

HERTSMERE BOROUGH COUNCIL

Meeting name & Date	EXECUTIVE 11 November 2020
Agenda item	7.3
Report title	West Herts Crematorium Joint Committee – Loan Agreement
Report reference no.	EX/20/60
Wards affected	All wards
Report author, job title & email	Matthew Bunyon, Head of Finance & Business Services Matthew.bunyon@hertsmere.gov.uk Harvey Patterson, Head of Legal & Democratic Services Harvey.patterson@hertsmere.gov.uk
List of Appendices	Appendix 1 - Terms of Reference of Wests Herts Crematorium Joint Committee
Reason for urgency	N/A

Is it a Key Decision?	Yes
Call-in expires on	This will be five working days after the decision is published (not made)
Exempt from Call-in	Not applicable
Portfolio Holder	Councillor John Graham Portfolio Holder for Finance and Property

PUBLIC REPORT - this report is available to the public.

1 RECOMMENDATION

- 1.1 That the Executive recommends that the full Council notes the decision of the West Herts Crematorium Joint Committee, made under delegated authority in accordance with the Joint Committee's terms of reference, to develop a second Crematorium in Hemel Hempstead, subject to approval of a £6million loan facility by the five partner authorities;
- 1.2 That the Executive recommends to the full Council that Hertsmere, as one of the five partner authorities to the West Herts Crematorium Joint Committee, signs a loan facility agreement between Hertsmere Borough Council, St Albans City and District Council, Three Rivers District Council and Watford Borough Council as borrowers with Dacorum Borough Council as lender for £6 million to part fund the new Crematorium in Hemel Hempstead;

- 1.3 That the Executive recommends to the full Council that Hertsmere also signs a Deed of Contribution and Indemnity with all five partner authorities of the West Herts Crematorium Joint Committee, namely Dacorum Borough Council, Hertsmere Borough Council, St Albans City and District Council, Three Rivers District Council and Watford Borough; and
- 1.4 That the Executive recommends that the full Council notes that in agreeing to 1.2 and 1.3 above that Hertsmere are underwriting a one fifth share, equal to the four other partners, of the £6million loan facility should the West Herts Crematorium Joint Committee default on repayment of the loan.

2 PURPOSE OF THIS REPORT

- 2.1 To inform the Council of the decision of the West Herts Crematorium Joint Committee (WHCJC, the Joint Committee) to develop a new crematorium in Hemel Hempstead. The development is estimated to cost around £8million which it is proposed be funded by way of a £6million loan facility from Dacorum Borough Council with the remaining £2million being funded from the Joint Committee's accumulated surpluses. The proposed development has been agreed by the WHCJC under delegated authority in accordance with the Joint Committee's terms of reference, however this is subject to approval of the £6m loan funding by the five partner authorities.
- 2.2 The report seeks the Council's approval for Hertsmere Borough Council, as one of the five partner authorities of the WHCJC, to enter into a loan facility agreement along with St Albans City and District Council, Three Rivers District Council and Watford Borough Council as borrowers with Dacorum Borough Council as lender for a loan facility of £6million as part funding towards the £8million development.
- 2.3 The report also seeks Council approval to sign a Deed of Contribution and Indemnity with all five partner authorities of the West Herts Crematorium Joint Committee, thereby ensuring that all five partner authorities are underwriting an equal one fifth share of the loan facility should the Joint Committee default on repayment of the loan.

3 REASONS FOR RECOMMENDATION

- 3.1 The West Herts Crematorium Joint Committee (WHCJC, the Joint Committee) was established in 1959 and is a partnership of five local authorities including Dacorum Borough Council, Hertsmere Borough Council, St Albans City and District Council, Three Rivers District Council and Watford Borough Council. The Terms of Reference of the Joint Committee are set out at Appendix 1.
- 3.2 The Joint Committee, which consists of elected members appointed by each of the five partner authorities, oversees the management and operation of the West Herts Crematorium (WHC) located in Watford which serves the residents of all five partner authorities.

- 3.3 The WHCJC was originally established in December 1973 and continued in operation until its abolition and re-establishment in November 2001 and gain in June 2002 to reflect the governance changes introduced by the Local Government Act 2000 which designated the function of providing and maintaining crematoria pursuant to Section 214 of the Local Government Act 1972, as an executive function.
- 3.4 It should be noted that in common with the four other participating authorities, the Executive of Hertsmere Borough Council granted very significant free standing delegations to the WHCJC. For the purposes of this report, these included:
- The power to provide new crematoria as well as managing the existing Crematorium (TOR Clause 4(1));
 - The power to appoint and remunerate officers and employ and remunerate staff (TOR Clause 6);
 - The power to apply revenue surpluses in any financial year towards the redemption of debt or to finance capital expenditure (TOR Clause 10(3));
 - The power to carry revenue surpluses forward to meet contingencies and future expenditure requirements (TOR Clause 10(3)).
- 3.5 Although the power to borrow money was not delegated to the WHCJC, (see TOR Clause 4(2)), this apparent restriction was significantly mitigated by the power of the Joint Committee at TOR Clause 8 to request any one or more of the participating authorities to lend money to it or to borrow money on its behalf in order to fund capital expenditure that could not be funded from revenue.
- 3.6 Consequently, in taking the strategic decision based on the Business case and Options Appraisal referred to later in this report, to construct and operate a new Crematorium on a site in Hemel Hempstead owned by Dacorum Borough Council, the WHCJC was at all times acting within the powers delegated to it by Hertsmere Borough Council and the other participating authorities. As such, the decision to construct the new Crematorium constitutes in law, a binding decision of the Council and of the other participating authorities.
- 3.7 In addition, the WHCJC was acting within its delegated powers when it agreed to loan funding of £6 million from Dacorum Borough Council to construct the new crematorium, this also constituting a decision which is binding on the Council and the other participating authorities
- 3.8 It is for this reason that the recommendations in this report confine themselves to addressing the consequences of these binding decisions - the need to enter into a loan facility agreement to secure the £6 million funding and Deed of Contribution and indemnity to acknowledge the Councils share of the risk on the project

- 3.9 Demand for cremations nationally has risen exponentially since the 1930's with cremations now accounting for more than 77% of funerals in the UK (data as at 2016). As such the operation of Crematorium has become an extremely commercial and competitive market place and the number of Crematoriums across the UK has also risen exponentially.
- 3.10 The WHC has been operating successfully for over 60 years, however the increasing demand for cremations now means that the WHC is operating close to capacity which is impacting on availability and flexibility for local residents and potentially delaying them making funeral arrangements for up to three weeks.
- 3.11 However, as already mentioned, this is a competitive market and competition in Hertfordshire is increasing with four new crematorium either planned or built in the locality of the WHC in the last few years, increasing the number of crematorium in the local catchment area from seven to 11. This increase in competition will undoubtedly result in reducing the number of cremations at the WHC and whilst this would alleviate some of the current capacity issues, the potential loss of market share, if not addressed, could have a significant impact on the WHCJC.
- 3.12 In light of the rising demand for cremations, current capacity issues at WHC and the potential risks associated with increasing local competition, the WHCJC, in late 2017, commissioned a feasibility study to examine the possibility of the Joint Committee developing a second crematorium within South West Hertfordshire in order to better serve the residents of all partner authorities whilst also retaining and potentially growing its market share.
- 3.13 The feasibility study included significant analysis on drive-time catchment identification for the existing seven crematorium in the WHC locality as well the potential impact of the four new and planned crematorium. The study reported on the potential impact on market share based on the various scenarios including the potential of a new crematorium to be developed by the WHCJC. The feasibility study identified Hemel Hempstead as a prime location for a new crematorium as it was not currently well served with a local crematorium.
- 3.14 Subsequent to the feasibility study the Joint Committee commissioned and have since considered a business case for the development of a new Crematorium in Hemel Hempstead.
- 3.15 Developing a new facility in Hemel Hempstead will free up capacity at the WHC which will be to the benefit of residents by enabling more flexibility in terms of availability across the two facilities as well as offering further qualitative improvements such as allowing longer service times, reducing the distance many residents currently have to travel whilst also addressing the potential loss of market share.
- 3.16 Having considered this business case, the Joint Committee, under their delated authority and in accordance with their terms of reference approved the development of a new Crematorium in Hemel Hempstead, subject to funding.

- 3.17 The cost of the development is close to £8million and is to be funded partly, £2million, by the Joint Committee from their accumulated surpluses and by way of a £6million loan facility to be provided by Dacorum Borough Council, the loan agreement being subject to approval by all the partner authorities.
- 3.18 The land for the proposed development in Hemel Hempstead is owned by Dacorum Borough Council and will remain in their ownership but the new crematorium will be operated by the WHCJC in accordance with the Joint Committee's terms of reference as follows:

“9 Vesting of Land and Property

All land and property acquired or constructed by whatever means for the purpose of cremation shall belong to and be vested in the Council in whose area the greater part is situated but shall be managed and maintained by the Joint Committee.”

This is the same as the WHC which is owned by Watford Borough Council and managed by the WHCJC.

- 3.19 Whilst the Joint Committee is an entity in its own right and was able to agree the development under its delegated authority in accordance with its terms of reference, the Joint Committee requires the agreement of all the partner authorities, as owners, to commit to such a significant level of borrowing. In approving the loan facility the partner authorities would be jointly liable for the debt should the Joint Committee default on the loan.
- 3.20 In agreeing to the loan facility, Hertsmere (and all partner authorities), whilst not committing any funding directly to the project, are underwriting a one fifth share of the overall £6million debt should the WHCJC default on the loan.
- 3.21 The Executive are requested to recommend that the full Council approve that Hertsmere agree and sign the loan facility agreement for £6million between Hertsmere Borough Council, St Albans City and District Council, Three Rivers District Council and Watford Borough Council as borrowers and Dacorum Borough Council as lenders.
- 3.22 As Dacorum will be providing the loan facility and would therefore not be liable for any default on the loan repayments, a Deed of Contribution and Indemnity also needs to be agreed by all five partner authorities to ensure that the £6million loan facility is underwritten equally by all five partners.
- 3.23 The Executive are also requested to recommend that the full Council approve that Hertsmere also agree and sign the Deed of Contribution and Indemnity.

4 ALTERNATIVE OPTIONS

- 4.1 The West Herts Crematorium Joint Committee has approved the development of a new Crematorium in Hemel Hempstead under delegated authority in accordance with its terms of reference. The development is

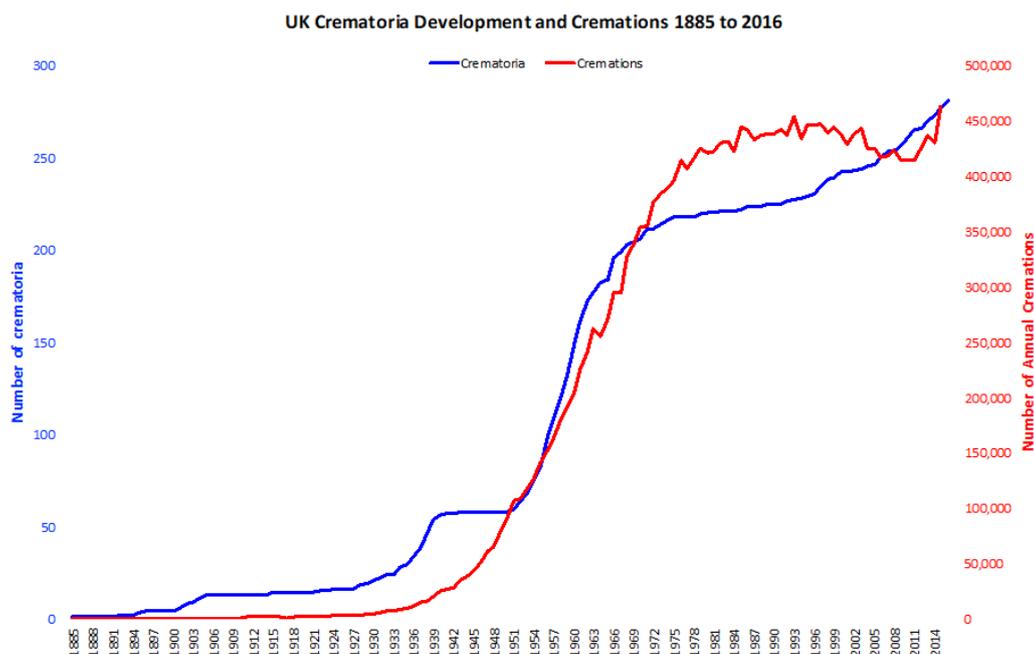
however subject to funding and requires the partner authorities, including Hertsmere, to agree the loan facility agreement.

- 4.2 The Executive could decide not to recommend that the Council agree the loan agreement, however not to support the loan would mean the project could not proceed as the loan must be supported by all partner authorities.
- 4.3 This is an expanding and competitive market and the feasibility study has identified Hemel Hempstead as a prime location for a new crematorium as it is not currently well served with a local Crematorium. Not building a new facility in Hemel Hempstead could therefore result in a competitor expanding into the locality and building their own facility, which would likely be to the detriment of the WHCJC.

5 BACKGROUND

- 5.1 The West Herts Crematorium Joint Committee (WHCJC, the Joint Committee) is a partnership of five local authorities: Dacorum Borough Council, Hertsmere Borough Council, St Alban's City and District Council, Three Rivers District Council and Watford Borough Council. The Joint Committee is made up of elected members from all five partner authorities.
- 5.2 The Joint Committee is currently responsible for the operation of one Crematorium, West Herts Crematorium (WHC) in Watford that has been serving the local community since 1959.
- 5.3 The WHCJC has been operating the WHC successfully for over 60 years and whilst the Joint Committee is a not for profit organisation it does make an annual contribution to the five partner local authorities totalling £250k per annum, whilst also setting aside surplus funds for reinvesting in the business.
- 5.4 As depicted in figure 1 below, demand for cremations nationally has risen exponentially since the 1930's with cremations now accounting for more than 77% of funerals in the UK (data as at 2016). Figure 1 also shows how the number of Crematorium has also risen at a similar rate over the same period. As such the operation of Crematorium has become an extremely commercial and competitive market place.

Figure 1: UK Crematoria Development and Cremations 1885 to 2016



Source: Peter Mitchell Associates, January 2018, West Hertfordshire Crematorium Joint Committee - Crematorium Feasibility Study

- 5.5 This increasing demand for cremations now means that the WHC is operating close to capacity with more than 3,000 funerals per annum and this is impacting on availability and flexibility for local residents and potentially delaying them making funeral arrangements for up to three weeks.
- 5.6 This is however a competitive market and in recent years four new Crematorium have or are being developed in the locality of WHC in the past few years increasing the number of Crematorium in the local catchment area from seven to 11. Whilst these new facilities will undoubtedly alleviate the current capacity issues at WHC, if this local competition is not addressed there will likely be a longer term detrimental impact on the WHCJC.

Feasibility Study

- 5.7 In light of rising demand along with increasing competition by private operators in the local area the Joint Committee commissioned a feasibility study in late 2017 to examine the possibility of the Joint Committee developing a second crematorium within South West Hertfordshire.
- 5.8 The resulting report examined the context of demand for cremation in the UK and the demographic factors contributing to demand for cremation in South West Hertfordshire.
- 5.9 It included an analysis of the results of drive-time catchment identification and considered the qualitative factors influencing people's choice of crematorium.

- 5.10 The report provided indicative estimates of the costs of building and operating a new crematorium including conservative financial forecasts for the first 10 years of operation.
- 5.11 It provided an analysis of current levels of demand at the seven existing crematoria in the catchment area and modelled the impact of four approved new crematoria and considered the potential demand for a further new crematorium located near Hemel Hempstead.
- 5.12 The report highlighted the significant threats to the business of the WHC due to the development of new crematoria in the catchment area.
- 5.13 The study concluded that development by the Joint Committee of a new crematorium near Hemel Hempstead would enable it to minimise the impact of new competition upon its business, to guarantee service standards and costs for bereaved people and to exclude further potential competition.

Business Case

- 5.14 The feasibility study showed that WHC is at risk of losing its catchment through increased competition because it has no further expansion space, therefore limiting its ability to meet growing demand for more flexible, creative services, and it would also lose the opportunity to serve a wider area. So due to these risks and based on the findings and recommendations of the study, the Joint Committee commissioned a business case on the development of a new Crematorium in Hemel Hempstead.
- 5.15 The WHCJC agreed that a Business Case should be produced examining:
- The financial projections and implications of building a new crematorium in Hemel Hempstead
 - The pricing models and their commercial viability
 - The likely demand at both sites and the impact this would ultimately have on WHC
 - The strategic options for financial consideration
- 5.16 An options appraisal was carried out as part of the Business Case examining the benefits and dis-benefits of the following three delivery models, assessing each option against a list of criteria reflecting the objectives of WHCJC:
1. Do nothing
 2. Build a new crematorium in Hemel Hempstead
 3. Look for an alternative site
- 5.17 Based on the scoring, the options appraisal concluded that option 2 to build a new crematorium at the Hemel Hempstead site was the recommended option. The project was viable and WHCJC had the capability and resources to successfully deliver the project. The benefits outlined could be delivered and significantly outweighed the expected dis-benefits and was therefore considered worth the investment.

Benefits

- 5.18 Option 1, “Do Nothing”, would mean that no major capital expenditure will be incurred by the Joint Committee, allowing for a healthy level of reserves to be retained.
- 5.19 Option 2, “Build a new crematorium in Hemel Hempstead”, delivers a range of benefits to the service provided by WHC to the residents it serves.
- 5.20 Building a new crematorium on the Hemel Hempstead site would allow WHCJC to:
- a) Protect the sustainable future of WHC and its catchment/market share and strengthen and enhance the WHCJC partnership.
 - b) Provide residents with a new crematorium in Hemel Hempstead reducing travel times for those residents living nearer to Hemel Hempstead than Watford and offering a high level of service at a lower cost than the market currently offers in the area.
 - c) Alleviate current capacity issues at WHC by reducing the number of cremations at the Watford site. The feasibility study showed that 667 Dacorum residents were cremated at WHC in 2017.
 - d) Enhance the quality of service provided to bereaved families by creating the opportunity to offer longer service times at both sites, increasing it from 40 to 60 minutes so funerals are less rushed, allowing time for more creative services which also reduces the potential overlap for funerals that overrun. This could be an additional reason for choosing WHC over its competitors.
 - e) Provide a complementary service between WHC and the Hemel site which increases the choice available to residents. The increasing demand for cremations at WHC can result in people having to wait up to 3 weeks for a funeral at this location in the winter months where demand is at its highest. However, if there were two sites operating under the WHC brand and offering the same high quality service, increased choice would mean that waiting times would reduce and there would be more flexibility in what can be offered.
 - f) Provide opportunities for apprenticeships in grounds maintenance as part of Dacorum/Watford Council’s apprenticeship scheme.
 - g) The resilience of having WHC and its staff expertise as the backup to a new site means the capital investment of only one cremator would be required at this point until additional capacity was required, which is estimated to be over 10 years.
 - h) Provide an additional serene location which creates an atmosphere of peace, reverence and comfort for grieving families to mourn.
- 5.21 Option 3, “Look for an alternative site”, there are no clear benefits for WHCJC searching for an alternative site which could take a long time with no guaranteed success as previous endeavours have confirmed.

Dis-Benefits

- 5.22 Option 1, “Do Nothing”, would risk the erosion of demand at WHC by new and increased competition within the catchment area, challenging the long term sustainability and viability of the service provided. There is no expansion space available at WHC and therefore no opportunity to enhance the service provided to residents by increasing funeral times to 60 minutes, or to broaden the catchment area for the services they provide.
- 5.23 Option 2, “Build a new crematorium in Hemel Hempstead”, the dis-benefits include:
- a) Increased traffic in the area from funerals.
 - b) Loss of green belt space in the area due to the building of the crematorium.
 - c) Loss of possible burial space. However, this should be weighed up against the fact that demand for burials is decreasing and this trend is expected to continue and has a direct correlation with the increasing demand for cremation services.
- 5.24 Option 3, “Look for an alternative site”, the Feasibility Study concluded that Hemel Hempstead was a good location for WHCJC to open a new crematorium. Previous searches for a new site have proven unfruitful and in the time it could take to find an alternative suitable site, new competing crematoria (in addition to the four identified) could have opened within the catchment area, significantly impacting on demand at WHC and challenging it’s long term sustainability.
- 5.25 The options appraisal concluded that if WHCJC were to build a new crematorium at Bunkers Park in Hemel Hempstead it would be a viable project and that WHCJC had the capability and resources to deliver the project. It was considered that the benefits outlined could be delivered and they outweighed the expected dis-benefits and was therefore worth the investment.

Strategic Risks

- 5.26 The project viability has been assessed through the business case and is based on various assumptions such as death rates and demand for cremations, however such assumptions do carry a degree of uncertainty and risk. However it is known that there is an ageing population and as demonstrated by figure 1 in paragraph 5.4 above, more and more people are choosing cremation over burial and this trend is expected to continue.
- 5.27 There is significant interest and therefore risk from the private sector in opening competing crematoria in the catchment area. The drive-time catchment analysis has calculated the possible cremation figures for a new crematorium in Hemel Hempstead, which presents an opportunity for WHCJC to capture this demand and broaden its catchment area, preventing its potential loss to a competitor.
- 5.28 A key project risk identified was whether Dacorum would agree to WHCJC building a new crematorium on their land as building it themselves or

entering into some form of joint venture with the private sector were both options available to Dacorum. However negotiations between the WHCJC and Dacorum have reached an agreement for the new crematorium to be built on the Bunkers Park site in Hemel Hempstead, alongside Dacorum's new Cemetery, this is Dacorum also providing a loan facility of £6million that will part fund the project.

5.29 Obtaining planning consent is also a significant risk with objections for a new crematorium expected to be received from two groups in particular – the local community and private sector operators:

- a) **Objections from the local community.** Although Dacorum received very few objections when applying for planning consent for their new cemetery on the Bunkers Park site, the public have much stronger views on crematoria and are also likely to object because the proposed location is a green belt site. Advice has been sought from Planners regarding the issues of retaining the openness of the greenbelt and building on the site.
- b) **Objections from private sector operators.** It appears to be standard practice for some privately owned crematoria operators to object to any planning applications to build new crematoria and can be quite aggressive in their approach. Such objections from private operators have resulted in some planning applications going to Judicial Review. However, learning from the experience of others in this situation will be key in determining the project approach and the preparatory work required to hopefully successfully obtain planning consent.

The planning application for the new crematorium was submitted on 29 May 2020 and validated on 3 June 2020. The application will be considered by Dacorum's Planning Committee at their meeting on the 3 September 2020 and subject to approval will then be referred to the Secretary of State to ascertain whether it needs to be called in due to the development being in the green belt.

5.30 Another significant risk is that the partner authorities do not agree the £6million loan agreement meaning that the project could not proceed at this time. All partner authorities are therefore being requested to consider the benefits to all residents of the proposed new crematorium and support the decision of the WHCJC by agreeing to the loan facility.

Project Risks

5.31 All major development projects involve significant risks such as potential cost overruns, unexpected costs and project delays. The estimated cost of the project is close to £8million and the financial appraisal has been fully assessed by Three Rivers District Council, their Chief Executive being the WHCJC Treasurer.

5.32 To ensure value for money a full public procurement exercise will be conducted to appoint appropriate professional services to undertake the detailed design and costings and to appoint an experienced development partner. The strategic and operational risks will be managed by the project

manager at Watford Borough Council and regularly reported through the WHCJC.

Hemel Hempstead Site

- 5.33 It is difficult to find a suitable site for a crematorium not only due to potential objections as referred to in paragraph 5.29 above but that also meets with Government policy and guidance in terms of delivering a sustainable development, the site being of an appropriate size and in a suitable setting, such as woodland or parkland, to achieve quietness and seclusion. The site needs to have reasonable accessibility by public transport and have adequate utility services nearby whilst also having regard to proximity of the site to population centres, schools, factories, trading estates, sports grounds or other incompatible establishments.
- 5.34 The Bunkers Park site in Hemel Hempstead was however identified through the feasibility study as a prime location for a new crematorium.

Loan Agreement

- 5.35 The development of a new crematorium on the Bunkers Park site has been negotiated with Dacorum Borough Council subject to the £6million loan funding being provided by Dacorum and the loan facility being approved by the other partner authorities.
- 5.36 As Dacorum will enter into the loan facility agreement as the lender a further legal agreement, a Deed of Contribution and Indemnity, will also need to be agreed by all five partners. Both documents together thereby ensure that liability of the loan facility is split equally between all five partners.

Options Appraisal and Decision of the WHCJC

- 5.37 The Business Case concluded that building a new crematorium at the Hemel Hempstead site by WHCJC would be commercially viable, would allow WHC to improve and enhance the services provided to residents at both sites whilst increasing their resilience and capacity to meet future service demands.
- 5.38 The Joint Committee having commissioned this report have considered the resulting business case and the joint committee agreed to pursue option 2 and have since been progressing this option.
- 5.39 The Committee have considered the wider benefits for residents across all five boroughs and agree that developing a new facility will create better flexibility and potentially offer a better quality of service. It will also retain and potentially grow market share in this competitive market, with surpluses subsequently being reinvested in improving the facilities in Watford.

6 FINANCIAL AND BUDGET FRAMEWORK IMPLICATIONS

- 6.1 The business case presented to the WHCJC showed various financial modelling for a range of scenarios, the preferred option having an estimated

build cost of close to £8million. This is to be funded in part by use of the Joint Committee's accumulated surpluses, £2million, and by way of a £6million loan facility from Dacorum Borough Council.

- 6.2 This option enables a new crematorium to be built whilst ensuring the strongest financial position for WHCJC and WHC by also allowing the building of a capital fund to finance the cremator replacement required at WHC in 2025/6, it also provide some resilience in light of the inevitable uncertainties over future income and cost levels.
- 6.3 The financial modelling has been fully appraised by Three Rivers District Council, their Chief Executive being Treasurer to the WHCJC. The Business Case concluded that building a new crematorium at the Hemel Hempstead site by WHCJC would be commercially viable.
- 6.4 Since approval by the Joint Committee a loan agreement between Dacorum Borough Council and the partners of the WHCJC has been drawn up by solicitors on behalf of all parties and Counsel Opinion has also been obtained in relation to compliance with State Aid legislation.
- 6.5 This loan facility agreement now requires formal approval by the partner authorities thereby underwriting the loan should the Joint Committee default on repayment.
- 6.6 Whilst party to the loan agreement, Dacorum Borough Council, as the lending authority, cannot underwrite a loan they are providing so to ensure that the loan liability is underwritten equally by all five partner authorities a Deed of Contribution and Indemnity will also be required to be entered into by all five partner authorities.
- 6.7 By agreeing to the Loan Agreement and the Deed of Contribution and Indemnity, Hertsmere are underwriting a one fifth share of the £6million loan facility should the WHCJC default on the loan. As a partner Hertsmere are already liable for a one fifth share of all the liabilities of the Joint Committee.
- 6.8 The Executive are requested to recommend that the Council approve that Hertsmere sign the Loan Agreement and the Deed of Contribution and Indemnity.

7 LEGAL POWERS RELIED ON AND ANY LEGAL IMPLICATIONS

- 7.1 The Cremation Acts 1902 and 1952 enables the Council to provide and maintain crematoria within or outside its area and to levy fees and charges. Since the enactment of the Local Government Act 2000, the provision of crematoria is designated as an executive function.
- 7.2 Pursuant to Section 9EB of the Local Government Act 1972 and Regulations 4 and 9 of the Local Authorities (Arrangement for the Discharge of Executive Functions) (England) Regulations 2012, the Council (through the Executive Leader) can exercise these powers jointly with other local authorities through a joint committee.

- 7.3 The Council has been a member of the West Herts Crematorium Joint Committee since its inception and through the joint committee operate and manage the West Herts Crematorium at Garston in Watford in conjunction with Dacorum Borough Council, St Albans City and District Council, Three Rivers District Council and Watford Borough Council.
- 7.4 The terms of reference for the Joint Committee enable it to provide additional Crematoria. However given the levels of investment required, the Joint Committee will only be able to construct a new crematorium with the agreement of the participating Councils. In this case, Dacorum Borough Council is advancing the requisite funding to the other participating Councils through a Loan Facility Agreement to enable the Joint Committee to construct a new crematorium in Dacorum, with all the participating Councils, including Dacorum Borough Council, entering in a Deed of Contribution and Indemnity for their share of the loan.
- 7.5 Counsel advice has been sought in relation to State Aid issues and the loan agreement is compliant with State Aid legislation.

8 EFFICIENCY GAINS AND VALUE FOR MONEY

- 8.1 The WHCJC currently provides an annual contribution to the five partner authorities totalling £250,000 which is set to continue based on the business plan to build a new Crematorium in Hemel Hempstead.
- 8.2 Were the Joint Committee not to expand it could lose further market share in this highly competitive market reducing the level of income which could put this annual contribution at risk.

9 RISK MANAGEMENT IMPLICATIONS

- 9.1 Key strategic risks were identified and discussed in the business case which was considered and approved by the WHCJC. These risks are set out in paragraphs 5.26 to 5.32 above.
- 9.2 All major development projects involve significant risks such as potential cost overruns, unexpected costs and project delays. The business case included various financial modelling and appraisals which have been fully assessed by Three Rivers District Council as lead authority.
- 9.3 The estimated cost of the project is close to £8million which includes contingency funding to mitigate the risk of increased costs.
- 9.4 To ensure value for money a full competitive public procurement exercise will be conducted to appoint appropriate professional services and a suitably experienced development partner.
- 9.5 The project is being managed by Watford Borough Council.

10 PERSONNEL IMPLICATIONS

10.1 None for the purposes of this report.

11 EQUALITIES IMPLICATIONS

11.1 A full equalities impact assessment has been compiled by the project manager covering all five local authority areas party to the West Herts Crematorium Joint Committee.

12 CORPORATE PLAN and POLICY FRAMEWORK IMPLICATIONS

12.1 The West Herts Crematorium Joint Committee is a partnership of five local authorities: Dacorum Borough Council, Hertsmere Borough Council, St Albans City and District Council, Three Rivers District Council and Watford Borough Council which through this partnership has been serving the residents of the local area since 1959.

12.2 The development of a new Crematorium will provide further capacity in the local area ensuring that the growth needs of the borough and the wider West Hertfordshire area can be met.

12.3 The new crematorium will also ensure that the Joint Committee maintains market share in this competitive market and is able to continue making a contribution back to the five partner authorities.

13 ASSET MANAGEMENT IMPLICATIONS

13.1 The project will create a new Crematorium in Hemel Hempstead on land owned by Dacorum Borough Council. The land and crematorium will remain in Dacorum's ownership but the new crematorium will be operated by the WHCJC in accordance with the Joint Committee's terms of reference as described in paragraph 3.12 above. Hertsmere's interest in the WHCJC will be appropriately recorded in Hertsmere financial statements.

14 HEALTH AND SAFETY IMPLICATIONS

14.1 None for the purposes of this report.

15 BACKGROUND DOCUMENTS USED TO PREPARE THIS REPORT

Document Title:	Filed at:
<ul style="list-style-type: none">• West Hertfordshire Crematorium Joint Committee – Crematorium Feasibility Study• Crematorium Need Assessment – A New Crematorium at Hemel Hempstead – West Hertfordshire Crematorium Joint Committee• New Crematorium in Hemel Hempstead – Business	All documents are held by the Project Manager at Watford Borough Council

<p>Case</p> <ul style="list-style-type: none"> • Three Rivers District Council and four other local authorities – Financing of a new crematorium – State Aid issues <p><i>N.B.</i> – <i>The above documents are commercially sensitive and not for publication.</i></p> <ul style="list-style-type: none"> • Loan Facility Agreement – in relation to the West Hertfordshire Crematorium • Deed of contribution and indemnity – in relation to the West Hertfordshire Crematorium • West Herts Crematorium Joint Committee – Memorandum of Agreement 	
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16 CONSULTATION ON DRAFT REPORT

16.1 A draft of this report was sent to the following on the following dates:

Consultee	Report sent	Comments rcvd
Managing Director	14 August 2020	4 September 2020
Head of Finance & Business Services	Author	Author
Head of Legal & Democratic Services	14 August 2020	24 August 2020
Portfolio Holder Finance and Property	14 August 2020	3 September 2020