to be contrary to law, it is our discretion as to whether we apply to the Courts for a declaration under Section 28 of the

2014 Act to that effect. An application to the Court for a declaration under section 28 of the Act is an expensive process, which would in our opinion be disproportionate relative to the total spend in 2021/22 on these matters, and in the context of the actions already taken by the Council to investigate, report publicly, and learn from this experience..

In this case, we have found that, despite the fact that the Project had not been successfully delivered and had therefore incurred abortive expenditure for the Council, that will now need to be written off against its revenue balances, we would nevertheless, in the exercise of our discretion, not consider it appropriate to seek a declaration that the item of account was unlawful.

This is because:

- expenditure on Princes Parade is well within the budget approved by Council for the project in 2021/22 and over the whole life of the project. The Council has the appropriate powers to spend money in pursuit of the development of Leisure and Housing Services. The expenditure incurred on the project is therefore incurred upon activities which are within the Council's powers. Consequently, the facts do not suggest any significant potential areas of unlawful expenditure in relation to Princes Parade; and
- an application to the Court is a very expensive process, relative to the total spend in 2021/22 on these matters and in the context of the Council's actions to already investigate, report publicly and learn from this experience.

Right of appeal

There is no statutory right of appeal against the decision not to issue a Public Interest Report. You have a statutory right of appeal against our decision not to make an application to the Court for a declaration that an item of account is contrary to law. Any appeal must be issued at Court within the period of 21 days. We suggest that anyone considering an appeal should take their own legal advice.

We will share a full copy of this letter with officers and a summary of the outcome of this investigation with the Council's Audit and Governance Committee within our forthcoming Auditor's Annual Report.

Yours sincerely



Paul Dossett
Partner