

## Part A

**Report to:** Cabinet

**Date of meeting:** Monday, 7 September 2020

**Report author:** (Shared Services) Director of Finance

**Title:** WEST HERTS CREMATORIUM JOINT COMMITTEE – LOAN  
**AGREEMENT**

### 1.0 Summary

- 1.1 To seek Council approval for Watford as one of the authorities that make up the West Herts Crematorium Joint Committee (WHCJC), to enter into a loan facility agreement on behalf of the WHCJC together with the other member authorities with Dacorum Borough Council (also a member authority) for a loan facility of £6 million as part funding towards a c.£8 million development of a new crematorium in Hemel Hempstead.
- 1.2 Also to seek Council approval to sign a Deed of Contribution and Indemnity with all five member authorities of the WHCJC and thereby underwriting one fifth of the loan should the WHCJC default on repayment of the loan.

### 2.0 Risks

- 2.1 Key risks were identified and discussed in the business case which was considered and approved by the WHCJC.
- 2.2 The business case also included various financial modelling and appraisals, the project budget also includes contingency funding to mitigate the risk of increased costs.
- 2.3 Subject to funding approval, a full competitive tender process will be undertaken to appoint a suitably experienced development partner.
- 2.4 The project is being managed by Watford Borough Council as lead authority for the WHCJC.

### 3.0 Recommendations

- 3.1 That Cabinet recommends to Council that Watford, as one of the member authorities of 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 a new Crematorium in Hemel Hempstead, subject to all the other 4 borrowing authorities passing similar resolutions;
- 3.2 That Cabinet recommends to Council that Watford 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 subject to all the other member authorities passing similar resolutions; and

- 3.3 That Cabinet recommends that Council notes that in agreeing to 3.1 and 3.2 above that Watford are underwriting one fifth of the £6 million loan facility should the West Herts Crematorium Joint Committee default on repayment of the loan.
- 3.4 That delegated authority be given to the Director of Finance to agree the final terms of the loan and indemnity agreements

**Further information:**

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**Report approved by: Alison Scott**

**4.0 Detailed proposal**

- 4.1 The WHCJC is a statutory Joint Committee of five local authorities: Dacorum Borough Council, Hertsmere Borough Council, St Albans City and District Council, Three Rivers District Council and Watford Borough Council with the responsibility for managing crematorium services for the five councils.
- 4.2 The WHCJC is currently responsible for the operation of one Crematorium, West Herts Crematorium in Three Rivers that has been serving the local community since 1959.
- 4.3 The WHCJC has been operating the West Herts Crematorium successfully for many years and it makes an annual return to the five member authorities of £250k, whilst also setting aside surplus funds for reinvesting in the crematorium.
- 4.4 The operation of crematoria is a competitive market and in light of competition by private operators in the local area the WHCJC commissioned a feasibility study to examine the possibility of building a new second Crematorium in Hemel Hempstead. The following is an extract from the resulting business case:

"The demand for cremations has risen considerably in recent years with this trend set to continue as the UK's ageing population grows in size, with the proportion of those aged 65 and above predicted to significantly increase in future years. In 2017 cremations accounted for 77 % of all funerals in the UK.

The increasing demand for cremations has been identified by the private sector as a lucrative business opportunity and has resulted in the majority of new crematoria being built and run by private sector businesses in recent years.

WHCJC is still 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."

- 4.5 WHCJC therefore agreed that a further Business Case should be produced examining:

- The financial projections and implications of building a new second crematorium in Hemel Hempstead
- Pricing models and their commercial viability
- The likely demand at both sites and the impact this would ultimately have on WHCJC
- The strategic options for financial consideration

4.6 An options appraisal was carried out as part of the further 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:

Option 1 - Do nothing

Option 2 - Build a new second crematorium in Hemel Hempstead

Option 3 - Look for an alternative site for building a second crematorium

4.7 Based on the scoring, the options appraisal concluded that option 2 to build a new second 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 below could be delivered and significantly outweighed the expected dis-benefits and it was therefore considered worth the investment.

4.8 The Business Case concluded that building a new crematorium at the Hemel Hempstead site by WHCJC would be commercially viable, would allow WHCJC to improve and enhance the services provided to residents at both sites whilst increasing their resilience and capacity to meet future service demands.

4.9 Having considered the business case the WHCJC agreed to pursue option 2 and have since been progressing this option.

4.10 The cost of the development is close to £8 million and is to be funded partly by the accumulated surpluses of the WHCJC and by way of a £6 million loan facility from Dacorum Borough Council who own the land in Hemel Hempstead where the Crematorium is to be built.

4.11 As the WHCJC has no legal capacity in its own right it requires each of the member authorities to agree to take on responsibility for the loan as each would be liable in the event of a default. As the taking on of this loan is not in the capital programme it requires Council approval. The Cabinet could decide not to recommend that the Council agree the loan, which must be supported by all five partner authorities otherwise the project cannot proceed.

4.12 As this is a competitive market and Hemel Hempstead is not currently well served with a local Crematorium this could severely impact on the market share of the WHCJC should a competitor open a new facility in the local area.

4.13 The proposal enables a new second crematorium to be built whilst ensuring the strongest financial position for WHCJC.

4.14 Since the WHCJC agreed to pursue option 2 a loan agreement between Dacorum Borough Council and the other member authorities of the WHCJC has been drawn up. Agreement to enter into a loan facility agreement now requires formal approval by the four member authorities who will be entering into it as the WHCJC has no legal capacity to take on the loan itself. Also as Dacorum Borough council is providing the loan it cannot enter into a loan agreement with itself. In order to ensure that Dacorum as a member of the WHCJC also has responsibility for repaying the loan it has agreed with the four other member authorities to enter into a Deed of Contribution and Indemnity. By agreeing to enter into a Loan Agreement and a Deed of Contribution and Indemnity, each council is underwriting a one fifth share of the £6 million loan and would be liable for up to £1.2 million should the WHCJC default on the loan. Cabinet is requested to recommend that the Council approve that Watford enter into a Loan Agreement and a Deed of Contribution and Indemnity, on the proviso that each of the other member authorities also pass similar resolutions

4.16 It is also recommended that the Director of Finance be given delegated authority to approve the final terms of both agreements.

## **5.0 Implications**

### **5.1 Financial**

5.1.1 The Shared Director of Finance comments that the financial implication are set out in the report.

### **5.2 Legal Issues (Monitoring Officer)**

5.2.1 The Group Head of Democracy and Governance comments that as WHCJC does not have legal capacity in its own right each of the member councils that are on the WHCJC must individually approve of entering into this arrangement. They will also have liability for the loan.

5.2.2 As stated in the report Dacorum cannot enter into a loan agreement with itself so the loan will be taken out by the other four councils but Dacorum is signing a separate indemnity agreement with the other councils.

5.2.3 Watford is acting as lead authority in relation to the development of the new crematorium.

5.2.4 As this loan is not currently in the capital programme it needs to be approved by Council.

### **5.3 Equalities, Human Rights and Data Protection**

5.3.1 A full equalities impact assessment is being compiled by the project manager of the lead authority, Watford Borough Council. The EIA will cover all five local authority areas party to the West Herts Crematorium Joint Committee.

#### **Data Protection Impact Assessment**

5.3.2 Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

### **5.4 Staffing**

5.4.1 None

### **5.5 Accommodation**

5.5.1 None

### **5.6 Community Safety/Crime and Disorder**

5.6.1 None

## 5.7 **Sustainability**

5.7.1 None

### **Background papers**

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

New Crematorium in Hemel Hempstead Business Case, Watford Borough Council, lead authority for the West Herts Crematorium Joint Committee