

# Public Document Pack



## CABINET

**THURSDAY 23 MARCH 2023  
11.00 AM**

**Council Chamber - Town Hall**  
Contact – [philippa.turvey@peterborough.gov.uk](mailto:philippa.turvey@peterborough.gov.uk), 01733 452460

## AGENDA

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*Any agenda item highlighted in bold and marked with an \* is a 'key decision' involving the Council making expenditure or savings of over £500,000 or having a significant effect on two or more wards in Peterborough. These items have been advertised previously on the Council's Forward Plan (except where the issue is urgent in accordance with Section 15 of the Council's Access to Information rules).*



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<b>EXTRAORDINARY CABINET</b>	<b>AGENDA ITEM No. 4</b>
<b>23 March 2023</b>	<b>PUBLIC REPORT</b>

Report of:	Jyoti Atri, Director of Public Health	
Cabinet Member(s) responsible:	Councillor Howard, Cabinet Member for Adult Social Care, Health, and Public Health	
Contact Officer(s):	Val Thomas, Deputy Director of Public Health	Tel. 07884 183374

## **RECOMMISSIONING OF DRUG AND ALCOHOL SERVICES IN PETERBOROUGH**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Director of Public Health	<b>Deadline date:</b> March 2023
The Cabinet is asked to approve the following:	
A contract modification for a 2-year contract extension to the Change Grow Live (CGL) Aspire Integrated Drug and Alcohol Treatment Service for the period 1 April 2024 to 31 March 2026.	

### **1. ORIGIN OF REPORT**

#### **1.1 Background**

Integrated Drug and Alcohol Treatment Services provides all elements of substance misuse treatment including early intervention advice and support, pharmacological treatment, harm reduction services, pharmacy delivered services (including needle and syringe programmes), psychosocial support, recovery support, community/inpatient detox, and residential rehabilitation.

Peterborough City Council's (PCC) current Integrated Drug and Alcohol Treatment provider is Change Grow Live (CGL), a large third sector organisation and one of the market leaders in this sector. The Service covers adults and young people via an integrated model.

Cambridgeshire County Council (CCC) also commissions CGL to provide the Drug and Alcohol Service in Cambridgeshire through a contract that shall expire on 31 March 2026. Historically the ambition has been to align the endpoints of the PCC and CCC contracts in both areas to enable a joint commissioning exercise and contract across the two local authorities.

- 1.2** The Service was competitively procured and commenced on 1 April 2016 with an expiry date of 31 March 2024. The contract had an initial term of three years and has been extended by 3 years within the terms of the contract (5+1+1+1) to a total 8-year contract period. Therefore in line with procurement regulations the Service should be recommissioned, however because of exceptional circumstances presented in the paper an alternative option of a contract modification to extend the contract is recommended.

### **2. PURPOSE AND REASON FOR REPORT**

- 2.1** The purpose of this report is to secure support for a contract modification to PCC's current Integrated Drug and Alcohol Treatment Services contract, in consideration of Regulation 72(1)(b), Public

Contracts Regulations 2015, to modify the contract to allow for a two-year contract extension until 31 March 2026.

The reason for the request to modify the contract arises from significant service delivery and financial risks associated with commencing a new procurement with a new contract from April 2024. These risks need to be considered alongside any procurement risks that the use of Regulation 72(1)(b) could engender. This modification is for an interim period, during which the Council shall commission the service for provision in the long term.

- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.4, '*To make decisions on actions relating to the awarding, assigning and termination of contracts over £500k, and waiving or granting exemptions to Contract Regulations where contracts are over £500k ...*'

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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### 4. BACKGROUND AND KEY ISSUES

#### 4.1 Background

Since the commencement of PCC's CGL contract in April 2016 a number of compliant contract variations (in accordance with Regulation 72 Public Contracts Regulations 2015) have been made arising from the following new grant funding received from Central Government.

- (i) Rough Sleeping Drug and Alcohol Treatment: This is funding to improve the support and outcomes for people experiencing rough sleeping who have drug and alcohol dependency needs. This commenced in 2021/22 and has been increasing annually to £671,913 in 2023/24.
- (ii) Supplementary Substance Misuse Treatment & Recovery (originally called the Universal Grant): This funding is to enable local areas to start to deliver locally on the National Drug Strategy to prevent drug related deaths, expand treatment capacity, improve the quality of treatment and reducing drug related crime. This commenced in 2020/21 and has increased annually to £537,577 in 2022/23. An announcement on February 16<sup>th</sup>, 2023, confirmed that this funding will continue for another two years until March 2025, by which time the grant will be £1,116, 875 for 2024/25.
- (iii) National Probation Offender Management Investment: Also arising from the new National Drugs Strategy, this is to support local substance misuse services to deliver core enforceable activities to deliver the sentence of the courts. It commenced in 2022/23 at a value of £37,750 and is confirmed for 2023/24 at £75,000. It is likely that this will be extended into 2024/25.
- (iv) Housing Related Support Grant for Substance Misuse: This funding aims to improve housing outcomes for those receiving drug treatment. This funding covers the period 2022/23 and 2023/24 and £674, 889 has been awarded for this period. It is proposed that some of this grant be allocated to homelessness services.

4.2 **Procurement Regulation 72 Public Contracts Regulations 2015 – modifications of contracts during their term.**

This paper recommends that the Council use procurement Regulation 72(1)(b) Public Contracts Regulations 2015 to modify the current Contract enabling it to end in March 2026 and avoid the significant risks associated with a new contract starting in April 2024. The Council shall then commission a new integrated drug and alcohol treatment service contract to commence on 1 April 2026.

- 4.3 The following conditions have been considered against the identified risks to services:

- (i) the modification has "become necessary." and
  - (ii) a change of contractor is "not possible for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement." or
  - (iii) a change on contractor "would cause significant inconvenience or substantial duplication of costs for the contracting authority".
- 4.4 This modification is considered necessary due to the complex grant funding and associated strict deliverables. A new service commencing in April 2024 would mean that the grant periods would cross the old and new contracts. This situation would have a substantial risk of not delivering the outcome expectations of the grants and potentially have funding consequences as described below. This modification is an interim measure and the Council shall commission a new service for commencement on 1 April 2026 to align with cessation of current grant funding.
- 4.5 A change of contractor at this crucial stage would affect the deliverables and outcomes required, for the following reasons:.
- As with all new contracts there is a high risk that the instability and disruption created by the tender and new contract will mean that expected grant funded outcomes would not be achievable and potentially impact on the funding formula for 24/25.
  - The Terms and Conditions of the grants are exacting with robust deliverables and evaluation of impact and outcomes. The Terms and Conditions of the Supplementary Treatment Grant are especially demanding as it includes deliverables that require significant service developments, some involving partners. A change of provider would mean that the ongoing development and the consistency necessary for evaluation would be difficult to maintain.
  - Of particular concern is that during a re-commission of drug and alcohol services numbers in treatment always decrease, often staff leave the service and new models of service delivery require embedding. Staffing attrition is an important consideration as there are also grant outcomes relating to expansion of the workforce.
  - The grants have funded additional staff who have played a key role in service developments and provide consistency. Already on short term contracts there is high risk that they leave prematurely affecting not only service delivery but also the consistency necessary for evaluation.
- 4.6 The Council considers that a change of contractor would cause significant inconvenience or substantial duplication of costs..
- The value of the current CGL contract, including variations over the course of the current contract period (1 April 2016 to 31 March 2024) is approximately £24.7 million. Table 1 shows how a new contract in April 2024, would split the grant funding across two contracts (the current and any newly procured contract). A fuller summary of values is included in the finance section. (10.1)
  - The estimated value of the all the additional grants is £6.8 million and this funding will not end until 2026. Part of the funding would be included in a new contract that commencing in April 2024. When the grant funding ends, the value of the contract will decrease which will present operational issues and service re-design mid contract. This can be challenging in determining the scale and scope of the service along with contributing to the risk of staff attrition.

**Table 1: Grant impacts on Contract value**

PCC Public Health Grant Funding		Contract Variations	Total
New Service: April 2024	£19,908,379	£4,814,088	£24,722,467
New Service: April 2026	£24,873,999	£6,769,471	£30, 643,470

- 4.7 The Terms and Conditions of the grants as described above are exacting and non-delivery of the expected outcomes means that grant funding will be returned. This would not only mean redesigning services without the planned budget but also staff on short term contracts for the duration of the grant would be unemployed before the end of their contracts and could seek redundancy packages, which would be additional risk for the Council.

#### **Additional considerations**

4.8 **Changes to the Procurement Regulations**

- A new set of procurement regulations will be introduced under the Health and Care Act 2022. The Provider Selection Regime (PSR) will be a new set of procurement rules for commissioning health care services in England. Local Authority Public Health healthcare services will be subject to the new regulations. The PSR is not expected to be in use until later in 2023/24 and clarity is expected on timeframes for implementation from Government to be published shortly.
- The aim is to give authorities a more flexible process for deciding who should provide healthcare services, and these services will be excluded from the main procurement rules for the public sector. The PSR will set out regulations and statutory guidance and it is anticipated that there will be options for “Continuation of Existing Arrangements” once the PSR is established.

4.9 **Current Service Delivery**

- Overall the CGL provider is providing a high level of service. It performed exceptionally well during the COVID-19 pandemic adapting quickly and creatively to ensure that the service was maintained. Subsequently it has made a good recovery.
- The Service are amongst the best performers in the Region for some of its performance indicators and most of its indicators are comparable or above national averages. See Appendix 1 for further information.
- An independent needs analysis commissioned from “Tonic Consultants,” was completed in December 2022. The report found the CGL Aspire Service is exceeding national expectations in terms of getting clients into treatment across all substances and is one of the few services which is managing to increase its treatment population. The service is also performing very well in terms of achieving continuity of care for those leaving prison who need to access treatment in the community on release. Lack of housing in the area is impacting on the client group. An additional Housing Support Grant is one of those available to the Council from the Department of Health and Social Care, and the Service is a key partner in helping to deliver support services to drug users with housing issues locally.

**5 CORPORATE PRIORITIES**

- 5.1 1. *The Economy & Inclusive Growth*
  - Environment Assessment
  - Homes and Workplaces
  - Jobs and Money

A Carbon Impact Assessment has been approved and concluded that the modification would have a neutral effect. It will allow services to continue in their current form for another 2 years and do not by themselves increase carbon impact activity.

During the period of the modification, Central Government funding has been secured for an Individual Placement and Support (IPS) Scheme in Peterborough funded by the Office for Health Improvement and Disparities (OHID). This will help drug and alcohol clients in structured treatment to access employment which is a key factor in successful recovery from substance misuse.

The CGL Service covers the whole of Peterborough including rural areas, for example there is currently a project supporting middle aged women in Wansford, providing group support around alcohol use. The stability afforded by the modification and increased funding will help more of these projects become established. The service currently sub-contracts pharmacies to provide Needle Exchange and Supervised Consumption which includes the rural areas of Peterborough. This will continue uninterrupted.

## 2. Our Places & Communities

- Places and Safety (including any rural implications)
- Lives and Work
- Health and Wellbeing

Supporting people to address their substance misuse is crucial for improving their health and wellbeing. The CGL Service has effective pathways established with local Hospitals, General Practice and Mental Health Services which helps address broader physical and emotional health issues linked to substance misuse. Modifying the contract will enable this work to continue uninterrupted.

## 3. Prevention, Independence & Resilience

- Educations and Skills for All
- Adults
- Children

The CGL Service is an all-age service funded primarily for structured treatment, but it also undertakes a range of preventative work including, supporting local and national substance misuse campaigns, delivering a wide range of training to professionals across the system and undertaking education and prevention work in local schools and colleges.

The planned IPS Programme, referred to above will also contribute to the development of employment skills amongst Service users.

## 4. Sustainable Future City Council

- How we Work
- How we Serve
- How we Enable

The modification will avoid disruption at a critical time which will maximise the impact of the additional national grant funding and enable it to develop and improve the Service provided by the current provider.

## 6. CONSULTATION

6.1 This proposal has been discussed extensively within PCC to ensure and establish support for the recommendation.

With regard to the current provider performance the Drug and Alcohol Needs Assessment provided substantial evidence that it is performing to a high standard. This was undertaken between September and December 2022 and involved extensive consultation with service users, the public and range of different stakeholders.

6.2 This recommendation has been considered by the Corporate Leadership Team (CLT) and Cabinet Policy Forum (CPF).

## 7. ANTICIPATED OUTCOMES OR IMPACT

7.1 A two-year contract extension will ensure the aims of the grant funding outlined in section 4 of this report can be achieved, without disruption to service provision and avoid the risk of not being able deliver on the grant and the funding returned to Central Government.

The proposed longer-term objective is to consider jointly commissioning these services in collaboration with CCC. The contract ending in 2026 will align with the end of the grant funding period and with CCC's Drug and Alcohol Treatment Service contracts expiring. This provides the opportunity to consider the option to procure collaboratively with CCC to secure cost efficiencies for both PCC and CCC and the opportunity to tender a higher value contract which would be more attractive to potential bidders.

## 8. REASON FOR THE RECOMMENDATION

8.1 The recommendation for a contract modification for an additional two-year period of contract to the current provider reflects the following considerations.

- Provide stability in the current services to increase the numbers in treatment, improve the quality of services and provide stability in staffing in line with the expectations of the additional grant finding which was allocated to support delivery of the National Drugs Strategy
- Provide sufficient time and stability to deliver and evaluate the services established through the grants and ensure that the expectations and Terms and Conditions of the grants are met.
- It is likely that the Rough Sleeper and potentially the other grants will be extended into 2025/26 adding further to the complexity of delivering new models. A longer period without substantial changes enables them to become embedded and established.
- The Provider Selection Regime (PSR) will come into force during any re-commission undertaken in 2023/24. Its adoption would allow the complexities of health service contracts to be addressed.
- The option to jointly commission with Cambridgeshire County Council from the 1 April 2026 would enable pooling of resources and take a more collaborative approach across Cambridgeshire and Peterborough especially in relation to organisations that work across the two local authorities.
- The current provider is performing to high standard and has worked hard to implement the new grant requirements despite huge challenges with workforce recruitment.

## 9. ALTERNATIVE OPTIONS CONSIDERED

### 9.1 Procurement and New Service commencing April 2024

The option of undertaking a competitive procurement for Adult and Children and Young People's Drug and Alcohol Treatment Service in Peterborough during 2023/24 with only with a new contract commencement of 1 April 2024 was explored.

In summary this is not recommended for the following reasons.

#### Service disruption and non-delivery of the grants' expected outcomes

- The disruption caused by new procurement would bring considerable instability to the Service.
- Delivery of the grants' outcome expectations would be compromised and not achieved.
- Non-delivery of the outcomes could result in returning some of the grant funding and additional costs incurred as staff on short term contracts could seek compensation.
- If funding is returned Peterborough Service users would not be able to access the additional benefits arising from the planned investments.

## Procurement and financial risks

A procurement undertaken in 2023/24 would have the following risks.

- A new contract commencing in April 2024 would not have a confirmed value as future grant allocations are not currently available. This would be unattractive to potential bidders.
- This Provider Selection Regime (PSR) scheduled for introduction in 2023/24 will bring a new set of procurement rules which could mean that the commissioning of the Service would need to be re-considered and the procurement halted. This would have wasted the Council's resources that had already been used for the procurement.
- Historically the ambition has been to align the endpoints of the PCC and CCC contracts in both areas to enable a joint commissioning exercise and contract across the two local authorities. CCC has decided to extend its contract until March 2026 due to risks to the grants and services. The advantages of a shared procurement include cost efficiencies and a higher tender value, which makes it more attractive to potential bidders, would be lost.
- The Service contract has a high value and involves a complex range of services that will require considerable PCC resources including Public Health, Legal and Procurement to procure robustly. An intense one-year procurement will stretch these resources and undermine the ability to procure a value for money provider that will provide a high-quality service.

9.2 Use of Regulation 32 of the Public Contracts Regulations 2015 was considered, whereby in specific cases and circumstances a contracting authority may award a public contract by a negotiated procedure without prior publication. The circumstances of this matter will unlikely qualify this situation as meeting the tests within Regulation 32, hence this option was not considered further.

9.3 Direct award for a two-year period. To direct award to the supplier following contract expiry of these services would be a breach of the Council's Contract Rules and Public Contracts Regulations 2015, therefore this option was not considered further.

9.4 Future reliance on the NHS Provider Selection Regime (PSR), a new set of procurement rules for arranging health care service in England that are due to come into force later in 2023/24, the aim of which is to give authorities a more flexible process for deciding who should provide healthcare services. Whilst the new Provider Selection Regime regulations may provide a legal basis for an extension/exemption to health service contracts from competitive tender, no detail on this as an option has been provided to authorities and it's acknowledged that the legislation changes are unlikely to fit into the time frames required for competitive tender exercises. This option was not considered further at this time as the Council cannot not inform any plans on the assumption that the pSR will be established by an assumed date or will be established as per the proposals set out in the Department of Health and Social Care consultation.

## **10. IMPLICATIONS**

### **10.1 Financial Implications**

Table 2 sets out the different funding streams for the Adult and Children's and Young People Drug and Alcohol Treatment Services up until March 2026.

It also illustrates that there is still uncertainty about some grant values.

**Table 2: Drug and Alcohol Treatment Service funding streams 2016/17 to 2025/26**

Funding streams	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	Totals
Core Public Health Funding	2,636,420	2,566,270	2,495,220	2,388,950	2,373,989	2,482,510	2,482,510	2,482,510	2,482,510	2,482,510	24,873,999
Migrant Fund			32,334	43,383	39,953	0	0	0	0	0	115,670
Family Safeguarding (internal PCC funding)		81,548	81,548	81,548	81,548	81,548	81,548	81,548	81,548	81,548	733,932
Office of the Police and Crime Commissioner	150,000	112,339	115,000	55,649	36,720	19,095	36,454	36,454	36,454	36,454	634,619
Rough Sleeper Grants				6,436	24,159	254,470	336,011	793,862	TBC	TBC	1,414,938
Supplementary Grant (Universal)						107,555	574,822	680,417	1,116,875	TBC	2,479,669
Housing Related Support Grant							12,135	662,754	602,504	TBC	1,277,393
Probation Grant							37,750	75,500	TBC		113,250

The grant figures are the maximum amount of grant to be received. The Housing Related Support Grant will be split amongst a number of providers with CGL as the main player.

## 10.2 Legal Implications

Regulation 72(1) of the Public Contracts Regulations 2015 provides that “Contracts and framework agreements may be modified without a new procurement procedure...in any of the following cases... (b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor... (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract.”

It is considered that this service’s circumstances meet the test within Regulation 72(1)(b)(ii) for reasons set out in section 4 and 8 of this report. The increase in price does not exceed 50% of the value of the original contract.

A contract modification notice shall be published in accordance with Regulation 51 and 72(3) Public Contracts Regulations 2015.

Whilst the Council shall modify the contract in the interim period, the Council shall recommission this service long term in accordance with procurement legislation.

## 10.3 Equalities Implications

*The Equality Impact Assessment considered all groups with Protected Characteristics. This concluded the proposed modification would ensure the following current work streams can continue:*

- Extra funding will increase support for vulnerable young and older people who may need help but are currently not accessing services.
- Further expansion of the bespoke drug and alcohol surgeries in primary care settings
- Develop further community HUBs work which has already started which supports older people and those who are misusing prescription drugs but may not ordinarily approach services.
- Invest in and build up the Online Support Offer of support to reach more people especially in rural areas.
- Recruitment of a Social Worker role will develop further support for those with social care needs and/or disabilities.
- Extension of the work with Black, Asian, and Minority Ethnic (BAME) Communities via the Diversity Forum, including 2 new Specialist roles and establishing a network of Community Champions
- Continue to develop work around the Vulnerable Women’s Pathway including funding for the Wildflower Clinic which is an award-winning primary care and sexual health clinic for vulnerable women.
- Continue to develop CGL’s work with Alcohol Change UK around good practice in working with clients impacted by Alcohol Related Brain Injury
- The assessment found the following new priority new areas to develop.

- Improvement in the skills of the CGL staff who work with people with learning difficulties including Attention Deficit and Hyperactivity Disorder (ADHD) along with providing be-spoke materials or approaches.
- Promotion of the service to the LGBTG+ Community in Peterborough improve the visibility of the service to potential service users.

#### 10.4 ***Children in Care Implications***

The Service is a key partner in Peterborough City Council's Family Safeguarding Team delivering support to children and families in care affected by drug and alcohol misuse, alongside Social Work, Probation, Domestic Abuse and Mental Health Specialists. This support will be maintained in any new contract and includes the following areas.

- A bespoke Hidden Harms offer to young children impacted by parental substance misuse, some of whom are in touch with the Care System.
- The Service also offers care leavers' support and there are seamless pathways to transfer from the young person's service to adults if needed.

### 11. **BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

11.1 None.

### 12. **APPENDICES**

12.1 Appendix 1 - Overview of Drugs and Alcohol & Current Provider Performance Overview

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# SUMMARY OVERVIEW OF DRUGS AND ALCOHOL IN PETERBOROUGH

The following information is divided into three sections and provides the headlines in relation to drug and alcohol misuse and treatment outcomes in Peterborough alongside the most recent data from the Integrated Drug and Alcohol Treatment Service provided in Peterborough.

Section 1: Alcohol (Data from variety of sources in the main referring to 2020/21)

Section 2: Drugs (Data from variety of sources in the main referring to 2020/21)

Section 3: Drugs and Alcohol data from Peterborough's commissioned Integrated Drug and Alcohol Treatment Service. This later data is up until Q1 in 2022/23.

## 1. ALCOHOL

### 1.1 Alcohol misuse

Alcohol misuse in this data refers to people who are dependent on alcohol and are in need of specialist alcohol treatment services. In Peterborough estimates suggest that levels of alcohol misuse in Peterborough are slightly higher than nationally, with over 2,200 adults needing treatment for alcohol use. However, around 20% of these are currently accessing services.

### 1.2 Alcohol treatment

In 2021/22 there were 280 new presentations to alcohol treatment in Peterborough, an increase from 220 in the previous year. The following charts and statements relate to adults new to treatment in 2020/21.

### 1.3 Referrals

The majority (73%) of those starting treatment for alcohol use were self-referred, with a further 9% referred through the criminal justice system (CJS). This differs to the national pattern where 61% were self-referred and 6% were from CJS. Nationally 8% of referrals were from GP's whereas only 2% of Peterborough referrals came from this source.

### 1.4 Unmet Need

Unmet need for those needing alcohol treatment, although high, is lower in Peterborough than estimated for England (estimated 76% unmet need in Peterborough compared to 80% in England).

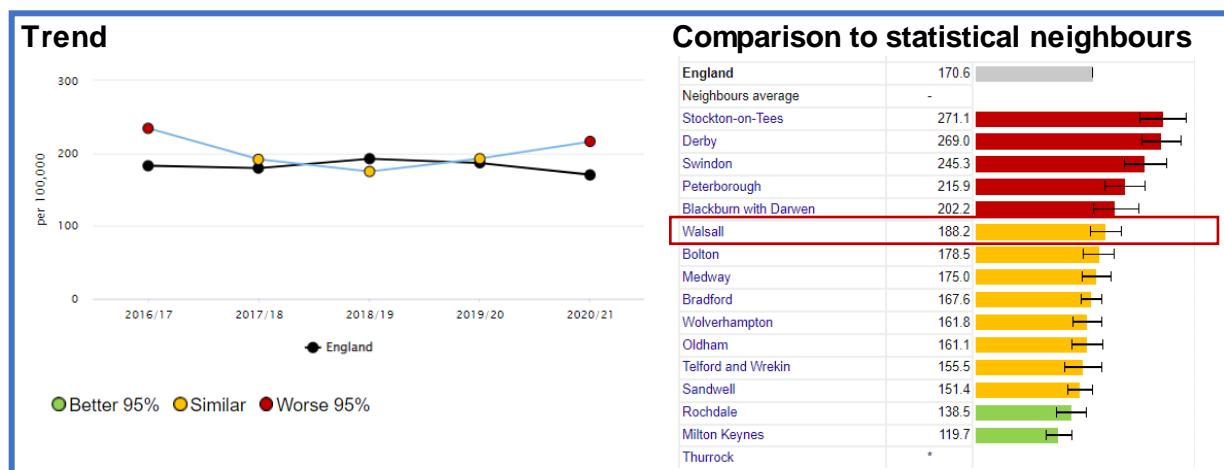
In 2021/22 100% of adults were seen within three weeks for their first intervention. Over this period there were 40 early unplanned exits from treatment, 14% of new presentations (same as national average), with a higher proportion in males than females.

Almost all adults in treatment for high level alcohol interventions were seen within the community, a pattern also seen nationally. On average adults had been in treatment for 171 days when they exited services, lower than the national average of 194 days. Almost six in ten adults were abstinent at their planned exit, higher than the national average of five in ten. Just over a third of adults (35%) who successfully completed their treatment did not re-present within 6 months, which is similar to the national average of 37%.

## 1.5 Hospital admissions

It is estimated that almost a quarter of adults in Peterborough drink over 14 units of alcohol a week, with 17% of adults binge drinking on their heaviest drinking day. In 2020/21 there were 792 admissions to hospital for alcohol-related conditions from Peterborough residents, with rates similar to England. Whilst the majority of alcohol-related hospital admission rates in Peterborough, for example by gender, are similar to these seen nationally, the rates in under 40 year olds are significantly high.

**Chart 1: Alcohol-related hospital admissions, under 40-year-olds, Peterborough, 2020/21**

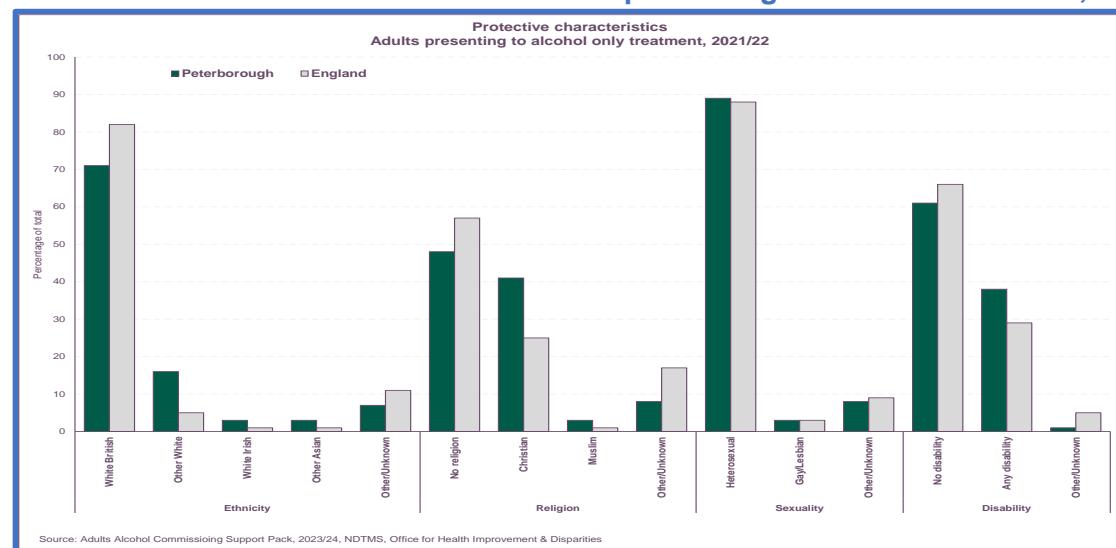


Source: Local Alcohol Profiles for England, Office for Health Improvement & Disparities

## 1.6 Protective characteristics

Compared to national averages Peterborough had a lower proportion of White British adults new to treatment and a higher proportion of 'Other White,' a higher proportion of Christians and a higher proportion of disabled adults.

**Chart 2: Protective characteristics of adults presenting for alcohol treatment, 2021/22**



Peterborough also had a higher proportion of adults new to treatment who were parents compared to the national average (44% compared to 38%). Just over 80% of adults in alcohol treatment were identified as receiving treatment for their mental health need, with the majority (77%) receiving treatment from their GP.

### **1.7 Wider determinants**

Six in ten adults who started drug treatment in 2021/22 were unemployed, higher than the national average of five in ten. A further quarter reported being in regular employment.

A quarter of adults reported having housing problems, with 9% reporting an urgent problem. These are both notably higher than the national averages (7% for housing problem and 2% for urgent problems).

### **1.8 Mortality**

In 2020 there were 61 alcohol-related deaths in Peterborough, with a higher proportion seen in females than experienced nationally (38% compared to 29%). The rate is statistically similar to the national rate, but a decrease in rates in Peterborough in 2020 led to a lower rate than national rate.

## 2. DRUGS

### 2.1 Drug misuse

The most recent official estimates of opiate and/or crack users in local authority areas are now somewhat out of date and relate to 2016/17. The estimates for Peterborough were 871 crack users, 1,447 opiate users and 1,737 opiate and/or crack users. The associated prevalence estimates were significantly high compared to national rates.

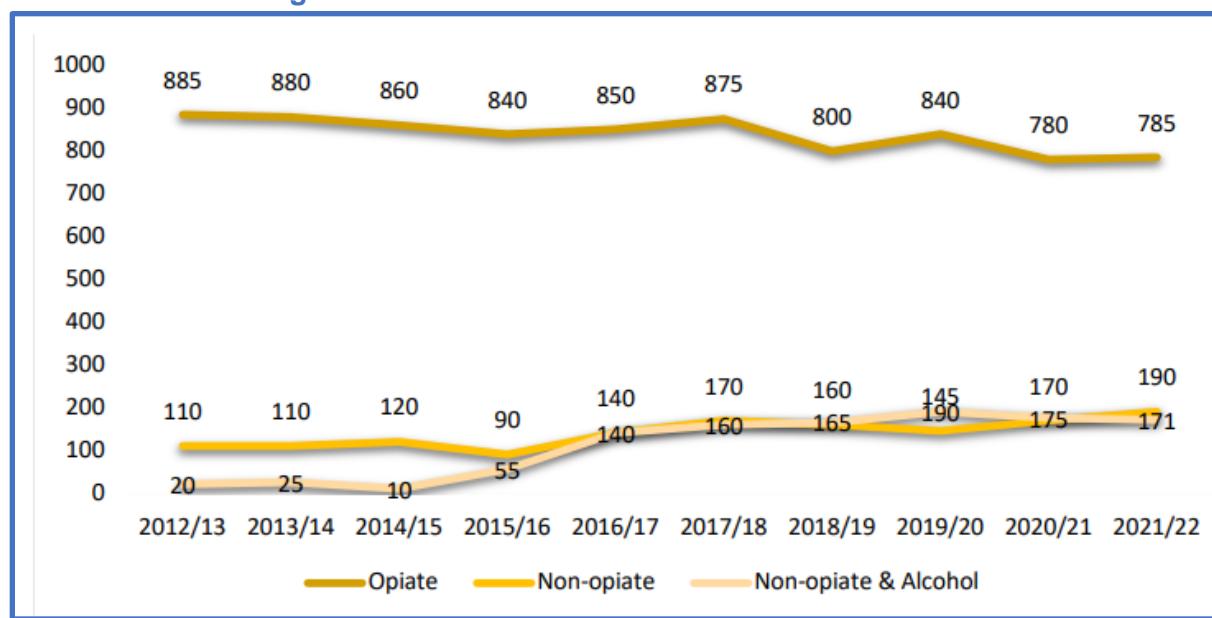
### 2.2 Drug treatment

In 2021/22 there were 493 new presentations to drug treatment in Peterborough, with a total of 1,147 in treatment during this time period. There were increases in the number of adults in drug treatments across all drug groups (opiate, non-opiate and alcohol and non-opiate) between 2020/21 and 2021/22. However, those new to treatment decreased, except for alcohol and non-opiate (combined) where there was a 3% increase.

Of the 493 new presentations to drugs treatment in 2021/22 half accessed treatment for opiate use, a quarter for non-opiates and a quarter for alcohol and non-opiate. The most cited problem substances were opiates, crack cocaine, cannabis, alcohol, and cocaine.

The number of opiate users in treatment has reduced steadily over the last decade (by a total of 11%). The number of non-opiate users has grown steadily (from 110 to 190 – an overall increase of 42%). The number of alcohol and non-opiate users increased rapidly between 2014/15 and 2017/18 (from 10 to 160) and has remained constant over the last 4 years – with 171 people in this category in treatment in 2021/22.

**Chart 3: Peterborough Adults in treatment trend data**



Source: Cambridgeshire & Peterborough Drug & Alcohol Needs Assessment, Nov 22, TONIC

## 2.3 Unmet need

It is estimated that 52% of opiate and/or crack dependent adults, 46% of crack dependent users and 46% of opiate users are not in treatment in Peterborough (unmet need), lower than the national averages of 57%, 54% and 47% respectively.

Almost all (99%) client's waiting for their first drug intervention were seen within 3 weeks in 2021/22 in Peterborough. Over a quarter of new presentations ended in an early unplanned exit from drug treatment, higher than the national average of 18%. A quarter of adults with opiate problems in treatment had been in treatment for over 6 years. Almost all adults in high level interventions were seen within the community, with very few seen in inpatient settings.

In 2021/22 158 adults were released from prison and transferred to a community treatment provider for structured treatment with 56% successfully engaging.

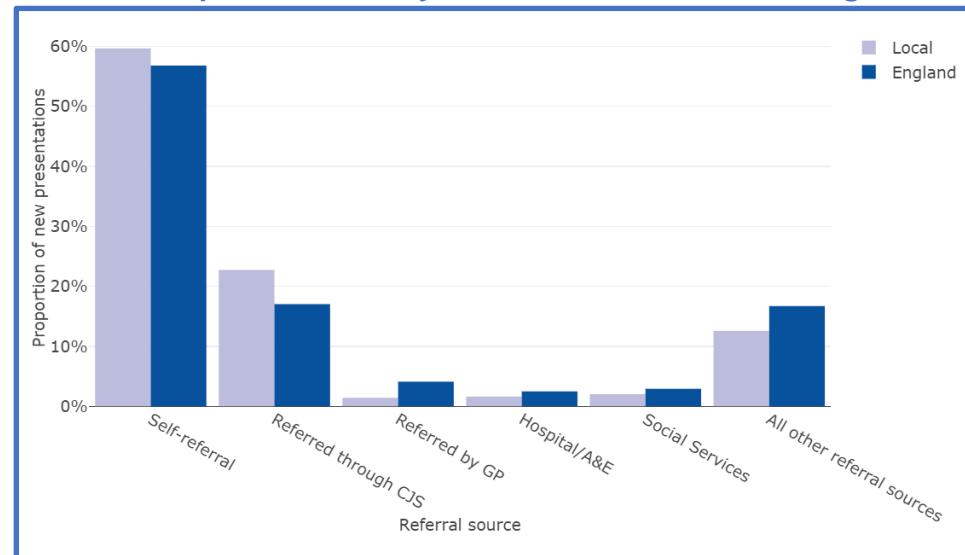
In terms of six-month review abstinence rates cocaine use had the highest rate at 82% with opiates, amphetamines, cannabis, and crack abstinence being between 38% and 44%.

A third of those who successfully completed treatment for non-opiates (including alcohol and non-opiates) did not re-present within 6 months, which was the same as national average. However, as also seen nationally, 4% of those who successfully completed opiate treatment did not re-present within 6 months. There has been a reduction in the proportion of successful completions in Peterborough over the last few years.

## 2.4 Referrals

Self-referral (60%) was the most common referral source to drug treatment, with a further 23% referred through the Criminal Justice System (CJS). These two referral routes were also the highest nationally, but at lower percentages (57% self-referral, 17% Criminal Justice System).

**Chart 4: New presentations by referral sources, Peterborough, 2021/22**



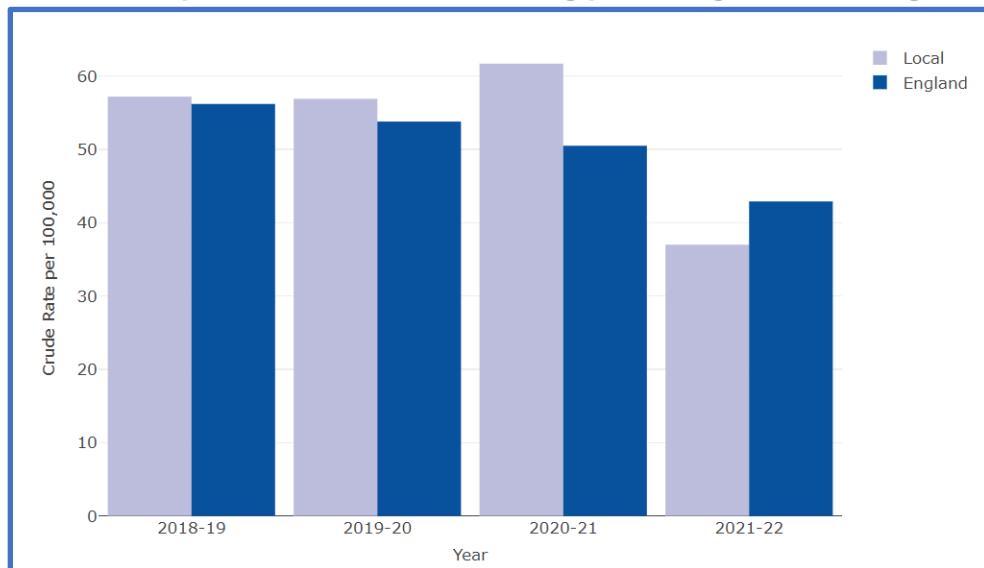
**Source : Adult Drug Commissioning Support Pack: 2023-24: Key Data, Office for Health Improvement & Disparities**

Of those referred through CJS almost two-thirds were through the prison service and a fifth through arrest referrals.

## 2.5 Hospital admissions

In 2021/22 there were 80 admissions drug specific admissions to hospital in Peterborough, with rates statistically similar to England. There was a notable decrease in rates nationally and, more so, locally between 2020/21 and 2021/22.

**Chart 5: Hospital admissions due to drug poisoning, Peterborough**

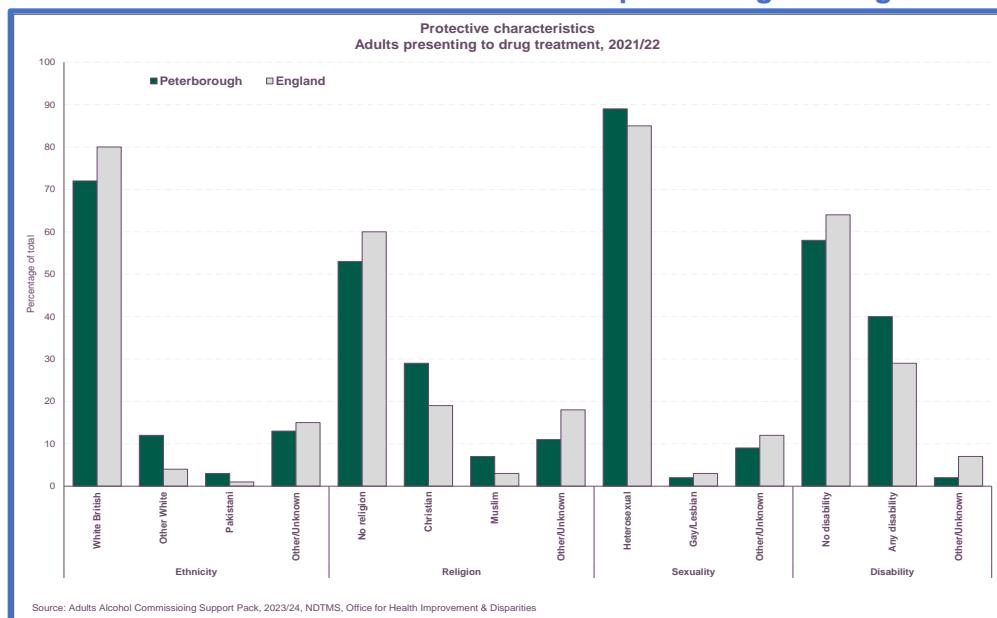


Source: Adult Drug Commissioning Support Pack: 2023-24: Key Data, Office for Health Improvement & Disparities

## 2.6 Protective characteristics

Around three-quarters of adults presenting to drug treatment are male. Peterborough had a higher proportion of adults presenting to treatment from 'Other White' and Pakistani ethnic groups compared to England, as well as a higher proportion of Christians and Muslims and a higher proportion of adults reporting they had a disability.

**Chart 6: Protective characteristics of adults presenting for drug treatment, 2021/22**



Source: Adults Alcohol Commissioning Support Pack, 2023/24, NDTMS, Office for Health Improvement & Disparities

Two-thirds of adults presenting to drug treatment were not parents and had no contact with children. In total 144 children were living with drug users at the start of their treatment during 2021/22, with just under 30% receiving early help or in contact with children's social care, such as child protection plan in place, child in need, looked after child or early help.

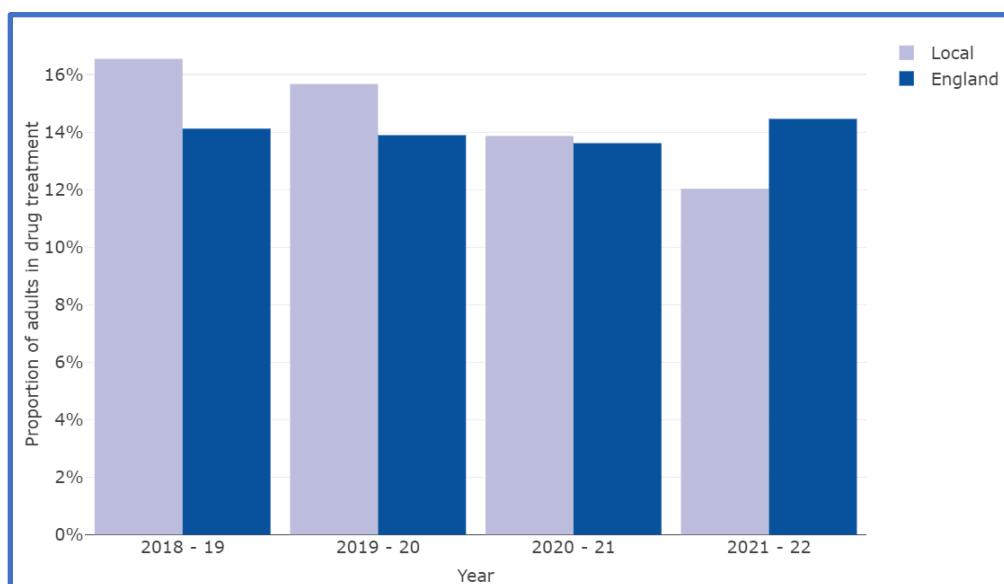
In total 335 adults who entered drug treatment in 2021/22 were identified as having a mental health treatment need, 68% of new presentations, with three-quarters receiving treatment, mainly through GP services.

## 2.7 Wider determinants

Six in ten adults who started drug treatment in 2021/22 were unemployed, higher than the national average of five in ten. A further quarter reported being in regular employment.

Peterborough had a higher proportion of adults reporting housing problems (17%) and urgent housing problems (15%), compared to England (13% housing problems, 7% urgent housing problems). Almost 80% of adults who successfully completed treatment reported no longer having a housing need on exit, compared to 83% England.

**Chart 7: Successful completions as a proportion of total number in treatment, 2021.22**



Source: Adult Drug Commissioning Support Pack: 2023-24: Key Data, Office for Health Improvement & Disparities

## 2.8 Blood-borne virus and overdose death prevention

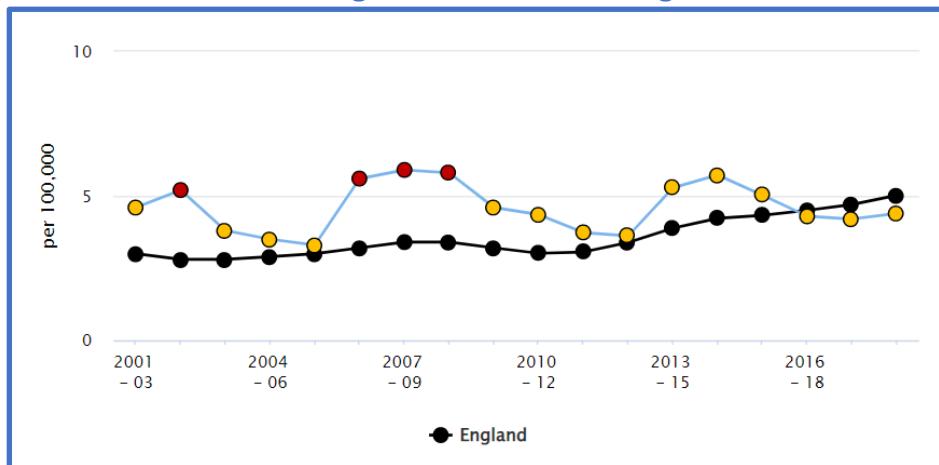
A quarter of adults in drug treatment and who were eligible for a hepatitis B (HBV) vaccination accepted one, similar to the national average. Almost half of those eligible for hepatitis C vaccinations accepted one, again similar to national average. In total a third of adults were issued naloxone in Peterborough in 2021/22, lower than the national average of 40%. Although the actual number is thought to be higher, and the data is being reviewed.

## 2.9 Mortality

Between 2018 and 2020 there were 25 deaths from drug misuse in Peterborough, with almost a third in females, which is higher than the national average of a quarter. Declines in

mortality rates seen in 2016/18 have stabilised against a rising national trend, with the latest rate in Peterborough being lower than the England rate.

**Chart 8: Deaths from drug misuse, Peterborough, 2018/20**



Source: Fingertips, Office for Health Improvement & Disparities

## 2.10 Crime

Between September 2021 and August 2022 there were 635 crimes classed as drug related in Peterborough. This includes offences relating to possession, supply, and production. Overall drug related crime rates have decreased in Peterborough, as is also the case for the East of England and England, however Peterborough remains higher.

**Chart 9: Drug crime rates, Peterborough , September 2021 to August 22**



Source: data.police.uk



Source: Cambridgeshire Insight

## 2.11 Homelessness

In 2021/22 there were 1,363 households assessed as owed a homelessness duty in Peterborough, with 5.1% reporting a drug dependency support need and 3.7% an alcohol dependency need.

**Table 1: Initial assessment of statutory homelessness duties owed, Peterborough, 2021/22**

Support needs of households owed a prevention or relief duty <sup>7</sup> :		
History of mental health problems	200	14.7%
Physical ill health and disability	139	10.2%
At risk of / has experienced domestic abuse	84	6.2%
Offending history	68	5.0%
History of repeat homelessness	71	5.2%
Drug dependency needs	70	5.1%
History of rough sleeping	89	6.5%
Alcohol dependency needs	51	3.7%
Learning disability	30	2.2%
Young person aged 18-25 years requiring support to manage independently	36	2.6%
Access to education, employment or training	10	0.7%
At risk of / has experienced abuse (non-domestic abuse)	20	1.5%
At risk of / has experienced sexual abuse / exploitation	18	1.3%
Old age	11	0.8%
Care leaver aged 21+ years	27	2.0%
Care leaver aged 18-20 years	40	2.9%
Young person aged 16-17 years	15	1.1%
Young parent requiring support to manage independently	23	1.7%
Former asylum seeker	11	0.8%
Served in HM Forces	6	0.4%

**Source:** Statutory homelessness, April 2021 to March 2022, Department for Levelling Up, Housing & Communities

## 2.12 Key area of concern

Nationally the focus is upon numbers in treatment, and this will be a key determinant of funding going forwards.

During 2021/22 the numbers not in treatment across all substances excepting alcohol increased above the national figure. However this number improved over the course of 2021/22 and into 2022/23.

**Table 2: Estimated proportion of opiates/crack, opiates, crack, and alcohol dependents that are not in the treatment system.**

Peterborough	Q1 1920	Q2 1920	Q3 1920	Q4 1920	Q1 2021	Q2 2021	Q3 2021	Q4 2021	Q1 2022	Q2 2022	Q3 2022	Q4 2022	Q1 2023	Q2 2023	Q3 2023	Q4 2023	National AVG
Opiates/Crack	52.5%	52.1%	50.9%	49.3%	50.4%	50.7%	50.9%	52.4%	52.5%	52.8%	56.5%	52.0%	52.2%				54.0%
Opiates	45.9%	45.3%	44.0%	42.2%	43.9%	44.0%	44.2%	45.9%	46.2%	46.2%	49.6%	45.8%	46.4%				47.5%
Crack	48.7%	47.9%	45.5%	43.1%	44.5%	45.4%	45.8%	46.7%	45.7%	46.4%	58.4%	46.4%	46.5%				57.7%
Alcohol	77.4%	76.7%	76.6%	76.6%	77.1%	77.7%	78.8%	79.5%	78.4%	78.8%	78.7%	76.1%	77.0%				80.5%

**National Drug Treatment Monitoring System (NDTMS)**

### 3. SERVICE DATA

The above data comes from a variety of sources, the following is specifically from the Integrated Drug and Alcohol Treatment Service commissioned for Peterborough. It is more recent than the data above and provides additional insights. (The regional data is from the different services)

#### 3.1 Numbers in treatment

Peterborough is bucking the national trend in respect of numbers in treatment. The baseline year was 21/22. Overall nationally the numbers in treatment have fallen by 1% since that year. Out of the 12 local authorities in the East of England, Peterborough is only one of 3 authorities who has increased the numbers in treatment in line with their targets set.

##### Completions

Completions refer to those service user who complete a course of treatment.

##### Young people

Planned exits is the key measure of success in terms of performance in respect of young person services. The CGL Peterborough service has performed well on this measure. Nationally performance is typically 81% - 83% each quarter. The latest performance in Peterborough is 95% and has consistently exceeded national averages over the last 15 months of performance as shown above.

**Table 4: Young Person planned exits in the KPI report compared with nationally.**

Peterborough		Quarter 1 (21/22)		Quarter 2 (21/22)		Quarter 3 (21/22)		Quarter 4 (21/22)		Quarter 1 (22/23)	
KPI		Actual	National average								
	Planned exits	100%	82%	96%	81%	92%	82%	94%	81%	95%	83%

##### Adults

Completion rates amongst adults varies according to substance. All are stable or comparable to the national figure except completion for alcohol treatment. However there is a need to improve the number of successful completions amongst adults and the Service is focused upon increasing them in the near future.

#### 3.3 Care for people leaving prison.

Another key measure is the percentage of people of adults receiving substance misuse treatment who successfully engage in community structured treatment following release from prison. As above Peterborough performance is well above national average most recent data showing 55.70% performance well above the national level of 37.40%

**Table 5: Care for people leaving prison.**

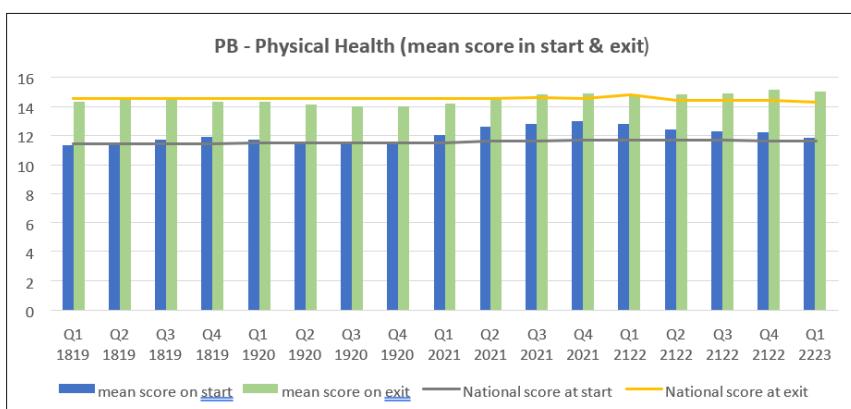
Substance	Q1 21/22	Q2 21/22	Q3 21/22	Q4 21/22	Q1 22/23
% of Adults with substance misuse treatment need who successfully engage in community-based structured treatment following release from prison.	62.20%	58.30%	60.00%	56.20%	55.70%
National average	38.10%	37.50%	37.40%	37.30%	37.40%

### 3.2 Physical and psychological health outcomes

The Service exceeds the national average for supporting those with physical and psychological health needs, with service users reporting a higher outcome score than national average on completion of treatment.

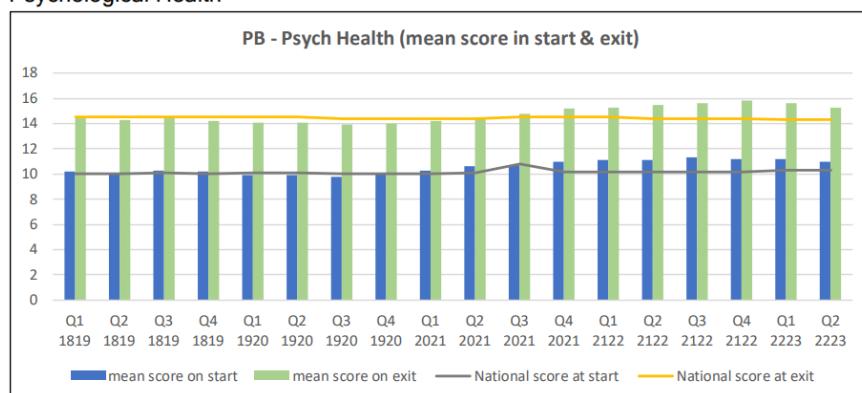
#### Chart 10: Physical health outcomes

##### Physical Health



#### Chart 11: Psychological health outcomes

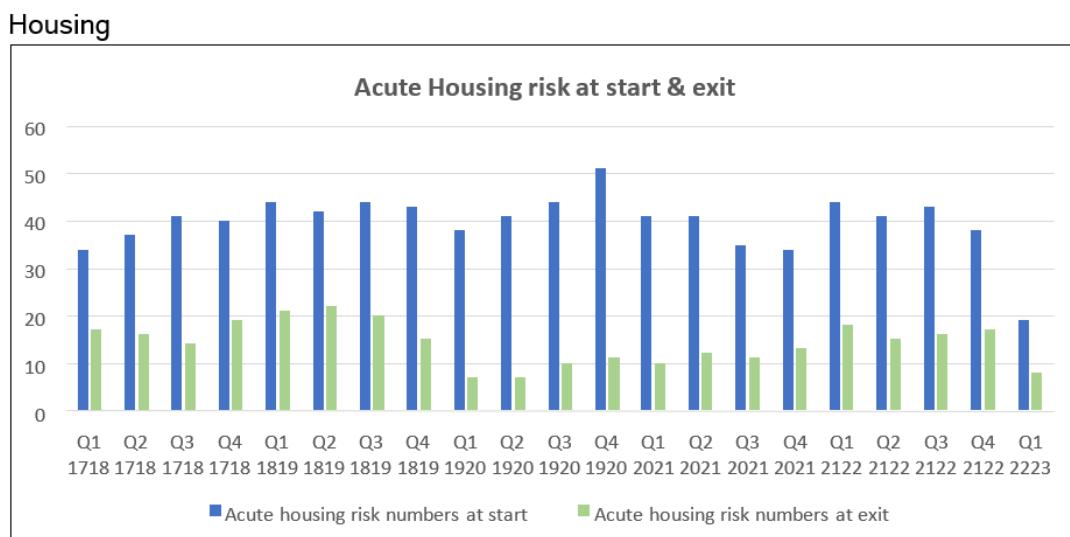
##### Psychological Health



### 3.4 Housing outcomes

The Service assists those with acute housing problems while in treatment alongside providing structured support in relation to substance misuse. The chart shows how service users report an improvement in this measure at treatment exit compared with treatment start.

**Chart 12: Housing outcomes**



### 3.5 Hepatitis C Testing

The Service is working on a plan to improve Hepatitis C (HEP C) treatment in Peterborough. This has involved increasing testing and access to the HEP C treatment pathway. Over this 12–15-month period performance has gone from behind so exceeding national levels of performance in terms of those offered and accepting HEP C testing. Aspire is now well on the way to micro elimination of HEP C and expects to reach this target by the summer of 2023.

<b>EXTRAORDINARY CABINET</b>	<b>AGENDA ITEM No. 5</b>
<b>23 March 2023</b>	<b>PUBLIC REPORT</b>

Report of:	Adrian Chapman, Executive Director: Place & Economy	
Cabinet Member(s) responsible:	Cllr Marco Cereste, Cabinet Member for Climate Change, Planning, Housing and Transport	
Contact Officer(s):	Lee Walsh, Development Management Team Leader	Tel. 07825 867209

## **ADOPTION OF THE PLANNING COMPLIANCE PLAN 2022**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Cllr Marco Cereste, Cabinet Member for Climate Change, Planning, Housing and Transport	<b>Deadline date:</b> N/A
It is recommended that:	
<ol style="list-style-type: none"> <li>1. Cabinet carefully review and consider the Planning Compliance Plan included at Appendix A</li> <li>2. Cabinet adopt the Planning Compliance Plan 2022 included at Appendix A.</li> </ol>	

### **1. ORIGIN OF REPORT**

1.1 This report is submitted to Cabinet as a result of the review of the Planning Service and is endorsed by the Growth, Resources and Communities.

### **2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to seek approval for adoption of the revised Planning Compliance Plan (2022). The revision is a result of the Planning Service review which found that the current Planning Compliance Plan adopted in 2013 (the 2013 plan) is not sufficiently up to date.

2.2 The Planning Compliance Plan 2022 underpins the policies of the Peterborough Local Plan by ensuring compliance with planning legislation and regulations. It sets out the procedures and tools available to the Council for enforcement action as well as setting out customer service standards.

2.3 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1, '*To take collective responsibility for the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services.*'

### **3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	<b>N/A</b>
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### **4. BACKGROUND AND KEY ISSUES**

- 4.1 Planning Compliance is not a statutory function as formal action is discretionary. However, the planning enforcement function underpins the planning function, because without it, there would be no incentive to follow adopted planning policy within the Peterborough Local Plan, thereby undermining Peterborough City Council's objectives for growth and sustainability.
- 4.2 The Planning Compliance Plan sets out the processes of the Council when dealing with breaches of the Town & Country Planning Act 1990 and subordinate legislation. The document also details the performance standards that the developers and residents of Peterborough City Council should expect.
- 4.3 The revised Plan is more concise at 11 pages long, with the Council's performance indicators set out clearly on paragraph 4.4. This is considered an improvement on the current plan which runs to 37 pages, much of which provides details about planning legislation that are unnecessary and where the key indicators within the text are unclear.
- 4.4 The Plan removes the requirement of the 2013 Plan to update informants of the progress of each case at every stage of the investigation. It is not possible to meet this commitment with the number of staff currently employed to undertake the planning compliance function, which has 2.6 officers dealing with an annual case load of exceeding 350 cases. The revised plan will place the onus of the informant to contact the compliance officer to ascertain the progress being made on their concerns. Informants are provided with the contact details of the compliance officer in the acknowledgement letter. We will continue to advise the informant of key milestones such as the service of a formal Notice.
- 4.5 The Revised Plan places more onus on those reporting issues to supply sufficient information up-front with their enquiry to allow the alleged breach to be initially assessed through a triage process and desk-top analysis. The reason is two-fold:
- a) concerns can be dealt with quickly where there is no planning breach e.g. re-direction to other Council departments, external organisations or signposting to other legislation; and
  - b) compliance resources can be focused on actual breaches of planning control that cause the most harm or have irreversible consequences.
- 4.6 For actual breaches of planning control, the Plan identifies three levels of priority, with each attracting a different level of customer service. The targets are from the date the alleged breach of planning control was brought to our attention:
- Priority 1 cases will be visited within two working days and a decision on the likely cause for action made within five working days of the visit.
  - Priority 2 cases will be visited in 5 working days with a decision on the likely course of action made within a month of the visit.
  - Priority 3 cases will be visited in 10 working days, with a decision on the likely course of action made within three months of the visit.
- 4.7 Whilst the low priority cases have deadlines of three months for a decision, these will tend to be minor breaches of planning control where little harm is caused and a retrospective planning application will be invited that, if it were to be approved and planning permission granted would be acceptable with few, if any, conditions.

## **CORPORATE PRIORITIES**

- 4.8 *Our Places & Communities*  
The effective deployment of resources is key to delivering the aims of the planning enforcement function, which is to protect the environment from development, uses and building operations, that are harmful. This ensures the built and natural environment is preserved for the enjoyment of residents and visitors alike, providing good quality spaces.

4.9 *The Economic & Inclusive Growth*  
The effective and efficient use of land as outlined in the adopted policies of the Peterborough Local Plan an essential tool to maximising economic growth and prosperity. The Planning Compliance plan will ensure resources are focused in these key areas to ensure the vision of the existing or revised Local Plan is not undermined.

4.10 *Environment*  
The Council's Local Plan is underpinned by the need for sustainable development. The enforcement plan will support the Local Plan by ensuring compliance with the Local Plan. The changes to this policy are broadly in line with existing practice but it is anticipated that there will be a slight reduction in overall emissions due to the decision to prioritise sites visited therefore decreasing staff mileage.

## **5. CONSULTATION**

5.1 Consultation was not required as part of the review of the Planning Enforcement Plan.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

6.1 Quicker response times to local residents for minor matters that are either not breaches of planning control or benefit from permitted development rights.

6.2 Less time spent by Technical Support staff making-up enforcement case files unnecessarily, given them time to focus on other areas, such as validating planning applications and supporting the Building Control function.

6.3 Compliance Officers will have more time to spend on cases that are more serious and achieve better outcomes in a more expedient way.

## **7. REASON FOR THE RECOMMENDATION**

7.1 The current Compliance Policy was adopted in 2013 and, whilst the planning legislation is still relevant, the policy has been made more concise. It requires updating to reflect more effective working practices and new service timescales according to the priority of the case.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 The alternative would be to retain the 2013 Plan. However, this has led to time being wasted on the investigation of alleged breaches of planning control that could have been dealt with more quickly had the informant provided additional information at the start of the process. This has resulted in additional staff costs and in less time being focused on breaches of planning control that are more harmful or irreversible.

## **9. IMPLICATIONS**

### **Financial Implications**

9.1 There are no financial implication as a result of adopting the Local Planning Compliance Plan (2022).

### **Legal Implications**

9.2 There are no legal implications as a result of adopting the Local Planning Compliance Plan (2022).

### **Equalities Implications**

9.3 There are no equalities implication as a result of adopting the Local Planning Compliance Plan

(2022).

### **Rural Implications**

- 9.4 There are no rural implications as a result of adopting the Local Planning Compliance Plan (2022).

### **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Planning Compliance Local Plan Revised 2013

### **11. APPENDICES**

- 11.1 Appendix 1 - Planning Compliance Plan (2022).

PETERBOROUGH



# **Peterborough City Council Planning Compliance Plan - August 2022**

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# 1 Introduction

- 1.1 The Peterborough City Council Planning Compliance Plan provides an outline of the planning enforcement process and the service that you can expect to receive.
- 1.2 This plan has been written in accordance with the Government guidance contained in the National Planning Policy Framework (NPPF), which states

*"Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where"*

- 1.3 The Plan will provide information on the following:
  - Enforcement priorities
  - Defining a breach of planning control
  - Investigating an alleged breach
  - Determining appropriate action
  - Discretionary enforcement powers
  - Monitoring our own performance
  - Reporting a suspected breach
  - Customer complaints procedure
- 1.4 We aim to provide timely and effective procedures for investigating suspected breaches of planning control, as we believe this is essential in maintaining public confidence in the town and country planning system.

# 2 Enforcement Priorities

- 2.1 The aim of our Planning Compliance Plan is to **deal with suspected breaches of planning control in an effective, proportionate, consistent and helpful manner**.
- 2.2 Our key objectives are to:
  - provide an accessible service that maintains public confidence in the planning system
  - provide a response that is prioritised according to the harm (or potential harm) caused by the breach
  - achieve a balance between protecting amenity and other interests and allowing acceptable development to remain (or continue) in the absence of permission
  - monitor performance in delivering the service

## 3 Defining a breach of planning control

### What do we mean by a breach of planning control?

- 3.1 Section 171A of Part VII of the Town and Country Planning Act 1990 defines a breach of planning control as:

*"the carrying out of development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted"*

### What do we mean by 'development'?

- 3.2 Development is defined by section 55 of the Act as:

*"the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of any material change to the use of any buildings or other land"*

## Planning Enforcement in Peterborough

- 3.3 The most common breaches of planning control in Peterborough are:
- development without (or not in compliance with) planning permission
  - failure to comply with a condition attached to planning permission
  - unauthorised change of use of family homes to Houses in Multiple Occupation
  - unauthorised change of use of land and buildings
- 3.4 The Planning Compliance Team in Peterborough is also responsible for control of the following matters, which also fall within the term “planning control”:
- works carried out to listed buildings
  - the demolition of buildings in conservation areas
  - works to protected trees (the subject of Tree Preservation Orders) and trees in conservation areas
  - display of outdoor advertisements which require consent under the Town and Country Planning (Control of Advertisements) Regulations 2007
  - the removal of hedges in the open countryside
- 3.5 There are time limits within which we can take planning enforcement action against breaches of planning control:
- For building, engineering, mining or other operations in/on/over/under land without planning permission, the development becomes immune from enforcement action **four years** after the works are substantially completed.
  - For the change of use of a building (or part of a building) to use as a single dwelling house, the development becomes immune from enforcement action **four years** after the date the change of use first occurred.
  - For all other changes of use and breaches of conditions, the development becomes immune from enforcement **10 years** after the date the breach of planning control first commenced.
- 3.6 Planning compliance cannot control all aspects of the building process and there are several common issues we are unable to deal with. These include:
- boundary/ownership disputes
  - Party Wall Act issues
  - covenant issues
- 3.7 These are private issues which a solicitor or the Citizens Advice Bureau may be able to help you with.
- ## 4 Investigating an alleged breach
- 4.1 The Council has an Online report form (see link below) for reporting alleged breaches of planning control which helps us capture the information that helps decide on the most appropriate response and this should be used in the majority of cases.
- <https://www.peterborough.gov.uk/council/planning-and-development/planning-and-building/report-a-planning-or-building-regulations-issue>
- 4.2 Typically, we will require photographs of the alleged built development taking place, and/or completed logs sheets, with time, dates and the duration of what is witnessed, where the allegation relates to a material change of use before we will create an enforcement case.
- 4.3 When a suspected breach of planning control comes to our attention, each case is assigned a priority level according to its potential to cause harm. The priority level dictates the timeframe for:
- a site visit/initial investigation to be carried out
  - investigating the case to the extent that we can make a decision on the likely course of action moving forwards
- 4.4 When a person provides information to us relating to a breach of planning control, they will receive an acknowledgement within three working days.

Priority Level	Alleged Breach	Site visit	Investigating the Case
1	<p>Breaches that cause harm over a wide area, impact on a number of people, or cause irreversible harm to historic buildings, areas or trees.</p> <p><b>For example:</b></p> <ul style="list-style-type: none"> <li>• a breach that causes (or has the potential to cause) an immediate danger to public health and/or public safety</li> <li>• a breach that causes immediate, serious and potentially irreversible harm to the environment</li> <li>• unauthorised alteration or demolition to a listed building or a building in a conservation area</li> <li>• unauthorised works to protected trees or trees in a conservation area, or removal of a rural hedgerow</li> </ul>		<b>2 working days</b> <b>10 working days</b>
2	<p>Breaches that have a wide impact on the surrounding area and residents but do not require immediate action.</p> <p><b>For example:</b></p> <ul style="list-style-type: none"> <li>• a breach that causes harm through loss of amenity to residents within the locality of the breach</li> <li>• unauthorised work which has already been completed to a listed building or a building in a conservation area</li> <li>• a building that is erected either a) without planning permission or b) that fails to comply with the terms of a planning permission</li> <li>• unauthorised advertisements displayed in a conservation area or in the open countryside</li> <li>• a development in breach of an Article 4 direction (<i>see paragraph 6.18</i>)</li> </ul>		<b>5 working days</b> <b>1 month</b>
3	<p>All other breaches.</p> <p><b>For example:</b></p> <ul style="list-style-type: none"> <li>• extensions, outbuildings, fences, etc. erected without planning permission</li> <li>• unauthorised advertisements displayed with limited adverse visual impact</li> <li>• any other breach not falling within priority levels 1 and 2 (e.g. untidy land, change of use on a small scale)</li> </ul>	<b>10 working days</b>	<b>3 months</b>

4.5 The acknowledgement will include a short description of the suspected breach based on the information provided. We will advise the enquirer of the officers' name and contact details, who will carry out the investigation and the priority level that it has been assigned.

4.6 We will be unable to keep you informed of every single step in the process and would ask you to contact the case officer for an up-date on the progress of any investigation.

4.7 Our first step in an investigation is to research the planning history (if any) relating to the land or building.

4.8 A Compliance Officer will then visit the site, normally unannounced, to establish the facts and to decide whether there has been a breach of planning control. This usually includes a discussion with the person(s) involved in the suspected breach and may also include a discussion with the enquirer.

- 4.9 The Compliance Officer may serve a Planning Contravention Notice (*see paragraph 6.3*) on the owner, occupier or anyone else with an interest in the land if accurate information is required about the breach that they have been unable to obtain by other means. They may also decide to consult others (including legal, environmental health and housing staff) before decisions are made about the breach and the remedial action(s) that may be appropriate.
- 4.10 The Compliance Officer may sometimes require the enquirer to provide additional information to assist with their investigation. Should this be the case, they will contact them outlining what information would be of use. A timeframe (usually a period of 28 days) will be given for your response.
- 4.11 The matter under investigation might involve the enforcement responsibilities of more than one function of the Council, in which case every effort will be made to ensure that joint visits are made. Our commitment is to work with others to identify the most appropriate and effective statutory power or powers.
- 4.12 We aim to resolve breaches as quickly as the law will allow and, when appropriate, we notify enquirers of the progress with our investigations.

## 5 Determining appropriate action

- 5.1 Once it has been established that a breach has taken place and harm is being caused, action may then be taken.
- 5.2 Government guidance states that local councils must act 'proportionately' in responding to suspected breaches of planning control. Our response will always reflect:
- the seriousness of the breach
  - the risks involved
  - the costs involved
  - the benefits involved

- 5.3 We will consider the provisions of the development plan, policy and guidance issued by central government and any other material considerations.
- 5.4 We will also consider the implications of the Human Rights Act 1998, specifically the impact of the proposed action (or inaction) on the human rights of all relevant parties. We will act in a way that is proportionate to the seriousness of the alleged breach and its impact on the person(s) affected.
- 5.5 In deciding the most appropriate course of action, we must consider the effects of the breach and what harm is caused to the amenity of the area. This includes forming a view as to whether planning permission would be granted (if applied for) and considering the evidence and any claims of immunity.

### Assessing Harm

- 5.6 In assessing the effects of a breach and the harm caused, Enforcement Officers will first consider what harm is being caused, which may include whether the breach is causing harm by way of adverse impact on:
- the character and appearance of a conservation area or listed building
  - the character of the area or existing property
  - the residential amenity of neighbouring properties
  - potential impact on protected species or habitat
  - trees in a conservation area or protected by a Tree Preservation Order
- 5.7 Also, whether the breach is:
- contrary to local planning policies
  - causing a statutory nuisance or a safety issue
- 5.8 Officers would then look at the scale and impact of that harm, which may include:
- whether the harm caused by the breach is widespread or local

- whether the harm by the breach is irreversible
  - the significance and scale of the harm
  - the urgency to address the breach (i.e. whether the breach is within 6 months of statutory immunity)
  - whether the breach is stable or worsening
  - whether a planning application for the development would be viewed favourably
- 5.9 The main issue should be whether, if left unaddressed, the breach of planning control would unacceptably affect amenity or the existing use of land and buildings to the extent that it merits protection in the public interest.
- 5.10 It is important to note that not all breaches of planning control will result in formal action. We will only take formal action when we can demonstrate that the breach causes serious harm to amenity and it is expedient to do so.
- 5.11 Because our enforcement powers are discretionary, the emphasis will be on attempting to negotiate a resolution in the first instance.
- ### No further action
- 5.12 Following our initial investigation, we may decide that there has been no breach of planning control. In such cases we cannot take any further action.
- 5.13 Even if there is a breach of planning control, we may decide not to pursue an enforcement investigation if it is not expedient to take action. This might be because the harm it causes is not significant, and in our opinion formal action would not be in the public interest.
- 5.14 In reaching a decision we must always balance the harm being caused against the likely success of any formal action and the availability of resources.

## Retrospective applications

- 5.15 Rather than immediately resorting to formal powers, we will try to negotiate wherever possible. A retrospective planning application is often the most appropriate solution, as it allows us to consider the merits a development and its impact on interested parties. If the development can be made acceptable by imposing conditions, we will do that rather than refuse permission.
- 5.16 The time taken to submit a retrospective application will depend on the complexity of the issues that need to be addressed through professional reports and plans. We will agree deadlines for submission of retrospective applications with the person responsible for the breach and if these are missed without good reason, we will consider whether formal enforcement action would be expedient. We aim to deal with retrospective applications within 8 weeks of receiving them.

## Formal action

- 5.17 If we refuse a retrospective application, we will usually attempt to remedy the breach through negotiation. However, where negotiations have been tried and failed or negotiation is not an option, formal action will be the most likely outcome.
- 5.18 We will only proceed to formal action when there is clear evidence of harm and serious conflict with planning policy or other controls which cannot be overcome by the imposition of conditions.

## The right of appeal

- 5.19 An appeal can be made to the Secretary of State against the serving of an enforcement notice and a listed building enforcement notice. An appeal must be lodged before the date on which the notice is to take effect. The appeal has the effect of suspending the notice until the appeal is determined.

5.20 An appeal against a Section 215 notice can be made to the Magistrates Court but must be done before the notice takes effect.

5.21 There is no right to appeal a decision (by us) to take no further action.

## 6 Discretionary Powers

6.1 Planning legislation provides a number of discretionary powers for enforcing compliance with planning controls. Although we will almost always try to negotiate or invite a planning application in the first instance, if a solution cannot be reached action may be taken.

### The power to gather information

6.2 Our Enforcement Officers have the **power to access land** to obtain information they need (they must give at least 24 hours' notice to enter a house). If a resident refuses to let an Enforcement Officer in, a warrant of entry can be obtained.

6.3 A **Planning Contravention Notice** (PCN) can be issued if there is a suspected breach of planning control. It describes the breach and requires information about it to be provided, including the person(s) involved and their interest in the land. It will set out a time for compliance with the notice.

6.4 A **Section 330 Notice** (under section 330 of the Town and Country Planning Act 1990) can be served if Reporting a suspected breach but do not know who owns the land.

### The power to enforce

6.5 A **Temporary Stop Notice** can be issued where we consider that a breach of planning control has occurred and deem it necessary to stop the breach immediately. This notice expires 28 days (or any shorter period set out) after it has been displayed on the land. During this period, we must decide whether to take enforcement action. There are some restrictions on a Temporary Stop Notice, such as that it cannot prohibit the use of a building as a dwelling house.

6.6 A **Breach of Condition Notice** can be issued to ensure full compliance with a condition imposed on a planning permission. The notice sets out the steps to be taken and provides a timeframe (of at least 28 days) for compliance.

6.7 A **Planning Enforcement Notice** can be served to remedy an actual (but not an anticipated) breach of planning control. It can require an unauthorised use of land to stop, or for unauthorised building or engineering works to be removed. It will set out the reasons for issue and will state a compliance period. The compliance period starts on the day that the notice takes effect and must be a period of at least 28 days.

6.8 A **Listed Building Enforcement Notice** may be issued where works affecting the character of a listed building are carried out in the absence of listed building consent. The notice can specify steps to be taken to restore the building to its former state, to alleviate the effect of the unauthorised work, or to bring the building to the state that it would have been in had any listed building consent been fully complied with.

6.9 A **Conservation Area Enforcement Notice** may be issued where unauthorised work or demolition to a building has taken place in a conservation area in the absence of appropriate consent. The notice can specify steps to be taken to restore the building to its former state, to alleviate the effect of the unauthorised work, or to bring the building to the state that it would have been in had any conservation area consent been fully complied with.

6.10 A **Stop Notice** requires any activity within the scope of a breach alleged in an Enforcement Notice to be immediately minimised, reduced or ceased. The notice must be served in conjunction with a full Enforcement Notice, but can be served before an Enforcement Notice has taken effect and regardless of whether an appeal has been lodged.

6.11 A **Section 215 Notice (Amenity Notice/Untidy Land)** can be served if we consider that the condition of land or buildings is causing harm to the amenity of an area. The notice will specify steps that must be taken to remedy the condition of the land. The notice will state a compliance period but cannot take effect until 28 days after its issue.

6.12 A **Community Protection Notice** (under anti-social behaviour legislation) allows us to take action against behaviour which has the potential to cause distress. This notice can prohibit people from undertaking certain operations or force land to remain in a certain condition.

6.13 **Prosecution** can be brought in cases where any of the following offences have been committed:

- the conditions of a formal notice have not been complied with to our satisfaction or within the specified timescales
- works are carried out to a listed building in the absence of necessary listed building consent
- demolition of a building in a conservation area takes place in the absence of conservation area consent
- works are carried out to a tree which is the subject of a tree preservation order without the necessary consent
- an advertisement is displayed in the absence of the express consent required
- the removal of a countryside hedgerow without consent

6.14 We will only instigate proceedings if there is a realistic prospect of conviction and it is in the public interest to do so.

6.15 A person convicted could be subject to a fine and may receive a criminal record. If the breach is not remedied following conviction, we have recourse to further prosecutions which could result in more substantial fines and/or imprisonment.

6.16 Where prosecution does not remedy a breach or the harm caused by it, we have the power to take **Direct Action (Default Powers)**. This enables us to enter land and carry out works contained within a formal notice. We will then charge the offender for these works.

6.17 An **Enforcement Injunction** can be sought where we consider it necessary or expedient for any actual or anticipated breach of planning control to be restrained. If the terms of an injunction are breached the relevant party or parties are in contempt of court and an application can be made by the Council for their committal to prison.

6.18 Where it appears that the offender has benefited from their criminal conduct, we will consider issuing proceedings for confiscation under the **Proceeds of Crime Act 2002**.

### **Other powers**

6.19 An **Article 4 Direction** (under the Town and Country Planning Act (General Permitted Development) Order 2015) may be used to remove 'permitted development' rights, including:

- the right to erect fences and other means of enclosure
- temporary uses of land (e.g. temporary buildings, moveable structures, plant or machinery required in connection with operations being carried out on the land)

## 7 Monitoring our own performance

- 7.1 To enable the performance of the enforcement team to be monitored (and to provide some consideration of the likely timescales for dealing with enquiries) we strive to achieve the standards in the table below.

Task	Target
Formally acknowledge all enquiries.	3 working days
Visit a Priority Level 1 Case.	2 working days
Action* a Priority Level 1 Case.	10 working days
Visit a Priority Level 2 Case.	5 working days
Action* a Priority Level 2 Case.	1 month
Visit a Priority Level 3 Case.	10 working days
Action* a Priority Level 3 Case.	3 months
Respond to communications that are received from interested parties.	10 working days
Advise the enquirer of the outcome either in writing, email or via telephone at the conclusion of the investigation.	3 working days

*\*Action is defined as the officer having investigated the case to the extent that we can make a decision on the likely course of action going forwards.*

- 7.2 We are committed to acting in a fair and reasonable manner and these standards, taken in conjunction with the priorities listed previously in this document, are intended to ensure that we have an open and consistent approach to enforcement action.

## 8 Reporting a suspected breach

- 8.1 We rely greatly on the town and parish councils and the public to report suspected breaches of planning control.
- 8.2 If you think that a breach of planning control has taken place, you can inform us at:

<https://forms.office.com/r/stuadbt62x>

- 8.3 **Please note we do not accept anonymous enquiries**, but all reports will be dealt with in accordance with the Peterborough City Council Planning Privacy Notice:

<https://www.peterborough.gov.uk/council/council-data/corporate-privacy-notice>

## 9 Customer complaints procedure

- 9.1 If you feel that we have not dealt with your enquiry in a manner consistent with the standards contained within this plan, then you are able to make a formal complaint.
- 9.2 In order to register a formal complaint, please visit:

[Make a complaint - Peterborough City Council](#)

## 10 Further information and guidance

- 10.1 Further information and guidance on the planning enforcement process is available online, at:
- <https://www.gov.uk/guidance/ensuring-effective-enforcement>

## **Appendix 1: Minerals and Waste Monitoring**

Section 19 of The Waste (England and Wales) Regulations 2011 makes it a duty that where a planning authority has planning functions in relation to establishments or undertakings carrying out disposal or recovery of waste, the planning authority must ensure that appropriate periodic inspections of those establishments or undertakings are made. Provision is also made in legislation to allow the Council as a Minerals & Waste Planning Authority to charge for monitoring visits to mining sites and landfill sites under The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012.

Therefore, the Council will seek to prioritise the monitoring and enforcement of sites that are monitored under The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 and under The Waste (England and Wales) Regulations 2011. Before each monitoring year the Council will assess the frequency that sites should be monitored, based upon the following criteria:

- i. the size of the site
- ii. the number and the complexity of conditions
- iii. the number of issues requiring monitoring
- iv. the stage of development at the site
- v. whether the operator has ISO 14001 or EMAS accreditation
- vi. the progressive nature of working/restoration
- vii. the number of breaches of planning control observed
- viii. the number of complaints received for a site, which have proven to be justified

In practice using these criteria active minerals and landfill sites would be likely to be subject of between 2 to 4 visits per year, and sites for the recovery, transfer and recycling of waste are likely to be the subject of 1 to 2 visits per year.

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<b>EXTRAORDINARY CABINET</b>	<b>AGENDA ITEM No. 6</b>
<b>23 MARCH 2023</b>	

Report of:	Rob Hill – Acting Service Director Communities	
Cabinet Member(s) responsible:	Cllr Steve Allen – Deputy Leader, Cabinet member for Communications, Culture and Communities	
Contact Officer(s):	Rob Hill – Acting Service Director Communities	Contact Officer(s):

## **SUBSIDIARY PROPOSAL: LEISURE SERVICES**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Acting Service Director Communities	<b>Deadline date:</b> March 2023
It is recommended that Cabinet:	
<p>1. Subject to the undertaking of due diligence on and receipt by the Council of satisfactory legal, financial, procurement and taxation advice in connection with the proposed delivery structure, approves that Peterborough Limited establishes a not-for-profit company limited by guarantee as a wholly owned subsidiary to deliver the Council's leisure services on an interim basis until 31 March 2024.</p> <p>2. Approves the amendment of Peterborough Limited's Articles of Association, accounting and reporting practises as may be necessary to affect the decision in recommendation 1, and the adoption of a further Peterborough Limited reserved matter, namely that Cabinet must approve the alteration of any matter reserved to Peterborough Limited in relation to any subsidiary.</p> <p>3. Following receipt and approval by the Executive Director of Corporate Services of the satisfactory legal, financial, procurement and taxation advice referred to in Recommendation 1 approves the delegation of authority to the Executive Director of Corporate Services, in consultation with the Director of Governance, the Executive Director for Place and Economy, and the Cabinet Member for Communication, Culture and Communities, to take all necessary steps to protect the interests of the Council and effect the decision in Recommendations 1 and 2, including negotiating and entering into agreements.</p>	

### **1. ORIGIN OF REPORT**

- 1.1 This report is presented to Cabinet following a review of possible operating options by Peterborough Limited relating to its delivery of leisure services on behalf of the Council. Peterborough Limited's report is set out in Appendix 1.

### **2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is to present recommendations to Cabinet following Peterborough Limited's review of options relating to the company structure operated by Peterborough Limited for the delivery of leisure services, to ensure that the delivery of the leisure services achieves best value for money.
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.17, '*Cabinet will be responsible for the following functions in relation to the Council's companies, partnership and charities: (a) The establishment of any new company, partnership or charity'*

2.3 There is an exempt appendix (Appendix 1) attached to this report that is NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 because it contains commercial information relating to the business affairs of Peterborough Limited. The public interest test has been applied to the information contained within these exempt appendices and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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### 4. BACKGROUND AND KEY ISSUES

4.1 Peterborough Limited (P-Ltd) is wholly owned by Peterborough City Council and was formed as a Teckal compliant Local Authority Trading Company (LATCo) in 2019. This means that the company is autonomous from the Council but is subject to certain restrictions. Certain decisions are also reserved to the Council.

4.2 On 1 October 2020 leisure services operated by Vivacity Leisure Trust were transferred into P-Ltd as part of a holding arrangement following the early termination of the contract between the Council and Vivacity Leisure Trust. These services have continued to be operated by P-Ltd under the Vivacity brand and comprise the following:

- Reginal Pool and Fitness Centre
- Lido
- Vivacity Premier Fitness (VPF)
- Hampton Leisure Centre
- Bushfield Leisure Centre
- Werrington Leisure Centre
- Jack Hunt Pool
- Swim Academy/School
- Health and Wellbeing Services
- Disability/Inclusive Sport and Leisure

4.3 The Council and P-Ltd have entered into an agreement for P-Ltd to deliver leisure services until 31 March 2024 (subject to 6 months termination at any time). This interim arrangement allows leisure services to operate whilst the Council undertakes a formal review of services which seeks to identify a long-term operator.

4.4 P-Ltd currently requires a financial subsidy [from the Council] to deliver leisure services on behalf of the Council. As part of the Council's work to achieve a balanced budget, it is necessary to secure a delivery model which removes the need for a Council subsidy, and which instead delivers leisure services in their entirety at no cost to the Council.

4.5 P-Ltd.'s company structure means that leisure services are delivered by P-Ltd under a 'limited by shares' company model which does not have the benefits of VAT exemption and National Non-Domestic Rates (NNDR) relief. National research suggests that other leisure operators are able to achieve these benefits through alternative company structures.

P-Ltd has therefore considered alternative arrangements which more closely align to those used more widely across the market, with five options being considered:

- Option 1 - business as usual
- Option 2 - not for profit company limited by guarantee
- Option 3 – registered charitable company limited by guarantee
- Option 4 - charitable incorporated organisation

- Option 5 - community benefit society

An analysis of possible company structure options is set out in exempt Appendix 1.

- 4.6 P-Ltd recommends the option of a Not for Profit Company limited by Guarantee (CLG), but before any alternative company structure is established, the Council must conduct its own diligence on the options and their respective risks and benefits to the Council and confirm the suitability or otherwise of P-Ltd's proposal through the receipt of satisfactory legal, financial, procurement and taxation advice as noted in Recommendation 1.
- 4.7 As noted in Recommendation 1, the leisure services will be delivered by P-Ltd as an interim arrangement until March 2024. Separately, the long-term options for the delivery of leisure services are being considered as part of a transformation project.

## **5. CORPORATE PRIORITIES**

- 5.1 The provision of leisure services in Peterborough directly contributes to the Council's 'Our Places and Communities' priority, particularly as they relate to improving health and wellbeing, providing local jobs, and the provision of community spaces.

Leisure services also contribute towards the 'Prevention, Independence and Resilience' priority, including current delivery which supports foster families, activities for children, and provision of inclusive activities and short breaks.

In addition, as this review focuses on achieving best value for money it also contributes to achieving a 'Sustainable Future City Council,' by moving towards a cost neutral model of leisure services delivery.

The proposal will not have any impact on carbon emissions / environmental impact.

## **6. CONSULTATION**

- 6.1 This recommendation has been considered by the Corporate Leader Team (CLT) and Cabinet Policy Forum (CPF).

## **7. ANTICIPATED OUTCOMES OR IMPACT**

- 7.1 If the recommendation is approved, then it is anticipated that leisure services will achieve revenue savings / reduce service costs.

## **8. REASON FOR THE RECOMMENDATION**

- 8.1 As set out above and in Appendix A, a not-for-profit company limited by guarantee is P-Ltd's preferred option in principle, but this is subject to further due diligence on the part of the Council and receipt of advice in accordance with Recommendation 1.

The Council will then be able to assess which option will enable P-Ltd to continue to deliver leisure services on behalf of the Council in the most cost-effective way

This report does not impact on the separate work which is being carried out to explore long-term delivery options for the leisure services.

## **9. ALTERNATIVE OPTIONS CONSIDERED**

- 9.1 Alternative options set out within Appendix 1 - Exempted Section Not for Publication Business Case

## **10. IMPLICATIONS**

## **Financial Implications**

10.1 The financial implications for Peterborough City Council approving Peterborough Ltd setting up a Not-for-Profit Company Limited by Guarantee are as follows:

- Set up and administration costs will be incurred by Peterborough Ltd, which forms part of Peterborough City Council's consolidated group accounts. There is no direct budgetary impact on Peterborough City Council service budgets.
- As Peterborough Limited and the proposed subsidiary are proposed to operate within the same VAT group, an indemnity may be required to indemnify the subsidiary company from any VAT liabilities of Peterborough Ltd.
- There will be a cost to the Council in connection with obtaining legal, financial, procurement and taxation advice in accordance with Recommendation 1.

The financial implications of P-Ltd subcontracting the operation of Leisure Services to the proposed subsidiary are as follows:

- The business case presented by Peterborough Ltd. sets out plans to account for VAT on qualifying transactions as an exempt supply, and to apply for charitable relief on NNDR liabilities. If achieved, these benefits would allow the net operating costs of leisure services to reduce towards a cost neutral position, consistent with the savings plans in the budget and Medium-Term Financial Plan. These benefits cannot be achieved if the services continue to be operated in the current structure.
- Assurance over the VAT and taxation arrangements and achievement of the proposed savings is subject to further due diligence in accordance with recommendation 1.

## **Legal Implications**

10.2 When P-Ltd was established, the Council approved its Business Plan, which anticipated that in addition to the environmental services which it would initially deliver to the Council, there was scope that these could be expanded into other areas. The Business Plan is included at Appendix 2 - Exempted Section Not for Publication.

P-Ltd was set up as a wholly owned subsidiary of the Council, certain decisions were reserved to the Council as shareholder, to be determined by Cabinet or Cabinet Shareholder Committee as considered appropriate. The list of reserved matters was agreed by Cabinet on 21 September 2020: Cabinet Report Peterborough Limited Articles of Association [and reserved matters] - SEPT20/CAB/30 and include decisions relating to the setting up of any subsidiary, the amendment of Peterborough Limited's Articles of Association, and changes to accounting and reporting practises

Cabinet approval is therefore required in respect of the reserved matters which are referred to in Recommendations 1 and 2 above. In addition, Shareholder Cabinet Committee approval will be required to permit P-Ltd to enter into a contract with its subsidiary by which it will sub-contract the delivery of the Leisure Services, if that contract exceeds £25,000 ("a Material Contract") because this is not already provided for in the Business Plan.

Peterborough Limited is a "Teckal" compliant company (advice is detailed in KEY/11JUN18/04 – Link found in background documents) and thus is exempt from the requirement to compete with other companies under the Public Contracts Regulations 2015 ("PCR") for works, goods and services contracts awarded by the Council. As the PCR apply to contracting authorities and bodies governed by public law and it seems likely that the subsidiary will fall into the latter category, it will also be subject to the PCR.

Therefore, in order for Peterborough Limited to award a direct contract to its subsidiary, under the PCR it may only do so if it has "power of decisive influence over both strategic objectives and significant decisions of the body awarded the contract." The Council has established such "decisive influence" over Peterborough Limited by use of the reserved matters set out above. Before any sub-contracting arrangement between Peterborough Limited and its subsidiary is agreed by the Council, it is advisable for the Council to require such reserved matters to be mirrored as between

Peterborough Limited and its subsidiary and approve the further reserved matter as between itself and Peterborough Limited included in Recommendation 2 above.

The exercise of the delegation in Recommendation 3 will be subject to further governance report(s) in accordance with the Council's Constitution.

### **Equalities Implications**

- 10.3 There are no negative equalities implications.

## **11. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 11.1 Cabinet Meeting, 11th June 2018. Item 6

<https://democracy.peterborough.gov.uk/ieListDocuments.aspx?CId=116&MId=4142>

Cabinet Meeting, 17<sup>th</sup> December 2018. Item 4.

<https://democracy.peterborough.gov.uk/ieListDocuments.aspx?CId=116&MId=4214>

Shareholder Committee Meeting, 2<sup>nd</sup> March 2020. Item 5.

<https://democracy.peterborough.gov.uk/ieListDocuments.aspx?CId=721&MId=4346&Ver=4>

## **12. APPENDICES**

- 12.1 Appendix 1 - Exempted Section Not for Publication Business Case

Appendix 2 – Business Plan of Peterborough Limited

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of the Local Government Act 1972.

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# **PETERBOROUGH LIMITED**

**(trading as Aragon Direct Services)**

## **List of Reserved Matters**

## **to the Shareholder**

**Approved 02-03-2020 by PCC Shareholder Committee**

#	Reserved Matter (to the Shareholder)	Approval and amendment date	Approved by
1.	Admit any person as a new Shareholder of Peterborough Limited	18/12/2017	PPC Cabinet
2.	Adopt any Business Plan of Peterborough Limited	18/12/2017	PPC Cabinet
3.	Alter any of the provisions of the Business Plan after it has been adopted, the Articles or any rights attaching to the Shareholders' interests in the Shares that they hold	18/12/2017	PPC Cabinet
4.	Make any capitalisation, repayment or other distribution of any amount standing to the credit of any reserve of Peterborough Limited or declare any dividend or other distribution to Shareholders.	18/12/2017	PPC Cabinet
5.	Create any encumbrance over the whole or any part of the undertaking or assets of Peterborough Limited, except where agreed in the Business Plan	02/03/2020	PPC Shareholder Committee
6.	Extend Peterborough Limited's activities outside the scope of the Business Plan or cease to carry out any material part of the Business Plan or act against the shareholder in a competitive arena, and against the Shareholder's interest	02/03/2020	PPC Shareholder Committee
7.	Alter Peterborough Limited's accounting reference date	18/12/2017	PPC Cabinet
8.	Approve or sign the annual accounts of Peterborough Limited	18/12/2017	PPC Cabinet
9.	Appoint or remove any Director of Peterborough Limited otherwise than in accordance with the Articles	18/12/2017	PPC Cabinet
10.	Make any petition or resolution to wind up Peterborough Limited (or any subsidiary) or any petition for an administration order or any order having similar effect in a different jurisdiction in relation to such company unless, in any case, such company is at the relevant time insolvent and the Directors reasonably consider (taking into account their fiduciary duties and other obligations under the Companies Act 2006) that it ought to be wound up	18/12/2017	PPC Cabinet
11.	Sell, lease (as lessor), license (as licensor), transfer or otherwise dispose of any of its assets at a total price per transaction exceeding £25,000 otherwise than in the ordinary course of the Business and to the extent provided for in the Business Plan	02/03/2020	PPC Shareholder Committee

12	Purchase, lease (as lessee), license (as licensee) or otherwise acquire any assets at a total cost to Peterborough Limited per transaction exceeding £25,000 otherwise than in the ordinary course of the Business and to the extent provided for in the Business Plan	02/03/2020	PPC Shareholder Committee
13	Acquire or agree to acquire any freehold or leasehold interest in or licence over land except where part of the agreed Business Plan	02/03/2020	PPC Shareholder Committee
14	Enter into or make any contract with an ongoing cost to Peterborough Limited of more than £25,000 ("a Material Contract") unless provided for in the Business Plan	02/03/2020	PPC Shareholder Committee
15	Give notice of termination of any Material Contract above £25,000 or make any Material Variation or amendment to any such contract	02/03/2020	PPC Shareholder Committee
16	Appoint or remove any Executive Manager of Peterborough Limited	02/03/2020	PPC Shareholder Committee
17	Enter into any contracts or arrangements with any of the Shareholders Elected Members or Senior Officers or Company Directors or any person with whom any Elected Members or Senior Officers or Company Director is connected, associated or interested (whether as Director, consultant, Shareholder or otherwise)	02/03/2020	PPC Shareholder Committee
18	Change the name of Peterborough Limited or its registered office	18/12/2017	PPC Cabinet
19	Form a subsidiary of Peterborough Limited or acquire any shares in any other company, whether through subscription or transfer, such that the company concerned becomes a subsidiary of Peterborough Limited	18/12/2017	PPC Cabinet
20	Enter into any contract which cannot be terminated within a 12 month period and under which the liability for such termination could exceed £10,000	18/12/2017	PPC Cabinet
21	Give or take any loans, borrowing or credit (other than normal trade credit in the ordinary course of the Business) in excess of £10,000, or cause the aggregate indebtedness of Peterborough Limited to exceed £10,000	18/12/2017	PPC Cabinet

<b>22</b>	Enter into any agreement of an annual expenditure of more than £25,000 not in the ordinary course of the Business and/or which is not on an arm's length basis or amend its standard terms of business	<b>18/12/2017</b>	PPC Cabinet
<b>23</b>	Give any guarantee, suretyship or indemnity to secure the liabilities of any person or assume the obligations of any person	<b>18/12/2017</b>	PPC Cabinet
<b>24</b>	Incur any item or series of items of capital expenditure of more than £25,000 unless provided for in the Business Plan	<b>02/03/2020</b>	PPC Shareholder Committee
<b>25</b>	Recruit or dismiss any employee whose remuneration exceeds £40,000 per annum unless provided for in the Business Plan provided always that any employee may be dismissed for gross misconduct without the prior consent of the Shareholders. Save as provided for in the Articles, pay any fees, remuneration or other emoluments to any Director or vary any such fees, remuneration or emoluments. For the avoidance of doubt this paragraph 25 shall not apply to the payment or reimbursement of expenses properly incurred by any Director in the course of carrying out his duties in relation to Peterborough Limited nor to any indemnity by Peterborough Limited to which the Director is entitled pursuant to the	<b>18/12/2017</b>	PPC Cabinet
<b>26</b>	Articles or under any relevant law	<b>18/12/2017</b>	PPC Cabinet
<b>27</b>	Consolidate or amalgamate with any company, association, partnership or legal entity or acquire any business or undertaking of any other person (for the avoidance of doubt, excluding the consolidation of accounts with Peterborough City Council)	<b>18/12/2017</b>	PPC Cabinet
<b>28</b>	Enter into any joint venture, partnership or profit sharing arrangement with any person	<b>18/12/2017</b>	PPC Cabinet
<b>29</b>	Change any of Peterborough Limited's accounting or reporting practices	<b>18/12/2017</b>	PPC Cabinet
<b>30</b>	Create any share option scheme.	<b>02/03/2020</b>	PPC Shareholder Committee
<b>31</b>	Make an offer of employment or alter the remuneration or conditions of employment of any employee or any consultant of Peterborough Limited otherwise than in the ordinary course of business and to the extent provided for in the Business Plan or unless obliged to do so by statute	<b>02/03/2020</b>	PPC Shareholder Committee

<b>32</b>	Make any agreement with any revenue authorities or any other taxing authority, or make any claim, disclaimer, election or consent of a material nature for tax purposes in relation to Peterborough Limited, its assets or undertakings, or the Business	<b>18/12/2017</b>	PPC Cabinet
<b>33</b>	License, assign or otherwise dispose of intellectual property rights owned by Peterborough Limited	<b>18/12/2017</b>	PPC Cabinet
<b>34</b>	Commence, settle or defend any claim, proceedings or other litigation brought by or against Peterborough Limited, except in relation to debt collection in respect of a sum not exceeding £10,000 in the ordinary course of the Business.	<b>18/12/2017</b>	PPC Cabinet

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<b>EXTRAORDINARY CABINET</b>	<b>AGENDA ITEM No. 7</b>
<b>23 MARCH 2023</b>	<b>PUBLIC REPORT</b>

Report of:	Cecilie Booth, Executive Director of Corporate Services	
Cabinet Member(s) responsible:	Councillor Andy Coles, Cabinet Member for Finance and Property	
Contact Officer(s):	Felicity Paddick	Tel. 07801 910971

## **SALE OF OPTION - NURSERY LANE DEPOT**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Executive Director of Corporate Services	<b>Deadline date:</b> N/A
<p>It is recommended that Cabinet approve:</p> <ol style="list-style-type: none"> <li>1. That the Council enters into an Option Agreement with Cambridgeshire and Peterborough Combined Authority for the disposal of the freehold land at Nursery Lane Depot at Market Value but subject to all current constraints being resolved, as detailed below and in the exempt annex.</li> <li>2. That authority is delegated to the Executive Director of Corporate Services and Director of Law and Governance after consultation with the Cabinet Member for Finance and Corporate Governance to take all necessary steps to negotiate the terms of the option agreement following receipt of satisfactory, legal and property advice on the terms of the option agreement.</li> </ol>	

### **1. ORIGIN OF REPORT**

- 1.1 In September 2022 Cabinet agreed to a disposals plan which identified assets that the council can release for sale over the period 2022-2025 to meet its target for capital receipts to support the Council's budget and capital strategies. Whilst this specific site was not identified in the published document, the report confirmed that the Disposals Plan is dependent on a series of asset category reviews to take place over the coming 12 months which will prioritise assets for retaining for use or for disposal. The Cambridge and Peterborough Combined Authority have approached the Council for the potential purchase of Nursery Lane Depot via an Option Agreement.

### **2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is to seek approval to enter into an Option Agreement with Cambridgeshire and Peterborough Combined Authority for the sale of Nursery Lane Depot as detailed in this report and exempt annex.

This report is for Cabinet to consider under its Terms of Reference No. 3.2.4, ‘*To be responsible for budget planning, monitoring and expenditure/savings over £500,000 ...*’

- 2.2 There is an exempt appendix (Appendix 1) attached to this report that is NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 because it contains information relating to the financial and business affairs of the Council. The public interest test has been applied to the information contained within this exempt appendix and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.
- 2.3 The general urgency procedure has been invoked to suspend the requirement to publish advance notice of the decision for 28 days. The decision has been published with advanced notice, however, only for 26 days.

This procedure has been invoked because the proposal is time critical with the option agreement required to be completed by 31<sup>st</sup> March 2023 or there is a risk that grant funding for CPCPA for to assist with the sale of the land will be lost.

### **3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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### **4. BACKGROUND AND KEY ISSUES**

- 4.1 The current bus depot at Lincoln Road is not deemed to be a long-term option due to insufficient electric capacity to enable an all-electrified bus fleet, which is anticipated to be in operation by 2030. Furthermore, the size of the current site prevents any further expansion.

The Cambridge and Peterborough Combined Authority (CPCA) act as the Local Transport Authority for Cambridgeshire and Peterborough. CPCPA recently secured grant funding for the relocation of the bus depot, currently located at Lincoln Road. Following discussions with the Council, Nursery Lane Depot has been identified as a potential site. It is proposed that the CPCPA and Council will enter in an Option Agreement by the 31<sup>st</sup> March 2023 for the potential sale of the site to the CPCPA. The Option Agreement will enable both parties to undertake all relevant surveys to assess the suitability of the site for the relocation of the bus depot. The surveys will include site capacity, planning, electric capacity etc.

The site at Nursery Lane is currently occupied by Aragon Direct Services providing services to the Local Authority for grounds maintenance, commercial, recycling and waste collection, street care, property and cleaning services, passenger transport and MOT and vehicle workshop. The current feasibility study proposes Aragon Direct Services sharing occupation with the new Bus Depot however Aragon Direct Services and the Council will have the opportunity to agree to any redevelopment proposals and site share options.

Detailed terms are currently being negotiated between the Council and CPCPA, and the final purchase price and interim lease post disposal are yet to be agreed. Initial interim lease and sale terms and an indicative purchase price is detailed in the exempt annex. It should be noted that a Red Book valuation is being conducted by Eddison’s with the report due mid-March. Aragon Direct Services will continue to operate from the site to existing terms for the period of the Option Agreement.

### **5. CORPORATE PRIORITIES**

- 5.1 Consider how the recommendation links to the Council’s Corporate Priorities:

1. The Economy & Inclusive Growth
  - A Carbon Impact Assessment form has been completed. It is anticipated that the development of this bus depot will include an all-electrified fleet of buses subject to electric capacity on site.
2. Our Places & Communities
  - To provide an improved transport service to the community
3. Sustainable Future City Council
  - To enable the implementation of an all-electrified bus fleet will significantly improve the city's carbon footprint by 2030.
  -

*Further information on the Council's Priorities can be found here - [Link to Corporate Strategy and Priorities Webpage](#)*

## **6. CONSULTATION**

- 6.1 This proposal has been considered at both CPF on the 13 March 2023 and CLT on 8 March 2023.

## **7. ANTICIPATED OUTCOMES OR IMPACT**

- 7.1 The disposal of the site at Nursery Lane will materially contribute towards the capital receipts programme that the Council required over the next two-year period as part of the capital programme.

It should be noted that with this proposed disposal, there is a risk that the Council could incur additional costs once the site is in the ownership of CPCPA with a possible rent charge for the period that Aragon continue to occupy the site. Clearly, this is not acceptable to the Council, and it will not agree to a rent charge.

There have been no site surveys completed to date and therefore the Council do not yet know if Aragon will need to identify an alternative site in the future. This could have a significant cost implication on the Council. A specialist is currently undertaking a review of the site with the initial proposal to enable both the bus depot and Aragon to site share. It is yet to be confirmed if Nursery Lane has sufficient electric capacity to support the ambition to create the all-electrified bus fleet by 2030 and in the event further capacity is required, the cost is unknown.

## **8. REASON FOR THE RECOMMENDATION**

- 8.1 A new bus depot will enable the Council to achieve a future-proofed, accessible, and sustainable public transport system.

## **9. ALTERNATIVE OPTIONS CONSIDERED**

- 9.1 The Council could decide not to agree to the disposal of the site to CPCPA but this could risk the grant funding secured and capital receipt programme.

## **10. IMPLICATIONS**

### **Financial Implications**

- 10.1 Aragon Direct Services only pay a peppercorn rent and therefore there would be no immediate revenue impact. However, terms between the Council and CPCPA are yet to be agreed and there

is a risk that CPCA will impose a rent charge on Aragon. A Red Book Valuation is being undertaken which will also include a market rent valuation. However, the Council will not agree to an annual rent being charged.

### **Legal Implications**

- 10.2 The Council has a requirement to achieve best consideration when it disposes of its assets under section 123 of the LGA 1972. Prior to the completion of the sale of the land an independent Red Book valuation will need to be undertaken.

### **Equalities Implications**

- 10.3 No specific implications arising from this report although where necessary Equality Impact assessments will be carried out to support decision making.

## **11. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 11.1 None

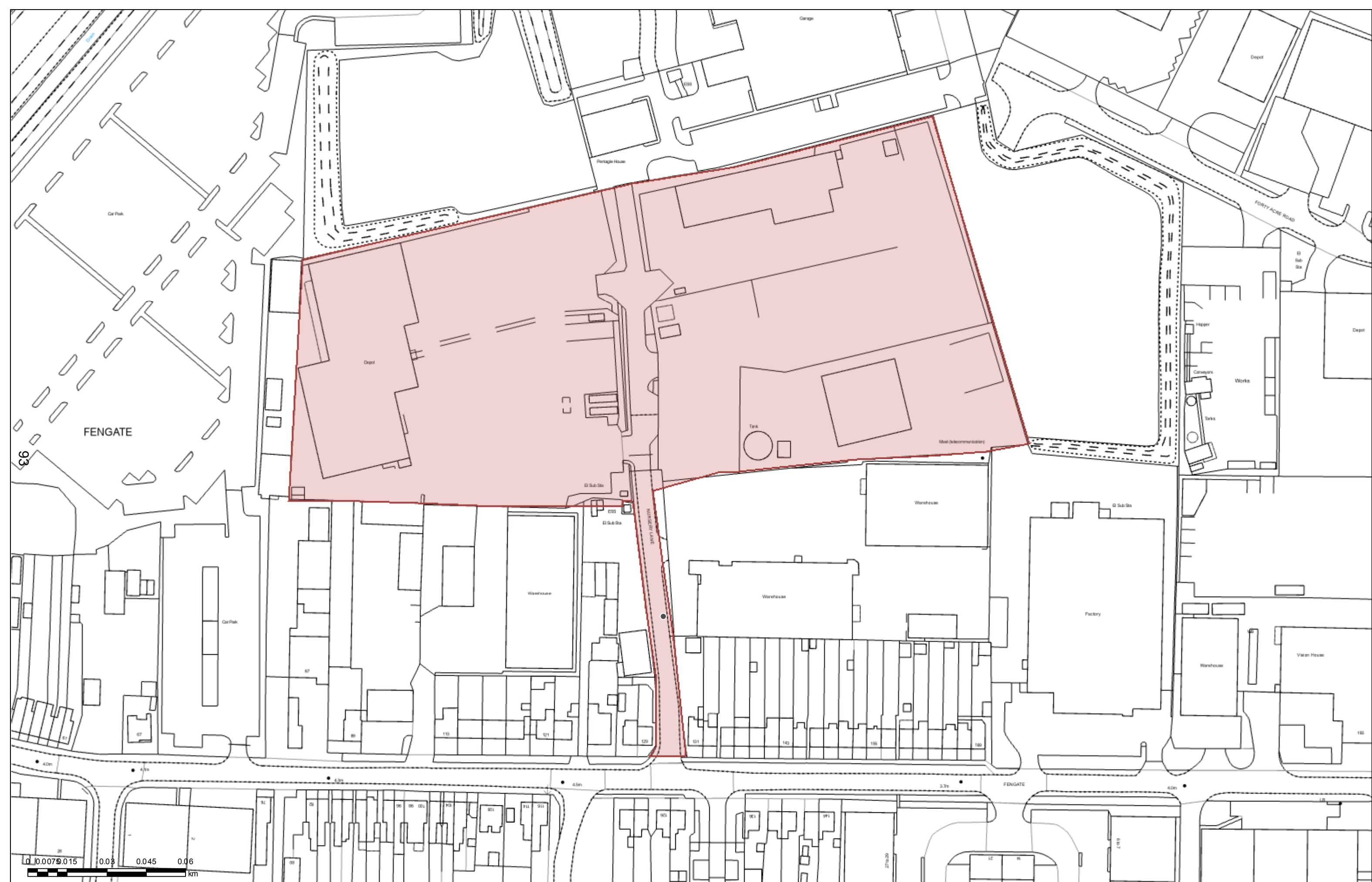
## **12. APPENDICES**

- 12.1 Appendix 1 – EXEMPT Annex  
Appendix 2 – Site Plan

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

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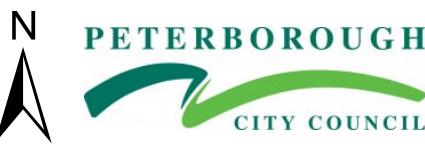


## Nursery Lane Depot - Site Plan

Scale 1:1,250

Print Date: 09/03/2023

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